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

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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Parts 924 and 944

[Docket No. FV06–924–1 IFR]

Fresh Prunes Grown in Designated Counties in Washington and in Umatilla County, OR; Suspension of Handling Regulations, Establishment of Reporting Requirements, and Suspension of the Fresh Prune Import Regulation

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule with request for comments.

SUMMARY: This rule suspends the minimum grade, size, quality, maturity, and inspection requirements prescribed under the Washington-Oregon fresh prune marketing order for the 2006 and future seasons. The marketing order regulates the handling of fresh prunes grown in designated Counties in Washington and in Umatilla County, Oregon, and is administered locally by the Washington-Oregon Prune Marketing Committee (Committee). During the suspension of the handling regulations, reports from handlers will be required to obtain information necessary to administer the marketing order. This rule also suspends fresh prune import inspection and minimum quality, grade, size, and maturity requirements. This rule is expected to reduce overall industry expenses and increase net returns to producers and handlers. This rulemaking action must be effective as soon as possible to ensure that the suspensions are in effect for the 2006 shipping season, expected to begin in early July.

DATES: Effective May 10, 2006; comments received by July 10, 2006 will be considered prior to the issuance of a final rule. Pursuant to the Paperwork Reduction Act, comments on the information collection burden must be received by July 10, 2006.

ADDRESSES: Interested persons are invited to submit written comments concerning this rule. Comments must be sent to the Docket Clerk, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue, SW., STOP 0237, Washington, DC 20250–0237; Fax: (202) 720–8938; E-mail: *moab.docketclerk@usda.gov*, or Internet: *http://www.regulations.gov*. All comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be available for public inspection in the Office of the Docket Clerk during regular business hours, or can be viewed at: *http://www.ams.usda.gov/fv/moab.html*.

FOR FURTHER INFORMATION CONTACT: Barry Broadbent, Northwest Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1220 SW., Third Avenue, Suite 385, Portland, OR 97204; Telephone: (503) 326–2724; Fax: (503) 326–7440; or George J. Kelhart, Technical Advisor, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue, SW., STOP 0237, Washington, DC 20250–0237; Telephone: (202) 720–2491; Fax: (202) 720–8938.

Small businesses may request information on complying with this regulation by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence, SW., STOP 0237, Washington, DC 20250–0237; Telephone: (202) 720–2491, Fax: (202) 720–8938, or E-mail: *Jay.Guerber@usda.gov*.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement and Order No. 924, as amended (7 CFR 924), regulating the handling of fresh prunes grown in designated counties in Washington and in Umatilla County, Oregon, hereinafter referred to as the ''order.'' The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended, (7 U.S.C. 601–674), hereinafter referred to as the ''Act.'' This rule also is issued under section 8e of the Act regarding the establishment of inspection and quality, grade, size, or maturity requirements on imports of commodities that are similarly regulated under Federal marketing orders.

The Department of Agriculture (USDA) is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is not intended to have retroactive effect. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with USDA a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. A handler is afforded the opportunity for a hearing on the petition. After the hearing USDA would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review USDA's ruling on the petition, provided an action is filed not later than 20 days after date of the entry of the ruling.

There are no administrative procedures that must be exhausted prior to any judicial challenge to the provisions of import regulations issued under section 8e of the Act.

This rule indefinitely suspends the handling regulations prescribed under the order for the 2006 and future seasons. Specifically, this rule suspends the minimum grade, size, quality, maturity, and inspection requirements under the order. In addition, the regulation of fresh prune imports under section 8e of the Act is suspended indefinitely.

Furthermore, this rule establishes a new handler reporting requirement. The new handler report provides the Committee with information that was previously available from the Federal-State Inspection Service (Inspection Service). As previously noted, the handling regulations include mandatory inspection. As a result of the handling

regulation suspension, information from the Inspection Service will no longer be available to the Committee to compile industry statistics and to assess handlers. The new handler reporting requirement will allow the Committee to obtain information directly from handlers similar to the information that was obtained previously from the Inspection Service.

Section 924.52 of the order authorizes the issuance of regulations for grade, size, quality, maturity, and pack for fresh prunes grown in the production area. Section 924.53 authorizes the modification, suspension, or termination of regulations issued under § 924.52.

Section 924.55 provides that whenever the handling of any variety of fresh prunes is regulated pursuant to § 924.52 or § 924.53, such prunes must be inspected by the Inspection Service, and certified as meeting the applicable requirements. The cost of the inspection and certification is borne by handlers.

Section 924.60 authorizes the Committee, with the approval of USDA, to require reports and other information from handlers that are necessary for the Committee to perform its duties.

Minimum grade, size, quality, maturity, and inspection requirements for fresh prunes regulated under the order are specified in § 924.319 (the section being suspended by this rule). When effective, § 924.319, with exemptions for certain varieties and types of shipments, provides that all fresh prunes grade at least U.S. No. 1, except that at least two-thirds of the surface of the prune is required to be purplish in color, and such prunes measure not less than 1¼ inches in diameter as measured by a rigid ring. The regulation includes a minimum quantity exemption, as well as specific tolerances for prunes that fail to meet color, minimum diameter, and quality requirements.

Regulation regarding the importation of fresh prunes into the United States under Section 8e of the Act is set forth in § 944.700.

The Committee meets regularly to consider recommendations for modification, suspension, or termination of the regulatory requirements for Washington-Oregon fresh prunes which have been issued on a continuing basis. Committee meetings are open to the public and interested persons may express their views at these meetings. The USDA reviews Committee recommendations, information submitted by the Committee, and other available information, and determines whether modification, suspension, or termination of the regulatory requirements would tend to effectuate the declared policy of the Act.

At its February 16, 2006, meeting, the Committee unanimously recommended suspending the handling regulations and establishing handler reporting requirements for the 2006 and future seasons. The Committee requested that this rule be effective by the beginning of the 2006 regulatory period (July 15, 2006), which is also the approximate date shipments of the 2006 Washington-Oregon fresh prune crop are expected to begin.

The objective of the handling regulation has been to ensure that only acceptable quality fresh prunes enter fresh market channels, thereby ensuring consumer satisfaction, increasing sales, and improving returns to producers. While the industry continues to believe that quality is an important factor in maintaining sales, the Committee believes the cost of inspection and certification (mandated when the handling regulations are in effect) may exceed the benefits derived.

Fresh prune prices have been at low levels in recent seasons, and many producers have faced difficulty covering their production costs. As a consequence, the Committee has been exploring the possibility of reducing costs through the elimination of mandatory inspection for a number of years. The Committee is concerned, however, that the elimination of current handling and inspection requirements could possibly result in lower quality fresh prunes being shipped to fresh markets, thereby affecting consumer demand. Also, there is some concern that, should overall quality decline, the Washington-Oregon fresh prune industry could lose sales to other prune producing regions.

After much consideration, the Committee recommended the suspension of the handling regulations for the 2006 and future seasons, but stipulated that the Committee would assess marketing conditions annually to determine if lifting the suspension is warranted. This suspension action will enable the industry to realize needed cost savings while the impact of the suspension is evaluated by the Committee. Should the market situation so dictate, the Committee may take appropriate action to recommend reinstating regulation.

This rule enables Washington-Oregon fresh prune handlers to ship prunes without regard to minimum grade, size, quality, maturity, and inspection requirements. This allows handlers to decrease their total costs by eliminating the expenses associated with mandatory inspection. This rule does not restrict handlers from seeking product inspection on a voluntary basis if they find inspection desirable. The Committee will evaluate the effect the suspension of the handling regulations has on market conditions and on producer returns each year the suspension is in effect, and, if necessary, make recommendations to USDA for changes.

The suspension of the handling regulations will result in the elimination of the inspection certificates being generated and forwarded to the Committee office by the Inspection Service. The Committee used these certificates as the basis for the collection of assessments from handlers and for compiling prune industry statistics. During the period handling regulations are suspended, inspection certificates will not be generated by the Inspection Service and provided to the Committee. As a consequence, handlers will need to submit reports directly to the Committee to facilitate the collection of assessments and the compilation of industry statistics.

Therefore, a new § 924.160 *Reports* is added which requires each handler to submit to the Committee, on or before October 30 of each year, a ''Handler Statement for Washington-Oregon Fresh Prunes'' containing the following information: (a) The handler's name and address; (b) the name and address of each producer; (c) the quantity, in field run tons, of early and late fresh prunes handled by each handler; (d) the assessment due and enclosed; (e) the name, telephone number, and signature of the authorized person completing the form; and (f) the date the form is signed.

Authorization to assess handlers enables the Committee to incur expenses that are reasonable and necessary to administer the program. This reporting requirement will facilitate the Committee's ability to collect assessments needed to cover necessary program costs. Even though reporting requirements are increased, this rule, through the elimination of inspection and certification requirements, is expected to reduce overall industry expenses.

Consistent with the suspension of § 924.319, this rule also suspends § 924.110 of the rules and regulations in effect under the order. Section 924.110 contains provisions for handlers to apply for waivers from mandatory inspection when such inspection is not readily available from the Inspection Service. With the suspension of regulation, such waivers are no longer necessary.

Contained within the handling regulations (§ 924.319(b)) is a provision allowing the handling of any individual shipment which, in the aggregate, does not exceed 500 pounds net weight of Stanley or Merton variety prunes, or 350 pounds net weight of any other variety of prunes, without regard to the inspection and assessment requirements issued under the order. Regardless of the suspension of handling regulations, the Committee desires that this provision remain effective for the purpose of providing a minimum quantity exemption from assessments. Thus, a new § 924.121 *Minimum quantity exemption* is established. This section essentially continues the provision with the same minimum quantity exemptions as in 924.319(b), but in regards to the assessment requirements contained § 924.41 only.

Section 8e of the Act requires that whenever grade, size, quality, or maturity requirements are in effect for certain commodities under a domestic marketing order, including fresh prunes, imports of that commodity must meet the same or comparable requirements. Section 944.700 contains the regulations for fresh prune imports. Since this rule indefinitely suspends the handling regulation for domestic fresh prunes, including grade, size, quality, and maturity requirements, the regulation of imported fresh prunes is suspended indefinitely as well.

Initial Regulatory Flexibility Analysis

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities. Accordingly, AMS has prepared this initial regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and the rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

Currently, there are 7 handlers of Washington-Oregon fresh prunes who are subject to regulation under the marketing order and approximately 100 fresh prune producers in the regulated area. Small agricultural service firms are defined by the Small Business Administration (13 CFR 121.201) as those having annual receipts of less than $6,500,000, and small agricultural producers are defined as those having annual receipts of less than $750,000.

Fresh prune production has been approximately 5,000 to 7,000 tons per year for the past several years. The Committee estimates that all Washington-Oregon fresh prune handlers combined ship less that $6,500,000 worth of prunes on an annual basis. In addition, based on acreage, production, and producer prices reported by the National Agricultural Statistics Service, and the total number of Washington-Oregon fresh prune producers, average annual producer receipts are approximately $13,000, which is considerably less than the $750,000 threshold. In view of the foregoing, it can be concluded that all of the handlers and producers of Washington-Oregon fresh prunes may be classified as small entities.

At its February 16, 2006, meeting, the Committee unanimously recommended suspending the handling regulations and establishing reporting requirements for the 2006 and future seasons.

This rule suspends the handling regulations specified in § 924.319, as well as the fresh prune import regulations specified in § 944.700. Furthermore, this rule implements a modified minimum quantity exemption as a new § 924.121, and adds a new reporting requirement as § 924.160. The suspension of the handling regulation will allow the Washington-Oregon fresh prune industry to market fresh prunes without regard to minimum grade, size, quality, maturity, and inspection requirements. Authority for this action is provided in §§ 924.53 and 924.60.

The handling regulations help ensure that only acceptable quality fresh prunes enter fresh market channels, thereby ensuring consumer satisfaction, increasing sales, and improving returns to producers. While the industry continues to believe that quality is an important factor in maintaining sales, the Committee believes the cost of inspection and certification exceeds the benefits derived. The Committee believes that the demands of wholesale buyers and consumers will drive handlers and producers to maintain a high level of product quality without the necessity of minimum quality standards and mandatory inspections. The Committee will review the suspension of handling regulations and all relevant related issues on an annual basis. The handling regulations can be reinstated by way of Committee recommendation and USDA approval through the informal rulemaking process.

Fresh prune prices have been at low levels in recent years, and many producers have faced difficulty covering their production costs. In response to the adverse economic conditions being experienced by the industry, the Committee discussed the possibility of reducing costs through the elimination of mandatory inspection. The Committee is concerned, however, that the elimination of current handling and inspection requirements could possibly result in lower quality fresh prunes being shipped to fresh markets. Also, should fruit quality decline, there is some concern among Committee members that the Washington-Oregon fresh prune industry could lose sales to other prune producing regions.

While acknowledging these concerns, the Committee believes that the benefits derived from suspending the regulations outweigh the potential costs. The Committee also believes that the current marketing situation makes regulation unnecessary, that the cost of regulation outweighs the benefits, and that the conditions leading to the suspension will perpetuate well into the future. Therefore, the Committee recommended that the suspension of the handling regulations be effective not only for the upcoming season, but for future seasons as well. The indefinite suspension will alleviate the need for annual rulemaking to maintain the suspension while allowing the Committee to monitor the impacts of the suspension and consider appropriate actions for ensuing seasons. If and when the industry experiences changes in the marketing environment that would make reinstating the handling regulations necessary, the Committee has the ability to quickly respond.

This rule enables handlers to ship prunes without regard to the minimum grade, size, quality, maturity, and inspection requirements for the 2006 and future seasons. This rule allows handlers to decrease costs by eliminating the costs associated with mandatory inspection. This rule, however, does not restrict handlers from seeking inspection on a voluntary basis if they find inspection desirable. The Committee will evaluate the effect that suspension of the handling regulations has on marketing conditions and on producer returns at their annual meeting each spring.

The suspension of the handling regulations results in the elimination of mandatory inspections and, in turn, the inspection certificates generated by the Inspection Service and provided to the Committee. The Committee has used such certificates for assessment billing purposes and for compiling industry statistics. As a result of this suspension of the handling regulations, the

Committee will require a report directly from each handler for the purpose of obtaining information on which to collect assessments and generate statistical information.

The Committee anticipates that this rule will not negatively impact small handlers and producers because it suspends minimum grade, size, quality, maturity, and inspection requirements. The total cost of inspection and certification for fresh shipments of Washington-Oregon fresh prunes during the 2005 marketing season is estimated by the Committee to have been $0.23 per hundredweight, or approximately $27,000 total. This represents approximately $4,000 per handler. Since handlers may continue to have their prunes voluntarily inspected, the Committee expects that some handlers will continue to have at least a portion of their fresh prunes inspected and certified by the Inspection Service.

Alternatives to the suspension of the handling regulations considered by the Committee included maintaining the status quo, suspending regulations for one season only, and terminating the marketing order in its entirety. However, the Committee believes that the continuation of regulation would be a financial burden on the industry given the current market situation and outlook. Thus, continuing to regulate was not a viable option to the Committee. The Committee also discussed suspending regulation one season at a time, but rejected that option as well. Finally, the Committee considered terminating the order in its entirety, but declined to take that action. The Committee continues to believe that the order has purpose, even without handling regulations. Further, with the suspension of handling regulations, the Committee believes handler reports are needed to ensure the collection of information needed by the Committee to administer the order.

This action imposes some additional reporting and recordkeeping burden on handlers. However, any additional requirements on fresh prune handlers are expected to be offset by the elimination of the handling regulation and mandatory inspection. The elimination of inspection and certification requirements is expected to further reduce industry expenses, as well. In addition, USDA has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule.

Further, the Committee's meeting was widely publicized throughout the Washington-Oregon fresh prune industry and all interested persons were invited to attend the meeting and participate in Committee deliberations. Like all Committee meetings, the February 16, 2005, meeting was a public meeting and all entities, both large and small, were able to express their views on this issue. Finally, interested persons are invited to submit information on the regulatory and informational impacts of this action on small businesses.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at: *http://www.ams.usda.gov/fv/moab.html*. Any questions about the compliance guide should be sent to Jay Guerber at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), this notice announces that AMS has received approval from the Office of Management and Budget (OMB), for the new information collection request for Fresh Prunes Grown in Designated Counties in Washington and in Umatilla County, Oregon—Marketing Order No. 924, under OMB No. 0581–XXXX. The additional burden will subsequently be merged into the information collection currently approved under OMB No. 0581–0189, Generic OMB Fruit Crops.

Title: Fresh Prunes Grown in Designated Counties in Washington and in Umatilla County, Oregon—Marketing Order No. 924.

OMB Number: 0581–NEW.

Type of Request: New collection.

Abstract: The information collection requirements in this request are essential to carry out the intent of the Act, to provide the respondents the type of service they request, and to administer the Washington-Oregon fresh prune order, which has been operating since 1960.

On February 16, 2006, the Committee unanimously recommended suspending the order's handling regulations. To ensure that the Committee obtains handler information that is necessary for operation of the order, the Committee also unanimously recommended establishing a new reporting requirement. Information will be reported on a new Committee form, Form No. 1, ''*Handler Statement for Washington-Oregon Fresh Prunes*,'' which requires handlers to report the total quantity of early and late fresh prunes handled during the season.

The new report is needed by the Committee to compile information that is essential for the collection of handler assessments and to provide shipment statistics to the industry. The Committee previously used inspection certificates from the Inspection Service to obtain this information, but this source will no longer be available under the suspension of the handling regulations. This new report will help to ensure compliance with the order's provisions and assist the Committee and the USDA with oversight and planning.

The information collected is used only by authorized representatives of USDA, including AMS, Fruit and Vegetable Programs regional and headquarters staff, and authorized Committee employees. Authorized Committee employees will be the primary users of the information and AMS would be the secondary user.

The request for approval of the new information collections under the order is as follows:

Form No. 1, ''Handler Statement for Washington-Oregon Fresh Prunes.''

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 25 minutes per response.

Respondents: Washington-Oregon fresh prunes handlers.

Estimated Number of Respondents: 7.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 2.92 hours.

Comments: Comments are invited on: (1) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments should reference OMB No. 0581–NEW and the Washington-Oregon fresh prune order (Marketing Order No. 924), and be sent to USDA in care of the Docket Clerk at the previously mentioned address. All comments received will be available for public inspection during regular business hours at the same address.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will become a matter of public record. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce

information requirements and duplication by industry and public sector agencies.

Government Paperwork Elimination Act Compliance

AMS is committed to compliance with the Government Paperwork Elimination Act (GPEA), which requires Government agencies in general to provide the public the option of submitting information or transacting business electronically to the maximum extent possible.

The U.S. Trade Representative has reviewed this interim final rule and concurs with its issuance.

This rule invites comments on the suspension of the handling regulations and changes to the reporting requirements prescribed under the order, as well as the suspension of the prune import regulation. Any comments timely received will be considered prior to finalization of this rule.

After consideration of all relevant material presented, including the Committee's recommendation, and other information, it is found that suspension of the handling regulations and this interim final rule will tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it is also found and determined upon good cause that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice prior to putting this rule into effect and good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** because: (1) This interim final rule is a relaxation in the prune handling regulations and should be in place as soon as possible for the upcoming 2006 season; (2) handlers need to know as soon as possible that they are free to market their fresh prunes without regard to the handling regulations; (3) this issue has been widely discussed at various industry and association meetings and the Committee has kept the industry well informed; (4) handlers are aware of this rule, which was recommended at a public meeting; and (5) this rule provides a 60-day comment period and any comments received will be considered prior to finalization of this rule.

List of Subjects in 7 CFR Parts 924 and 944

Plums, Prunes, Marketing agreements, Reporting and recordkeeping requirements.

■ For the reasons set forth in the preamble, 7 CFR parts 924 and 944 are amended as follows:

PART 924—FRESH PRUNES GROWN IN DESIGNATED COUNTIES IN WASHINGTON AND IN UMATILLA COUNTY, OREGON

■ 1. The authority citation for 7 CFR parts 924 and 944 continues to read as follows:

Authority: 7 U.S.C. 601–674.

§§ 924.110 and 924.319 [Suspended]

■ 2. In part 924, §§ 924.110 and 924.319 are suspended indefinitely.

■ 3. In Subpart—Rules and Regulations, new §§ 924.121 and 924.160 are added to read as follows:

§ 924.121 Minimum quantity exemption.

Any individual shipment which, in the aggregate, does not exceed 500 pounds net weight of prunes of the Stanley or Merton varieties, or 350 pounds net weight of prunes of any variety other than the Stanley or Merton varieties, and which meets each of the following requirements may be handled without regard to the assessment provisions in § 924.41:

(a) The shipment consists of prunes sold for home use and not for resale, and

(b) Each container is stamped or marked with the handler's name and address and with the words ''not for resale'' in letters at least one-half inch in height.

§ 924.160 Reports.

Each person handling prunes shall submit to the Committee, on or before October 30 of each year, a ''Handler Statement for Washington-Oregon Fresh Prunes'' containing the following information:

(a) The handler's name and address;

(b) The name and address of each producer;

(c) The quantity, in field run tons, of early and late fresh prunes handled by each handler;

(d) The assessment due and enclosed;

(e) The name, telephone number, and signature of the authorized person completing the form; and

(f) The date the form is signed.

PART 944—FRUITS; IMPORT REGULATIONS

§ 944.700 [Suspended]

■ 5. Section 944.700 is suspended indefinitely.

Dated: May 3, 2006.

Kenneth C. Clayton,

Acting Administrator, Agricultural Marketing Service.

[FR Doc. 06–4315 Filed 5–8–06; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1219

[Doc. No. FV–06–701–IFR]

Amendment to the Hass Avocado Promotion, Research, and Information Order: Adjust Representation on the Hass Avocado Board

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule with request for comment.

SUMMARY: This interim final rule adjusts the number of members on the Hass Avocado Board (Board) to reflect changes in the production of domestic Hass avocados in the United States and the volume of Hass avocados imported into the U.S. over the 2003, 2004, and 2005 calendar years, which are three years after assessments commenced. These adjustments are required by the Hass Avocado Promotion, Research, and Information Order (Order). The result of the adjustment is one additional importer member and alternate and one less domestic producer member and alternate of Hass avocados that are subject to assessments. As a result of these changes, the Board membership would be composed of seven domestic producer members and alternates and five importer members and alternates. Currently, the Board is composed of eight domestic producer members and alternates, and four importer members and alternates. These changes to the Board are effective for the Secretary of Agriculture's 2006 appointments.

DATES: Effective May 10, 2006. Comments received by July 10, 2006 will be considered prior to issuance of a final rule.

ADDRESSES: Interested persons are invited to submit written comments concerning this rule to: Docket Clerk, Research and Promotion Branch, Fruit and Vegetable Programs (FV), Agricultural Marketing Service (AMS), USDA, Stop 0244, Room 2535–S, 1400 Independence Avenue, SW., Washington, DC 20250–0244; Fax: (202) 205–2800; or e-mail: *marlene.betts@usda.gov;* or Internet: *http://www.regulations.gov.* All comments should reference the docket number, the date and page number of this issue of the **Federal Register**, and will be made available for public inspection in the above office during regular business hours, or can be viewed at: *http://www.ams.usda.gov/fv/rpb.html.*

FOR FURTHER INFORMATION CONTACT: Marlene M. Betts, Research and Promotion Branch, FV, AMS, USDA, Stop 0244, 1400 Independence Avenue, SW., Room 2535–S, Washington, DC 20250–0244, telephone (202) 720–9915, fax (202) 205–2800, or e-mail *Marlene.Betts@usda.gov.*

SUPPLEMENTARY INFORMATION: The Hass Avocado Promotion, Research, and Consumer Information Order (Order) is issued under the Hass Avocado Promotion, Research, and Information Act of 2000 (Act) [7 U.S.C. 7801–7813].

Executive Order 12866

The Office of Management and Budget has waived the review process required by Executive Order 12866 for this action.

Executive Order 12988

This interim final rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is not intended to have retroactive effect. Section 1212(c) of the Hass Avocado Promotion, Research, and Information Act of 2000 (Act) states that the Act may not be construed to preempt or supersede any other program relating to Hass avocado promotion, research, industry information, and consumer information organized and operated under the laws of the United States or of a State.

Under section 1207(a)(1) of the Hass Avocado Promotion, Research, and Information Act of 2000 (Act), a person subject to the Order may file a petition with the Department (USDA) stating that the Order, any provision for the Order, or any obligation imposed in connection with the Order, is not established in accordance with law, and requesting a modification of the Order or an exemption from the Order. Any petition filed challenging the Order, any provision of the Order, or any obligation imposed in connection with the Order, shall be filed within two years after the effective date of the Order, provision, or obligation subject to challenge in the petition. The petitioner will have the opportunity for a hearing on the petition. Thereafter, USDA will issue a ruling on the petition. The Act provides that the district court of the United States in any district in which the petitioner resides or conducts business shall have the jurisdiction to review a final ruling on the petition, if the petitioner files a complaint for that purpose not later than 20 days after the date of the entry of USDA's final ruling.

Regulatory Flexibility Act and Paperwork Reduction Act

In accordance with the Regulatory Flexibility Act (RFA) [5 U.S.C. 601 et seq.], the Agency is required to examine the impact of this rule on small entities. The purpose of the RFA is to fit regulatory actions to the scale of businesses subject to such actions so that small businesses will not be disproportionately burdened. In accordance with the provision of the Act and section 1219.30 of the Order, this rule merely adjusts representation on the Board to reflect changes in production levels of domestic Hass avocados in the U.S. and the volume of imported Hass avocados into the U.S. over the 2003, 2004, and 2005 calendar year. There are approximately 20,000 producers and 200 importers, covered by the Hass avocado program. The Small Business Administration [13 CFR 121.201] defines small agricultural producers as those having annual receipts of $750,000 or less annually and small agricultural service firms as those having annual receipts of $6.5 million or less. Importers would be considered agricultural service firms. Using these criteria, most producers and importers covered by the program would be considered small businesses under the criteria established by the Small Business Administration (13 CFR 121.201).

At its January 2006 meeting, the Board reviewed the production for the domestic Hass avocados in the U.S. and the volume of imported Hass avocados over the 2003, 2004, and 2005 calendar years and decided to recommend one additional member and alternate member for importers and one less member and alternate for domestic producers of Hass avocados that are subject to the assessment. The total average combined volume of Hass avocados produced in the U.S. and imported into the U.S. for the 2003, 2004, and 2005 calendar years was 712 million pounds. Of this amount, 53.2 percent was Hass avocados imported into the U.S. and 46.8 percent was domestically produced Hass avocados.

Representation on the Board (12) is comprised of: (1) Seven producer members and their alternates; (2) two importer members and their alternates; and (3) three producer or importer members and their alternates, also known as the ''swing seats.'' Under the Act and Order, the three ''swing seats'' are allocated so as to reflect as nearly as possible the proportion of domestic production and imports supplying the U.S. market. The proportion is based on the average volume of domestic production and the average volume of imports into the U.S. market over the previous three years. With regard to alternatives, the adjustments to the three ''swing seats'' in this interim final rule are in conformance with the provisions of the Act and Order. This rule merely adjusts representation on the Board to provide the ''swing seats'' with three importer members and imposes no new burden on the industry.

There are no relevant Federal rules that duplicate, overlap, or conflict with this rule.

In accordance with the Office of Management and Budget (OMB) regulation [5 CFR part 1320] which implements the Paperwork Reduction Act of 1995 [44 U.S.C. chapter 35], the information collection and recordkeeping requirements that are imposed by the Order have been approved previously under OMB control number 0581–0093. This rule does not result in a change to the information collection and recordkeeping requirements previously approved.

We have performed this Initial Regulatory Flexibility Analysis regarding the impact of this rule on small entities, and we invite comments concerning potential effects of the rule.

Background

The Hass Avocado Promotion, Research, and Information Act of 2000 (Act) (7 U.S.C. 7801–7813); the Act provides for the establishment of a coordinated program of promotion, research, industry information, and consumer information designed to strengthen the avocado industry's position in the domestic marketplace, and to maintain, develop, and expand markets and uses for Hass avocados in the domestic marketplace. The program is financed by an assessment of 2.5 cents per pound on fresh Hass avocados produced and handled in the U.S. and on fresh Hass avocados imported into the U.S. Also under the Act, the Secretary may issue regulations. Pursuant to the Act, an Order was made effective September 9, 2002. The Order established a Board of 12 members and alternates. For purposes of establishing the Board, seven members and their alternates shall be producers of Hass avocados; two members and their alternates shall be importers of Hass avocados; and, three members and their alternates shall be producers or importers of Hass avocados, also known as the ''swing seats.'' The three ''swing seats'' are allocated so as to reflect as nearly as possible the proportion of domestic production and imports supplying the U.S. market. Such

proportion is determined using the average volume of domestic production and the average volume of imports into the U.S. market over the previous three years.

Section 1219.30(c) of the Order provides that at the end of three years after assessment funds began, the Board shall review the production of domestic Hass avocados in the U.S. and the volume of imported Hass avocados on the basis of the amount of assessments collected from producers and importers over the immediately preceding three-year period. The Board may recommend to the Secretary modification to the Board based on proportion of domestic production and imports supplying the U.S. market.

At its January 2006 meeting, the Board reviewed the production for the domestic Hass avocados in the U.S. and the volume of imported Hass avocados over the 2003, 2004, and 2005 calendar years and decided to recommended one additional member and alternate member for importers and one less member and alternate for domestic producers of Hass avocados that are subject to the assessment. The total average combined volume of Hass avocados produced in the U.S. and imported into the U.S. for the 2003, 2004, and 2005 calendar years was 712 million pounds. Of this amount, 53.2 percent was Hass avocados imported into the U.S. and 46.8 percent was domestically produced Hass avocados.

Representation on the Board (12) is comprised of: (1) Seven producer members and their alternates; (2) two importer members and their alternates; and, (3) three producer or importer members and their alternates, also known as the ''swing seats.'' Under the Act and Order the three ''swing seats'' are allocated so as to reflect as nearly as possible the proportion of domestic production and imports supplying the U.S. market. The proportion is based on the average volume of domestic production and the average volume of imports into the U.S. market over the previous three years.

The current 12 member Board is composed of eight producer members and alternates, and four importer members and alternates; meaning (1) Seven producer members and alternates; (2) two importer members and alternates; and, (3) of the three ''swing seats'' two are currently importer member and alternate seats and one is a producer member and alternate seat.

Representation on the Board based on the changes in the production of domestic Hass avocados and the volume of imported Hass avocadoes into the U.S. over the 2003, 2004, and 2005 calendar year results in one additional importer member and alternate and one less producer member and alternate. Accordingly, all of the ''swing seats'' are importers' therefore, the 12-member Board will be comprised of seven producer members and alternates and five importer members and alternates.

Pursuant to 5 U.S.C. 553, it is found and determined upon good cause that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice prior to putting this rule into effect and that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** because the Board adjustment provided for in this interim final rule needs to be effective as soon as possible in order to complete the 2006 Board appointments.

List of Subjects in 7 CFR Part 1219

Administrative practice and procedure, Advertising, Consumer information, Hass avocados, Hass avocado promotion, Marketing agreements, Reporting and recordkeeping requirements.

■ For the reasons set forth in the preamble, 7 CFR part 1219 is amended as follows:

PART 1219—HASS AVOCADO PROMOTION, RESEARCH, AND INFORMATION

■ 1. The authority citation for part 1219 continues to read as follows:

Authority: 7 U.S.C. 7801–7813.

Subpart C—Rules and Regulations

■ 2. A new § 1219.203 is added to read as follows:

§ 1219.203 Reapportionment of membership.

Pursuant to § 1219.30(c), the positions authorized in § 1219.30(b)(3) are reapportioned as follows: 3 importer members and their alternates.

Dated: May 3, 2006.

Kenneth C. Clayton,

Acting Administrator, Agricultural Marketing Service.

[FR Doc. 06–4316 Filed 5–8–06; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 92–ANE–34–AD; Amendment 39–14584; AD 2006–09–13]

RIN 2120–AA64

Airworthiness Directives; Honeywell International Inc. ALF502L Series and ALF502R Series Turbofan Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is superseding an existing airworthiness directive (AD) for Honeywell International Inc. ALF502L series and ALF502R series turbofan engines. That AD currently establishes stress rupture retirement life limits for certain third stage turbine discs used in conjunction with certain third stage turbine nozzles. This AD brings requirements forward and unchanged, from the previous AD for ALF502R series turbofan engines. Also, this AD establishes new reduced stress rupture retirement life limits for certain part numbers (P/Ns) of third stage turbine disc and shaft assemblies installed in ALF502L series turbofan engines. This AD also requires removing those same parts from service using a drawdown schedule. This AD results from a report of failure of a third stage turbine disc and shaft assembly, leading to turbine blade release and separation of the exhaust nozzle. We are issuing this AD to prevent total loss of engine power, in-flight engine shutdown, release of turbine blades, separation of the exhaust nozzle, and possible damage to the airplane.

DATES: This AD becomes effective June 13, 2006. The Director of the Federal Register approved the incorporation by reference of certain publications listed in the regulations as of June 13, 2006.

ADDRESSES: Contact Honeywell Engines, Systems & Services, Customer Support Center, M/S 26–06/2102–323, P.O. Box 29003, Phoenix, AZ 85038–9003; telephone (800) 601–3099, for the service bulletins identified in this AD.

You may examine the AD docket at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA. You may examine the service bulletins, at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA.

FOR FURTHER INFORMATION CONTACT: Robert Baitoo, Aerospace Engineer, Los Angeles Aircraft Certification Office,

FAA, Transport Airplane Directorate, 3960 Paramount Blvd., Lakewood, CA 90712–4137; telephone: (562) 627–5245, fax: (562) 627–5210.

SUPPLEMENTARY INFORMATION: The FAA proposed to amend 14 CFR Part 39 with a proposed airworthiness directive (AD). The proposed AD applies to Honeywell International Inc. ALF502L series and ALF502R series turbofan engines. We published the proposed AD in the **Federal Register** on November 2, 2005 (70 FR 66302). That action proposed to bring requirements forward and unchanged, from the previous AD for ALF502R series turbofan engines. Also, that action proposed to establish new reduced stress rupture retirement life limits for certain P/Ns of third stage turbine disc and shaft assemblies installed in ALF502L series turbofan engines. That action also proposed to require removing those same parts from service using a drawdown schedule.

Examining the AD Docket

You may examine the AD Docket (including any comments and service information), by appointment, between 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays. See **ADDRESSES** for the location.

Comments

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

Conclusion

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

Costs of Compliance

There are about 180 Honeywell International, Inc. ALF502L, ALF502L–2, ALF502L–2A, ALF502L–2C, ALF502L–3, and ALF502R series turbofan engines of the affected design in the worldwide fleet. We estimate the AD will affect 170 engines installed on airplanes of U.S. registry. We also estimate that it will take about 14 workhours per engine to perform the actions, and that the average labor rate is $65 per workhour. The prorated cost of a replacement third stage turbine disc and shaft assembly is estimated to be $40,000. Based on these figures, we estimate the total parts and labor cost of the AD on U.S. operators to be $6,954,700.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

We prepared a summary of the costs to comply with this AD and placed it in the AD Docket. You may get a copy of this summary by sending a request to us at the address listed under **ADDRESSES.** Include ''AD Docket No. 92–ANE–34–AD'' in your request.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing Amendment 39–9163 (60 FR 11621, April 3, 1995) and by adding a new airworthiness directive, Amendment 39–14584, to read as follows:

2006–09–13 Honeywell International Inc. (formerly AlliedSignal, Inc. and Textron Lycoming): Amendment 39–14584. Docket No. 92–ANE–34–AD.

Effective Date

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

Affected ADs

(b) This AD supersedes AD 95–04–11.

Applicability

(c) This AD applies to Honeywell International Inc. (formerly AlliedSignal, Inc. and Textron Lycoming) ALF502L, ALF502L–2, ALF502L–2A, ALF502L–2C, and ALF502L–3 series turbofan engines with third stage turbine disc and shaft assemblies that have operated in the Honeywell Pre SB No. ALF502L 72–232 configuration. This AD also applies to ALF502R series engines. These engines are installed on, but not limited to, BAe Systems AVRO 146 and Bombardier (Canadair) CL600–1A11 series airplanes.

Unsafe Condition

(d) This AD results from a report of failure of a third stage turbine disc and shaft assembly, leading to turbine blade release and separation of the exhaust nozzle. We are issuing this AD to prevent total loss of engine power, in-flight engine shutdown, release of turbine blades, separation of the exhaust nozzle, and possible damage to the airplane.

Compliance

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

ALF502L Series Turbofan Engines

Determination of Third Stage Turbine Disc and Shaft Assembly Drawdown Schedule

(f) For ALF502L series turbofan engines, determine if the third stage turbine disc and shaft assembly is currently operating in the Pre SB No. ALF502L 72–232 configuration as follows:

(1) If a third stage turbine nozzle assembly, part number (P/N) 2–141–120R56/–57 is installed, then Honeywell SB No. ALF502L 72–232 has been complied with. Proceed to the drawdown schedule in paragraph (h) of this AD.

(2) If any other third stage turbine nozzle assembly is installed, then the engine is in the Pre SB No. ALF502L 72–232 configuration. Proceed to the drawdown schedule in paragraph (g) of this AD.

Drawdown Schedule for Third Stage Turbine Disc and Shaft Assemblies That Are Operating in the Pre SB No. ALF502L 72–232 Configuration

(g) For ALF502L series turbofan engines, use the drawdown schedule described in the following Table 1, and replace with serviceable parts:

TABLE 1.—DRAWDOWN SCHEDULE FOR THIRD STAGE TURBINE DISC AND SHAFT ASSEMBLIES IN PRE SB ALF502L 72–232 CONFIGURATION

For third stage turbine disc and shaft assembly P/Ns:	If hours-in-service (HIS) on the effective date of this AD are:	Then remove:
2–143–030–05, 2–143–030–08, 2–143–030–14, 2–143–030R21, 2–143–030–22, 2–143–030–23.	(1) 5,200 or more HIS.	Within 50 additional HIS.
	(2) 5,001 to 5,199 HIS.	Before reaching 5,250 HIS.
	(3) 2,551 to 5,000 HIS.	Within 250 additional HIS.
	(4) 2,550 or fewer HIS.	Before reaching 2,800 HIS.

Determination of Drawdown Schedule for Third Stage Turbine Disc and Shaft Assemblies That Have Operated in Pre and Post SB No. ALF502L 72–232 Configurations

(h) For ALF502L series turbofan engines, with third stage turbine disc and shaft assemblies converted from Pre SB No. ALF502L 72–232 configuration to Post SB No. ALF502L 72–232 configuration, do the following:

(1) Determine the total HIS accumulated on the third stage turbine disc and shaft assembly at time of installation of third stage turbine nozzle assembly, P/N 2–141–120–R56/–57.

(2) If the total is 2,800 HIS or more, use the drawdown schedule in Table 1 of this AD to remove the assembly from service.

(3) If the total is fewer than 2,800 HIS, calculate the remaining service life using paragraphs 2.A. through 2.B.(4)(i) of the Accomplishment Instructions of Honeywell SB No. ALF502 72–0004, Revision 17, dated January 16, 2005.

(i) For ALF502L series turbofan engines, use the drawdown schedule described in the following Table 2 to remove the assembly from service:

TABLE 2.—DRAWDOWN SCHEDULE FOR THIRD STAGE TURBINE DISC AND SHAFT ASSEMBLIES OPERATED IN PRE AND POST SB NO. ALF502L 72–232 CONFIGURATION

For third stage turbine disc and shaft assembly part numbers:	If HIS on the effective date of this AD are:	Then:
(1) 2–143–030–05, 2–143–030–08, 2–143–030–14.	(i) 30,000 or more HIS.	Remove within 50 additional HIS.
	(ii) 27,250 to 29,999 HIS.	Remove within 250 additional HIS.
	(iii) Fewer than 27,250 HIS.	Remove using Tables 1 through 5 of Honeywell SB No. ALF502 72–0004, Revision 17, dated January 16, 2005.
(2) 2–143–030R21, 2–143–030–23	(i) 24,650 or more HIS.	Remove within 50 additional HIS.
	(ii) 22,150 to 24,649 HIS.	Remove within 250 additional HIS.
	(iii) Fewer than 22,150 HIS.	Remove using Tables 1 through 5 of Honeywell SB No. ALF502 72–0004, Revision 17, dated January 16, 2005.
(3) 2–143–030–22	(i) 50,000 or more HIS.	Remove within 50 additional HIS.
	(ii) 49,750 to 49,999 HIS.	Remove within 250 additional HIS.
	(iii) Fewer than 49,750 HIS.	Remove using Tables 1 through 5 of Honeywell SB No. ALF502 72–0004, Revision 17, dated January 16, 2005.

ALF502R Series Turbofan Engines

Requirements Brought Forward, and Unchanged From AD 95–04–11

(j) For ALF502R series turbofan engines, remove from service and replace with a serviceable part third stage turbine disks, P/Ns 2–143–030–05, 2–143–030–08, and 2–143–030–14, as follows:

(1) For disks that have been installed only with third stage turbine nozzles P/Ns 2–141–130–52 or 2–141–120–53, remove from service as follows:

(i) For disks that have accumulated 13,220 or more hours time in service (TIS) since new on April 13, 1995 (the effective date of AD 95–04–11), within the next 80 hours TIS after December 11, 1990, but not to exceed the existing cyclic life limit.

(ii) For disks that have accumulated less than 13,220 hours TIS since new on April 13, 1995, before accumulating more than 13,300 hours TIS since new, but not to exceed the existing cyclic life limit.

(iii) Thereafter, remove disks before accumulating more than 13,300 hours TIS since new, but not to exceed the existing cyclic life limit.

(2) For disks that have been installed only with third stage turbine nozzles, P/Ns 2–141–120–57 or 2–141–120–R56, remove from service as follows:

(i) For disks that have accumulated 27,420 or more hours TIS since new on April 13, 1995, within 80 hours TIS after April 13, 1995, but not to exceed the existing cyclic life limit.

(ii) For disks that have accumulated less than 27,420 hours TIS since new on April 13, 1995, before accumulating more than 27,500 hours TIS since new, but not to exceed the existing cyclic life limit.

(iii) Thereafter, remove disks before accumulating more than 27,500 hours TIS since new, but not to exceed the existing cyclic life limit.

(3) For disks that have been installed with both third stage turbine nozzles, P/Ns 2–141–120–52 or 2–141–120–120–53, and third stage turbine nozzles P/Ns 2–141–120–57 or 2–141–120–R56, remove from service as follows:

(i) Determine the prorated hourly life limit using the procedure defined in the Accomplishment Instructions, Section 2.B.(2) of Textron Lycoming SB No. ALF 502 72–0002, Revision 22, dated December 23, 1992. From this prorated hourly life limit, subtract 80 hours TIS to determine the compliance threshold.

(ii) For disks that have equaled or exceeded the compliance threshold on April 13, 1995,

within the next 80 hours TIS, but not to exceed the existing cyclic life limit.

(iii) For disks that have accumulated fewer than the compliance threshold on April 13, 1995, before accumulating more than the calculated prorated hourly life limit.

(iv) Thereafter, remove disks at or before accumulating the prorated hourly life limit, but not to exceed the existing cyclic life limit.

Alternative Methods of Compliance

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

Special Flight Permits

(l) Under 14 CFR part 39.23, we are limiting the special flight permits for this AD by allowing a onetime special flight if the disc life limit has been reached.

Related Information

(m) Honeywell SB No. ALF/LF A72–1085, Revision 1, dated January 16, 2005, pertains to the subject of this AD.

Material Incorporated by Reference

(n) You must use the service bulletins listed in Table 3 of this AD to perform the inspections required by this AD. The Director of the Federal Register approved the incorporation by reference of this service bulletin in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Contact Rolls-Royce plc, P.O. Box 31, Derby, DE248BJ; UK, telephone: 011–44–1332–242424; fax: 011–44–1332–249936, for a copy of this service information. You can review copies at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA; or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal-register/cfr/ibr-locations.html.*

TABLE 3.—INCORPORATION BY REFERENCE

Service bulletin (SB) No.	Pages	Revision	Date
Textron Lycoming SB No. ALF 502 72–0002 ..... Total Pages: 27	1–2	22	December 23, 1992.
	3	18	December 21, 1989.
	4–7	22	December 23, 1992.
	8	21	September 25, 1992.
	9–10	22	December 23, 1992.
	11	21	September 25, 1992.
	12–26	22	December 23, 1992.
	27	21	September 25, 1992.
Honeywell SB No. ALF502 72–0004 ..... Total Pages: 30	1	17	January 16, 2005.
	2	16	November 7, 2003.
	3	17	January 16, 2005.
	4	16	November 7, 2003.
	5–30	17	January 16, 2003.

Issued in Burlington, Massachusetts, on April 26, 2006.

Francis A. Favara,

Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 06–4193 Filed 5–8–06; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 9257]

RIN 1545–AY49

Application of Section 338 to Insurance Companies; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correcting amendment.

SUMMARY: This document corrects final and temporary regulations (TD 9257) that were published in the **Federal Register** on Monday, April 10, 2006 (71 FR 17990) applying to a deemed sale or acquisition of an insurance company's assets pursuant to an election under section 338 of the Internal Revenue Code, to a sale or acquisition of an insurance trade or business subject to section 1060, and to the acquisition of insurance contracts through assumption reinsurance.

DATES: This correction is effective April 10, 2006.

FOR FURTHER INFORMATION CONTACT: Mark Weiss, (202) 622–7790 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The final and temporary regulations (TD 9257) that are the subjects of this correction are under sections 197, 338, 381, and 1060 of the Internal Revenue Code.

Need for Correction

As published, TD 9257 contains an error that may prove to be misleading and is in need of clarification.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Correction of Publication

■ Accordingly, 26 CFR part 1 is corrected by making the following correcting amendment:

PART 1—INCOME TAXES

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

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

■ **Par. 2.** Section 1.338.11T is corrected by revising paragraph (d)(3)(ii)(*2*) to read as follows:

§ 1.338–11T Effect of section 338 election on insurance company targets (temporary).

* * * * *

(d) * * *

(3) * * *

(ii) * * *

(*2*) B equals old target's undiscounted unpaid losses (determined under section 846(b)(1) as of the close of the acquisition date;

* * * * *

Guy R. Traynor,

Chief, Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel, (Procedure and Administration).

[FR Doc. 06–4272 Filed 5–8–06; 8:45 am]

BILLING CODE 4830–01–P

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

29 CFR Parts 1601, 1603, 1610, 1615, 1621, and 1626

RIN 3046AA80

Repositioning of Commission Field Offices

AGENCY: Equal Employment Opportunity Commission.

ACTION: Final rule.

SUMMARY: This final rule revises existing EEOC procedural regulations to update position titles, organization titles and office addresses. It does not change the procedures themselves.

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

FOR FURTHER INFORMATION CONTACT: Thomas R. Schlageter, Assistant Legal Counsel, Office of Legal Counsel, 1801 L St., NW., Washington, DC 20507, (202) 663–4668, or James G. Allison, Senior Attorney, Office of Legal Counsel, (202) 663–4661. Copies of this final rule are available in the following alternate formats: Large print, braille, electronic computer disk, and audio-tape. Requests for this notice in an alternative formal should be made to the Publications Center at 1–800–699–3362 (voice), 1–800–800–3302 (TTY), or 703–821–2098 (FAX—this is not a toll free number).

SUPPLEMENTARY INFORMATION: The Commission investigates and litigates charges of employment discrimination through its various offices located throughout the country. On July 8, 2005, the Commission voted to reposition its field resources in order to improve service capabilities, reduce costs and enhance supervisory and managerial efficiencies. Additionally, the field repositioning modified the geographic areas of the office jurisdictions. Among other things, the Commission voted to convert eight District Offices to Field or Area Offices, to convert five Area Offices to Local or Field Offices, to open two new offices in Las Vegas, Nevada, and Mobile, Alabama, and to otherwise create new reporting relationships among the field offices. These changes were implemented on January 1, 2006. On April 4, 2006, the Commission voted to eliminate the Systemic Litigation Services and Systemic Investigations and Review Programs in the Office of General Counsel at headquarters so as to refocus emphasis and resources on systemic discrimination investigations and litigation responsibilities in the Commission's offices in the field.

In preparing the revisions required by the July 5 and April 4 Commission votes, we noticed that the regulations did not reflect correct organization and position titles connected with organizational changes made at headquarters in 1991 and 1997, i.e., the Office of Program Operations became the Office of Field Programs, the Equal Employment Opportunity staff became the Office of Equal Opportunity, and the Determinations Review Program was abolished. Consequently, those changes are being made now. Lastly, we updated addresses of our offices. This Final Rule modifies 29 CFR parts 1601, 1603, 1610, 1615, 1621 and 1626 to reflect these changes.

Regulatory Procedures

Executive Order 12866

This action pertains to agency organization, management or personnel matters and therefore is not a rule within the meaning of section 3(d)(3) of Executive Order 12866.

Paperwork Reduction Act

This regulation contains no new information collection requirements subject to review by the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. chapter 35).

Regulatory Flexibility Act

The Commission certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities because it does not affect any small business entities. The regulation affects only the Equal Employment Opportunity Commission. For this reason, a regulatory flexibility analysis is not required.

Unfunded Mandates Reform Act of 1995

This final rule will not result in the expenditure by State, local, or 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.

Congressional Review Act

This action pertains to the Commission's management, personnel and organization and does not substantially affect the rights or obligations of non-agency parties and, accordingly, is not a ''rule'' as that term is used by the Congressional Review Act (Subtitle E of the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA)). Therefore, the reporting requirement of 5 U.S.C. 801 does not apply.

List of Subjects in 29 CFR Part 1601, 1603, 1610, 1615, 1621, and 1626

Administrative practice and procedure, Equal Employment Opportunity.

For the Commission.

Dated: May 3, 2006.

Cari M. Dominguez,

Chair.

■ Accordingly, the Equal Employment Opportunity Commission amends 29 CFR parts 1601, 1603, 1610, 1615, 1621, and 1626 as follows:

PART 1601—PROCEDURAL REGULATIONS

■ 1. The authority citation for part 1601 continues to read as follows:

Authority: 42 U.S.C. 2000e to 2000e-17; 42 U.S.C. 12111 to 12117.

Subpart A—Definitions

§ 1601.3 [Amended]

■ 2. Amend § 1601.3 (a) by removing the words ''the term *field office* shall mean any of the Commission's District Offices, Area Offices and Local Offices and its Washington Field Office.''

■ 3. Revise § 1601.5 to read as follows:

§ 1601.5 District; area; supervisor authority.

The term ''district'' as used herein shall mean that part of the United States or any territory thereof fixed by the Commission as a particular district. The term ''district director'' shall refer to that person designated as the Commission's chief officer in each district. The term ''Washington Field Office Director'' shall refer to that person designated as the Commission's chief officer in the Washington Field Office. Any authority of, or delegation of authority to, District Directors shall be deemed to include the Director of the Washington Field Office. The term ''field'' shall mean that part of the United States within a district fixed by the Commission as a particular subunit of a district, except for the Washington Field Office which is not part of any district fixed by the Commission. The term ''field director'' shall refer to that person designated as the Commission's chief officer in each field. The term ''area'' shall mean that part of the United States within a district fixed by the Commission as a particular subunit of a district. The term ''area director'' shall refer to that person designated as the Commission's chief officer in each area. The term ''local office'' shall mean an EEOC office with responsibility over a part of the United States within a district fixed by the Commission as a

particular subunit of a district. The term ''local director'' shall refer to that person designated as the Commission's chief officer for the local office. Each district office and the Washington Field Office will operate under the supervision of the Director, Office of Field Programs through the Director of Field Management Programs, and the General Counsel. Each field, area and local office, except for the Washington Field Office, will operate under the supervision of the district director. Any or all delegations, or actions taken, as provided by this part may be revoked and /or exercised by the supervisor in keeping with the supervisory structure described in this section.

Subpart B—Procedure for the Prevention of Unlawful Employment Practices

§ 1601.6 [Amended]

■ 4. Amend § 1601.6(a) by removing the word ''field'' from the last sentence and adding, in its place, the words ''District, Field, Area or Local.''

§ 1601.8 [Amended]

■ 5. Amend § 1601.8 as follows:

■ a. In the first sentence, remove the words ''the offices'' and add, in their place, the words ''any office'' and remove the words ''in Washington, DC or any of its field offices''.

■ b. In the second sentence, remove the word ''field.''

■ 6. Revise the second sentence of § 1601.10 to read as follows:

§ 1601.10 Withdrawal of a charge by a person claiming to be aggrieved.

* * * The Commission hereby delegates authority to District Directors, Field Directors, Area Directors, Local Directors, the Director of the Office of Field Programs and the Director of Field Management Programs, or their designees, to grant consent to a request to withdraw a charge, other than a Commissioner charge, where the withdrawal of the charge will not defeat the purposes of title VII or the ADA.

■ 7. Revise § 1601.14(b) to read as follows:

§ 1601.14 Service of a charge or notice of a charge.

* * * * *

(b) District Directors, Field Directors, Area Directors, Local Directors, the Director of the Office of Field Programs, and the Director of Field Management Programs, or their designees, are hereby delegated the authority to issue the notice described in paragraph (a) of this section.

■ 8. Amend § 1601.16 by revising the first sentence of the concluding paragraph of paragraph (a) to read as follows:

§ 1601.16 Access to and production of evidence; testimony of witnesses; procedures and authority.

(a) * * *

(1) * * *

(2) * * *

(3) * * *

Any District Director, and the Director of the Office of Field Programs, or upon delegation, the Director of Field Management Programs, or any representatives designated by the Commission, may sign and issue a subpoena on behalf of the Commission. * * *

* * * * *

■ 9. Revise the first and second sentences of § 1601.18(f) to read as follows:

§ 1601.18 Dismissal: Procedure and authority.

* * * * *

(f) The Commission hereby delegates authority to District Directors; the Director of the Office of Field Programs, or upon delegation, the Director of Field Management Programs, as appropriate, to dismiss charges, as limited by § 1601.21(d). The Commission hereby delegates authority to Field Directors, Area Directors and Local Directors to dismiss charges pursuant to paragraphs (a), (b) and (c) of this section, as limited by § 1601.21(d). * * *

■ 10. Revise the fourth sentence of § 1601.19(a) to read as follows:

§ 1601.19 No cause determinations: Procedure and authority.

(a) * * * The Commission hereby delegates authority to the Director of the Office of Field Programs, or upon delegation to the Director of Field Management Programs, and District Directors or upon delegation to Field Directors, Area Directors or Local Directors, except in those cases involving issues currently designated by the Commission for priority review, to issue no cause letters of determination.

* * * * *

■ 11. Revise the second sentence of § 1601.20(a) to read as follows:

§ 1601.20 Negotiated settlement.

(a) * * * District Directors, Field Directors, Area Directors, Local Directors, the Director of the Office of Field Programs, the Director of Field Management Programs, or their designees, shall have the authority to sign any settlement agreement which is agreeable to both parties. * * *

* * * * *

■ 12. Revise the first and third sentences of § 1601.21(d) introductory text to read as follows:

§ 1601.21 Reasonable cause determinations: Procedure and authority.

* * * * *

(d) The Commission hereby delegates to District Directors, or upon delegation, Field Directors, Area Directors or Local Directors; and the Director of the Office of Field Programs, or upon delegation, the Director of Field Management Programs, the authority, except in those cases involving issues currently designated by the Commission for priority review, upon completion of an investigation, to make a determination finding reasonable cause, issue a cause letter of determination and serve a copy of the determination upon the parties. * * * However, the Director of the Office of Field Programs, or upon delegation, the Director of Field Management Programs; each District Director; each Field Director; each Area Director and each Local Director, for the determinations issued by his or her office, may on his or her own initiative reconsider such determinations, except that such directors may not reconsider determinations of reasonable cause previously issued against a government, governmental agency or political subdivision after a failure of conciliation as set forth in § 1601.25.

* * * * *

§ 1601.23 [Amended]

■ 13. Amend sections 1601.23(a) and (b) to remove the words ''Program Director, Office of Program Operations or upon delegation, the Director of Systemic Program Operations, Office of Program Operations or the Directors, Field Management Programs, Office of Program Operations'' and add, in their place, the words ''Director of the Office of Field Programs or upon delegation, the Director of Field Management Programs.''

■ 14. Revise the first two sentences of § 1601.24(b) to read as follows:

§ 1601.24 Conciliation: Procedure and authority.

* * * * *

(b) District Directors; the Director of the Office of Field Programs or the Director of Field Management Programs; or their designees are hereby delegated authority to enter into informal conciliation efforts. District Directors or upon delegation, Field Directors, Area Directors, or Local Directors; the

Director of the Office of Field Programs; or the Director of Field Management Programs are hereby delegated the authority to negotiate and sign conciliation agreements. * * *

* * * * *

§ 1601.25 [Amended]

■ 15. Amend § 1601.25 as follows:

■ (a) Remove the words ''Program Director, Office of Program Operations'' and add, in their place, the words ''Director of the Office of Field Programs.''

■ (b) Remove the words ''Director of Systemic Programs, Office of Program Operations.''

■ (c) Remove the words ''Directors, Field Management Programs, Office of Program Operations'' and add, in their place, the words ''Director of Field Management Programs.''

■ 16. Amend § 1601.28 by revising paragraphs (a)(2), (a)(3) and (c) and footnote 1 to read as follows:

§ 1601.28 Notice of right to sue: Procedure and authority.

(a) * * *

(2) When a person claiming to be aggrieved requests, in writing, that a notice of right to sue be issued, and the charge to which the request relates is filed against a respondent other than a government, governmental agency or political subdivision, the Commission may issue such notice as described in § 1601.28(e) with copies to all parties, at any time prior to the expiration of 180 days from the date of filing of the charge with the Commission; provided that the District Director, the Field Director, the Area Director, the Local Director, the Director of the Office of Field Programs or upon delegation, the Director of Field Management Programs has determined that it is probable that the Commission will be unable to complete its administrative processing of the charge within 180 days from the filing of the charge and has attached a written certificate to that effect.

(3) Issuance of a notice of right to sue shall terminate further proceeding of any charge that is not a Commissioner charge unless the District Director; Field Director; Area Director; Local Director; Director of the Office of Field Programs or upon delegation, the Director of Field Management Programs; or the General Counsel, determines at that time or at a later time that it would effectuate the purpose of title VII or the ADA to further process the charge. Issuance of a notice of right to sue shall not terminate the processing of a Commissioner charge.

* * * * *

(c) The Commission hereby delegates authority to District Directors, Field Directors, Area Directors, Local Directors, the Director of the Office of Field Programs, or Director of Field Management Programs or their designees, to issue notices of right to sue, in accordance with this section, on behalf of the Commission. Where a charge has been filed on behalf of a person claiming to be aggrieved, the notice of right to sue shall be issued in the name of the person or organization who filed the charge.[1]

* * * * *

[1] Formal Ratification-Notice is hereby given that the EEOC at a Commission meeting on March 12, 1974, formally ratified the acts of the District Directors of EEOC District Offices in issuing notices of right to sue pursuant to Commission practice instituted on October 15, 1969, and continued through March 18, 1974. 39 FR 10178 (March 18, 1974).

* * * * *

PART 1603—PROCEDURES FOR PREVIOUSLY EXEMPT STATE AND LOCAL GOVERNMENT EMPLOYEE COMPLAINTS OF EMPLOYMENT DISCRIMINATION UNDER SECTION 321 OF THE GOVERNMENT EMPLOYEE RIGHTS ACT OF 1991 [AMENDED]

■ 17. The authority citation for part 1603 continues to read as follows:

Authority: 2 U.S.C. 1220.

Subpart A—Administrative Process

■ 18. Revise § 1603.102(b) to read as follows:

§ 1603.102 Filing a complaint.

* * * * *

(b) *Where to file a complaint.* A complaint may be filed in person, by mail or by facsimile machine to any Commission office or with any designated agent or representative of the Commission. The addresses of the Commission's District, Field, Area and Local offices appear in 29 CFR 1610.4.

* * * * *

PART 1610—AVAILABILITY OF RECORDS [AMENDED]

■ 19. The authority citation for part 1610 continues to read as follows:

Authority: 42 U.S.C. 2000e–12a; 5 U.S.C. 552 as amended by Pub. L. 93–502, Pub. L. 99–570, and Pub. L. 105–231; for § 1610.15, non-search or copy portions are issued under 31 U.S.C. 9701.

Subpart A—Production or Disclosure Under 5 U.S.C. 552

■ 20. Amend § 1610.4 by revising the introductory text of paragraph (b) and paragraph (c) to read as follows:

§ 1610.4 Public reference facilities and current index.

* * * * *

(b) Each Commission office shall maintain and make available for public inspection and copying a copy of: * * *

(c) The Commission's offices are:

Albuquerque Area Office (Phoenix District), 505 Marquette, NW., Suite 900, Albuquerque, NM 87102.

Atlanta District Office, 100 Alabama Street, SW., Suite 4R30, Atlanta, GA 30303.

Baltimore Field Office (Philadelphia District), City Crescent Building, 10 South Howard Street, 3rd Floor, Baltimore, MD 21201.

Birmingham District Office, Ridge Park Place, 1130 22nd Street South, Suite 2000, Birmingham, AL 35205–2397.

Boston Area Office (New York District), John F. Kennedy Federal Building, Government Center, Fourth Floor, Room 475, Boston, MA 02203–0506.

Buffalo Local Office (New York District), 6 Fountain Plaza, Suite 350, Buffalo, NY 14202.

Charlotte District Office, 129 West Trade Street, Suite 400, Charlotte, NC 28202.

Chicago District Office, 500 West Madison Street, Suite 2800, Chicago, IL 60661.

Cincinnati Area Office (Indianapolis District), 550 Main Street, Suite 10019, Cincinnati, OH 45202–5202.

Cleveland Field Office (Philadelphia District), 1240 E. 9th Street, Suite 3001, Cleveland, OH 44199.

Dallas District Office, 207 S. Houston Street, 3rd Floor, Dallas, TX 75202–4726.

Denver Field Office (Phoenix District), 303 E. 17th Avenue, Suite 510, Denver, CO 80203.

Detroit Field Office (Indianapolis District), 477 Michigan Avenue, Room 865, Detroit, MI 48226–2523.

El Paso Area Office (Dallas District), 300 East Main Street, Suite 500, El Paso, TX 79901–1331.

Fresno Local Office (Los Angeles District), 1265 West Shaw Avenue, Suite 103, Fresno, CA 93711.

Greensboro Local Office (Charlotte District), 2303 West Meadowview Road, Suite 201, Greensboro, NC 27405.

Greenville Local Office (Charlotte District), 301 North Main Street, Suite 1402, Greenville, SC 29601.

Honolulu Local Office (Los Angeles District), 300 Ala Moana Boulevard, Room 7–127, PO Box 50082, Honolulu, HI 96850–0051.

Houston District Office, Mickey Leland Federal Building, 1919 Smith Street, 7th Floor, Houston, TX 77002–8049.

Indianapolis District Office, 101 West Ohio Street, Suite 1900, Indianapolis, IN 46204–4203.

Jackson Area Office (Birmingham District), Dr. A.H. McCoy Federal Building, 100 West Capitol Street, Suite 207, Jackson, MS 39269.

Kansas City Area Office (St. Louis District), Gateway Tower II, 400 State Avenue, Suite 905, Kansas City, KS 66101.

Las Vegas Local Office (Los Angeles District), not yet open.

Little Rock Area Office (Memphis District), 820 Louisiana Street, Suite 200, Little Rock, AR 72201.

Los Angeles District Office, 255 E. Temple Street, 4th Floor, Los Angeles, CA 90012.

Louisville Area Office (Indianapolis District), 600 Dr. Martin Luther King Jr. Place, Suite 268, Louisville, KY 40202.

Memphis District Office, 1407 Union Avenue, Suite 621, Memphis, TN 38104.

Miami District Office, One Biscayne Tower, 2 South Biscayne Boulevard, Suite 2700, Miami, FL 33131.

Milwaukee Area Office (Chicago District), 310 West Wisconsin Avenue, Suite 800, Milwaukee, WI 53203–2292.

Minneapolis Area Office (Chicago District), 330 South Second Avenue, Suite 430, Minneapolis, MN 55401–2224.

Mobile Local Office (Birmingham District), not yet open.

Nashville Area Office (Memphis District), 50 Vantage Way, Suite 202, Nashville, TN 37228–9940.

Newark Area Office (New York District), 1 Newark Center, 21st Floor, Newark, NJ 07102–5233.

New Orleans Field Office (Houston District), 1555 Poydras, Suite 1900, New Orleans, LA 70112.

New York District Office, 33 Whitehall Street, 5th Floor, New York, NY 10004.

Norfolk Local Office (Charlotte District), Federal Building, 200 Granby Street, Suite 739, Norfolk, VA 23510.

Oakland Local Office (San Francisco District), 1301 Clay Street, Suite 1170–N, Oakland, CA 94612–5217.

Oklahoma City Area Office (St. Louis District), 210 Park Avenue, Suite 1350, Oklahoma City, OK 73102.

Philadelphia District Office, 21 South 5th Street, Suite 400, Philadelphia, PA 19106–2515.

Phoenix District Office, 3300 N. Central Avenue, Suite 690, Phoenix, AZ 85012–2504.

Pittsburgh Area Office (Philadelphia District), Liberty Center, 1001 Liberty Avenue, Suite 300, Pittsburgh, PA 15222–4187.

Raleigh Area Office (Charlotte District), 1309 Annapolis Drive, Raleigh, NC 27608–2129.

Richmond Local Office (Charlotte District), 830 East Main Street, Suite 600, Richmond, VA 23219.

San Antonio Field Office (Dallas District), 5410 Fredericksburg Road, Suite 200, San Antonio, TX 78229–3555.

San Diego Local Office (Los Angeles District), 401 B Street, Suite 510, San Diego, CA 92101.

San Francisco District Office, 350 Embarcadaro, Suite 500, San Francisco, CA 94105–1687.

San Jose Local Office (San Francisco District), 96 North 3rd Street, Suite 200, San Jose, CA 95112.

San Juan Local Office (Miami District), 525 F.D. Roosevelt Ave., Plazas Las Americas, Suite 1202, San Juan, Puerto Rico 00918–8001.

Savannah Local Office (Atlanta District), 410 Mall Boulevard, Suite G, Savannah, GA 31406–4821.

Seattle Field Office (San Francisco District), Federal Office Building, 909 First Avenue, Suite 400, Seattle, WA 98104–1061.

St. Louis District Office, Robert A. Young Building, 1222 Spruce Street, Room 8.100, St. Louis, MO 63103.

Tampa Field Office (Miami District), 501 East Polk Street, Room 1000, Tampa, FL 33602.

Washington Field Office (Charlotte District), 1801 L Street, NW., Suite 100, Washington, DC 20507.

■ 21. Revise § 1610.7(a) to read as follows:

§ 1610.7 Where to make request; form.

(a) Requests for the following types of records shall be submitted to the regional attorney for the pertinent district, field, area or local office, at the district office address listed in § 1610.4(c) or, in the case of the Washington Field Office, shall be submitted to the regional attorney in the Charlotte District Office at the address listed in § 1610.4(c).

(1) Information about current or former employees of an office;

(2) Existing non-confidential statistical data related to the case processing of an office;

(3) Agreements between the Commission and State or local fair employment agencies operating within the jurisdiction of an office; or

(4) Materials in office investigative files related to charges under: Title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e *et seq.*); the Equal Pay Act (29 U.S.C. 206(d)); the Age Discrimination in Employment Act of 1967 (29 U.S.C. 621 *et seq.*); or, the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 *et seq.*)

* * * * *

■ 22. Revise § 1610.14(b) to read as follows:

§ 1610.14 Waiver of user charges.

* * * * *

(b) District directors, field directors, area directors, local directors and the librarian are hereby authorized to collect fees where applicable in accordance with § 1610.15 for duplication of records which are to be made available for public inspection and copying in the district, field, area or local office, or in the headquarters library in accordance with § 1610.4(b). District directors, field directors, area directors, local directors and the librarian are hereby authorized to duplicate such records without charge, or at a reduced charge in accordance with the criteria of paragraph (a) of this section.

PART 1615—ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF HANDICAP IN PROGRAMS OR ACTIVITIES CONDUCTED BY THE EQUAL EMPLOYMENT OPPORTUNITY COMMISSION [AMENDED]

■ 23. The authority citation for part 1615 continues to read as follows:

Authority: 29 U.S.C. 794.

§ 1615.170 [Amended]

■ 24. Amend § 1615.170 as follows:

■ a. In paragraphs (d) (1) and (2), remove the words ''Director, Equal Employment Opportunity Staff'' and add, in their place, the words ''Director, Office of Equal Opportunity.''

■ b. In paragraphs (e)(1) and (e)(2), remove the words ''EEO Director'' and add, in their place, the words ''Director, Office of Equal Opportunity.''

PART 1621—PROCEDURES—THE EQUAL PAY ACT [AMENDED]

■ 25. The authority citation for part 1621 continues to read as follows:

Authority: Secs. 1–19, 52 Stat. 1060, as amended, secs. 10–16, 61 Stat. 84, Pub. L. 88–38, 77 Stat. 56 (29 U.S.C. 201 *et seq.*); sec. 1, Reorgan. Plan No. 1 of 1978, 43 FR 19807; E.O. 12144, 44 FR 37193.

§ 1621.3 [Amended]

■ 26. Amend § 1621.3(a) introductory text by removing the words ''2401 E Street'' and adding, in their place, ''1801 L Street.''

PART 1626—PROCEDURES—AGE DISCRIMINATION IN EMPLOYMENT ACT [AMENDED]

■ 27. The authority citation for part 1626 continues to read as follows:

Authority: Sec. 9, 81 Stat. 605, 29 U.S.C. 628; sec. 2 Reorg. Plan No. 1 of 1978, 3 CFR, 1978 Comp., p. 321.

■ 28. Revise § 1626.5 to read as follows:

§ 1626.5 Where to submit complaints and charges.

Complaints and charges may be submitted in person, by telephone, or by mail to any office of the Commission or to any designated representative of the Commission. The addresses of the Commission's offices appear at § 1610.4.

§ 1626.15 [Amended]

■ 29. Amend the first sentence in § 1626.15(e) by removing the words ''the Washington Field Office Director, and the Director of the Office of Program Operations'' and adding, in their place, the words ''the Field Directors, the Director of the Office of Field Programs.''

§ 1626.16 [Amended]

■ 30. Amend the first sentence in § 1626.16(b) by removing the words ''the Washington Field Office Director, the Director of the Office of Program Operations'' and adding, in their place, the words ''the Field Directors, the Director of the Office of Field Programs.''

■ 31. Amend § 1626.17 by revising paragraph (b) to read as follows:

§ 1626.17 Notice of dismissal or termination.

* * * * *

(b) *Delegation of Authority To Issue Notices of Dismissal or Termination.* The Commission hereby delegates authority to issue Notices of Dismissal or Termination, in accordance with this section, to: Directors of District, Field, Area and Local offices; the Director of the Office of Field Programs; the Director of Field Management Programs, Office of Field Programs; the General Counsel; or their designees.

* * * * *

§ 1626.18 [Amended]

■ 32. Amend § 1626.18(d) by adding the words ''Field Director;'' after the words ''District Director.''

[FR Doc. 06–4320 Filed 5–8–06; 8:45 am]

BILLING CODE 6570–01–P

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Parts 206 and 390

Removal of Parts

AGENCY: Department of Defense.

ACTION: Final rule.

SUMMARY: The Department of Defense is removing 32 CFR parts 206, ''National Security Education Program'' and ''Armed Forces Radiobiology Research Institute''. The parts have served the purpose for which it was codified in the CFR.

DATES: The rule is effective May 9, 2006.

FOR FURTHER INFORMATION CONTACT: L. Bynum, 703–696–4970.

SUPPLEMENTARY INFORMATION: Information on the ''National Security Education Program'' (DoD Instruction 1025.02) and ''Armed Forces Radiobiology Research Institute'' (DoD Instruction 5105.33) may be found at *http://www.dtic.mil/whs/directives/corres/insl.html*.

List of Subjects

32 CFR Part 206

Colleges and universities, Grant programs—education.

32 CFR Part 390

Organization and functions (Government agencies).

PARTS 206 AND 390—[REMOVED]

■ Accordingly, by the authority of 10 U.S.C. 301, 32 CFR parts 206 and 390 are removed.

Dated: May 3, 2006.

L.M. Bynum,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 06–4312 Filed 5–8–06; 8:45 am]

BILLING CODE 5001–06–M

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[CGD08–06–007]

RIN 1625–AA09

Drawbridge Operation Regulations; Upper Mississippi River, Iowa and Illinois

AGENCY: Coast Guard, DHS.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Commander, Eighth Coast Guard District has issued a temporary deviation from the regulation governing the operations of the Rock Island Railroad and Highway Drawbridge, Mile 482.9, Rock Island, Illinois across the Upper Mississippi River. This deviation allows the bridge to remain closed to navigation from 9 a.m. until 11 a.m. on June 3, 2006. The deviation is necessary to allow time for repairs to mechanical components essential to the continued safe operation of the drawbridge.

DATES: This temporary deviation is effective from 9 a.m. until 11 a.m. on June 3, 2006.

ADDRESSES: Materials referred to in this document are available for inspection or copying at Room 2.107F in the Robert A. Young Federal Building, 1222 Spruce Street, St. Louis, MO 63103–2832, between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays. The Eighth Coast Guard District Bridge Administration Branch maintains the public docket for this temporary deviation.

FOR FUTHER INFORMATION CONTACT: Roger K. Wiebusch, Bridge Administrator, (314) 539–3900, extension 2378.

SUPPLEMENTARY INFORMATION: The Rock Island Arsenal requested a temporary deviation to allow time to conduct repairs to the Rock Island Railroad and Highway Drawbridge, mile 482.9, at Rock Island, Illinois across the Upper Mississippi River. The Rock Island Railroad and Highway Drawbridge currently operates in accordance with 33 CFR 117.5 which requires the drawbridge to open promptly and fully for passage of vessels when a request to open is given in accordance with 33 CFR part 117, subpart A. In order to facilitate required bridge maintenance, the bridge must be kept in the closed-to-navigation position. This deviation allows the drawbridge to remain closed to navigation for two hours from 9 a.m.

until 11 a.m. on June 3, 2006. There are no alternate routes for vessels transiting this section of the Upper Mississippi River.

The Rock Island Railroad and Highway Drawbridge, in the closed-to-navigation position, provides a vertical clearance of 23.8 feet above normal pool. Navigation on the waterway consists primarily of commercial tows and recreational watercraft. This deviation has been coordinated with waterway users. No objections were received.

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

Dated: April 28, 2006.

Roger K. Wiebusch,

Bridge Administrator.

[FR Doc. 06–4324 Filed 5–8–06; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[CGD08–06–018]

RIN 1625–AA09

Drawbridge Operation Regulations; Upper Mississippi River, Iowa and Illinois

AGENCY: Coast Guard, DHS.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Commander, Eighth Coast Guard District has issued a temporary deviation from the regulation governing the operations of the Rock Island Railroad and Highway Drawbridge, Mile 482.9, Rock Island, Illinois across the Upper Mississippi River. This deviation allows the bridge to remain closed to navigation from 8 a.m. until 11 a.m. on September 24, 2006. The deviation is necessary to allow time for repairs to mechanical components essential to the continued safe operation of the drawbridge.

DATES: This temporary deviation is effective from 8 a.m. until 11 a.m. on September 24, 2006.

ADDRESSES: Materials referred to in this document are available for inspection or copying at Room 2.107F in the Robert A. Young Federal Building, 1222 Spruce Street, St. Louis, MO 63103–2832, between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays. The Eighth Coast Guard District Bridge Administration Branch maintains the public docket for this temporary deviation.

FOR FUTHER INFORMATION CONTACT: Roger K. Wiebusch, Bridge Administrator, (314) 539–3900, extension 2378.

SUPPLEMENTARY INFORMATION: The Rock Island Arsenal requested a temporary deviation to allow time to conduct repairs to the Rock Island Railroad and Highway Drawbridge, mile 482.9, at Rock Island, Illinois across the Upper Mississippi River. The Rock Island Railroad and Highway Drawbridge currently operates in accordance with 33 CFR 117.5 which requires the drawbridge to open promptly and fully for passage of vessels when a request to open is given in accordance with 33 CFR part 117, subpart A. In order to facilitate required bridge maintenance, the bridge must be kept in the closed-to-navigation position. This deviation allows the drawbridge to remain closed to navigation for three hours from 8 a.m. until 11 a.m. on September 24, 2006. There are no alternate routes for vessels transiting this section of the Upper Mississippi River.

The Rock Island Railroad and Highway Drawbridge, in the closed-to-navigation position, provides a vertical clearance of 23.8 feet above normal pool. Navigation on the waterway consists primarily of commercial tows and recreational watercraft. This deviation has been coordinated with waterway users. No objections were received.

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

Dated: April 28, 2006.

Roger K. Wiebusch,

Bridge Administrator.

[FR Doc. 06–4323 Filed 5–8–06; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[CGD13–06–014]

RIN 1625–AA09

Drawbridge Operation Regulations; Lake Washington Ship Canal, WA

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is temporarily revising the drawbridge operation regulations for the Ballard Bridge, mile 1.1, and the Fremont Bridge, mile 2.6, across the Lake Washington Ship Canal at Seattle, Washington. The temporary change will increase the two daily closed draw periods by one hour each from May 30, 2006 through March 30, 2007. This will facilitate road traffic, which will be severely limited by lane closures during the rebuilding of the approaches to the Fremont Bridge.

DATES: This temporary rule is effective from May 30, 2006 to March 30, 2007.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket [CGD13–06–014] and are available for inspection or copying at the Waterways Management Branch, 13th Coast Guard District, 915 Second Avenue, Seattle, WA 98174–1067 between 7:30 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Austin Pratt, Chief, Bridge Section, (206) 220–7282.

SUPPLEMENTARY INFORMATION:

Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM. The City of Seattle requested this temporary change after first studying traffic signals, lane closures and other aspects of the project before concluding that this change might significantly mitigate traffic congestion on the affected arterials with minimal impact to navigation. The change would affect only one or two draw openings per day on average. The city, which owns the bridges, has conducted public outreach concerning the project and its request to change the operating schedule of the drawspans temporarily. This has included several neighborhood meetings in the project area. In addition, the

Coast Guard has consulted directly with the regular commercial users of the waterway to determine that significant economic impact will not occur. Most recreational and commercial vessel operators are accustomed to the existing closed periods and will be able to adjust transit times to the temporary increase.

Background and Purpose

The temporary rule will enable the Seattle Department of Transportation (SDOT), the owner of the bridges, to rebuild the approaches of the Fremont Bridge and compensate partly during construction for the reduced road capacity. Necessary lane closures during the project would reduce traffic capacity by half on the Fremont Bridge. The Ballard Bridge to the west is an alternate parallel route. It is also a bascule bridge like the Fremont Bridge and has the same operating regulations. The bridge owner requested that the current closed periods of both bridges be extended Monday through Friday from 7 a.m.–9 a.m. to 7 a.m.–10 a.m. and from 4 p.m.–6 p.m. to 3:30 p.m.–6:30 p.m.

The road surface and drawspans receive heavy use. Both bridges are on major city arterials that are also commuter routes. The Lake Washington Ship Canal is a major commercial and recreational waterway in Seattle. Tugs, barges, motor yachts, small freighters, sailboats, and government vessels travel the canal. Government vessels include those of the Coast Guard, National Oceanographic and Atmospheric Administration, University of Washington, Seattle Police and Fire Departments, etc. Lake Union Shipyard is located inland of both bridges.

The Coast Guard has examined the number of openings at these bridges from May 2004 to May 2005, a period comparable to the one affected temporarily. The number of openings in this year of records ranges from 159 to 327 in each time segment proposed in this rule. For example, in the morning extension from 9 a.m. to 10 a.m. the Ballard draw opened 224 times. However, when these openings are averaged for the entire period examined, the average number of openings for each extension ranges from less than one to less than two per day. In other words, the increased duration of the temporary closed periods has little effect on the potential openings during the average day of the week. For this reason, the temporary operating schedule does not seem unreasonably burdensome to mariners already accustomed to closed periods at these bridges. It does seem likely that the draws might remain open a little longer to pass a few extra vessels at the end of these temporary periods of draw closure.

Discussion of Proposed Rule

The operating regulations currently in effect for the Ballard and Fremont Drawbridge are found at 33 CFR 117.1051. A one-hour extension of the morning and afternoon closed periods will help accommodate traffic that would already be impeded by lane closures during the construction at the Fremont Bridge. The current weekday periods are from 7 a.m. to 9 a.m. and from 4 p.m. to 6 p.m. These periods approximate the peak commuter traffic hours on these busy arterials. The proposed periods would be 7 a.m. to 10 a.m. and from 3:30 p.m. to 6:30 p.m. These periods would also apply to these Federal holidays, which are otherwise exempt from these closed periods: Martin Luther King's Birthday, President's Day, and Veteran's Day. These holidays continue to have heavy traffic volumes. Vessels of one thousand gross tons may receive an opening of the draw at any time. These requests are not frequent.

Regulatory Evaluation

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

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

With regards to the temporary changes, we reached this conclusion based on the fact that most vessel operators are accustomed to closed periods already on these bridges. Furthermore, they should be able to plan transits in advance and being locally based for the most part will soon adjust to the temporary change.

Small Entities

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

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule would not have a significant economic impact on a substantial number of small entities. This is attributed to the small number of potential openings that would be affected on a daily basis.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact Austin Pratt, Chief, Bridge Section, at (206) 220–7282. The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

Collection of Information

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

Federalism

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

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

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

Energy Effects

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

Technical Standards

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

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

Environment

We have analyzed this rule under Commandant Instruction M16475.lD, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2–1, paragraph (32)(e) of the Instruction, from further environmental documentation. There are no expected environmental consequences of the proposed action that would require further analysis and documentation.

List of Subjects in 33 CFR Part 117

Bridges.

Regulations

■ For the reasons discussed in the preamble, the Coast Guard temporarily amends 33 CFR part 117 as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

■ 1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 33 CFR 1.05–1(g); Department of Homeland Security Delegation No. 0170.1; section 117.255 also issued under the authority of Pub. L. 102–587, 106 Stat. 5039.

■ 2. From May 30, 2006 to March 30, 2007 amend § 117.1051 by suspending paragraph (d)(2) and adding paragraph (d)(4) to read as follows:

§ 117.1051 Lake Washington Ship Canal.

* * * * *

(d) * * *

(4) The draws of the Ballard and Fremont Bridges need not open from 7 a.m. to 10 a.m. and from 3:30 p.m. to 6:30 p.m., Monday through Friday, except on all Federal holidays, but Columbus Day, Martin Luther King Day, President's Day, and Veteran's Day. The draw of the University Bridge need not open from 7 a.m. to 9 a.m. and from 4 p.m. to 6 p.m., Monday through Friday, except Federal holidays. A vessel of any size towing another vessel of 1000 gross tons or more shall receive an opening on signal at any of these draws at any time.

* * * * *

Dated: April 28, 2006.

R.R. Houck,

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

[FR Doc. 06–4322 Filed 5–8–06; 8:45 am]

BILLING CODE 4910–15–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

36 CFR Part 1200

RIN 3095–AB48

Official Seals and Logos

AGENCY: National Archives and Records Administration (NARA).

ACTION: Final rule.

SUMMARY: The National Archives and Records Administration (NARA) is modifying its regulations on the use of official NARA seals and logos by the public and other Federal agencies by updating two of the logos that are used. This part applies to the public and other Federal agencies.

DATES: This rule is effective June 8, 2006.

FOR FURTHER INFORMATION CONTACT: Kim Richardson at telephone number 301–837–2902 or fax number 301–837–0319.

SUPPLEMENTARY INFORMATION: NARA published a proposed rule on February 24, 2006, at 71 FR 9503, for a 60-day public comment period. NARA did not receive any comments and therefore, we are not making any changes in this final rule.

This final rule is not a significant regulatory action for the purposes of Executive Order 12866 and has not been reviewed by the Office of Management and Budget. This rule is not a major rule as defined in 5 U.S.C. chapter 8, Congressional Review of Agency Rulemaking. As required by the Regulatory Flexibility Act, I certify that this rule will not have a significant impact on a substantial number of small entities. This regulation does not have any federalism implications.

List of Subjects in 36 CFR Part 1200

Seals and insignia.

■ For the reasons set forth in the preamble, NARA is amending part 1200 of title 36, Code of Federal Regulations, as follows:

PART 1200—OFFICIAL SEALS

■ 1. The authority citation for part 1200 continues to read as follows:

Authority: 18 U.S.C. 506, 701, and 1017; 44 U.S.C. 2104(e), 2116(b), 2302.

■ 2. Revise paragraphs (a)(1) and (a)(2) of § 1200.7 to read as follows:

§ 1200.7 What are NARA logos and how are they used?

(a) * * *

(1) The Federal Records Center Program;

FEDERAL RECORDS CENTERS
of the National Archives and Records Administration

(2) The National Historical Publications and Records Commission;

NHPRC
DOCUMENTING DEMOCRACY
National Historical Publications and Records Commission

* * * * *

Dated: May 3, 2006.

Allen Weinstein,

Archivist of the United States.

[FR Doc. 06–4302 Filed 5–8–06; 8:45 am]

BILLING CODE 7515–01–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018 AG23

Endangered and Threatened Wildlife and Plants; Determination of Status for 12 Species of Picture-Wing Flies From the Hawaiian Islands

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), determine endangered status pursuant to the Endangered Species Act of 1973, as amended (Act), for 11 species of Hawaiian picture-wing flies—*Drosophila aglaia*, *D. differens*, *D. hemipeza*, *D. heteroneura*, *D. montgomeryi*, *D. musaphilia*, *D. neoclavisetae*, *D. obatai*, *D. ochrobasis*, *D. substenoptera*, and *D. tarphytrichia*. We determine threatened status pursuant to the Act for one species of Hawaiian picture-wing fly—*D. mulli*. This final rule implements the Federal protections provided by the Act for these 12 species of Hawaiian picture-wing flies.

DATES: This final rule is effective June 8, 2006.

ADDRESSES: Comments and materials received, as well as supporting documentation used in the preparation of this final rule, will be available for public inspection, by appointment, during normal business hours at the Pacific Islands Fish and Wildlife Office, U.S. Fish and Wildlife Service, 300 Ala Moana Boulevard, Room 3–122, Box 50088, Honolulu, HI 96850.

FOR FURTHER INFORMATION CONTACT: Patrick Leonard, Field Supervisor, Pacific Islands Fish and Wildlife Office (see **ADDRESSES** section) (telephone 808/792–9400; facsimile 808/792–9581). Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 800/877–8339, 24 hours a day, 7 days a week.

SUPPLEMENTARY INFORMATION:

Background

Many of the major ecological zones of the earth are represented in Hawaii, from coral reef systems through rain forests to high alpine deserts, in less than 10,800 square kilometers (6,500 square miles) of land. The range of topographies creates a great diversity of climates. Windward (northeastern) slopes can receive up to 1,000 cm (400 in) of rain per year, while some leeward coasts that lie in the rain shadow of the high volcanoes are classified as deserts, receiving as little as 25 cm (10 in) of rain annually. This topographic and climatic regime has given rise to a rich diversity of plant communities, including coastal, lowland, montane, subalpine, and alpine; dry, mesic, and wet; and herblands, grasslands, shrublands, forests, and mixed communities (Gagne and Cuddihy 1990). These habitats and plant communities in turn support one of the most unique arthropod faunas in the world, with an estimated 10,000 endemic species (Howarth 1990). Unusual characteristics of Hawaii's native arthropod fauna include the presence of relict species; the absence of social insects, such as ants and termites; endemic genera; extremely small geographic ranges; adaptation of species to very specific conditions or environments; novel ecological shifts; flightlessness; and loss of certain antipredator behaviors (Zimmerman 1948, 1970; Simon *et al.* 1984; Howarth 1990). Native vegetation on all the main Hawaiian Islands has undergone extreme alteration because of past and present land management practices, including ranching, introduction of nonnative plants and animals, and agricultural development (Cuddihy and Stone 1990).

Each species of Hawaiian picture-wing fly described in this document is

found only on a single island, and the larvae of each are dependant upon only a single or a few related species of plants (see Table 1). These host plant species are threatened by a variety of factors, including their direct destruction by pigs, goats, cattle, rats, and competition with nonnative plants, and the indirect effects of soil disturbance which further promotes the spread of nonnative species (see Factors A and C below). In addition to the habitat alteration, the picture-wing flies included in this rule are threatened by a variety of introduced predatory species including yellow jackets and several ant species. This suite of threats to the picture-wing flies and its habitat are discussed in more detail in the Summary of Factors Affecting the Species section.

Flies in the Drosophilidae family in Hawaii represent one of the most remarkable cases of specific adaptation to local conditions that has been found in any group of animals (Hardy and Kaneshiro 1981). These insects are distributed throughout the eight main Hawaiian Islands (i.e., Hawaii, Maui, Oahu, Kauai, Molokai, Lanai, Niihau, and Kahoolawe), and each species is typically found on a single island (Carson and Yoon 1982).

The general life cycle of Hawaiian Drosophilidae is typical of that of most flies: After mating, females lay eggs from which larvae (immature stage) hatch; as larvae grow they molt (shed their skin) through three successive stages (instars); when fully grown, the larvae change into pupae (a transitional form) in which they metamorphose and emerge as adults.

Breeding generally occurs year-round, but egg laying and larval development increase following the rainy season as the availability of decaying matter, which the flies feed on, increases in response to the heavy rains (K. Kaneshiro, in litt., 2005b). In general, *Drosophila* lay between 50 and 200 eggs in a single clutch. Eggs develop into adults in about a month, and adults generally become sexually mature one month later. Adults generally live for one to two months.

As a group, Hawaiian Drosophilidae can be found in most of the natural communities in Hawaii. They have developed and adapted ecologically to a tremendous diversity of ecosystems ranging from desert-like habitats, to rain forests, to swampland (Kaneshiro and Kaneshiro 1995). While the larval stages of most species are saprophytic (feeding on decaying vegetation, such as rotting leaves, bark, flowers, and fruits), some have become highly specialized, being carnivorous on egg masses of spiders, or feeding on green algae growing underwater on boulders in streams (Kaneshiro and Kaneshiro 1995).

Hawaiian *Drosophila*, and in particular picture-wing *Drosophila*, are unique among living organisms because adaptive radiation (the evolution of an ancestral species, which was adapted to a particular way of life, into many diverse species, each adapted to a different habitat) has resulted in unparalleled biological diversity within a single large, closely related group of species (Foote and Carson 1995). The banding patterns of all five major chromosome arms among 106 species of Hawaiian picture-winged *Drosophila* revealed a 5 million-year-old evolutionary history rooted to species on the island of Kauai (Carson 1992). This work on the evolutionary history of Hawaiian *Drosophila* augments an extensive systematic treatment of the genus (Hardy 1965; Kaneshiro 1976).

Unlike numerous Hawaiian insects known only from their original taxonomic descriptions, many aspects of Hawaiian Drosophilidae biology have been researched, including their internal and external morphology, behavior, ecology, physiology, biochemistry, the banding sequence of giant chromosomes, and the structure of their DNA (Kaneshiro and Kaneshiro 1995). More than 80 research scientists and over 350 undergraduates, graduate students, and postdoctoral fellows have participated in research on many species of the Hawaiian Drosophilidae, resulting in over 600 scientific publications.

Because a large number of sites across the Hawaiian Islands have been surveyed since the 1960s using bait stations that are not species-specific, researchers have a relatively good understanding of the distribution of *Drosophila* species and how that distribution has changed over time. Biologists have observed a general decline of the Hawaiian Drosophilidae along with other components of the native ecosystem. As noted by Spieth (1980), during the early part of the century, the Tantalus area (northeast of Honolulu) was a major spot for collecting *Drosophila* species. Since 1971, routine sampling in the Tantalus area has documented dramatic declines in the abundance of some *Drosophila* species and in other cases local extirpations (Foote and Carson 1995).

All 12 species described below belong to the species group commonly known as the picture-wing *Drosophila*. This group consists of 106 known species, most of which are relatively large with elaborate markings on the otherwise clear wings of both sexes, the pattern of which varies among species (Hardy and Kaneshiro 1981; Carson 1992). The picture-wing *Drosophila* have been referred to as the ''birds of paradise'' of the insect world because of their relatively large size, colorful wing patterns, and the males' elaborate courtship displays and territorial defense behaviors.

Males occupy territories that serve as mating arenas, or leks, to which receptive females are attracted. The male *Drosophila* use different techniques to ward off competing suitors. One species, *Drosophila heteroneura*, butts heads like bighorn sheep. Others grasp one another with legs and wings in a wrestling match. Yet another tries to intimidate with noise, creating a buzzing roar with muscles from its abdomen. When the male has secured his position in the lek, he performs a detailed choreography of behaviors for the females visiting that site. If he does not convey the right moves and messages, she leaves without mating. Each species has its own ritual; some include dancing around the female, buzzing of wings at a specific pitch, placing the male's head under the female's wing, tongue-tasting, or dousing the female with pheromone.

The primary dataset we used to document observations of these picture-wing flies spans the years 1965 to 1999 (K. Kaneshiro, in litt., 2005a). Additional data were obtained from individuals familiar with particular species and locations. Many sites were surveyed infrequently or have not been surveyed in a long time while others have relatively complete records from 1966 to 1999. In this rule, when we state the date a species was last observed in a particular year, we do not intend to imply that comprehensive surveys have been conducted in subsequent years, only that the specified year was the last year that the species was located.

TABLE 1.—DISTRIBUTION OF 12 HAWAIIAN PICTURE-WING FLIES BY ISLAND, GENERAL HABITAT TYPE, AND PRIMARY HOST PLANT(S)

Species	Island	General habitat type	Primary host plant(s)
Drosophila aglaia	Oahu	Mesic forest	*Urera glabra*
D. differens	Molokai	Wet forest	*Clermontia* sp.
D. hemipeza	Oahu	Mesic forest	*Cyanea* sp., *Lobelia* sp., and *Urera kaalae*
D. heteroneura	Hawaii	Mesic to wet forest	*Cheirodendron* sp., *Clermontia* sp., *Delissea* sp.
D. montgomeryi	Oahu	Mesic forest	*Urera kaalae*
D. mulli	Hawaii	Wet forest	*Pritchardia beccariana*
D. musaphilia	Kauai	Mesic forest	*Acacia koa*
D. neoclavisetae	Maui	Wet forest	*Cyanea* sp.
D. obatai	Oahu	Dry to mesic forest	*Pleomele aurea* and *Pleomele forbesii*
D. ochrobasis	Hawaii	Mesic to wet forest	*Clermontia* sp., *Marattia* sp., and *Myrsine* sp.
D. substenoptera	Oahu	Wet forest	*Cheirodendron* sp. and *Tetraplasandra* sp.
D. tarphytrichia	Oahu	Mesic forest	*Charpentiera* sp.

Discussion of the Species

Drosophila aglaia

Drosophila aglaia was first recorded in 1946, on Mount Kaala on the island of Oahu, and described by Hardy (1965). *D. aglaia* is a small species, 0.15 inches (in) (4.0 millimeters (mm)) in length, with wings 0.2 in (5.0 mm) long. It has a yellow head that is approximately one-third wider than long. The eyes are brown, and the antennae are yellow, tinged with brown. The thorax is clear yellow with three broad brown stripes on the top, and the legs are yellow. The abdomen is brown with a large yellow spot on each of the hind corners. The wings are predominantly clear with irregular but characteristic brown markings, and are about two and three-quarter times longer than wide.

Drosophila aglaia is historically known from five localities in the Waianae Mountains of Oahu between 1,400 and 2,800 feet (ft) (427 to 853 meters (m)) above sea level. During 50 survey dates between 1966 and 1990, 28 individuals were observed (Kaneshiro in litt., 2005a). The 5 sites include: One lowland mesic *Diospyros* sp. and *Metrosideros* sp. (ohia) forest site in Makaleha Valley; two lowland mesic *Acacia koa* (koa) and ohia forest sites at Peacock Flats (Kapuahikahi Gulch) and Palikea; one site in diverse mesic forest at Puu Kaua; and a lowland, dry to mesic forest site at Puu Pane (K. Kaneshiro, in litt., 2005a).

The last observation of this species occurred in 1997 during the last survey of the Palikea site. The species has not been observed at the other four historic sites since 1970 or 1971 despite subsequent surveys. However, two of the sites (Kapuahikahi Gulch and Makaleha Valley) have not been surveyed since the 1970s and one site, Puu Pane, was surveyed only once again in 1991 (K. Kaneshiro, in litt., 2005a).

Drosophila aglaia is restricted to the natural distribution of its host plant, *Urera glabra* (family Urticaceae), which is a small shrub-like endemic tree. The larvae of *D. aglaia* develop in the decomposing bark and stem of *U. glabra.* This plant does not form large stands, but is infrequently scattered throughout slopes and valley bottoms in mesic and wet forest habitat on Oahu. In the Waianae Mountains on the west side of Oahu, this tree occurs infrequently in mesic forest.

Drosophila differens

Drosophila differens was described by Hardy and Kaneshiro (1975) from specimens first recorded at South Hanalilolilo, Molokai, in 1972. This species is larger than most picture-wings, approximately 0.3 in (7.0 mm) in length, with wings 0.3 in (8.3 mm) long. *D. differens* has an entirely or predominantly yellow face and characteristic markings extending to the tip of the wings.

Drosophila differens is historically known from three sites on private land between 3,800 and 4,500 ft (1,158 to 1,372 m) above sea level, within montane wet ohia forest (HBMP, in litt., 2005; K. Kaneshiro, in litt., 2005a). During 40 surveys between 1965 and 1999, 63 individuals were recorded. At Hanalilolilo, the species was observed on eight survey dates between 1967 and 1983, but was not observed on three subsequent survey dates, the most recent being 1999. At a second site, Kaunuohua, which was only surveyed twice, individuals were observed in 1969 but not in 1999. At the third site, Puu Kolekole, individuals were documented in 1969 and again in 1999 (K. Kaneshiro, in litt., 2005a). An estimated 75 to 90 percent of *D. differens*' total potential habitat has been surveyed (K. Kaneshiro, pers. comm. 2006).

Montgomery (1975) found that *Drosophila differens* larvae inhabit the bark and stems of *Clermontia* sp. (family Campanulaceae) in wet rainforest habitat (Kaneshiro and Kaneshiro 1995). Approximately 10 to 25 percent of *D. differens*' potential habitat on steep, difficult to access areas and on State Natural Reserve lands surrounding its known range remains unsurveyed for the species (Science Panel 2005; K. Kaneshiro, pers. comm. 2006).

Drosophila hemipeza

Hardy (1965) described *Drosophila hemipeza* from specimens recorded at Pupukea, Oahu, in 1952. The thorax of *D. hemipeza* is predominantly yellow with two brown stripes on the top, and the legs are entirely yellow. This species is 0.2 in (5.0 mm) long; the front legs are very slender with short straight bristles; and the wings are 0.2 in (6.0 mm) in length, slender, and somewhat pointed.

Drosophila hemipeza is restricted to the island of Oahu where it is historically known from seven localities between 1,600 and 2,800 ft (488 to 853 m) above sea-level (not including the Pupakea site of discovery which is considered an extripated population). Since formal surveys began for the species, 49 individuals were recorded during a total of 56 different survey dates between 1965 and 1999 (K. Kaneshiro, in litt., 2005a). The species has been documented from seven sites, with survey history at these sites as follows: (1) The species was documented in 1969 but not in subsequent surveys spanning until 1972 in the Makaleha Valley; (2) individuals were detected at Puu Kaua in 1971 but not in subsequent surveys as recently as 1999; (3) at Kaluaa Gulch, the species was observed in 1971 but not in 1972; (4) in Makaha Valley, the species was detected in 1971 and no surveys have been conducted since; (5) at Palikea the last observation occurred in 1997, also the date of the last survey; and (6) the species has not been detected at the Mauna Kapu site since 1975 despite

subsequent surveys spanning until 1983; (7) the species was detected at Pauoa Flats in the Koolau Range that was surveyed three times between 1973 and 1974, with one observation of one individual during the last survey in 1974 (K. Kaneshiro, in litt., 2005a).

Montgomery (1975) determined that *Drosophila hemipeza* larvae feed within decomposing portions of several different mesic forest plants. The larvae inhabit the decomposing bark of *Urera kaalae* (family Urticaceae), a federally-endangered plant (USFWS 1991, 1995) that grows on slopes and in gulches of diverse mesic forest. In 2004, only 41 individuals of *U. kaalae* were known to remain in the wild (USFWS, in litt., 2004). The larvae also feed within the decomposing stems of *Lobelia* sp. (family Campanulaceae) and the decomposing bark and stems of *Cyanea* sp. (family Campanulaceae) in mesic forest habitat (Kaneshiro and Kaneshiro 1995; Science Panel 2005).

Drosophila heteroneura

R.C.L. Perkins initially described this species as *Idiomyia heteroneura*, based on specimens from Olaa on the island of Hawaii (Perkins 1910). This taxon was later transferred to the genus *Drosophila* (Hardy 1969), forming its presently accepted name. *Drosophila heteroneura* has very large spots on the bases of the wings and the males have a broad head with the eyes situated laterally, giving them a hammerhead appearance. The hammer-shaped head and entirely yellow face differentiate it from *D. silvestris*, a closely related species. The thorax is predominantly yellow with several black streaks and markings on top. The legs are yellow except for slight tinges of brown on the ends of the middle and hind femora and tibiae. The wings are hyaline (transparent) and are very similar in markings and venation (vein markings) to those of *D. silvestris*, except that the marking in the front margin of the wing of *D. heteroneura* extends nearly to the marking at the end of the wing. The abdomen is shiny black with a large yellow spot on the top of each segment. This species is about 0.22 in (5.7 mm) in length with wings approximately 0.3 in (7.0 mm) long (Kaneshiro and Kaneshiro 1995).

Drosophila heteroneura has been the most intensely studied of the 12 species discussed in this rule (Kaneshiro and Kaneshiro 1995). This species is restricted to the island of Hawaii where, historically, it was known to be relatively widely distributed between 3,800 and 5,500 ft (1,158 to 1,675 m) above sea level. *D. heteroneura* has been recorded from 24 localities on 4 of the island's 5 volcanoes (Hualalai, Mauna Kea, Mauna Loa, and Kilauea) in 5 different montane environments (Kaneshiro and Kaneshiro 1995; HBMP, in litt., 2005; K. Kaneshiro, in litt., 2005a).

Based on the relatively extensive survey data, the population decline of *Drosophila heteroneura* has been demonstrated clearly. For example, *D. heteroneura* was recorded 760 times during surveys between 1975 and 1979. In the early 1980s, the first disappearance of a *D. heteroneura* population was recorded from the Olaa Forest site in Hawaii Volcanoes National Park (Carson 1986; Foote and Carson 1995). Subsequently, the absence of the species was noted in several other locations in southern and western parts of the island where *D. heteroneura* had previously been relatively common. By the late 1980s, *D. heteroneura* was believed to be extinct until an extremely small population was discovered on private land at Hualalai Volcano in 1993 (Kaneshiro and Kaneshiro 1995). The species was not observed again until 1998 when Foote (2000) recorded six specimens of *D. heteroneura* inhabiting a site at approximately 4,436 ft (1,352 m) above sea level near a host plant species, *Clermontia clermontioides*. *D. heteroneura* was last observed in 2001, at the refuge (D. Foote, pers. comm., 2005).

Drosophila heteroneura larvae primarily inhabit the decomposing bark and stems of *Clermontia* sp. (family Campanulaceae), including *C. clermontioides*, and *Delissea* sp. (family Campanulaceae), but it is also known to feed within decomposing portions of *Cheirodendron* sp. (family Araliaceae) in open mesic and wet forest habitat (Kaneshiro and Kaneshiro 1995).

Drosophila montgomeryi

Drosophila montgomeryi was described by Hardy and Kaneshiro (1971) from specimens collected in the Waianae Mountains of Oahu in 1970. Morphologically, this species appears to be most closely related to *D. pisonia* from the island of Hawaii. It can be distinguished by the narrow, pale brown stripe on each side of the top of the thorax, the long hairs on the front legs, and the second antennal segment, which is yellow, tinged with brown on the top.

Drosophila montgomeryi is historically known from three localities in the Waianae Mountains on western Oahu between 2,000 and 2,800 ft (610 to 853 m) above sea level. The best available information concerning the status of the species at these sites is as follows: (1) One individual was recorded from Kaluaa Gulch during the last survey in 1972; (2) at Palikea, one individual was observed on the last survey date in March 1997; and (3) at Puu Kaua, historically the site with the highest number of total individuals observed, the species was last detected in 1971 despite five subsequent surveys between 1997 and 1999 (K. Kaneshiro, in litt., 2005a).

Montgomery (1975) reported that the larvae of this species feed within the decaying bark of *Urera kaalae,* a federally-endangered plant (USFWS 1991, 1995) that grows on slopes and in gulches of diverse mesic forest (Kaneshiro and Kaneshiro 1995). In 2004, only 41 individuals of *U. kaalae* were known to remain in the wild (USFWS, in litt., 2004).

Drosophila mulli

Drosophila mulli was described by Perreira and Kaneshiro (1990) and named for William P. Mull, the Hawaiian naturalist who first discovered this species. The head of *D. mulli* is yellow on the front and covered with light, silvery grey fuzz. The face of the male is characteristically white, while that of the female is brown. The top of the thorax is brownish yellow and lacks conspicuous markings or stripes. The legs are predominantly yellow, and the front legs of males bear three distinct rows of long, curled hairs. The wings are two and one-half times longer than wide, with distinct brown markings at the base and the tip. The length of the body is 0.17 to 0.2 in (4.3 to 5.0 mm), and the wings are 0.17 to 0.19 in (4.3 to 4.8 mm) long (Kaneshiro and Kaneshiro 1995).

Drosophila mulli is restricted to the island of Hawaii and is historically known from two locations between 3,200 and 4,000 ft (985 to 1,220 m) above sea level. Adult flies are found only on the leaf undersides of the endemic fan palm, *Pritchardia beccariana* (family Arecaceae) which is the only known association of a *Drosophila* species with a native Hawaiian palm species. Individual *P. beccariana* are long-lived (approximately 100 years). Current regeneration of the host plant has been compromised by feral ungulates, rats, and scolytid beetles (see Summary of Factors Affecting the Species section below). The larval feeding site on the plant remains unknown because attempts to rear this species from decaying parts of *P. beccariana* have thus far been unsuccessful (W. P. Mull, Volcano, Hawaii, pers. comm., 1994; Science Panel 2005).

The site of the discovery for *Drosophila mulli* is located within a

State-owned montane wet ohia forest at Olaa Forest Reserve at approximately 3,200 ft (985 m) above sea level. This site was surveyed at least 62 times between 1965 and 2001, with fewer than 10 individuals observed on 4 different dates. The last recorded observation at this site occurred in 2001 (K. Kaneshiro, in litt., 2005a; D. Foote, in litt., 2006). A second locality was discovered in 1999, approximately 9.3 mi (15 km) from the original site within a State-owned montane wet ohia forest site at Upper Waiakea Reserve at approximately 4,000 ft (1,219 m) above sea level (Science Panel 2005; S. Montgomery, pers. comm., 2005a).

Drosophila musaphilia

Hardy (1965) formally described *Drosophila musaphilia* from specimens collected at Kokee, Kauai, in 1952. Although Hardy (1965) originally indicated that *D. musaphilia* is very similar to *D. villosipedis,* more recent work indicates D. musaphilia is most closely related to *D. hawaiiensis* (Kaneshiro *et al.* 1995).

Drosophila musaphilia is characterized by a predominantly black thorax with gray fuzz and a very narrow gray stripe extending down the top. The legs are dark brown to yellow, with the front tibia devoid of ornamentation, and the tips of the legs have abundant long, black hairs on top. The wings are three times longer than wide with characteristic markings of the *D. hawaiiensis* group. The abdomen is dark brown to black and densely covered with brown fuzz. The body length is about 0.2 in (5.0 mm) and the wings 0.207 in (5.25 mm) long (Kaneshiro and Kaneshiro 1995).

Drosophila musaphilia is historically known from only four sites, one at 1,900 ft (579 m) above sea level, and three sites between 3,000 and 3,500 ft (915 to 1,065 m) above sea level. The species has been observed a total of 11 times during 52 different survey dates since its discovery (Kaneshiro and Kaneshiro 1995; K. Kaneshiro, in litt., 2005a). Researchers estimate that 75 percent of *D. musaphilia*'s total potential habitat has been surveyed (K. Kaneshiro, pers. comm. 2006). The best available information concerning the status of the species at these sites is as follows: (1) A single observation of *D. musaphilia* was recorded from one lowland, wet ohia forest site at Wahiawa (Alexander Reservior) in 1968 (this population is believed to be extirpated); (2) at the Halemanu site, the species was observed in 1970 and last observed in 1972 but not in subsequent surveys as recent as 1996; (3) one individual was observed in 1968 at the Kokee (Nualolo Trail) site and not again during numerous surveys through 1999; and (4) individuals were last observed in 1988 at the Pihea Trail site located at 3,000 ft (915 m), but was not relocated in five subsequent surveys between 1989 and 1999 in that area (HBMP, in litt., 2005; Kaneshiro, in litt., 2005a).

Montgomery (1975) determined that the host plant for *Drosophila musaphilia* is *Acacia koa.* The females lay their eggs upon, and the larvae develop in, the moldy slime flux (seep) that occasionally appears on certain trees with injured plant tissue and seeping sap. Understanding the full range of *D. musaphilia* is difficult because its host plant, *Acacia koa,* is fairly common and stable within, and surrounding, its known range on Kauai; however, the frequency of suitable slime fluxes occurring on the host plant appears to be much more restricted and unpredictable (Science Panel 2005).

Drosophila neoclavisetae

Drosophila neoclavisetae was described by William Perreira and Kenneth Kaneshiro (1990) from specimens collected at Puu Kukui, West Maui, in 1969. It was named for its obvious affinities with *D. clavisetae* from East Maui. Both species are similar in wing and thorax markings, and they share a specialized part of the courtship behavior. The male bends its abdomen up over its head, produces a bubble of liquid (believed to be a sex pheromone) from its anal gland and then vibrates the abdomen, fanning the scent toward the female. Both *D. neoclavisetae* and *D. clavisetae* are members of the *D. adiastola* species group (Perreira and Kaneshiro 1990), and while other species in this group perform similarly unusual mating dances, the behavior is highly exaggerated in *D. clavisetae* and *D. neoclavisetae* (Kaneshiro and Kaneshiro 1995).

Drosophila neoclavisetae is between 0.2 and 0.25 in (6.0 and 6.4 mm) in length, with wings 0.26 to 0.3 in (6.5 to 7.0 mm) long. It is distinguished by its amber brown head and yellow face, with the middle portion raised to form a prominent ridge. The thorax is predominantly reddish brown with a distinct brown median stripe, bordered on each side by two brown stripes. The legs are yellow, with brown on the femora and a distinct brown band on the tips of the tibiae. The wings are broad and rounded, more than twice as long as wide, and with the front portion covered with brown markings and large clear spots tinged light yellow. It shares with *D. clavisetae* an extra cross-vein in the wing, which distinguishes both these species from the other species of the *D. adiastola* group. The abdomen is dark brown and black with numerous long hairs on the hind segments of the male (Kaneshiro and Kaneshiro 1995).

Two populations of *Drosophila neoclavisetae* were found historically along the Puu Kukui Trail within montane wet ohia forests on State land in West Maui. One habitat site was found in 1969 at 4,440 ft (1,353 m) and the other in 1975 at 3,500 ft (1,067 m) above sea level (Kaneshiro and Kaneshiro 1995; HBMP, in litt., 2005; K. Kaneshiro, in litt., 2005a). Fewer than 10 individuals have been observed despite attempts to relocate the species through 1997 (Kaneshiro and Kaneshiro 1995; K. Kaneshiro, in litt., 2005a; K. Kaneshiro pers. comm. 2006). Researchers estimate that between 90 and 95 percent of *D. neoclavisetae*'s total potential range has been surveyed (K. Kaneshiro, pers. comm., 2006).

The host plant of *Drosophila neoclavisetae* has not yet been confirmed, although it is likely associated with *Cyanea* sp. (family Campanulaceae). Because both collections of this species occurred within a small patch of *Cyanea* sp. and because many other species in the *D. adiastola* species group use species in this genus and other plants in the family Campanulaceae, researchers believe the *Cyanea* sp. found at Puu Kukui is likely the correct host plant for *D. neoclavisetae* (Science Panel 2005; Kaneshiro and Kaneshiro 1995). Due to its inaccessibility, some potential habitat surrounding the known range of *D. neoclavisetae* remains unsurveyed for the species (Science Panel 2005).

Drosophila obatai

Drosophila obatai was described by Hardy and Kaneshiro in 1972, from specimens collected in the Waianae Mountains of Oahu. *D. obatai* resembles *D. sodomae* from Maui and Molokai and is distinguished by small differences in wing markings and the black coloration of the abdomen.

Drosophila obatai is historically known from two localities between 1,500 and 2,200 ft (457 to 670 m) above sea level. Nine individuals were recorded during ten surveys between 1970 and 1991 (Kaneshiro, in litt., 2005a). Individuals of the species were detected in November 1971 at the time of the last survey at Wailupe Gulch. The second site (Puu Pane), has been surveyed eight times between 1970 and 1991, with the last detection occurring in March 1971 (Kaneshiro, in litt., 2005a).

Drosophila obatai larvae feed within decomposing portions of *Pleomele forbesii,* a candidate for Federal listing

(90 FR 24870), and *Pleomele aurea* (both in the family Agavaceae) (Kaneshiro and Kaneshiro 1995; Montgomery 1975). These host plants grow on slopes in dry forest and diverse mesic forest, and occur singly or in small clusters, rarely forming large stands (Wagner *et al.* 1999).

Drosophila ochrobasis

Drosophila ochrobasis was originally described by Hardy and Kaneshiro (1968) based on a specimen collected from Puu Hualalai on the island of Hawaii at an elevation of 5,550 ft (1,692 m) above sea level. Based on chromosomal studies, *D. ochrobasis* is a member of the *D. adiastola* group and appears to be most closely related to *D. setosimentum* (Kaneshiro *et al.* 1995).

Both the body and wings of *Drosophila ochrobasis* are approximately 0.18 in (4.6 mm) in length. The head is yellow in front and brown on top, and the face is white with a prominent ridge running down the middle. The thorax is yellow except for a large brown spot on each side. The legs are yellow tinged with brown. In males, the basal three-fifths of the wings are predominantly clear to translucent with faint transverse streaks of brown. The outer two-thirds of the wing is dark brown with large clear spots similar to that portion of the wings in *D. setosimentum.* The females of *D. ochrobasis* are virtually indistinguishable from *D. setosimentum* females (Kaneshiro and Kaneshiro 1995).

Historically, *Drosophila ochrobasis* was relatively widely distributed between 3,900 and 5,300 ft (1,189 to 1,615 m) above sea level. *D. ochrobasis* has been recorded from 10 localities on 4 of the island's 5 volcanoes (Hualalai, Mauna Kea, Mauna Loa, and the Kohala mountains).

Recorded almost every year from 1967 to 1975, sometimes in relatively large numbers (135 occurrences in the period between 1970 and 1974), *Drosophila ochrobasis* is now largely absent from its historical localities. A single individual of *D. ochrobasis* was last observed at the 1855 lava flow (Kipuka 9 and Kipuka 14) in 1986 (Kaneshiro and Kaneshiro 1995; K. Kaneshiro, in litt., 2005a). Several surveys between 1995 to 1997 failed to locate the species at many of its historical sites (K. Kaneshiro, in litt., 2005a).

The larvae of this species have been reported to use the decomposing portions of three different host plant groups—*Myrsine* sp. (family Myrsinaceae), *Clermontia* sp. (family Campanulaceae), and *Marattia* sp. (family Marattiaceae) (Montgomery 1975; Kaneshiro and Kaneshiro 1995).

Drosophila substenoptera

Hardy (1965) originally described this species as Idiomyia substenoptera. He later determined the genus *Idiomyia* to be synonymous with *Drosophila* (Hardy 1969), thus creating the current name of *Drosophila substenoptera.* This species is closely related to *D. planitibia* and its relatives (Kaneshiro *et al.* 1995), but is distinguished by its wing markings, narrow wing shape, and complexity of the male genitalia. *D. substenoptera* is predominantly yellow with two black stripes extending down the entire length of the top surface of the thorax. The legs are yellow and lack long hairs on the dorsal surfaces. Body length is 0.171 in (4.35 mm), and the wings are 0.2 to 0.21 in (5.0 to 5.3 mm) long (Kaneshiro and Kaneshiro 1995).

Drosophila substenoptera is historically known from seven localities in both the Koolau and Waianae Mountains at elevations between 1,300 and 3,900 ft (396 to 1,189 m) above sea level. *Drosophila substenoptera* is now only known to occur on the summit of Mt. Kaala. *Drosophila* researchers have devoted intensive efforts to relocating this species at other sites because the species is considered important for genetic studies of the *D. planitibia* phylogeny group; unfortunately, these efforts have failed to relocate this species at other sites (Kaneshiro and Kaneshiro 1995; Science Panel 2005).

Montgomery (1975) determined that *Drosophila substenoptera* larvae inhabit only the decomposing bark of *Cheirodendron* sp. trees (family Araliaceae) and *Tetraplasandra* sp. trees (family Araliaceae) in localized patches of wet forest habitat.

Drosophila tarphytrichia

Drosophila tarphytrichia was described by Hardy (1965) from specimens collected from Manoa Falls on Oahu in 1949. This species is closely related to *D. vesciseta* based on the structure of the male genitalia (Kaneshiro et al.1995), but can be differentiated by distinct wing markings and the ornamentation of the front legs of the male. The thorax is almost entirely yellow to red with a tinge of brown on the top. The legs are yellow, with the tip of the front leg strongly flattened laterally and with a dense clump of black hairs. This species is 0.148 in (3.70 mm) long with wings 0.2 in (4.0 mm) long (Kaneshiro and Kaneshiro 1995).

Drosophila tarphytrichia was historically known from both the Koolau and the Waianae Mountains between 2,000 and 2,800 ft (610 to 853 m) above sea level. A total of 31 individuals were recorded on 36 survey dates between 1965 and 1999 (Kaneshiro, in litt., 2005a). *Drosophila tarphytrichia* is now apparently extirpated from the Koolau range where it was originally discovered near Manoa Falls, and is presently known from four localities in the Waianae Mountains (Kaneshiro and Kaneshiro 1995; HBMP, in litt., 2005; K. Kaneshiro, in litt., 2005a).

The larvae of *Drosophila tarphytrichia* feed only within the decomposing portions of the stems and branches of *Charpentiera* sp. trees (family Amaranthaceae) in mesic forest habitat (Montgomery 1975).

Previous Federal Action

Ten of these 12 species were classified as candidates for listing in the February 28, 1996, Notice of Review of Plant and Animal Taxa That Are Candidates for Listing as Endangered or Threatened Species (Notice of Review) (61 FR 7596). The remaining two species, *Drosophila differens* and *D. ochrobasis,* were classified as candidates for listing in the Notice of Review dated September 19, 1997 (62 FR 49398). Candidates are those taxa for which the Service has on file substantial information on biological vulnerability and threats to support preparation of listing proposals.

On January 17, 2001, we published a proposed rule to list as endangered the 12 species of Hawaiian picture-wing flies (66 FR 3964), which included a detailed history of Federal actions completed prior to the publication of the proposal. At that time, we did not propose critical habitat for the 12 picture-wing flies. In the proposed rule and associated notifications, we requested that all interested parties submit comments, data, or other information that might contribute to the development of a final rule. A 60-day comment period on the January 17, 2001, proposal closed on March 19, 2001; we later reopened the comment period, as discussed below (see Summary of Comments and Recommendations section).

On February 28, 2005, the Center for Biological Diversity (CBD) filed a lawsuit in the District of Oregon alleging that the Service failed to take action following issuance of a proposed rule to list 12 species of picture-wing flies and for failure to designate critical habitat for the species (*Center for Biological Diversity* v. *Allen,* CV–05–274–HA). CBD and the Service subsequently agreed to settle the case. Pursuant to the settlement agreement approved by the

United States District Court for the District of Hawaii on August 31, 2005, the Service must make a final listing decision for these 12 Hawaiian picture-wing flies by May 1, 2006, and if prudent and determinable, propose critical habitat by September 15, 2006, and finalize critical habitat by April 17, 2007. However, the Service will propose critical habitat for 12 species of picture-wing flies within 60 days of the publication of this final rule.

Summary of Comments and Recommendations

In the proposed rule published on January 17, 2001 (66 FR 3964), we requested that all interested parties submit written comments on the proposal by March 19, 2001. We also contacted appropriate Federal and State agencies, scientific experts and organizations, and other interested parties and invited them to comment on the proposal. Newspaper notices inviting general public comment were published in the Honolulu Advertiser. No requests for a public hearing were received.

Because the proposed rule was published in 2001, and public outreach was conducted in 2001, we sought additional public comment on the proposed rule by reopening the public comment period from October 4 to November 3, 2005 (70 FR 57851). We again reopened the comment period from November 18 to December 2, 2005 (70 FR 69922). The reopened comment periods (and associated notifications in local media and via direct mailing) gave interested parties additional time to consider the information in the proposed rule and provide comments and new information.

During the comment periods for the proposed rule, we received nine written comments. Of those comments received, one commenter opposed the final listing, five commenters stated support for the final listing, one commenter expressed concern about unrestricted collecting of the flies, one commenter provided additional information regarding a fire management plan, and one commenter stated concerns about the potential impacts of the listing and critical habitat designation on private lands.

Peer Review

In 2005, in accordance with our peer review policy published on July 1, 1994 (59 FR 34270), we solicited opinions from researchers, land managers, and State officials. All 16 individuals solicited have expertise with the species and the geographic regions where the species occur, and are familiar with conservation biology principles. We received written comments from two experts and incorporated their information into this final rule. One of the peer reviewers has a doctorate degree based upon study and research concerning Hawaiian *Drosophila* biology, evolution, genetics, and ecology research. The other holds a doctorate in insect taxonomy and has studied Hawaiian picture-wing flies for the past 10 years while working as a research scientist for the U.S. Geological Survey.

One peer reviewer suggested the threats described in the proposed rule may not include all of the factors affecting the 12 flies, including factors causing their reduction in numbers. The reviewer noted that at least 3 of the 12 flies proposed for listing have demonstrated an apparent habitat shift upward in elevation, and suggested that global warming and increased temperatures on the Hawaiian Islands may be the cause. The reviewer suggested additional research was needed to validate the theory.

This same reviewer provided a synopsis, based partly on the reviewer's own 35 years of Hawaiian *Drosophila* research, surveys, and personal observations in the field and laboratory while employed as a researcher with the University of Hawaii, emphasizing three major threats to the Hawaiian picture-wing flies including predation by wasps (*Vespula* sp.), habitat destruction by feral ungulates, and the effects of global warming.

The other peer reviewer provided specific information about firsthand observations and evidence of declines in numbers and populations of three *Drosophila* species found on the island of Hawaii. This peer reviewer provided information and observational accounts of the effects of feral ungulates, rats, tipulid flies, and scolytid beetles upon picture-wing fly host plants and habitat and also the effects of predation by wasps (*Vespula* sp.) upon the 12 species. This peer reviewer also provided comments detailing the taxonomic differences recognized by *Drosophila* experts which establish the 12 flies as separate and distinct species.

Substantive information provided in all public comments, including the peer review process, either has been incorporated directly into this final rule or is addressed below.

Comment 1: The U.S. Army's Schofield Barracks Integrated Wildfire Management Plan significantly reduces the threats to *Drosophila aglaia* and *D. obatai* and therefore could reduce the imminent need to list these species.

Our Response: We agree that the Department of the Army's implementation of the completed Integrated Wildfire Management Plan will reduce the threat of fire caused by the Department of the Army to the habitat of these two picture-wing flies. However, the Integrated Wildfire Management Plan does not address the additional threats to these species' habitat within the Puu Pane area, including feral ungulates, nonnative weed plants, and predation by insect predators.

Comment 2: Several commenters were concerned that the listing, and especially the critical habitat designation for the flies, could impact native Hawaiian traditional and customary gathering rights and access, and could jeopardize cooperative conservation efforts.

Our Response: Private lands are likely to be important to the conservation of many of the picture-wing flies, and we appreciate all opportunities to work in partnerships with private landowners, the State, and others to further their conservation. The Act requires the listing of a species to be based solely on whether a species is affected by any of the five factors (see Summary of Factors section) to such an extent that they are in danger of becoming extinct (endangered status) or likely to become endangered (threatened status).

According to the court settlement related to this final listing, we are required to propose critical habitat if appropriate by September 15, 2006. The public will be invited to comment on any such proposal. Unlike when a species is listed, economic factors and conservation partnerships are considered in a critical habitat designation. Under the Act, the Secretary has the discretion to exclude areas from critical habitat designation if the benefits of exclusion outweigh the benefits of designation and such exclusion would not result in extinction of the species.

Comment 3: The proposed listing of the 12 picture-wing flies lacks stringent research, detailed surveys, and up-to-date population assessments, and the data were spotty, hearsay, incomprehensive, and not empirical.

Our Response: Since 1963, a mutli-disciplinary team of biologists have researched *Drosophila* through the University of Hawaii affiliated Hawaiian Drosophila Project. This effort has resulted in over 500 scientific papers being published and the taxonomic description of over 500 species of *Drosophila.* The information used to prepare this rule includes peer reviewed publications, unpublished literature, and written and verbal communications from research and field studies covering

a period of over 40 years of Hawaiian *Drosophila* research. In addition, this final rule includes information gathered after the proposed rule was published and a review of all available information on these species was made during science and managers review panels conducted in November 2005. While we acknowledge that additional systematic surveys for the picture-wing fly species and host plants would assist with understanding population trends and status, we believe we have ample information on habitat threats and trends in distribution for the picture-wing flies covered by this final rule.

Extinction Risk Assessment and Listing Decision Making Process

The Service convened a panel of three scientists from outside the Service with expertise in Hawaiian *Drosophila* to help synthesize and address uncertainties in the scientific information available for these 12 picture-wing flies, particularly threats to their existence (Science Panel 2005). A second panel made up of four Service managers and a State manager participated in related policy discussions and considered the available information including assessment of status, threats, and extinction risks. These two panels reviewed the available information and participated in a combined panel meeting in November 2005, prior to the close of the final comment period.

Science Panel

The purpose of the Science Panel was to assess threats for each of the 12 picture-wing flies, identify and resolve areas of scientific uncertainty, and discuss extinction risks in a carefully structured format. The panelists discussed taxonomy, adaptive radiation of picture-wing flies, hybridization, sexual selection, survey methods, *Drosophila* lifecycle, and species' distribution (Science Panel 2005). They then discussed specific threats to each of the flies. Following this information review, each expert was asked to rank independently the severity of each threat on a scale of 1 to 5 and explain why they assigned a given rank to a threat. Then the other scientists were given the opportunity to change their rankings based on the rationales presented. In this manner three ranks (one for each scientist) were assigned to each threat factor for each species (Science Panel 2005). The scientific panel discussed the strengths and weaknesses of the various data and hypotheses about threats to the flies. Results from these exercises revealed little disagreement among the scientists regarding the type and degree of threats faced by each species. Each scientist was separately asked, based on his/her threats assessment and experience, to categorize extinction risk for each species as high, medium, or low over the next 40 years. The results of this exercise are presented in Table 2.

TABLE 2.—SCIENCE PANEL CATEGORIZATION OF EXTINCTION RISK (H=HIGH, M=MEDIUM, L=LOW) OVER THE NEXT 40 YEARS FOR 12 HAWAIIAN PICTURE-WING FLIES

Species	Island	Extinction risk
Drosophila aglaia	Oahu	H H H
D. differens	Molokai	M H H
D. hemipeza	Oahu	M M M
D. heteroneura	Hawaii	H M M
D. montgomeryi	Oahu	H M H
D. mulli	Hawaii	M M M
D. musaphilia	Kauai	H H H
D. neoclavisetae	Maui	H H H
D. obatai	Oahu	H H H
D. ochrobasis	Hawaii	H H M
D. substenoptera	Oahu	H M M
D. tarphytrichia	Oahu	H H H

Manager Panel

The manager panel reviewed background materials, interacted with the science panel during their risk assessment exercise, and participated in general and specific discussions about the definition of threatened and endangered. Following these discussions, the managers were asked to give their separate opinions as to whether each of the 12 species of fly should be listed as endangered, listed as threatened, or withdrawn. The managers based their assessment on the information in the record, including comments previously received, the information presented by the individual mem bers of the science panel, information gaps and uncertainty, the number and severity of the threats affecting each species, and mitigating circumstances that might ameliorate one or more of those threats. Each manager was asked to explain their opinion and then the managers were given the opportunity to change their opinion based on the rationale presented by the other managers. The manager's panel presented its recommendations to the Regional Director. Subsequent to this, a recommendation of the Regional Director was forwarded to the Director for a final decision.

This rule is based on the record of these discussions and all relevant and available information pertaining to the threats and status of the species.

Summary of Factors Affecting the Species

Section 4 of the Act and its implementing regulations (50 CFR 424) set forth the procedures for adding species to the Federal list of endangered and threatened species. 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) of the Act. The five listing factors are: (1) The present or threatened destruction, modification, or curtailment of its habitat or range; (2) overutilization for commercial, recreational, scientific, or educational purposes; (3) disease or predation; (4) the inadequacy of existing regulatory mechanisms; and (5) other natural or manmade factors affecting its continued existence.

A. The Present or Threatened Destruction, Modification, or Curtailment of its Habitat or Range

Native vegetation on all the main Hawaiian Islands has undergone extreme alteration because of past and present land management practices, including ranching, introduction of nonnative plants and animals, and agricultural development (Cuddihy and Stone 1990). The primary threat facing

these picture-wing flies is the ongoing loss of habitat caused by feral animals and nonnative plants (Kaneshiro and Kaneshiro 1995).

Feral ungulates have devastated native vegetation in many areas of the Hawaiian Islands (Cuddihy and Stone 1990). Because the endemic Hawaiian flora evolved without the presence of browsing and grazing ungulates, many plant groups have lost their adaptive defenses such as spines, thorns, stinging hairs, and defensive chemicals (University of Hawaii Department of Geography 1998), and cattle (*Bos taurus*), goats (*Capra hircus*), pigs (*Sus scrofa*), sheep (*Ovis aries*), Mouflon sheep (*Ovis musimon*), axis deer (*Axis axis*), and mule deer (*Odocoileus hemionus*) readily eat these plants as well as disturbing the soil and distributing nonnative plant seeds that can alter the ecosystem. In addition to the damage these nonnative herbivores cause by browsing and grazing, goats, pigs, and other ungulates that inhabit steep and remote terrain cause severe erosion of whole watersheds due to their foraging and trampling behaviors (Cuddihy and Stone 1990).

Feral Pigs (*Sus scrofa*)

On the island of Hawaii, feral pigs are found from dry coastal grasslands through rain forests and into the sub-alpine zone of Mauna Kea and Mauna Loa. On Maui, Kauai, Oahu, and Molokai feral pigs inhabit rain forests, mesic forests, and grasslands (Cuddihy and Stone 1990). An increase in pig densities and expansion of their distribution has caused widespread damage to native vegetation (Cuddihy and Stone 1990). Feral pigs create open areas within forest habitat by digging up, eating, and trampling native species (Stone 1985). These open areas become fertile ground for non-native plant seeds spread through their excrement and by transport in their hair (Stone 1985). In nitrogen-poor soils, feral pig excrement increases nutrient availability, enhancing establishment of non-native weeds that are more adapted to richer soils than are native plants (Cuddihy and Stone 1990). In this manner, largely non-native forests replace native forest habitat (Cuddihy and Stone 1990).

Foote and Carson (1995) found that pig exclosures on the Big Island supported significantly higher relative frequencies of picture-wing flies compared to other native and nonnative *Drosophila* species (7 percent of all observations outside of the exclosure and 18 percent of all observations inside the exclosure) and their native host plants. Loope *et al.* (1991) showed that excluding pigs from a montane bog on northeastern Haleakala, Maui, resulted in an increase in native plant cover from 6 to 95 percent after 6 years of protection.

Goats (*Capra hircus*)

Goats native to the Middle East and India were first successfully introduced to the Hawaiian Islands in 1792. Feral goats now occupy a wide variety of habitats from lowland dry forests to montane grasslands on Kauai, Oahu, Molokai, Maui, and Hawaii, where they consume native vegetation, trample roots and seedlings, accelerate erosion, and promote the invasion of nonnative plants (van Riper and van Riper 1982; Stone 1985). On the island of Oahu, encroaching urbanization and hunting pressure have tended to concentrate the goat population in the dry upper slopes of the Waianae Mountains (Kaneshiro and Kaneshiro 1995). The population is increasing and spreading, becoming an even greater threat to the native habitat (Kapua Kawelo, U.S. Army, Environmental Division, pers. comm., 2005).

Cattle (*Bos taurus*)

Large-scale ranching of cattle on the Hawaiian Islands began in the middle of the 19th century on the islands of Kauai, Oahu, Maui, and Hawaii (Cuddihy and Stone 1990). Large ranches, tens of thousands of acres in size, were developed on East Maui and Hawaii (Cuddihy and Stone 1990) where most of the State's large ranches still exist. Degradation of native forests used for ranching activities became evident soon after full-scale ranching began. Feral cattle now occupy a wide variety of habitats from lowland dry forests to montane grasslands, where they consume native vegetation, trample roots and seedlings, accelerate erosion, and promote the invasion of nonnative plants (van Riper and van Riper 1982; Stone 1985). Cattle grazing continues in several lowland regions in the northern portion of the Waianae Mountains of Oahu, and within many areas on the island of Hawaii.

Rats (*Rattus spp.*)

Several species of nonnative rats, including the Polynesian rat (*Rattus exulans*), the roof rat (*Rattus rattus*), and the Norway rat (*Rattus norvegicus*), are present on the Hawaiian Islands and cause considerable environmental degradation (Staples and Cowie 2001). The seeds, bark, and flowers of several of the picture-wing flies' host plants, including *Clermontia* sp., *Pleomele* sp., and *Pritchardia beccariana*, are susceptible to grazing by all the rat species (Science Panel 2005; K. Magnacca, in litt., 2005; S. Montgomery, pers. comm., 2005b). The grazing by rats causes host plant mortality, diminished vigor, and seed predation, resulting in reduced host plant fecundity and viability (Science Panel 2005; K. Magnacca, in litt., 2005; S. Montgomery, pers. comm., 2005b).

Fire

Fire threatens species of Hawaiian picture-wing flies living in dry to mesic grassland, shrubland, and forests on both the islands of Hawaii and Oahu. A large factor in the alteration of Hawaiian dry and mesic regions in the past 200 years has been the increase in fire frequency, a condition to which the native flora is not adapted. The invasion of fire-adapted alien plants, especially *Melinis minutiflora* on Oahu and *Pennisetum setaceum* on Hawaii, facilitated by ungulate disturbance, has increased the susceptibility of native areas to wildfire and increased wildfire frequency. These plants can quickly reestablish following a fire and effectively outcompete less fire-adapted native plants. This change in fire regime has reduced the amount of forest cover for native species (Hughes *et al.* 1991; Blackmore and Vitousek 2000) and resulted in an intensification of feral ungulate herbivory in the remaining native forest areas. The impact of an altered wildfire regime to these areas is a serious and immediate threat to the viability of the dry and mesic habitats that support over one-third of Hawaii's threatened and endangered species as well as Hawaiian picture-wing flies and their host plants (Hughes *et al.* 1991; Kaneshiro and Kaneshiro 1995; Blackmore and Vitousek 2000). Furthermore, Hawaiian picture-wing fly habitat damaged or destroyed by fire is more likely to be invaded and re-vegetated by nonnative plants that cannot be used as host plants by picture-wing flies (Kaneshiro and Kaneshiro 1995).

Island of Oahu—*Drosophila aglaia*, *D. hemipeza*, *D. montgomeryi*, *D. obatai*, *D. substenoptera*, and *D. tarphytrichia*

The picture-wing flies on Oahu that are addressed in this rule (*Drosophila aglaia, D. hemipeza*, *D. montgomeryi*, *D. obatai*, *D. substenoptera*, and *D. tarphytrichia*) are threatened by the loss of habitat due to a variety of factors. Feral pigs and goats have dramatically altered the native vegetation (Kaneshiro and Kaneshiro 1995; Science Panel 2005). These feral ungulates destroy host plant seedlings and habitat by the trampling action of their hooves and through the spread of seeds of nonnative plants (Cuddihy and Stone 1995). Goats

directly feed upon the host plants of *D. aglaia*, *D. obatai*, and *D. substenoptera*, and contribute to erosion on some steeper slopes where the host plants occur; rats feed upon the host plants of *D. hemipeza* and *D. obatai*; pigs feed upon the host plants of *D. hemipeza*, *D. montgomeryi*, *D. obatai*, and *D. substenoptera*; and cattle feed upon the host plants of *D. obatai* and contribute to erosion on some steeper slopes where the host plants occur (S. Montgomery, pers. comm., 2005b).

The invasion of several nonnative plants, particularly *Psidium cattleianum*, *Lantana camara*, *Melinis minutiflora*, *Schinus terebinthifolius*, and *Clidemia hirta*, further contributes to the degradation of native forests and the host plants of picture-wing flies (Kaneshiro and Kaneshiro 1995; Wagner *et al.* 1999; Science Panel 2005). *Psidium cattleianum*, *Lantana camara*, *Melinis minutiflora*, and *Schinus terebinthifolius* form dense stands, thickets, or mats that shade or outcompete native plants. *M. minutiflora* is a grass that burns readily, often grows at the border of forests, and tends to carry fire into areas with woody native plants (Smith 1985; Cuddihy and Stone 1990). It is able to spread prolifically after a fire and effectively outcompete less fire-adapted native plant species, ultimately creating a stand of nonnative grass where forest once stood. *Lantana camera* produces chemicals that inhibit the growth of other plant species (Smith 1985; Wagner *et al.* 1999).

Drosophila aglaia and *D. obatai* occur at Puu Pane, located above the United States Army's Schofield Barracks Military Reservation. The gently sloping lands below Puu Pane are used as a live firing range, and ordnance-induced fires have been a common occurrence in this area (U.S. Army, in litt., 2005). The U.S. Army recently completed and is implementing an Integrated Wildfire Management Plan to reduce the risk and improve control of training-related fires in this area. As part of the Integrated Wildfire Management Plan, firebreak roads have been constructed around the perimeter of the live-fire training area. We believe that the Integrated Wildfire Management Plan will reduce the threat and magnitude of wildfires caused by the U.S. Army; however wildfires caused by the Army and other sources, and which may escape control, remain a potential threat to these species and their habitat located in gullies up-slope from the firing ranges (Kaneshiro and Kaneshiro 1995; U.S. Army, in litt., 2005).

In summary, the picture-wing flies on Oahu continue to experience a significant amount of habitat loss and degradation throughout their range. Furthermore, the host plant species for *D. aglaia*, *D. hemipeza*, *D. montgomeryi*, and *D. obatai* are rare or sparsely distributed and threatened by ongoing habitat degradation.

Island of Hawaii—*Drosophila heteroneura*, *D. mulli*, and *D. ochrobasis*

The picture-wing flies on the island of Hawaii addressed in this rule (*Drosophila heteroneura*, *D. mulli*, and *D. ochrobasis*) are threatened by the loss of habitat due to a variety of factors. Feral pigs and goats have dramatically altered the native vegetation (Kaneshiro and Kaneshiro 1995; D. Foote, pers. comm., 2005; Science Panel 2005). These feral ungulates destroy host plant seedlings and habitat by the trampling action of their hooves and through the spread of seeds of nonnative plants (Cuddihy and Stone 1995; D. Foote, pers. comm., 2005). Goats, pigs, and rats directly feed upon *D. heteroneura* and *D. ochrobasis* host plants. Cattle also feed on *D. ochrobasis* host plants. Rats directly feed upon the seeds produced by *D. mulli* host plants (K. Magnacca, in litt., 2005; S. Montgomery, pers. comm., 2005b), and feral cattle and goats contribute to erosion on some steeper slopes where *D. heteroneura* and *D. ochrobasis* host plants occur.

The Hawaiian Islands now support several species of nonnative beetles (family Scolytidae, genus *Coccotrypes*), a few of which bore into and feed on the nuts produced by certain native plant species including *Pritchardia beccariana*, the host plant of *Drosophila mulli*. Affected *Pritchardia* sp., including *P. beccariana*, drop their palm nuts before the nuts reach maturity due to the boring action of the scolytid beetles. Little natural regeneration of this host plant species has been observed in the wild since the arrival of this scolytid beetle (Science Panel 2005; K. Magnacca, in litt., 2005). Compared to the host plants of the other picture-wing flies, *P. beccariana* is long lived (up to 100 years), but over time scolytid beetles may have a significant impact on the availability of habitat for *D. mulli*.

Near the original discovery site for *D. mulli* in the State-owned Olaa Forest Reserve, fencing and pig and rat control has been implemented on Hawaii Volcanoes National Park lands, thereby providing some protection to the host plants and *D. mulli's* habitat there (K. Magnacca, pers. comm. 2006). Within the Upper Waikea Reserve site, fencing has recently been installed encompassing some of *D. mulli's* host plants, protecting them from feral ungulates (K. Magnacca, pers. comm. 2006).

The invasion of several nonnative plants, particularly *Psidium cattleianum*, *Rubus ellipticus*, *Passiflora mollissima*, and *Penniisetum setaceum*, contributes to the degradation of picture-wing host plant habitat on the island of Hawaii (Kaneshiro and Kaneshiro 1995; Wagner et al. 1999; Science Panel 2005). Jacobi and Warshauer (1992) reported that nonnative plants, including *Passiflora mollissima*, *Penniisetum setaceum*, and *Psidium cattleianum*, were found in 72 percent of 64 vegetation types sampled in a 5,000 km^2 (1,930 mi^2) study area on the island of Hawaii. *Psidium cattleianum* and *Rubus ellipticus* form dense stands that exclude other plant species (Cuddihy and Stone 1990; Wagner et al. 1999). *Passiflora mollissima* is a vine that causes damage or death to native trees by overloading branches, causing breakage, or by forming a dense canopy cover, intercepting sunlight and shading out native plants below (Wagner et al. 1999). *Penniisetum setaceum* has greatly increased fire risk in some regions, especially on the dry slopes of Hualalai, Kilauea, and Mauna Loa Volcanoes on the island of Hawaii (Wagner et al. 1999). This species quickly reestablishes itself after fires, unlike its native Hawaiian plant counterparts (Wagner et al. 1999).

In summary, picture-wing flies on the island of Hawaii addressed in this rule continue to experience a significant amount of habitat loss and degradation throughout their range. The threats to *D. mulli*, in light of the ongoing management efforts and the long-lived nature of its host plant, do not appear to be of sufficient magnitude to warrant a listing as endangered at this time; however, the current lack of host plant regeneration and other threats suggest that *D. mulli* is likely to become an endangered species within the foreseeable future.

Island of Molokai—*Drosophila differens*

Drosophila differens is threatened by the loss of habitat due to a variety of factors. The primary threats to this species' habitat are from feral pigs and the nonnative weed, *Psidium cattleianum*, in a manner similar to picture-wing fly habitat on Oahu and Hawaii (see above). In addition, axis deer are present on Molokai, and they continue to degrade native forest habitat by trampling and overgrazing vegetation, which removes ground cover and exposes the soil to erosion. Although goats were described as a threat to at least one population of *D.*

differens at Pu'u Kolekole in the proposed rule, we have subsequently learned that they may not be present in this area (K. Kaneshiro, pers. comm. 2006).

Island of Kauai—*Drosophila musaphilia*

Degradation and modification of *Drosophila musaphilia* habitat, particularly from the effects of feral ungulates and the nonnative weed *Psidium cattleianum*, have occurred and are likely to continue into the future (Kaneshiro and Kaneshiro 1995; Science Panel 2005). In addition to pigs and goats (see Oahu and Hawaii species for a discussion of the effects of these ungulates on picture-wing fly habitat), *D. musaphilia* habitat is threatened by black-tailed deer, which feed on a variety of alien and native plants, including the host plant, *Acacia koa* (van Riper and van Riper 1982).

The invasion of several nonnative plants, particularly *Psidium cattleianum*, *Lantana camara*, *Melinis minutiflora*, *Rubus argutus*, *Clidemia hirta*, and *Passiflora mollissima*, further contributes to the degradation of native forests and the host plants of *D. musaphilia* (Kaneshiro and Kaneshiro 1995; Wagner et al. 1999; Science Panel 2005). *Psidium cattleianum*, *Lantana camara*, *Melinis minutiflora*, and *Rubus argutus* form dense stands, thickets, or mats that shade or outcompete native plants. *Passiflora mollissima* is a vine that causes damage or death to native trees by overloading branches, causing breakage, or by forming a dense canopy cover, intercepting sunlight and shading out native plants below (Wagner et al. 1999). *Lantana camera* produces chemicals that inhibit the growth of other plant species (Smith 1985; Wagner et al. 1999).

Fire and the resultant invasion by alien species remains a significant threat to the mesic forests that *Drosophila musaphilia* inhabits on Kauai (Science Panel 2005). *M. minutiflora* is a grass that burns readily, often grows at the border of forests, and tends to carry fire into areas with woody native plants (Smith 1985; Cuddihy and Stone 1990). It is able to spread prolifically after a fire and effectively outcompete less fire-adapted native plant species, ultimately creating a stand of nonnative grass where forest once stood.

D. musaphilia is known to be inherently rare since the larvae feed within slime fluxes, which develop on *Acacia koa*. Yet, while threats from feral ungulates and nonnative weeds are affecting the regeneration of *Acacia koa*, the adult trees within this area remain relatively stable (Science Panel 2005).

Island of Maui— *Drosophila neoclavisetae*

Drosophila neoclavisetae is limited to the highlands of West Maui, where degradation and modification of its habitat, particularly from the effects of feral pigs, have occurred (Kaneshiro and Kaneshiro 1995; Science Panel 2005). Rats are also a significant factor threatening *D. neoclavisetae* habitat and are abundant in the areas where *D. neoclavisetae* has been observed (Science Panel 2005).

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

Overutilization is not known to be a threat to any of the 12 picture-wing fly species addressed in this rule.

C. Disease or Predation

Commercial shipping and air cargo to Hawaii have resulted in the establishment of over 3,372 species of nonnative insects (Howarth 1990; Howarth *et al.* 1995; Staples and Cowie 2001), with an estimated continuing establishment rate of 20 to 30 new species per year (Beardsley 1962, 1979; Staples and Cowie 2001).

In addition to the accidental establishment of nonnative species, nonnative predators and parasites for biological control of pests have been purposefully imported and released in Hawaii since 1865. Between 1890 and 2004, 387 nonnative species were introduced, sometimes with the specific intent of reducing populations of native Hawaiian insects (Funasaki et al. 1988; Lai 1988; Staples and Cowie 2001). Nonnative arthropods pose a serious threat to Hawaii's native *Drosophila*, both through direct predation or parasitism as well as competition for food or space (Howarth and Medeiros 1989; Howarth and Ramsay 1991; Kaneshiro and Kaneshiro 1995; Staples and Cowie 2001).

Due to their large colony sizes and systematic foraging habits, species of social Hymenoptera (ants and some wasps) and parasitic wasps pose the greatest predation threat to the Hawaiian picture-wing flies (Carson 1982b; Gambino et al. 1987; Kaneshiro and Kaneshiro 1995). Several alien ant species have been implicated in the extinction or local loss of many native species, including much of the lowland Hawaiian insect fauna (Howarth and Medeiros 1989). According to Kaneshiro and Kaneshiro (1995), ''many of Hawaii's native species evolved in the absence of predators and thus do not have the adaptive traits to compete with these alien species. Therefore, when alien insects such as the yellow-jackets and various species of ants were introduced, many native insects including the Hawaiian *Drosophila* were decimated.''

Wasps

In 1977, an aggressive race of the western yellow-jacket wasp (*Vespula pennsylvanica*) became established in the State of Hawaii, and this species is now abundant between 1,969 and 3,445 ft (600 and 1,050 m) in elevation (Gambino et al. 1990). On Maui, Gambino et al. (1990) reported a gap in nest distribution between 4,429 and 6,890 ft (1,350 and 2,100 m) in elevation, with an increase in abundance above 7,546 ft (2,300 m). They attributed this distributional pattern to higher relative humidity and decreased insolation associated with a cloud layer that forms at middle elevations on Maui and appears to have an adverse effect on *Vespula* physiology.

Compared with typical North American populations, yellow-jackets in Hawaii display a high incidence of colonies that overwinter and persist into at least a second year. The result is that numbers of workers at such colonies are much greater than at annual colonies (Gambino et al. 1987). Yellow-jacket colonies in Hawaii can each produce over a half-million foragers that consume tens of millions of arthropods (Gambino and Loope 1992). In Haleakala National Park on Maui, yellow-jackets were found to forage predominantly on native arthropods (Gambino et al. 1987, 1990; Gambino and Loope 1992) and have been observed carrying and feeding upon recently captured adult Hawaiian *Drosophila* (Kaneshiro and Kaneshiro 1995). Picture-wing flies may be particularly vulnerable to predation by wasps due to their lekking behavior, conspicuous courtship displays that can last for several minutes, and relatively large size (K. Kaneshiro, pers. comm. 2006).

The disappearance of several of the 12 picture-wing flies in this rule from historical observation sites, including *Drosophila differens*, *D. neoclavisetae*, *D. heteroneura*, and *D. mulli*, may be due to a variety of factors, and there is no documentation that conclusively ties this decrease in observations with the establishment of yellow-jacket wasps within their habitats, although the concurrent arrival of wasps and decline of picture-wing fly observations in some areas suggest that the wasps may have played a significant role in the decline of some of the picture-wing fly populations (Carson 1982b, 1986; Foote

and Carson 1995; Kaneshiro and Kaneshiro 1999; Science Panel 2005).

The number of native parasitic Hymenoptera (parasitic wasps) in Hawaii is limited, and only species in the family Eucoiliidae are known to use Hawaiian picture-wing flies as hosts (Kaneshiro and Kaneshiro 1995). However, species of nonnative braconid wasps, including *Diaschasmimorpha tryoni*, *D. longicaudatus*, *Opius vandenboschi*, and *Biosteres arisanus*, were purposefully introduced into Hawaii to control several species of nonnative pest tephritid fruit flies (Funasaki et al. 1988). These parasitic wasps are also known to attack other species of flies, including native flies in the family Tephritidae. While these parasitic wasps have not been recorded parasitizing Hawaiian picture-wing flies, and may not successfully develop in Drosophilidae, females will sting any fly larva available in their attempts to oviposit (lay eggs) and can cause mortality (T. Duan, University of Hawaii, pers. comm., 1995).

Ants

Ants are not a natural component of Hawaii's arthropod fauna, and native species evolved in the absence of predation pressure from ants. Ants can be particularly destructive predators because of their high densities, recruitment behavior, aggressiveness, and broad range of diet (Reimer 1993). The threat to picture-wing flies is amplified by the fact that most ant species have winged reproductive adults (Borror et al. 1989) and can quickly establish new colonies in additional suitable habitats (Staples and Cowie 2001). These attributes allow some ants to destroy isolated prey populations (Nafus 1993a, 1993b).

At least 44 species of ants are known to be established on the Hawaiian Islands (Hawaiian Ecosystems at Risk Project (HEAR) database, 2005), and at least 4 particularly aggressive species have severely affected the native insect fauna (Zimmerman 1948; HEAR database, 2005). Numerous other ant species are recognized as threats to native invertebrates, and additional species become established regularly. While the larvae of most of the Hawaiian picture-wing flies feed deep in the substrate of their host plants, they emerge and pupate in the ground, where they are exposed to predation by ants. Newly emerging adults are particularly susceptible to predation, and adult picture-wing flies have been observed with ants attached to their legs (Kaneshiro and Kaneshiro 1995).

Big-headed ants (*Pheidole megacephala*)

With few exceptions, native insects, including many fly species, have been eliminated in Hawaiian habitats where the big-headed ant is present (Perkins 1913; Gagne 1979; Gillespie and Reimer 1993). Although it has only been observed attacking laboratory populations of fruit flies (Wong et al. 1984), big-headed ants are thought to be a threat to picture-wing flies on Oahu and Hawaii occurring in mesic areas (i.e., *D. aglaia*, *D. hemipeza*, *D. heteroneura*, *D. montgomeryi*, *D. obatai*, *D. ochrobasis*, and *D. tarphytrichia*).

Argentine ants (*Iridomyrmex humilis*)

The Argentine ant was discovered on the island of Oahu in 1940, and is now established on all the main Hawaiin Islands (Reimer et al. 1990). Unlike the big-headed ant, the Argentine ant is primarily confined to higher elevations (Reimer et al. 1990). This species has been demonstrated to reduce populations, or even eliminate native arthropods, at high elevations in Haleakala National Park on Maui (Cole et al. 1992). Also on Maui, Argentine ants are significant predators on pest fruit flies (Wong et al. 1984). Argentine ants do not disperse by flight. Instead colonies are moved about with soil and construction material; a colony was recently discovered on an isolated peak on the island of Oahu under a radio tower. While we are not aware of documented occurrences of predation by Argentine ants on picture-wing flies, they are considered to be a threat to native arthropods generally at higher elevations (Cole et al. 1992) and thus potentially to picture-wing flies (Science Panel 2005).

Long-legged ants (*Anoplolepis longipes*)

The long-legged ant appeared in Hawaii in 1952, and now occurs on Kauai, Oahu, Maui, and Hawaii (Reimer et al. 1990). Direct observations indicate that Hawaiian arthropods are susceptible to predation by this species. Gillespie and Reimer (1993), and Hardy (1979) documented the disappearance of most native insects from Kipahulu Stream on Maui after the area was invaded by the long-legged ant. Although only cursory observations exist, long-legged ants are thought to be a threat to picture-wing flies at the lower elevations of Oahu and Hawaii in mesic areas (i.e., *D. aglaia, D. hemipeza, D. heteroneura, D. montgomeryi, D. obatai, D. ochrobasis, and D. tarphytrichia*) (Science Panel 2005).

Fire ants (*Solenopsis* spp.)

At least two species of fire ants, *Solenopsis geminata* and *S. papuana*, are also significant threats to native invertebrates (Gillespie and Reimer 1993) and occur on all the main Hawaiian Islands (Reimer et al. 1990; Nishida 1997). *Solenopsis geminata* is known to be a significant predator on pest fruit flies in Hawaii (Wong and Wong 1988). *Solenopsis papuana* is the only abundant, aggressive ant that has invaded intact mesic forest above 2,000 ft (600 m), and it is expanding its range in Hawaii (Reimer 1993).

Based on the findings discussed above, nonnative predatory and parasitic insects are considered significant factors contributing to the reduction in range and abundance of the Hawaiian picture-wing flies and, in combination with habitat loss, are a threat to their continued existence (Science Panel 2005). Some of these nonnative species were intentionally introduced by the State of Hawaii's Department of Agriculture or other agricultural agencies (Funasaki et al. 1988), and importations and augmentations of lepidopteran parasitoids continue. Although the State of Hawaii requires new introductions be reviewed before release (Hawaii State Department of Agriculture, in litt., 1994), post-release biology and host range cannot be fully predicted from laboratory studies (Gonzalez and Gilstrap 1992; Roderick 1992), and the purposeful release or augmentation of any fly predator or parasitoid is a potential threat to the conservation of picture-wing flies (Kaneshiro and Kaneshiro 1995; Simberloff 1992).

Disease is not known to be a threat to any of the 12 picture-wing flies addressed in this rule.

D. The Inadequacy of Existing Regulatory Mechanisms

Currently, no Federal, State, or local laws, treaties, or regulations specifically apply to any of these 12 species of picture-wing flies. However, regulations limiting release of biological controls in Hawaii and the fact that numerous host plants are listed as threatened or endangered provide indirect mechanisms which afford the picture-wing flies some protection.

Release of Biological Controls

As discussed in the Disease and Predation section (above), regulatory mechanisms designed to prevent the establishment of nonnative insects are inadequate given that 3,372 species of nonnative insects have become established in Hawaii (Howarth 1990; Howarth *et al.* 1995; Staples and Cowie 2001), with an estimated continuing establishment rate of 20 to 30 new

species per year (Beardsley 1962, 1979; Staples and Cowie 2001).

Under Hawaii's Plant Quarantine Law (Hawaii Revised Statues Chapter 150A), the State of Hawaii requires that introductions of biological controls be reviewed by the Board of Agriculture before release. The U.S. Department of Agriculture's Animal and Plant Health Inspection Service (APHIS) regulates the importation and release of biological controls through the Plant Protection Act of 2000 (7 U.S.C. 7701 et seq.). APHIS requires a risk analysis for each species proposed for release. In order for a species to be approved for releases, the risk analysis must ensure that introduced biological control agents are limited in host range and do not pose a threat to listed species or native plants, or crops. Nevertheless, some nonnative wasp species have been introduced by Federal and State agencies for biological control of pest flies to the possible detriment of picture-wing flies. Because the post-release biology and host range are difficult to predict from laboratory studies done prior to all releases (Gonzalez and Gilstrap 1992; Roderick 1992), the purposeful release or augmentation of any dipteran predator or parasitoid is a potential threat to all picture-wing flies (Kaneshiro and Kaneshiro 1995; Simberloff 1992).

Endangered Species Act Protections for Host Plants

Some of the host plants used by the 12 picture-wing flies in this rule are listed as threatened or endangered under the Act (e.g., *Urera kaalae*, the only known host plant for *Drosophila montgomeryi*, is endangered). Under Hawaii State law, Federal listing automatically invokes State listing (HRS § 195D–4(a)). Furthermore, critical habitat has also been designated for a number of these listed plants. As such, these plants and their habitats are afforded certain protections under sections 7 and 9 of the Act and under section 13–107–3 of the Hawaii Administrative Rules.

Under section 7, all Federal agencies must ensure, in consultation with the Service, that any action they authorize, fund, or carry out is not likely to jeopardize the continued existence of any listed species or result in the destruction or adverse modification of critical habitat. This protection does not apply to activities conducted on non-Federal land that do not involve Federal permitting or funding. *Drosophila aglaia, D. obatai*, and *D. heteroneura* are the only 3 flies addressed in this rule that have been recorded on federally-owned land. *D. aglaia* and *D. obatai's* host plants are not listed as threatened or endangered, and *D. heteroneura* is currently known from only two locations, one on Federal land and one on private land.

Under section 9, endangered plants cannot be removed, reduced to possession, or maliciously damaged or destroyed from areas under Federal jurisdiction. Endangered plants outside of Federal jurisdiction cannot be cut, dug up, damaged, or destroyed in knowing violation of any State law or regulation. Because all federally-listed species automatically become State-listed species, listed plants on non-Federal land are protected under section 9 of the Act. They are also protected under section 13–107–3 of the Hawaii Administrative Rules which prohibits the take (i.e. cut, collect, uproot, destroy, injure, possess) and sale of native endangered or threatened plants on all lands in the State of Hawaii. However, these regulations are difficult to enforce because of limited funding and personnel.

E. Other Natural or Manmade Factors Affecting Their Continued Existence

The Hawaiian Islands now support several established species of nonnative tipulid flies, and the larvae of a few of these feed within the decomposing bark of some host plants of the picture-wing flies, including *Charpentiera*, *Cheirodendron*, *Clermontia*, and *Pleomele* sp. (Science Panel 2005; K. Magnacca, in litt., 2005; S. Montgomery, pers. comm., 2005a). All of the picture-wing flies addressed in this rule, except for *D. mulli* and *D. musaphilia*, face larval-stage competition from nonnative tipulid flies. These tipulid larvae feed within the same portion of the decomposing host plant area normally occupied by the picture-wing fly larvae. The effect of this competition is a reduction in available host plant material for picture-wing fly larvae (Science Panel 2005). In laboratory studies, Grimaldi and Jaenike (1984) demonstrated that competition between *Drosophila* larvae and other fly larvae can exhaust food resources, which affects both the probability of larval survival and the body size of adults, resulting in reduced adult fitness, fecundity, and lifespan.

Hawaiian picture-wing flies evolved in isolated habitats, resulting in tremendous speciation (Williamson 1981); as a result, small population size may be less of a threat component than small habitat size (Science Panel 2005). Many of these picture-wing flies are now reduced to just a few populations within localized patches of their host plants, compounding the effects of numerous other factors causing their decline. The destruction of native plants and host plants within their habitat exacerbates the opening of niches for additional, introduced nonnative plant species. Once nonnative species are established, it is difficult for native plants, including host plants, to recover (Kaneshiro and Kaneshiro 1995; Science Panel 2005).

Conclusion

Island of Oahu—*Drosophila aglaia, D. hemipeza*, *D. montgomeryi*, *D. obatai*, *D. substenoptera*, and *D. tarphytrichia*

The major threats to *Drosophila aglaia*, *D. hemipeza*, *D. montgomeryi*, *D. obatai*, *D. substenoptera*, and *D. tarphytrichia* include current and future degradation and modification to the limited remaining habitat from feral ungulates, such as pigs; nonnative plants, particularly *Psidium Cattleianum* and *Clidemia hirta*; and fire (Cuddihy and Stone 1995; Kaneshiro and Kaneshiro 1995; Science Panel 2005). The picture-wing flies on Oahu continue to experience a significant amount of habitat loss and degradation throughout their range. Furthermore, the host plant species for D. aglaia, D. hemipeza, *D. montgomeryi*, and *D. obatai* are rare or sparsely distributed and threatened by ongoing habitat degradation.

Additionally, *D. aglaia*, *D. hemipeza*, *D. montgomeryi*, *D. obatai*, *D. substenoptera*, and *D. tarphytrichia* face competition at the larval stage from nonnative tipulid flies, and all stages face substantial predation pressure from nonnative insects such as ants and yellow-jacket wasps (Science Panel 2005; Kaneshiro and Kaneshiro 1995). Currently, existing regulations offer inadequate protection to these species.

Because of the significance of the threats, we conclude that all of the Oahu picture-wing flies addressed in this rule are in danger of extinction throughout their range. Therefore, *D. aglaia*, *D. hemipeza*, *D. montgomeryi*, *D. obatai*, *D. substenoptera*, and *D. tarphytrichia* meet the Act's definition of endangered and warrant protection as endangered under the Act.

Island of Hawaii—*Drosophila heteroneura*, *D. mulli*, and *D. ochrobasis*

Drosophila heteroneura and *D. ochrobasis* were historically widely distributed across Hawaii, known from 24 sites and 10 sites, respectively. However, these species have not been recently observed at many of these sites and may now be limited to two sites and one site, respectively (Kaneshiro and Kaneshiro 1995; K. Kaneshiro, in litt., 2005a; Science Panel 2005). *D. mulli*

was historically known from two sites, both of which were still occupied as of the last survey.

The major threats to *Drosophila heteroneura* and *D. ochrobasis* include current and future degradation and modification to their limited remaining habitat from feral ungulates, such as pigs; non-native plants, particularly *Psidium cattleianum* and *Pennisetum setaceum*; and fire (Cuddihy and Stone 1995; Kaneshiro and Kaneshiro 1995; Science Panel 2005). Feral pigs and goats have dramatically altered the native vegetation (Kaneshiro and Kaneshiro 1995; D. Foote, pers. comm., 2005; Science Panel 2005). These feral ungulates destroy host plant seedlings and habitat by the trampling action of their hooves and through the spread of seeds of nonnative plants (Cuddihy and Stone 1995; D. Foote, pers. comm., 2005). Goats, pigs, and rats directly feed upon *D. heteroneura* and *D. ochrobasis* host plants. Cattle also feed on D. ochrobasis host plants. Rats directly feed upon the seeds produced by *D. mulli* host plants (K. Magnacca, in litt., 2005; S. Montgomery, pers. comm., 2005b), and feral cattle and goats contribute to erosion on some steeper slopes where *D. heteroneura* and *D. ochrobasis* host plants occur.

The Hawaiian Islands now support several species of nonnative beetles (family Scolytidae, genus *Coccotrypes*), a few of which bore into and feed on the nuts produced by certain native plant species including *Pritchardia beccariana*, the host plant of *Drosophila mulli*. Affected *Pritchardia* sp., including *P. beccariana*, drop their palm nuts before the nuts reach maturity due to the boring action of the scolytid beetles. Little natural regeneration of this host plant species has been observed in the wild since the arrival of this scolytid beetle (Science Panel 2005; K. Magnacca, in litt., 2005). Compared to the host plants of the other picture-wing flies, *P. beccariana* is long lived (up to 100 years), but over time scolytid beetles may have a significant impact on the availability of habitat for *D. mulli*.

The invasion of several nonnative plants, particularly *Psidium cattleianum*, *Rubus ellipticus*, *Passiflora mollissima*, and *Pennisetum setaceum*, contributes to the degradation of picture-wing host plant habitat on the island of Hawaii (Kaneshiro and Kaneshiro 1995; Wagner *et al.* 1999; Science Panel 2005). Jacobi and Warshauer (1992) reported that nonnative plants, including *Passiflora mollissima*, *Pennisetum setaceum*, and *Psidium cattleianum*, were found in 72 percent of 64 vegetation types sampled in a 5,000 km^2 (1,930 mi^2) study area on the island of Hawaii. Psidium *cattleianum* and *Rubus ellipticus* form dense stands that exclude other plant species (Cuddihy and Stone 1990; Wagner *et al.* 1999). *Passiflora mollissima* is a vine that causes damage or death to native trees by overloading branches, causing breakage, or by forming a dense canopy cover, intercepting sunlight and shading out native plants below (Wagner *et al.* 1999). *Pennisetum setaceum* has greatly increased fire risk in some regions, especially on the dry slopes of Hualalai, Kilauea, and Mauna Loa Volcanoes on the island of Hawaii (Wagner *et al.* 1999). This species quickly reestablishes itself after fires, unlike its native Hawaiian plant counterparts (Wagner *et al.* 1999).

Additionally, these species face competition at the larval stage from nonnative tipulid flies within the host plant, and all stages face substantial predation pressure from nonnative insects such as long-legged ants and yellow-jacket wasps (Kaneshiro and Kaneshiro 1995; Science Panel 2005). Currently, existing regulations offer inadequate protection to these species.

Because of the significance of the threats, we conclude that *Drosophila heteroneura* and *D. ochrobasis* are in danger of extinction throughout their range. Therefore, these species meet the Act's definition of endangered and warrant protection as endangered under the Act.

Drosophila mulli faces similar threats but its host plant is long-lived, and management efforts in Volcanoes National Park (in forest adjacent to a known *D. mulli* site) are being undertaken to reduce the severity of those threats to its host plant. As a result of these actions, some regeneration of the host plant has been observed (K. Magnacca, pers. comm., 2006). Within the second site, the Upper Waikea Reserve area, pig fencing is expected to reduce the effects of browsing pigs upon the host plant population (K. Magnacca, pers. comm., 2006). Because of ongoing management efforts benefiting *D. mulli*, and because its host plant can live for 100 years, we conclude that *D. mulli* is not immediately at risk of extinction. However, given the threats to the species and to the persistence of the host plant, as described above, we find that this species is likely to become endangered in the foreseeable future, and thus meets the Act's definition of a threatened species.

Island of Molokai—*Drosophila differens*

Drosophila differens is historically known from only three sites. It is threatened by pigs, axis deer, rats, nonnative plants, tipulid competition, and yellow-jacket predation. The primary threats to this species' habitat are from feral pigs and the nonnative weed, *Psidium cattleianum*, in a manner similar to picture-wing fly habitat on Oahu and Hawaii (see above). In addition, axis deer are present on Molokai, and they continue to degrade native forest habitat by trampling and overgrazing vegetation, which removes ground cover and exposes the soil to erosion. Although goats were described as a threat to at least one population of *D. differens* at Pu'u Kolekole in the proposed rule, we have subsequently learned that they may not be present in this area (K. Kaneshiro, pers. comm. 2006). Nonnative predatory and parasitic insects are considered significant factors contributing to the reduction in range and abundance of the Hawaiian picture-wing flies and, in combination with habitat loss, are threats to their continued existence (Science Panel 2005).

These threats, considered in the context of the small number of individuals of the species (as inferred from the lack of positive survey results, despite extensive, focused efforts to relocate this species), are magnified and place *D. differens* in danger of extinction. Therefore, *D. differens* meets the Act's definition of endangered and warrants protection as endangered under the Act.

Island of Kauai—*Drosophila musaphilia*

Drosophila musaphilia is historically known from only four sites, but has only been observed once since 1972, in 1988 at the Pihea Trail. It is threatened by pigs, goats, black-tailed deer, nonnative plants, nonnative ants, yellow-jacket predation, and wildfire. Degradation and modification of *Drosophila musaphilia* habitat, particularly from the effects of feral ungulates and the nonnative weed *Psidium cattleianum*, have occurred and are likely to continue into the future (Kaneshiro and Kaneshiro 1995; Science Panel 2005). In addition to pigs and goats (see Oahu and Hawaii species for a discussion of the effects of these ungulates on picture-wing fly habitat), *D. musaphilia* habitat is threatened by black-tailed deer, which feed on a variety of alien and native plants, including the host plant, *Acacia koa* (van Riper and van Riper 1982).

The invasion of several nonnative plants, particularly *Psidium*

cattleianum, *Lantana camara*, *Melinis minutiflora*, *Rubus argutus*, *Clidemia hirta*, and *Passiflora mollissima*, further contributes to the degradation of native forests and the host plants of *D. musaphilia* (Kaneshiro and Kaneshiro 1995; Wagner et al. 1999; Science Panel 2005). *Psidium cattleianum*, *Lantana camara*, *Melinis minutiflora*, and *Rubus argutus* form dense stands, thickets, or mats that shade or outcompete native plants. *Passiflora mollissima* is a vine that causes damage or death to native trees by overloading branches, causing breakage, or by forming a dense canopy cover, intercepting sunlight and shading out native plants below (Wagner et al. 1999). *Lantana camera* produces chemicals that inhibit the growth of other plant species (Smith 1985; Wagner et al. 1999).

Fire and the resultant invasion by alien species remains a significant threat to the mesic forests that *Drosophila musaphilia* inhabits on Kauai (Science Panel 2005). *M. minutiflora* is a grass that burns readily, often grows at the border of forests, and tends to carry fire into areas with woody native plants (Smith 1985; Cuddihy and Stone 1990). It is able to spread prolifically after a fire and effectively outcompete less fire-adapted native plant species, ultimately creating a stand of nonnative grass where forest once stood.

D. musaphilia is known to be inherently rare since the larvae feed within slime fluxes, which develop on *Acacia koa*. Yet, while threats from feral ungulates and nonnative weeds are affecting the regeneration of *Acacia koa*, the adult trees within this area remain relatively stable (Science Panel 2005).

These threats, considered in the context of the small number of individuals of the species (as inferred from the lack of positive survey results, despite substantial survey effort within potential habitat for the species), are magnified and place *D. musaphilia* in danger of extinction. Nonnative predatory and parasitic insects are considered significant factors contributing to the reduction in range and abundance of the Hawaiian picture-wing flies and, in combination with habitat loss, are a threat to their continued existence (Science Panel 2005). Therefore, *D. musaphilia* meets the Act's definition of endangered and warrants protection as endangered under the Act.

Island of Maui—*Drosophila neoclavisetae*

Drosophila neoclavisetae has only been observed twice in one area of west Maui. It is threatened by pigs, nonnative plants, tipulid competition, and yellow-jacket predation. *Drosophila neoclavisetae* is limited to the highlands of West Maui, where degradation and modification of its habitat, particularly from the effects of feral pigs, have occurred (Kaneshiro and Kaneshiro 1995; Science Panel 2005). Rats are also a significant factor threatening *D. neoclavisetae* habitat and are abundant in the areas where *D. neoclavisetae* has been observed (Science Panel 2005). Nonnative predatory and parasitic insects are considered significant factors contributing to the reduction in range and abundance of the Hawaiian picture-wing flies and, in combination with habitat loss, are a threat to their continued existence (Science Panel 2005). These threats, considered in the context of the small number of individuals of the species (as inferred from the lack of positive survey results, despite extensive, focused efforts to relocate this species), are magnified and place *D. neoclavisetae* in danger of extinction. Therefore, *D. neoclavisetae* meets the Act's definition of endangered and warrants protection as endangered under the Act.

Summary

The Service has assessed the best scientific and commercial information available regarding the past, present, and future threats faced by the 12 picture-wing fly species in determining this final rule. Based on this evaluation, this *final rule* notice lists *Drosophila aglaia*, *D. differens*, *D. hemipeza*, *D. heteroneura*, *D. montgomeryi*, *D. musaphilia*, *D. neoclavisetae*, *D. obatai*, *D. ochrobasis*, *D. substenoptera*, and *D. tarphytrichia* as endangered and lists *D. mulli* as threatened. These species are endangered or threatened by one or more of the following: Habitat degradation by pigs, goats, deer, rats, cattle, nonnative insects, and nonnative plants, all of which reduce the quality of habitat; direct host plant loss and host plant habitat loss from fire; direct predation by ants and nonnative wasps; and competition with nonnative insects.

Critical Habitat

Critical habitat is defined in section 3 of the Act as: (i) The specific areas within the geographical area occupied by a species, at the time it is listed in accordance with the Act, on which are found those physical or biological features (I) essential to the conservation of the species, and (II) that may require special management considerations or protection, and (ii) specific areas outside the geographical area occupied by a species at the time it is listed in accordance with the provisions of section 4 of the Act, upon a determination by the Secretary that such areas are essential for the conservation of the species. ''Conservation'' means the use of all methods and procedures needed to bring the species to the point at which protection under the Act is no longer necessary.

Pursuant to a settlement agreement approved by the United States District Court for the District of Hawaii on August 31, 2005 (*CBD* v. *Allen*, CV–05–274–HA), the Service must submit, for publication to the **Federal Register**, a prudency determination for designating critical habitat for the 12 species of picture-wing flies, pursuant to the Act's sections 4(b)(6)(A) and (C), concurrent with the final listing on or by April 17, 2006. The settlement further stipulates that if the final listing determination results in the listing of one or more of the 12 species and a critical habitat designation is found to be prudent, the Service must submit, for publication in the **Federal Register**, a proposed critical habitat designation for the listed species for which critical habitat is prudent on or by September 15, 2006, and a final critical habitat determination by April 17, 2007. However, the Service will propose critical habitat for 12 species of picture-wing flies within 60 days of the publication of this final rule.

Section 4(a)(3) of the Act, as amended, and implementing regulations (50 CFR 424.12) require that, to the maximum extent prudent and determinable, the Secretary designate critical habitat at the time the species is determined to be endangered or threatened. Our regulations (50 CFR 424.12(a)(1)) state that designation of critical habitat is not prudent when one or both of the following situations exist—(1) The species is threatened by taking or other activity and the identification of critical habitat can be expected to increase the degree of threat to the species, or (2) such designation of critical habitat would not be beneficial to the species.

Identification of critical habitat will not increase the degree of threats to the species because they are not threatened by overcollection or malicious destruction of habitat. Furthermore, designation may be beneficial through the protections afforded critical habitat areas under section 7 of the Act. Therefore, we believe that designation of critical habitat is prudent for those flies being listed in this final rule.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Act include recognition, recovery actions, requirements for Federal protection, and

prohibitions against certain activities. Recognition through listing results in public awareness and encourages conservation actions by Federal, State, Tribal, and local agencies; non-governmental conservation organizations; and private individuals. The Act provides for possible land acquisition and cooperation with States and requires that recovery actions be carried out for listed species. Recovery planning and implementation, the protection required by Federal agencies, and the prohibitions against certain activities involving listed animals are discussed, in part, below.

The primary purpose of the Act is the conservation of endangered and threatened species and the ecosystems upon which they depend. The ultimate goal of such conservation efforts is the recovery of these listed species, so that they no longer need the protective measures of the Act. Subsection 4(f) of the Act requires the Service to develop and implement plans for the conservation of endangered and threatened species (''recovery plans''). The recovery process involves halting or reversing the species' decline by addressing the threats to its survival. The goal of this process is to restore listed species to a point where they are secure, self-sustaining, and functioning components of their ecosystems, thus allowing delisting.

Recovery planning includes the development of a recovery outline shortly after a species is listed, then preparation of draft and final recovery plans, and finally revision of the plan as significant new information becomes available. The recovery outline, the first step in recovery planning, guides the immediate implementation of urgent recovery actions and describes the process to be used to develop a recovery plan. The recovery plan identifies site-specific management actions that will achieve recovery of the species, measurable criteria that determine when a species may be downlisted or delisted, and methods for monitoring recovery progress. Recovery teams, consisting of species experts, Federal and State agencies, non-government organizations, and stakeholders, are often established to develop recovery plans. When completed, a copy of the recovery outline, draft recovery plan, or final recovery plan will be available from our Web site (*http://endangered.fws.gov*), or if unavailable or inaccessible, from our office (see **FOR FURTHER INFORMATION CONTACT** section).

Implementation of recovery actions generally requires the participation of a broad range of partners, including other Federal agencies, States, non-governmental organizations, businesses, and private landowners. Examples of recovery actions include habitat restoration (e.g., restoration of vegetation), research, captive propagation and reintroduction, and outreach and education. The recovery of many listed species cannot be accomplished solely on Federal lands. To achieve recovery of these species requires cooperative conservation efforts on private lands as many occur primarily or solely on private lands.

The funding for recovery actions can come from a variety of sources, including Federal budgets, State programs, and cost share grants for non-Federal landowners, the academic community, and non-governmental organizations. In addition, pursuant to section 6 of the Act, we would be able to grant funds to the State of Hawaii for management actions that promote the protection and recovery of the 12 Hawaiian picture-wing flies. Information on our grant programs that are available to aid species recovery can be found at: *http://endangered.fws.gov/grants/index.html.* In the event that our Internet connection is inaccessible, please check *http://www.grants.gov* or check with our grant programs contact at U.S. Fish and Wildlife Service, Ecological Services, 911 NE. 11th Avenue, Portland, OR 97232–4181 (telephone 503/231–6154; facsimile 503/231–6846).

Please let us know if you are interested in participating in recovery efforts for the 12 species of Hawaiian picture-wing flies. Additionally, we invite you to submit any further information on the species whenever it becomes available and any information you may have for recovery planning purposes (see **FOR FURTHER INFORMATION CONTACT** section).

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened, and with respect to its critical habitat if any is being designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR part 402. Section 7(a)(2) requires Federal agencies, including the Service, to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of a listed species or to destroy or adversely modify its critical habitat if any has been designated. If a Federal action may adversely affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with us.

Federal agency actions that may require consultation for the 12 picture-wing flies include, but are not limited to, actions within the jurisdiction of the U.S. Army Corps of Engineers, Federal Emergency Management Agency, Federal Highways Administration, Natural Resources Conservation Service, National Park Service, Fish and Wildlife Service, and branches of the Department of Defense (DOD). Activities will trigger consultation under section 7 if they may affect the picture-wing flies addressed in this rule. Federally supported activities that could affect the picture-wing flies or their habitat in the future include, but are not limited to: Bombardment and live-fire exercises; troop movements; agricultural projects; and construction or improvement of roads, airports, firebreaks, radio towers, and housing and other buildings.

The Act and its implementing regulations set forth a series of general prohibitions and exceptions that apply to all endangered and threatened wildlife. The prohibitions of section 9(a)(2) of the Act, implemented by 50 CFR 17.21 and 17.31 for endangered and threatened species, make it illegal for any person subject to the jurisdiction of the United States to take (includes harass, harm, pursue, hunt, shoot, wound, kill, trap, or collect; or attempt any of these), import or export, ship in interstate commerce in the course of a commercial activity, or sell or offer for sale in interstate or foreign commerce any listed species. It is also illegal to possess, sell, deliver, carry, transport, or ship any such wildlife that has been taken illegally. Further, it is illegal for any person to attempt to commit, to solicit another person to commit, or to cause to be committed, any of these acts. Certain exceptions apply to our agents and State conservation agencies.

Permits may be issued to carry out otherwise prohibited activities involving threatened and endangered species under certain circumstances. Regulations governing permits are codified at 50 CFR 17.22 and 17.32. Such permits are available for scientific purposes, to enhance the propagation or survival of the species, and/or for incidental take in connection with otherwise lawful activities. For threatened species, permits are also available for zoological exhibition, educational purposes, or special purposes consistent with the purposes of the Act. Requests for copies of the regulations regarding listed wildlife and inquiries about permits and prohibitions may be addressed to U.S. Fish and Wildlife Service, Endangered Species Permits, 911 NE. 11th Avenue, Portland, OR 97232–4181.

It is our policy, published in the **Federal Register** on July 1, 1994 (59 FR 34272), to identify to the maximum extent practicable at the time a species is listed, those activities that would or would not constitute a violation of section 9 of the Act. The intent of this policy is to increase public awareness of the effect of this listing on proposed and ongoing activities within the range of the species. We believe, based on the best available information that most scientific or recreational activities that do not damage habitat within native forest areas that support the 12 Hawaiian picture-wings would not likely result in violations of section 9.

We believe the following activities could potentially result in a violation of section 9, but possible violations are not limited to these actions alone:

(1) Unauthorized collecting, handling, possessing, selling, delivering, carrying, or transporting of the species, including import or export across State lines and international boundaries;

(2) Introduction of exotic species that compete with or prey upon the flies, such as the introduction of parasitic flies or predatory wasps to the State of Hawaii;

(3) Activities that disturb adult or larval fly feeding areas; and

(4) Unauthorized destruction or alteration of forested areas that are required by the flies for foraging or breeding.

Questions regarding whether specific activities would constitute a violation of section 9 should be sent to the Pacific Islands Fish and Wildlife Office (see **FOR FURTHER INFORMATION CONTACT** section). Requests for copies of the regulations concerning listed animals and general inquiries regarding prohibitions and permits may be addressed to the U.S. Fish and Wildlife Service, Endangered Species Permits, 911 NE. 11th Avenue, Portland, OR 97232–4181 (telephone 503/231–2063; facsimile 503/231–6243).

For the 12 Hawaiian picture-wing flies listed under the Act, the State of Hawaii Endangered Species Act (HRS, Sect. 195D–4(a)) is automatically invoked, prohibiting take and encouraging conservation by State government agencies. Further, the State may enter into agreements with Federal agencies to administer and manage any area required for the conservation, management, enhancement, or protection of endangered species (HRS, Sect. 195D–5(c)). Funds for these activities could be made available under section 6 of the Act (State Cooperative Agreements). Thus, the Federal protection afforded to these species by listing them as endangered and threatened species will be reinforced and supplemented by protection under State law.

National Environmental Policy Act

We have determined that environmental assessments and environmental impact statements, as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Act. We published a notice outlining our reasons for this determination in the **Federal Register** on October 25, 1983 (48 FR 49244).

Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.)

This rule does not contain any new collections of information that require approval by OMB under the Paperwork Reduction Act. This rule will not impose recordkeeping or reporting requirements on State or local governments, individuals, businesses, or organizations. 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.

References Cited

A complete list of all references cited herein is available upon request from our Pacific Islands Fish and Wildlife Office (see **FOR FURTHER INFORMATION CONTACT** section).

Author

The primary author of this document is Michael Richardson, Pacific Islands Fish and Wildlife Office (see **ADDRESSES** section).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

Regulation Promulgation

■ Accordingly, part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, is amended as set forth below:

PART 17—[AMENDED]

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

Authority: 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500; unless otherwise noted.

■ 2. Amend § 17.11(h) by adding the following, in alphabetical order under Insects, to the List of Endangered and Threatened Wildlife to read as follows:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
*	*	*	*	*	*	*	
INSECTS							
*	*	*	*	*	*	*	
Fly, Hawaiian picture-wing.	*Drosophila aglaia*	U.S.A. (HI)	NA	E	756	NA	NA
Fly, Hawaiian picture-wing.	*Drosophila differens* ..	U.S.A. (HI)	NA	E	756	NA	NA
Fly, Hawaiian picture-wing.	*Drosophila hemipeza*	U.S.A. (HI)	NA	E	756	NA	NA
Fly, Hawaiian picture-wing.	*Drosophila heteroneura*.	U.S.A. (HI)	NA	E	756	NA	NA
Fly, Hawaiian picture-wing.	*Drosophila montgomeryi*.	U.S.A. (HI)	NA	E	756	NA	NA

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
Fly, Hawaiian picture-wing.	*Drosophila mulli*	U.S.A. (HI)	NA	T	756	NA	NA
Fly, Hawaiian picture-wing.	*Drosophila musaphilia*	U.S.A. (HI)	NA	E	756	NA	NA
Fly, Hawaiian picture-wing.	*Drosophila neoclavisetae*.	U.S.A. (HI)	NA	E	756	NA	NA
Fly, Hawaiian picture-wing.	*Drosophila obatai*	U.S.A. (HI)	NA	E	756	NA	NA
Fly, Hawaiian picture-wing.	*Drosophila ochrobasis*.	U.S.A. (HI)	NA	E	756	NA	NA
Fly, Hawaiian picture-wing.	*Drosophila substenoptera*.	U.S.A. (HI)	NA	E	756	NA	NA
Fly, Hawaiian picture-wing.	*Drosophila tarphytrichia*.	U.S.A. (HI)	NA	E	756	NA	NA
*	*	*	*	*	*	*	

Dated: May 2, 2006.

H. Dale Hall,

Director, Fish and Wildlife Service.

[FR Doc. 06–4299 Filed 5–8–06; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 223

[Docket No. 050304058–6116–03; I.D. No. 060204C]

RIN No. 0648–XB29

Endangered and Threatened Species: Final Listing Determinations for Elkhorn Coral and Staghorn Coral

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

ACTION: Final rule.

SUMMARY: We, the National Marine Fisheries Service (NMFS), are publishing this final rule to implement our determination to list elkhorn (*Acropora palmata*) and staghorn (*A. cervicornis*) corals as threatened species under the Endangered Species Act (ESA) of 1973, as amended. We have reviewed the status of the species and efforts being made to protect the species, and we have made our determinations based on the best scientific and commercial data available. We also solicit information that may be relevant to our analysis of protective regulations and to the designation of critical habitat for these two species.

DATES: The effective date of this rule is June 8, 2006. Responses to the request for information regarding a subsequent ESA section 4(d) Rule and critical habitat designation must be received by June 2, 2006.

ADDRESSES: NMFS, Southeast Regional Office, Protected Resources Division, 263 13th Ave. South, St. Petersburg, FL 33701.

FOR FURTHER INFORMATION CONTACT: Jennifer Moore or Stephania Bolden, NMFS, Southeast Region, at the address above or at (727) 824–5312, or Marta Nammack, NMFS, Office of Protected Resources, at (301) 713–1401. Reference materials regarding these determinations are available upon request or on the Internet at *http://sero.nmfs.noaa.gov*.

SUPPLEMENTARY INFORMATION:

Background

On June 11, 1991, we identified elkhorn and staghorn corals as ''candidates'' for listing under the ESA (56 FR 26797). Both species were subsequently removed from the candidate list on December 18, 1997, because we were not able to obtain sufficient information on their biological status and threats to meet the scientific documentation required for inclusion on the 1997 candidate species list (62 FR 37560).

Using data from a 1998 analysis and information obtained during a public comment period, we again added the two species to the ESA candidate species list on June 23, 1999 (64 FR 33466). These two species qualified as ESA candidate species at that time because there was some evidence they had undergone substantial declines in abundance or range from historic levels. On April 15, 2004, we established a ''species of concern'' list to differentiate those species for which we had concerns regarding their status from those species that were truly candidates for listing under the ESA (69 FR 19976). When we established this new list, we transferred both elkhorn and staghorn corals from the candidate species list to the species of concern list.

On March 4, 2004, the Center for Biological Diversity (CBD) petitioned us to list elkhorn, staghorn, and fused-staghorn corals as either threatened or endangered under the ESA and to designate critical habitat. On June 23, 2004, we made a positive 90–day finding (69 FR 34995) that CBD had presented substantial information indicating the petitioned actions may be warranted and announced the initiation of a formal status review as required by section 4(b)(3)(A) of the ESA. Concurrently, we solicited additional information from the public on these Acroporid corals regarding historic and current distribution and abundance, population status and trends, areas that may qualify as critical habitat, any current or planned activities that may adversely affect them, and known conservation efforts. Additional information was also requested during two public meetings held in December 2004 on: (1) distribution and abundance; (2) areas that may qualify as critical habitat; and (3) approaches or criteria that could be used to assess listing potential of the Acroporids (e.g., viability assessment, extinction risk, etc.).

In order to conduct a comprehensive status review, we convened an Atlantic Acropora Biological Review Team (BRT) to compile and analyze the best available scientific and commercial information on these species. The

members of the BRT were a diverse group of experts in their fields and included coral biologists and ecologists; specialists in coral disease, coral monitoring and restoration, climate, water quality, and coral taxonomy; regional experts in coral abundance/distribution throughout the Caribbean Sea; and state and Federal resource managers. The comprehensive, peer-reviewed status review report developed by the BRT incorporates and summarizes the best scientific and commercial data available as of March 2005. The report addresses the status of the species, the factors identified in section 4(a)(1) of the ESA, and current regulatory, conservation, and research efforts yielding protection to the corals. The BRT also reviewed and considered the petition and materials we received as a result of the **Federal Register** announcement of the 90–day finding (69 FR 34995) and the public meetings.

On March 3, 2005, we determined that elkhorn and staghorn corals were likely to become endangered within the foreseeable future throughout their entire ranges, and, therefore, a proposal to list the two species as threatened under the ESA was warranted (70 FR 13151; March 18, 2005). We also found that fused-staghorn coral was a hybrid and did not warrant listing. On May 9, 2005, we published a proposed rule (70 FR 24359) to place both elkhorn and staghorn corals on the list of threatened species under the ESA and commenced a 90–day public comment period, which included public meetings.

Statutory Framework for ESA Listing Determinations

The ESA defines an endangered species as one that is in danger of extinction throughout all or a significant portion of its range, and a threatened species as one that is likely to become endangered in the foreseeable future throughout all or a significant portion of its range (sections 3(6) and 3(19) of the ESA, respectively). Section 4(a)(1) of the ESA requires us to determine whether any species is endangered or threatened because of any one or a combination of the following factors: the present or threatened destruction, modification or curtailment of its habitat or range; overutilization for commercial, recreational, scientific, or educational purposes; disease or predation; the inadequacy of existing regulatory mechanisms; or other natural or manmade factors affecting its continued existence. We are required to make this determination based solely on the best scientific and commercial data available after conducting a review of the status of the species, and after taking into account those efforts being made by states or foreign nations to protect or conserve the species.

Finally, section 4(b)(1)(B) of the ESA requires us to give consideration to species which: (1) have been designated as requiring protection from unrestricted commerce by any foreign nation or pursuant to an international agreement; or (2) have been identified as in danger of extinction, or likely to become so within the foreseeable future, by any state agency or by any agency of a foreign nation.

Summary of Comments Received

Below we address the comments received pertaining to the proposed listing for the Acroporid corals. For additional background and a summary of Acropora spp. natural history and threats to the species, the reader is referred to the March 3, 2005, Atlantic Acropora Status Review report (available at http://sero.nmfs.noaa.gov/pr/protres.htm). In response to our request for public comments, we received 1,393 written and verbal responses to the proposed threatened listings.

Comment 1: Numerous commenters stated that the elkhorn and staghorn corals qualified for an endangered listing based on the declines in abundance and the significant threats faced by the species throughout their ranges.

Response: During the status review, we carefully analyzed threats facing the species and declines in abundance and considered this analysis when determining the status of the species. As depicted and described in the status review report, abundance of both species has declined over the past 30 years rangewide; however, recent surveys indicate an increase in abundance in some areas (e.g., Buck Island, U.S.V.I.), no change in some areas (e.g., Florida Keys), and fluctuating abundance in some areas (e.g., Belize). At present, the total numbers of colonies and presumably individuals remain very large, though the absolute number of colonies or percent coverage is unquantified. For example, one study of *A. palmata* in the Florida Keys in 2001 estimated colony density to be 0.8 colonies per square meter; expanding this same density to the overall available habitat within the wider Caribbean (on the order of thousands of square kilometers) would correspond to individual colony counts on the order of billions. Further, the species persist across a very large geographic range, and there is no current evidence of range contractions. Therefore, we believe the species are showing limited, localized recovery, and, rangewide, the rate of decline appears to have stabilized and is comparatively slow as evidenced by the persistence at reduced abundances for the past two decades.

In addition to population trends, we considered the significance of individual threats, and the cumulative and synergistic effects of the threats, acknowledging that the major threats (i.e., disease, hurricanes, and elevated sea surface temperature) to the elkhorn and staghorn corals are severe, unpredictable, and likely to increase in the foreseeable future. However, given the large number of colonies, the species' large geographic ranges that remain intact, and the fact that asexual reproduction (fragmentation) provides a source for new colonies (albeit clones) that can buffer natural demographic and environmental variability, it is likely both species retain significant potential for persistence, and are not currently at risk of extinction throughout all or a significant portion of their ranges.

Comment 2: One commenter asked us to provide a threshold that the corals must attain to qualify as endangered.

Response: In the proposed listing rule, we described the application of the ESA definitions of endangered and threatened to the status of and threats to the Acroporid corals (70 FR 24360). The threshold for a species to qualify for endangered status is that it is in danger of extinction throughout all or a significant portion of its range. We determined the two species are not currently in danger of extinction, as discussed in the response above.

Comment 3: Several commenters stated that we did not conduct a proper ''significant portion of the range'' analysis. One commenter stated that our conclusion that ''there is no evidence indicating that any elkhorn or staghorn population within the geographic range of the species is more or less important than the others'' is evidence of arbitrary and capricious reasoning. The commenter stated that, in our analysis of whether any portion of the range was significant, we should have at least considered areas where the corals have shown limited recovery as more important to the survival and recovery of the species than other areas.

One commenter discussed a number of court cases invalidating decisions not to list species where the U.S. Fish and Wildlife Service (FWS) or NMFS only analyzed a species' rangewide status and did not separately evaluate whether a species was endangered or threatened in a significant portion of its range (SPOIR). One commenter stated that we must apply this statutory term such that

it does not effectively conflate 'entire range' with 'SPOIR,' nor base a listing decision solely on whether a species is threatened or endangered within a fixed percentage of its range.

One commenter stated that if a species is threatened or endangered in a SPOIR, it must be listed as threatened or endangered throughout its range.

Response: Because we did not determine any portion of the species' ranges to be significant, and their ranges are intact, there was no basis for further evaluating the extinction risk of or threats to the species in any particular geographic areas, or for determining whether the coral species were endangered or threatened throughout a significant portion of their ranges. We proceeded instead to evaluate whether the species were endangered or threatened throughout their respective ranges. We did not conflate ''entire range'' and ''SPOIR,'' nor did we require any fixed percentage of the species' ranges to constitute a significant portion.

Consistent with prior court holdings, we performed a separate SPOIR analysis. We analyzed the relative biological importance of portions of the species' ranges and found that no area was more or less important (i.e., functionally, ecologically) than any other area. As discussed in further detail (see Species and Risk of Extinction section), we evaluated a recent study that examined genetic exchange and clonal population structure of *A. palmata*, and we found that it does not indicate source or sink areas, distinguishable or separable populations within each region, or any more or less significant areas or populations (i.e., in terms of differential biological value to the species). While there are a few locations (e.g., Buck Island Reef National Monument) where limited recovery appears to be progressing, the origin of recruits, presumably from a single sexual reproduction event, is unknown and their contribution to the corals' rangewide recovery remains undetermined. Therefore, there is insufficient evidence indicating that any particular geographic area or population is more significant to the species than others.

Comment 4: One commenter requested we specifically list the coral populations off Broward County, FL as endangered.

Response: As stated in the proposed listing rule, the ESA does not provide for listing distinct population segments of invertebrate species, and corals are invertebrates. Listing determinations for invertebrate species must be made at the species or subspecies level. Therefore, whether the populations of *A. cervicornis* on the Broward reefs are in danger of extinction, the ESA does not provide for listing a population of this species.

Comment 5: A few commenters were critical that the 30–year period, defined as the foreseeable future for purposes of our analysis for a threatened status, is not sufficiently protective, asserting that current threats could cause large amounts of coral to be lost in 30 years.

Response: The definition of foreseeable future applies only to the threshold for a 'threatened' determination (i.e., whether a species is likely to become endangered within the foreseeable future throughout all of a significant portion of its range). As discussed in our responses to Comments 1 and 2, we determined that neither elkhorn nor staghorn coral is currently in danger of extinction (the threshold for making an 'endangered' determination). In evaluating 'foreseeable future' for our threatened determinations for elkhorn and staghorn coral, our 30–year timeframe was selected as the most appropriate, given the species' biology and threats they face (see Species and Risk of Extinction section), as well as the purpose of the ESA, which is to provide for the conservation and recovery of the species and the ecosystems upon which they depend. The 30–year period identified for the two coral species is consistent with the logistic function indicated by the data portraying population decline (circa 1975–2005), the preceding 30–year period of relative stability in abundance, and the hypothesized cycle of hurricane frequency and intensity.

We concur with the commenters that, without an ESA listing, the species' abundance and distribution are likely to become further reduced in the next 30 years, with some local extirpations likely. Those considerations contributed to our determination to list the species as threatened. Given that we made a determination to list the species as threatened using the 30–year timeframe for foreseeable future, a shorter timeframe would have been no more protective. We believe our 30–year timeframe is both appropriate and protective.

Comment 6: Comments were received challenging our determination that *A. prolifera* is a hybrid and, therefore, not considered a species for listing. Commenters stated that the hybrid should be listed because of its ecological function and separate taxonomic diagnosis. Commenters stated that the hybrid may not be as well-studied as other Acroporids, and interbreeding is not a requirement to classify a species. Lastly, one commenter stated we did not use the best available science, referring us to recent court cases on taxonomic uncertainty in ESA listings.

Response: The ESA does not allow us to consider a taxon for listing based solely on its ecological function; it must as an initial matter meet the ESA definition of species. To determine *A. prolifera*'s status as a species, we followed our regulations at 50 CFR section 424.11(a), which direct us to rely on the standard taxonomic distinctions and the appropriate biological expertise within the agency and the scientific community in order to determine whether a particular taxon or population is a species for purposes of the ESA. We used published literature and unpublished scientific research to describe *A. prolifera*'s taxonomy based on morphology, genetics, and potential to reproduce. We concluded that A. prolifera is a hybrid because: (1) it exhibits a wide range of intermediate morphologies; (2) all individuals sampled are first generation hybrids of *A. palmata* and *A. cervicornis*; and (3) in laboratory attempts, it does not produce successful offspring via sexual reproduction. Other *Acropora* spp. reproduce by both sexual and asexual modes, while A. prolifera is not able to reproduce by both modes. All known individuals are hybrids, and cannot interbreed when mature, and, therefore, *A. prolifera* does not meet the biological definition of species. We also followed the court's ruling in *Center for Biological Diversity* v. *Lohn*, 296 F. Supp.2d 1223 (W.D. Wash. 2003), by basing our decision on the best available science instead of outdated taxonomic distinctions. Although *A. prolifera* has a separate taxonomic history, the best available science shows it is a first generation hybrid and not a species.

Comment 7: A commenter stated the BRT appeared to rely on a draft policy on listing hybrids (61 FR 4710; February 7, 1996) in considering the status of *A. prolifera*.

Response: While the status review report briefly describes the draft hybrid policy as ESA background, the report indicates that the policy is non-binding because it has never been finalized. The policy was never discussed or applied by the BRT in the remainder of the report. Similarly, we were aware of the draft policy, but did not rely on the draft policy when making our determination that A. prolifera should not be considered a species for ESA listing. Our determination was based on the scientific information summarized in the response above.

Comment 8: Many comments were received recommending potential listing

of A. prolifera under the ''similarity of appearance'' provision pursuant to section 4(e) of the ESA.

Response: Because we have not prohibited take of *A. palmata* and *A. cervicornis* in this final listing rule, prohibiting take of *A. prolifera* by listing it under 4(e) of the ESA is not appropriate as part of this final rule. We will consider whether a ''similarity of appearance'' regulation for A. prolifera is appropriate if we issue an ESA section 4(d) rule to conserve the listed species.

Comment 9: Numerous comments provided information on the threats we identified in the proposed rule. Several comments and journal articles addressing climate change and coral bleaching were received. Additionally, several commenters stated land-based sources of pollution (i.e., nutrients, sedimentation) are contributing to the decline of these species. We also received comments on the contribution of disease, hurricanes, poor boating, diving and fishing practices, and habitat loss to the status of elkhorn and staghorn corals. Many of the comments made suggestions regarding the relative importance of the threats and their contribution to the species' status.

Response: We evaluated all the information received on the threats affecting these species. No new threats were identified by any commenter. The suggested relative importance of the threats to the species' status was consistent with the status review report and the proposed rule. The information received was also consistent with the data used to make our threatened determination.

Comment 10: One commenter suggested we include a statement regarding the adequacy of the existing regulatory mechanisms pursuant to the Clean Water Act (CWA).

Response: We acknowledge the importance of the CWA as a tool to protect marine life. Although the CWA sets water quality standards for salt water and delegates authority to set and enforce water quality standards to the states, we concur with the BRT's conclusion that, despite existing regulations, degraded water quality resulting from nutrients and contaminants is contributing to the status of the two species.

Comment 11: We received several comments pertaining to future regulatory actions under the ESA. These included suggestions to develop regulations to manage specific threats (e.g., emissions, water quality). Additionally, other commenters questioned how the proposed listing would affect their actions (e.g., fishing, boating, diving). Commenters inquired about the timing of subsequent regulatory actions.

Response: Because we are listing elkhorn and staghorn corals as threatened, the prohibitions under section 9 of the ESA are not automatically applied to these species. Section 4(d) of the ESA allows us to develop regulations necessary and advisable for the conservation of listed threatened species, including regulations that extend the section 9 prohibitions to such species. We are beginning to work with interested parties to evaluate the necessity and advisability of a 4(d) rule for elkhorn and staghorn corals.

Similarly, because section 9 prohibitions are not automatically applied to these two species, this final rule will have no direct effects on the activities of private citizens. However, Federal agencies that fund, authorize, or carry out actions that are likely to adversely affect elkhorn or staghorn coral will be required to consult with us pursuant to section 7 of the ESA to ensure their actions are not likely to jeopardize the continued existence of either species.

Section 4(a)(3)(A) of the ESA requires that critical habitat be designated, to the maximum extent prudent and determinable, concurrently with a determination that a species is endangered or threatened. When such a designation is not determinable at the time of final listing of a species, section 4(b)(6)(C)(ii) of the ESA provides for an additional year to promulgate a critical habitat designation. We have concluded that critical habitat for elkhorn and staghorn corals is not determinable at this time. Through the status review and public comment process, we have begun to collect information on the biological and physical features essential to the conservation of the two species. More information is still required to identify those features. Throughout the next year, we intend to gather and review current and ongoing studies on the habitat use and requirements of elkhorn and staghorn corals; this information is crucial for the designation of critical habitat. We will also gather information on the benefits and impacts of the designation.

Comment 12: One commenter asked where take was occurring within the Caribbean Basin, because collection and sale of these corals is already prohibited.

Response: Collection is not the only activity that constitutes take under the ESA. The ESA defines take as ''to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect,'' which is a broader definition than the meaning suggested by the commenter. Although collection is prohibited in the United States and in many other Caribbean nations, there are many other activities currently occurring that may constitute take (see ''Consideration of Causal Factors Relevant to Listing'' section below).

Comment 13: Many commenters stated it is essential to protect coral habitat, given the importance of coral reefs to the economy. Additionally, the commenters stated many cities and communities depend on coral reefs and associated commerce.

Response: While the ESA and our listing regulations do not allow us to consider economics during listing, we are directed to consider the economic impacts, including relevant beneficial effects such as those raised by these commenters, when we designate critical habitat.

Comment 14: Numerous commenters supported the proposed listing.

Response: Comments noted. We look forward to partnering with these commenters and all stakeholders in the conservation of the two species.

In addition to the comments relating to the proposed listing, the following were also received: (1) peer-reviewed journal articles regarding climate change; effectiveness of the ESA; and coral resistance, resilience, and bleaching; (2) additional detail pertaining to existing regulatory mechanisms evaluated in the status review; (3) geographic information identifying land development, runoff, sewer outfalls, and land-use; (4) statements regarding the functional role of corals as keystone and indicator species; (5) references to oceanographic processes and circulation patterns; (6) reiteration of biological information included in the status review report; (7) summary of the 2005 NOAA Fisheries Public Employees for Environmental Responsibility survey; and (8) information on the umbrella effect, ecosystem management, limitations in funding opportunities, bryozoans, mari- and aquaculture, coral nurseries, species' status, effectiveness of potential listing, recruitment fitness and success, application of the ESA, obtaining permits, and an Illinois State bill. After careful consideration, we conclude the additional information received, as summarized above, was considered previously or did not pertain to the listing determination for the Acroporid corals.

Assessment of Species Status

In the proposed rule to add elkhorn and staghorn corals to the list of

threatened species under the ESA, we outlined our rationale for our determination, including our finding that the BRT's report constituted the best scientific and commercial data available. Below we have reiterated those portions of our evaluation pertinent to the public comments above and our final determination. Please refer to the proposed rule for additional information.

Species and Risk of Extinction

We first considered whether all three of the corals identified in the petition met the definition of ''species'' pursuant to section 3 of the ESA. The term ''species'' includes ''any subspecies of fish or wildlife or plants, and any distinct population segment of any species of vertebrate fish or wildlife which interbreeds when mature.'' Based on this language and the regulations at 50 CFR 424.11(a), ''species'' is given its ordinary, accepted biological meaning for these corals. Species diagnoses for both elkhorn and staghorn are not disputed; both species are recognized as separate taxa in the literature, have separate and discrete diagnoses and morphologies, produce offspring via asexual fragmentation, and produce viable gametes, larvae, and successful sexual offspring, which is typical of all species in the *Acropora* genus. In contrast, *A. prolifera* is a hybrid and does not meet the definition of species under the ESA (see Response to Comment 6).

We then carefully examined whether the coral species met the definitions of endangered or threatened species in section 3 of the ESA: (1) ''endangered species'' is defined as ''any species which is in danger of extinction throughout all or a significant portion of its range;'' and (2) ''threatened species'' is defined as ''any species which is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range.≥

Corals are invertebrates, and, therefore, only species or subspecies can be listed under the ESA. Distinct population segments of invertebrates cannot be listed. Further, we must also base a listing decision on whether a species is endangered or threatened throughout all or a significant portion of its range.

Acropora spp. are widely distributed throughout the wider Caribbean and are found in waters off Florida, and Puerto Rico, U.S. Virgin Islands, Navassa, and the wider Caribbean (Belize, Colombia, Costa Rica, Guatemala, Honduras, Mexico, Nicaragua, Panama, Venezuela, and all the islands of the West Indies). Both elkhorn and staghorn corals were historically (pre–1980s) the most abundant and most important species on Caribbean coral reefs in terms of accretion of reef structure.

To assess if a geographic area could constitute a significant portion of the range of either elkhorn or staghorn coral, we examined the relative biological importance of populations throughout the species' ranges. We considered the single genetic study available at the time of this determination that might support identification of portions of the species' ranges that are distinguishable or separable (i.e., ''distinct or discrete'' as used in the May 9, 2005, proposed rule (70 FR 24359). The study examined genetic exchange and clonal population structure in *A. palmata* by sampling and genotyping colonies from 11 locations throughout its geographic range using microsatellite markers. Results indicate populations in the eastern Caribbean (St. Vincent and the Grenadines, U.S.V.I., Curacao, and Bonaire) have experienced little or no genetic exchange with populations in the western Caribbean (Bahamas, Florida, Mexico, Panama, Navassa, and Mona Island). Puerto Rico is an area of mixing where populations show genetic contribution from both regions, though it is more closely connected with the western Caribbean. Within these regions, some locations are entirely self-recruiting and some receive immigrants from other locations within the region; however, the overall, rangewide average of the relative contribution of sexually versus asexually derived populations is approximately equal. No similar information exists for *A. cervicornis*. These data indicate that, on small and large scales, there are areas of mixing and areas that do not appear to have exchange; this indicates that there are no source or sink areas. In addition, although there are a few locations (e.g., Buck Island Reef National Monument) where limited recovery appears to be progressing, the origin of recruits, presumably from a single sexual reproduction event, is unknown, and their contribution to the corals' rangewide recovery remains undetermined. Based on this, we cannot determine that there are any specific geographic areas or populations within the wider Caribbean that should be considered more or less significant (i.e., in terms of differential biological value to the species). Because we did not determine any portion of the species' ranges to be significant, and their ranges are intact, there was no basis for further evaluating the extinction risk of or threats to the species in any particular geographic areas, or for determining whether the coral species were endangered or threatened throughout a significant portion of their ranges. We proceeded instead to evaluate whether the species were endangered or threatened throughout their respective ranges.

We determined that neither elkhorn nor staghorn corals are currently in danger of extinction throughout their entire ranges and neither meets the definition of endangered under the ESA. While the number and percent coverage of elkhorn and staghorn corals rangewide has declined precipitously over the last 30 years, the total number of colonies and presumably individuals remains very large (e.g., 0.8 colonies/sq m; therefore, over the species' ranges, on the order of billions of individuals), though the absolute number of colonies or percent coverage is unquantified. Given the high number of colonies, the species' large geographic ranges that remain intact (no evidence of current range constriction), and the fact that asexual reproduction (fragmentation) provides a source for new colonies (albeit clones) that can buffer natural demographic and environmental variability, we believe both species retain significant potential for persistence and are not currently at risk of extinction throughout their ranges. Additionally, as evidenced by the geologic record, both elkhorn and staghorn corals have persisted through climate cooling and heating fluctuation periods over millions of years, whereas other corals have gone extinct.

We believe that, while elkhorn and staghorn corals are not currently in danger of extinction, as described above, they are likely to become so within the foreseeable future throughout their entire ranges. In making this determination, we established that the appropriate period of time corresponding to the foreseeable future is a function of the threats, life-history characteristics, and the specific habitat requirements for the species under consideration. We determined it is also consistent with the purpose of the ESA that the timeframe for the foreseeable future be adequate to provide for the conservation and recovery of threatened species and the ecosystems upon which they depend. The aspects of the species' life histories that are relevant are slow growth rate, late maturation, and both sexual (annual broadcast spawning) and asexual (fragmentation) modes of reproduction. Given this conceptual framework, the fact that some threats are short term (e.g., hurricanes, major disease outbreaks) and others long term (e.g., habitat degradation, changes in sea

surface temperature), aspects of the species' life histories, and the fact that the current decline as summarized by the BRT occurred during the last 20 to 30 years, we determined the foreseeable future for these species to be 30 years.

We then considered the following information on a 30–year timescale when evaluating the status of elkhorn and staghorn corals:

1. Recent drastic declines in abundance of both species have occurred throughout their ranges, and abundances, though still high, are at historic lows;

2. The species are vulnerable to range constrictions due to local extirpations resulting from a single stochastic event (e.g., hurricanes, new disease outbreak);

3. Sexual recruitment is limited in some areas and unknown in most; fertilization success from clones is virtually zero; and settlement of larvae is often unsuccessful, given limited amount of appropriate habitat; and

4. Fertilization success is declining as a result of greatly reduced densities of adult colonies (the Allee effect).

Based on these facts, we believe that abundance and distribution of both elkhorn and staghorn coral are likely to become further reduced. Furthermore, a number of local extirpations is likely to occur within the next 30 years. The major threats to the species' persistence (i.e., disease, elevated sea surface temperature, and hurricanes) are severe, unpredictable, likely to increase in the foreseeable future, and, at current levels of knowledge, unmanageable.

Consideration of Causal Factors Relevant to Listing

Section 4 of the ESA and regulations promulgated to implement the listing provisions of the ESA (50 CFR part 424) set forth the procedures for adding species to the Federal list. Section 4 requires that listing determinations be based solely on the best scientific and commercial data available, without consideration of possible economic or other impacts of such determinations. Section 4(a)(1) of the ESA provides that the Secretary of Commerce shall determine whether any species is endangered or threatened because of any of five specified factors; our analysis of these factors and their relevance to the status of elkhorn and staghorn corals is briefly discussed below.

The BRT categorized threats to *A. palmata* and *A. cervicornis* as sources, stressors, or responses. Sources were considered as natural or anthropogenic processes that create stressful conditions for organisms (e.g., climate variability and change, coastal development). A stressor is the specific condition that causes stress to the organisms (e.g., elevated sea surface temperature or sediment runoff). The response of the organisms to that stressor is often in the form of altered physiological processes (e.g., bleaching, reduced fecundity or growth) or mortality. The BRT tabulated and then classified each stressor into one, or more, of the ESA section 4(a)(1) factors. We determined that the major stressors affecting the status of the two species are disease, elevated sea surface temperature, and hurricanes. Other stressors identified as contributing to the status of the species, given their extremely reduced population sizes, are sedimentation, anthropogenic abrasion and breakage, competition, excessive nutrients, predation, contaminants, loss of genetic diversity, African dust, elevated carbon dioxide levels, and sponge boring. These stressors were categorized under several of the causal factors identified in section 4(a)(1) of the ESA:

1. The Present or Threatened Destruction, Modification, or Curtailment of its Habitat or Range

Seven stressors (natural abrasion and breakage, anthropogenic abrasion and breakage, sedimentation, persistent elevated sea surface temperature, competition, excessive nutrients and sea level rise) were identified as affecting both species through present or threatened destruction, modification, or curtailment of their habitats or ranges. These stressors consist of destruction or disruption of substrate to grow on, and modification or alteration of the aquatic environment in which the corals live. Although habitat loss has occurred, the range of these two species has not been reduced, to date. However, because of the species' extremely low abundance, local extirpations are possible in the foreseeable future, which would likely lead to a reduction in range.

Elkhorn and staghorn corals, like most corals, require hard, consolidated substrate (i.e., attached, dead coral skeleton) for their larvae to settle or fragments to reattach. When the substrate is physically disturbed and when the attached corals are broken and reduced to unstable rubble or sediment, settlement and re-attachment habitat is lost. The most common causes of natural abrasion and breakage are severe storm events, including hurricanes. Severe storms can lead to the complete destruction and mortality of entire reef zones dominated by these species as well as destruction of the habitat on which these species depend (i.e., by covering settlement, reattachment, and growing surfaces with unstable rubble and sediment). Major storms have physically disrupted reefs throughout the wider Caribbean and are among the primary causes of elkhorn and staghorn coral habitat loss in certain locations.

Human activity in coral reef areas is another source of abrasion and breakage likely to result in destruction of *A. palmata* and *A. cervicornis* habitat. These activities include marine transportation, boating, anchoring, fishing, recreational SCUBA diving and snorkeling, and an increasing variety of maritime construction and development activities. The shallow habitat requirements of these two species make them especially susceptible to impacts, such as abrasion and breakage, from these anthropogenic activities, which have been documented as causing effects similar to severe storms, though usually on a smaller scale.

Acropora spp. also appear to be particularly sensitive to shading effects resulting from increased sediments in the water column. Because these corals are almost entirely dependent upon sunlight for nourishment, they are much more susceptible to increases in water turbidity and sedimentation than other coral species. Increased sediments in the water column can result from, among other things, land development and run-off, dredging and disposal activities, and major storm events. Sedimentation has also been documented to impede larval settlement.

Optimal water temperatures for elkhorn and staghorn coral range from 25 to 29° C, with the species being able to tolerate higher temperatures for a brief period of time (i.e., days to weeks, depending on the magnitude of the temperature elevation). Documented increases in global air and sea surface temperatures make shallow reef habitats especially vulnerable. Water with temperatures above the optimal range does not provide suitable habitat for either of the two species.

Because of their fast growth rates (relative to other corals) and canopy-forming morphology, *A. palmata* and *A. cervicornis* are known to be competitive dominants within coral communities, in terms of their ability to overgrow other stony and soft corals. However, other types of reef benthic organisms (e.g., algae) have higher growth rates and, under certain conditions are expected to outcompete *Acropora* spp. Under current oceanographic conditions in shallow, coastal areas (i.e., elevated nutrients), algae are typically out-competing both *Acropora* spp. for space on the reef. The consequence of this

competition is that less habitat is available for the two species to colonize.

Nutrients are added to coral reefs from both point sources (readily identifiable inputs where pollutants are discharged to receiving surface waters from a pipe or drain) and non-point sources (inputs that occur over a wide area and are associated with particular land uses). Generally, coral reefs have been considered nutrient-limited systems, meaning levels of accessible nitrogen and phosphorus limit the rates of plant growth. When nutrients levels are raised in such a system, plant growth can be expected to increase; the widespread increase in algae abundance on Caribbean coral reefs has been attributed to nutrient enrichment. As a result of this increased algal growth, less habitat is available for elkhorn and staghorn coral larval settlement or fragment reattachment. Thus, destruction, modification, and curtailment of elkhorn and staghorn corals' habitat has been identified as contributing to these species' threatened status.

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

Only one stressor under this ESA section 4(a)(1) factor was identified as having the potential to impact the status of elkhorn and staghorn corals: overharvest for curio/aquarium. Given current regulation and management, overutilization does not appear to be a significant threat to either of these two species or a factor contributing to the status of either species.

3. Disease or Predation

Diseases were identified as the single largest cause of both elkhorn and staghorn coral mortality and decline. These stressors present the greatest threat to the two species' persistence and recovery, given their widespread, episodic, and unpredictable occurrence and high resultant mortality. The threat from these stressors is exacerbated by the fact that coral diseases, though clearly severe, are poorly understood in terms of etiology and possible links to anthropogenic sources. Although the number or identity of specific disease conditions affecting Atlantic *Acropora* spp. and the causal factors involved are uncertain, several generalizations are evident. The total number, prevalence, and geographic range of impact of described Acroporid-specific diseases have increased over the past decade, and this trend is expected to continue. Additionally, diseases continue to have major impacts on population abundance and colony condition of both elkhorn and staghorn coral. Diseases constitute an ongoing, major threat about which specific mechanistic and predictive understanding is largely lacking, thereby currently preventing effective control or management strategies. Diseases affecting these species may prevent or delay their recovery in the wider Caribbean.

Acropora spp. are also subject to invertebrate (e.g., polychaete, mollusk, echinoderm) and vertebrate (fish) predation, but ''plagues'' of coral predators such as the Indo-Pacific crown-of-thorns starfish outbreaks (*Acanthaster planci*) have not been described in the Atlantic. Predation may directly cause mortality or injuries leading to invasion of other biota (e.g., algae, boring sponges). Thus, predation, while apparently much less than that of disease, is also contributing to the threatened status of these species.

4. Inadequacy of Existing Regulatory Mechanisms

We evaluated existing regulatory mechanisms directed at managing threats to elkhorn and staghorn corals. Most existing regulatory mechanisms are not specific to these two coral species but were promulgated to manage corals or coral reefs in general. While the impacts of many stressors were determined to be slightly reduced as a result of implementation of existing regulations, none were totally abated. For example, the Fishery Management Plan for Coral and Coral Reefs of the Gulf of Mexico and South Atlantic (under the Magnuson-Stevens Fishery Conservation and Management Act) protects all corals on the seabed in U.S. Federal waters from harvest, sale, and destruction from fishing related activities. However, in some cases, elkhorn and staghorn corals are incidentally destroyed during fishing practices, and, therefore, the regulation does not fully abate the threat from damaging fishing practices.

The major threats to these species' persistence (i.e., disease, elevated sea surface temperature, and hurricanes) are severe, unpredictable, have increased over the past 3 decades, and, at current levels of knowledge, the threats are unmanageable. There is no apparent indication these trends will change in the foreseeable future. No regulatory mechanisms are currently in place, or expected to be in place in the foreseeable future, to control or prevent these major threats. Therefore, the inadequacy of existing regulatory mechanisms is contributing to the threatened status of these species.

5. Other Natural or Manmade Factors Affecting Its Continued Existence

We identified 11 other stressors with the potential to impact the status of elkhorn and staghorn corals: Elevated sea surface temperature, competition, elevated nutrients, sedimentation, sea level rise, abrasion and breakage, contaminants, loss of genetic diversity, African dust, elevated carbon dioxide, and sponge boring. Many of these stressors are the same as those identified in the first factor (habitat destruction) because the same mechanisms can cause direct impacts to the organisms in addition to destroying or disrupting their habitat. Impacts from some of these stressors are complex, resulting in synergistic habitat impacts.

Elevation of the sea surface temperature in tropical and subtropical oceans stresses *Acropora* spp. Documented increases in global air and sea temperatures make shallow reef habitats especially vulnerable. When exposed to elevated sea surface temperatures, elkhorn and staghorn corals expel the symbiotic algae on which they depend for a photosynthetic contribution to their energy budget, enhancement of calcification, and color. This process is called bleaching. Temperature-induced bleaching affects growth, maintenance, reproduction, and survival of these two species. As summarized in the status review report, bleaching has been documented as the source of extensive elkhorn and staghorn mortality in numerous locations throughout their ranges. The extent and impact of bleaching is a function of the magnitude and duration of the increase in temperature. Mortality to *Acropora* spp. from a bleaching event can occur in a matter of days to weeks, though there is the potential for the coral to re-acquire the symbiotic algae and not suffer permanent damage. We conclude that temperature-induced bleaching is contributing to the status of elkhorn and staghorn corals.

Along with elevated sea surface temperature, atmospheric carbon dioxide levels have increased in the last century, and there is no apparent evidence the trend will not continue. As atmospheric carbon dioxide is dissolved in surface seawater, seawater becomes more acidic, shifting the balance of inorganic carbon away from carbon dioxide and carbonate toward bicarbonate. This shift decreases the ability of corals to calcify because corals are thought to use carbonate, not bicarbonate, to build their aragonite skeletons. Experiments have shown a reduction of coral calcification in response to elevated carbon dioxide

levels; therefore, increased carbon dioxide levels in seawater may be contributing to the status of the two species.

Rapid sea level rise was identified as a potential threat to these species; however, under current conditions, we conclude that this particular stressor is not affecting either of the two species' status.

Increased sediments in the water column can result from, among other things, land development and run-off; dredging and disposal activities; and major storm events. In addition to the habitat impacts, sedimentation has been shown to cause direct physiological stress to elkhorn and staghorn corals. Direct deposition of sediments on coral tissue and shading due to sediments in the water column have caused tissue death in these species; therefore, sedimentation is contributing to the status of the two species.

In addition to the habitat impacts described above, natural and anthropogenic sources of abrasion and breakage (e.g., severe storms, vessel groundings, fishing debris) cause direct mortality to elkhorn and staghorn corals. Their branching morphology makes them particularly susceptible to breakage. The creation of fragments through breakage is a natural means of asexual reproduction for these species. However, the fragments must encounter suitable habitat to be able to reattach and create a new colony. Under current conditions, suitable habitat is often not available, and entire elkhorn and staghorn reefs have been destroyed after these events; therefore, abrasion and breakage are contributing to the status of these two species.

Many of the stressors identified as contributing to the status of elkhorn and staghorn coral are minor in intensity, but have an impact because of the extremely reduced population sizes of these coral species. For example, direct competition with other species, skeleton bioerosion by clionid sponges, and effects from African dust all are minor stressors, but they are exacerbating the species' current status.

The severity of all of the stressors (natural or manmade) ranges from high (e.g., elevated sea surface temperature) to low (e.g., sponge boring). Some stressors (e.g., contaminants and loss of genetic diversity) are known to be adversely affecting these two species, but the magnitude of their effect on the status of elkhorn and staghorn corals is undetermined and understudied.

No one factor alone is responsible for the threatened status of elkhorn and staghorn corals; we conclude that four of the five ESA section 4(a)(1) factors (all but overutilization) to some degree are contributing to the threatened status of the species. Although the interaction of individual stressors is difficult to study in a rigorous, controlled experiment, it is clear *Acropora* spp. corals are facing myriad stressors that act simultaneously on the species. Some of these stressors, such as contaminants or novel pathogens, might be new and outside of the species' evolutionary experience. It is also clear that the corals are experiencing many of these stressors in new and severe combinations. It is logical to conclude that the synergistic effects of these combined stressors will continue.

Efforts Being Made to Protect Elkhorn and Staghorn Corals

In making listing determinations, section 4(b)(1) of the ESA requires us to take into account the efforts, if any, being made by states or foreign nations to protect the species and to give consideration to species which have been designated as requiring protection from unrestricted commerce by foreign nations or under international agreements or have been identified as in danger of extinction or likely to become so by any state or foreign nation. Acknowledging their reefs' extreme importance to the ecosystem, the State of Florida and Commonwealth of Puerto Rico protect all corals to varying extents; however, neither provide specific protection to elkhorn or staghorn corals. Additionally, all corals, including elkhorn and staghorn corals, are protected under the U.S.V.I. Indigenous and Endangered Species Act of 1990, and both species have been listed recently in the ''red book'' of threatened marine invertebrates of Colombia by a technical commission coordinated by the Ministry of the Environment. *Acropora cervicornis* was considered a critically endangered species in Colombia, and *A. palmata* was included as endangered. Although certain governments offer specific protection to these two species, the measures are not sufficient to offset the impacts currently affecting elkhorn and staghorn corals.

All corals are listed under Appendix II of the Convention on International Trade in Endangered Species of Wild Fauna and Flora, which regulates international trade of species to ensure survival. Thus, a determination to include the two *Acropora* species on the federal list of endangered and threatened species would be consistent with state and international actions regarding these species.

Final Conclusions Regarding ESA Listing Status

After reviewing the public comments received, we find that there is no substantive information that would cause us to reconsider the extinction risk assessments of the BRT or our assessment of the factors causing the threatened status of these two corals. We believe that abundance and distribution of both elkhorn and staghorn coral are likely to become further reduced. Furthermore, a number of local extirpations is likely to occur within the next 30 years. The major threats (e.g., disease, elevated sea surface temperature, and hurricanes) to these species' persistence are severe, unpredictable, likely to increase in the foreseeable future, and, at current levels of knowledge, unmanageable. We believe that elkhorn and staghorn coral are not currently in danger of extinction throughout their ranges. However, they are likely to become so within the foreseeable future because of a combination of four of the five factors listed in section 4(a)(1) of the ESA, and this status is not being ameliorated by efforts to protect the species by state or foreign governments. Accordingly, the two species warrant listing as threatened.

Prohibitions and Protective Regulations

ESA section 9(a) take prohibitions (16 U.S.C. 1538(a)(1)(B)) apply to all species listed as endangered. In the case of threatened species, section 4(d) of the ESA directs the Secretary to issue regulations he considers necessary and advisable for the conservation of the species. The 4(d) protective regulations may prohibit, with respect to threatened species, some or all of the acts which section 9(a) of the ESA prohibits with respect to endangered species. These section 9(a) prohibitions and section 4(d) regulations apply to all individuals, organizations, and agencies subject to U.S. jurisdiction. Subsequent to this rulemaking, we will evaluate the necessity and advisability of proposing protective regulations pursuant to section 4(d) of the ESA for these two coral species.

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

On July 1, 1994, we and the FWS published a policy requiring us to identify, to the maximum extent practicable at the time a species is listed, those activities that would or would not constitute a violation of section 9 of the ESA (59 FR 34272). The intent of this policy is to increase public

awareness of the effect of listings on proposed and ongoing activities within the species' range. However, because elkhorn and staghorn corals are being listed as threatened, section 9 ''take'' prohibitions are not applicable.

Peer Review Policies

In December 2004, the Office of Management and Budget (OMB) issued a Final Information Quality Bulletin for Peer Review establishing minimum peer review standards, a transparent process for public disclosure of peer review planning, and opportunities for public participation. The OMB Bulletin, implemented under the Information Quality Act (Public Law 106–554), is intended to enhance the quality and credibility of the Federal government's scientific information, and applies to influential or highly influential scientific information disseminated on or after June 16, 2005.

Pursuant to our 1994 policy on peer review (59 FR 34270; July 1, 1994), we have solicited the expert opinions of at least three appropriate and independent specialists regarding pertinent scientific or commercial data and assumptions relating to the taxonomy, genetics, and supportive biological and ecological information for species under consideration for listing. We conclude that these expert reviews satisfy the requirements for ''adequate [prior] peer review'' contained in the Bulletin (sec. II.2.).

Critical Habitat

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

Section 4(a)(3)(A) of the ESA requires that, to the maximum extent prudent and determinable, critical habitat be designated concurrently with the listing of a species. Section 4(b)(6)(C)(ii) of the ESA provides for additional time to promulgate a critical habitat designation if such designation is not determinable at the time of final listing of a species. Designations of critical habitat must be based on the best scientific data available and must take into consideration the economic, national security, and other relevant impacts of specifying any particular area as critical habitat.

The designation of critical habitat is not determinable at this time due to the extremely complex biological and physical requirements of these two Acroporid species. Although we have gathered information through the status review and public comment processes, we currently do not have enough information to determine which of these features are essential to the conservation of elkhorn and staghorn corals and may require special management considerations or protection. We will continue to gather and review other ongoing studies on the habitat use and requirements of elkhorn and staghorn corals to attempt to identify these features. Additionally, we need more time to gather the information needed to perform the required analyses of the impacts of the designation. Once areas containing these features are identified and mapped, and economic, national security, and other relevant impacts are considered, we will publish, in a separate rule, to the maximum extent prudent, a proposed designation of critical habitat for elkhorn and staghorn corals.

Information Solicited

To ensure subsequent rulemaking resulting from this Final Rule will be as accurate and effective as possible, we are soliciting information from the public, other governmental agencies, the scientific community, industry, and any other interested parties. Specifically, we are interested in information that will inform the ESA section 4(d) rule making and the designation of critical habitat for elkhorn and staghorn corals, including: (1) current or planned activities within the range of these two species and their possible impact on these species; (2) necessary prohibitions on take to promote the conservation of these two species; (3) evaluations describing the quality and extent of their habitats (occupied currently or occupied in the past, but no longer occupied); (4) information on areas that may qualify as critical habitat including those physical and biological features essential for the conservation of these two species; (5) activities that could be affected by an ESA section 4(d) rule and/or critical habitat designation; and (6) the economic costs and benefits likely to result from protective regulations and designation of critical habitat (see **DATES** and **ADDRESSES**).

Classification

National Environmental Policy Act

The 1982 amendments to the ESA, in section 4(b)(1)(A), restrict the information considered when assessing species for listing. Based on this limitation of criteria for a listing decision and the opinion in *Pacific Legal Foundation* v. *Andrus*, 675 F. 2d 825 (6th Cir.1981), we have concluded that ESA listing actions are not subject to the environmental impact assessment requirements of the National Environmental Policy Act.

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

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

Unfunded Mandates Reform Act (2 U.S.C. 1501 et seq.)

In accordance with the Unfunded Mandates Reform Act, we make the following findings: (a) This final rule will not produce a Federal mandate. In general, a Federal mandate is a provision in legislation, statute, or regulation that would impose an enforceable duty upon state, local, tribal governments, or the private sector and includes both ''Federal intergovernmental mandates'' and ''Federal private sector mandates.'' These terms are defined in 2 U.S.C. 658(5)-(7). ''Federal intergovernmental mandate'' includes a regulation that ''would impose an enforceable duty upon State, local, or tribal governments'' with two exceptions. It excludes ''a condition of Federal assistance.'' It also excludes ''a duty arising from participation in a voluntary Federal program,'' unless the regulation ''relates to a then-existing Federal program under which $500,000,000 or more is provided annually to State, local, and tribal governments under entitlement authority,'' if the provision would ''increase the stringency of conditions of assistance'' or ''place caps upon, or otherwise decrease, the Federal Government's responsibility to provide

funding'' and the state, local, or tribal governments ''lack authority'' to adjust accordingly. (At the time of enactment, these entitlement programs were: Medicaid; Aid to Families with Dependent Children work programs; Child Nutrition; Food Stamps; Social Services Block Grants; Vocational Rehabilitation State Grants; Foster Care, Adoption Assistance, and Independent Living; Family Support Welfare Services; and Child Support Enforcement.) ''Federal private sector mandate'' includes a regulation that ''would impose an enforceable duty upon the private sector, except (i) a condition of Federal assistance; or (ii) a duty arising from participation in a voluntary Federal program.'' The listing of a species does not impose a legally binding duty on non-Federal government entities or private parties. Under the ESA, the only regulatory effect of this final rule is that Federal agencies must ensure that their actions do not jeopardize the continued existence of any endangered or threatened species under section 7. While non-Federal entities who receive Federal funding, assistance, permits or otherwise require approval or authorization from a Federal agency for an action may be indirectly impacted by the listing of the species, the legally binding duty to avoid jeopardizing the continued existence of the species rests squarely on the Federal agency. Furthermore, to the extent that non-Federal entities are indirectly impacted because they receive Federal assistance or participate in a voluntary Federal aid program, the Unfunded Mandates Reform Act would not apply; nor would listing the species shift the costs of the large entitlement programs listed above to state governments.

(b) Due to current public knowledge of coral protection in general and the prohibition on collection of these species, we do not anticipate that this final rule will significantly or uniquely affect small governments. As such, a Small Government Agency Plan is not required.

E.O. 13132 - Federalism

E.O. 13132 requires agencies to take into account any federalism impacts of regulations under development. It includes specific consultation directives for situations where a regulation will preempt state law, or impose substantial direct compliance costs on state and local governments (unless required by statute). Neither of those circumstances is applicable to this final listing determination. In keeping with the intent of the Administration and Congress to provide continuing and meaningful dialogue on issues of mutual state and Federal interest, the proposed rule was provided to the relevant agencies in each state in which the subject species occurs, and these agencies were invited to comment. Their comments were addressed with other comments in the Summary of Comments Received section.

References

Acropora Biological Review Team. 2005. Atlantic Acropora Status Review Document. Report to National Marine Fisheries Service, Southeast Regional Office. March 3, 2005. 152 p + App.

List of Subjects in 50 CFR Parts 223

Endangered and threatened species, Exports, Imports, Transportation.

Dated: May 4, 2006.

William T. Hogarth,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

■ For reasons set out in the preamble, 50 CFR part 223 is amended as follows:

PART 223—THREATENED MARINE AND ANADROMOUS SPECIES

■ 1. The authority citation for part 223 is revised as follows:

Authority: 16 U.S.C. 1531 1543; subpart B, § 223.201–202 also issued under 16 U.S.C. 1361 *et seq.*; 16 U.S.C. 5503(d) for § 223.206(d)(9).

■ 2. Revise § 223.102 to read as follows:

§ 223.102 Enumeration of threatened marine and anadromous species.

The species determined by the Secretary of Commerce to be threatened pursuant to section 4(a) of the Act, as well as species listed under the Endangered Species Conservation Act of 1969 by the Secretary of the Interior and currently under the jurisdiction of the Secretary of Commerce, are listed in the table below. The table lists the common and scientific names of threatened species, the locations where they are listed, and the **Federal Register** citations for the listings and critical habitat designations.

BILLING CODE 3510–22–S

Species[1]		Where Listed	Citation(s) for Listing Determination(s)	Citation for Critical Habitat Designation
Common name	Scientific name			
Marine Mammals				
Guadalupe fur seal	Arctocephalus townsendi	Wherever found – U.S.A. (Farallon Islands of CA) south to Mexico (Islas Revillagigedo)	50 FR 51252; Dec 16, 1985	NA
Steller sea lion	Eumetopias jubatus	Eastern population, which consists of all Steller sea lions from breeding colonies located east of 144° W. longitude	55 FR 13488; Apr 10, 1990 55 FR 50006; Dec 4, 1990 62 FR 30772; Jun 5, 1997	58 FR 45278; Aug 27, 1993 64 FR 14067; Mar 23, 1999
Sea Turtles				
green turtle[2]	Chelonia mydas	Wherever found, except where listed as endangered under §224.101(c); circumglobal in tropical and temperate seas and oceans	43 FR 32808; Jul 28, 1978	63 FR 46701; Sep 2, 1998 64 FR 14067; Mar 23, 1999
loggerhead turtle[2]	Caretta caretta	Wherever found; circumglobal in tropical and temperate seas and oceans	43 FR 32808; Jul 28, 1978	NA
olive ridley turtle[2]	Lepidochelys olivacea	Wherever found, except where listed as endangered under §224.101(c); circumglobal in tropical and temperate seas.	43 FR 32808; Jul 28, 1978	NA
Fishes				
green sturgeon - southern DPS	Acipenser medirostris	U.S.A., CA. The southern DPS includes all spawning populations of green sturgeon south of the Eel River (exclusive), principally including the Sacramento River green sturgeon spawning population.		

Gulf sturgeon	Acipenser oxyrinchus desotoi	Wherever found.	56 FR 49653; Sep 30, 1991	68 FR 13370; Mar 19, 2003
Ozette Lake sockeye	Oncorhynchus nerka	U.S.A.- WA, including all naturally spawned populations of sockeye salmon in Ozette Lake and streams and tributaries flowing into Ozette Lake, Washington, as well as two artificial propagation programs: the Umbrella Creek and Big River sockeye hatchery programs.	64 FR 14528; Mar 25, 1999 70 FR 37160; Jun 28, 2005	70 FR 52630; Sep 2, 2005
Central Valley spring-run Chinook	Oncorhynchus tshawytscha	U.S.A.- CA, including all naturally spawned populations of spring-run Chinook salmon in the Sacramento River and its tributaries in California, including the Feather River, as well as the Feather River Hatchery spring-run Chinook program.	64 FR 50394; Sep 16, 1999 70 FR 37160; Jun 28, 2005	70 FR 52488; Sep 2, 2005
California Coastal Chinook	Oncorhynchus tshawytscha	U.S.A.- CA, including all naturally spawned populations of Chinook salmon from rivers and streams south of the Klamath River to the Russian River, California, as well as seven artificial propagation programs: the Humboldt Fish Action Council (Freshwater Creek), Yager Creek, Redwood Creek, Hollow Tree, Van Arsdale Fish Station, Mattole Salmon Group, and Mad River Hatchery fall-run Chinook hatchery programs.	64 FR 50394; Sep 16, 1999 70 FR 37160; Jun 28, 2005	70 FR 52488; Sep 2, 2005

Upper Willamette River Chinook	Oncorhynchus tshawytscha	U.S.A.- OR, including all naturally spawned populations of spring-run Chinook salmon in the Clackamas River and in the Willamette River, and its tributaries, above Willamette Falls, Oregon, as well as seven artificial propagation programs: the McKenzie River Hatchery (Oregon Department of Fish and Wildlife (ODFW) stock #24), Marion Forks/North Fork Santiam River (ODFW stock #21), South Santiam Hatchery (ODFW stock #23) in the South Fork Santiam River, South Santiam Hatchery in the Calapooia River, South Santiam Hatchery in the Mollala River, Willamette Hatchery (ODFW stock #22), and Clackamas hatchery (ODFW stock #19) spring-run Chinook hatchery programs.	64 FR 14308; Mar. 24 1999 70 FR 37160; Jun 28, 2005	70 FR 52630; Sep 2, 2005
Lower Columbia River Chinook	Oncorhynchus tshawytscha	U.S.A.- OR, WA, including all naturally spawned populations of Chinook salmon from the Columbia River and its tributaries from its mouth at the Pacific Ocean upstream to a transitional point between Washington and Oregon east of the Hood River and the White Salmon River, and includes the Willamette River to Willamette Falls, Oregon, exclusive of spring-run Chinook salmon in the Clackamas River, as well as seventeen artificial	64 FR 14308; Mar. 24, 1999 70 FR 37160; Jun 28, 2005	70 FR 52630; Sep 2, 2005

		propagation programs: the Sea Resources Tule Chinook Program, Big Creek Tule Chinook Program, Astoria High School (STEP) Tule Chinook Program, Warrenton High School (STEP) Tule Chinook Program, Elochoman River Tule Chinook Program, Cowlitz Tule Chinook Program, North Fork Toutle Tule Chinook Program, Kalama Tule Chinook Program, Washougal River Tule Chinook Program, Spring Creek NFH Tule Chinook Program, Cowlitz spring Chinook Program in the Upper Cowlitz River and the Cispus River, Friends of the Cowlitz spring Chinook Program, Kalama River spring Chinook Program, Lewis River spring Chinook Program, Fish First spring Chinook Program, and the Sandy River Hatchery (ODFW stock #11) Chinook hatchery programs.	64 FR 14308; Mar. 24, 1999 70 FR 37160; Jun 28, 2005	70 FR 52630; Sep 2, 2005
Puget Sound Chinook	Oncorhynchus tshawytscha	U.S.A.- WA, including all naturally spawned populations of Chinook salmon from rivers and streams flowing into Puget Sound including the Straits of Juan De Fuca from the Elwha River, eastward, including rivers and streams flowing into Hood Canal, South Sound, North Sound and the Strait of Georgia in Washington, as well as twenty-six artificial propagation programs: the Kendal Creek Hatchery, Marblemount Hatchery		

		(fall, spring yearlings, spring subyearlings, and summer run), Harvey Creek Hatchery, Whitehorse Springs Pond, Wallace River Hatchery (yearlings and subyearlings), Tulalip Bay, Issaquah Hatchery, Soos Creek Hatchery, Icy Creek Hatchery, Keta Creek Hatchery, White River Hatchery, White Acclimation Pond, Hupp Springs Hatchery, Voights Creek Hatchery, Diru Creek, Clear Creek, Kalama Creek, George Adams Hatchery, Rick's Pond Hatchery, Hamma Hamma Hatchery, Dungeness/Hurd Creek Hatchery, Elwha Channel Hatchery Chinook hatchery programs.		58 FR 68543; Dec 28, 1993
Snake River fall-run Chinook	Oncorhynchus tshawytscha	U.S.A.- OR, WA, ID, including all naturally spawned populations of fall-run Chinook salmon in the mainstem Snake River below Hells Canyon Dam, and in the Tucannon River, Grande Ronde River, Imnaha River, Salmon River, and Clearwater River, as well as four artificial propagation programs: the Lyons Ferry Hatchery, Fall Chinook Acclimation Ponds Program, Nez Perce Tribal Hatchery, and Oxbow Hatchery fall-run Chinook hatchery programs.	57 FR 14653; Apr 22, 1992 57 FR 23458; Jun 3, 1992 70 FR 37160; Jun 28, 2005	
Snake River spring/summer-run	Oncorhynchus tshawytscha	U.S.A.- OR, WA, ID, including all naturally spawned populations of	57 FR 14653; Apr 22, 1992 57 FR 23458; Jun 3, 1992	58 FR 68543; Dec 28, 1993 64 FR 57399; Oct 25, 1999

Chinook		spring/summer-run Chinook salmon in the mainstem Snake River and the Tucannon River, Grande Ronde River, Imnaha River, and Salmon River subbasins, as well as fifteen artificial propagation programs: the Tucannon River conventional Hatchery, Tucannon River Captive Broodstock Program, Lostine River, Catherine Creek, Lookingglass Hatchery, Upper Grande Ronde, Imnaha River, Big Sheep Creek, McCall Hatchery, Johnson Creek Artificial Propagation Enhancement, Lemhi River Captive Rearing Experiment, Pahsimeroi Hatchery, East Fork Captive Rearing Experiment, West Fork Yankee Fork Captive Rearing Experiment, and the Sawtooth Hatchery spring/summer-run Chinook hatchery programs.	70 FR 37160; Jun 28, 2005	
Southern Oregon/Northern California Coast coho	Oncorhynchus kisutch	U.S.A.- CA, OR, including all naturally spawned populations of coho salmon in coastal streams between Cape Blanco, Oregon, and Punta Gorda, California, as well three artificial propagation programs: the Cole Rivers Hatchery (ODFW stock #52), Trinity River Hatchery, and Iron Gate Hatchery coho hatchery programs.	62 FR 24588; May 6, 1997 70 FR 37160; Jun 28, 2005	64 FR 24049; May 5, 1999
Lower Columbia	Oncorhynchus kisutch	U.S.A.- OR, WA, including all	70 FR 37160; Jun 28, 2005	NA

River coho	naturally spawned populations of coho salmon in the Columbia River and its tributaries in Washington and Oregon, from the mouth of the Columbia up to and including the Big White Salmon and Hood Rivers, and includes the Willamette River to Willamette Falls, Oregon, as well as twenty-five artificial propagation programs: the Grays River, Sea Resources Hatchery, Peterson Coho Project, Big Creek Hatchery, Astoria High School (STEP) Coho Program, Warrenton High School (STEP) Coho Program, Elochoman Type-S Coho Program, Elochoman Type-N Coho Program, Cathlamet High School FFA Type-N Coho Program, Cowlitz Type-N Coho Program in the Upper and Lower Cowlitz Rivers, Cowlitz Game and Anglers Coho Program, Friends of the Cowlitz Coho Program, North Fork Toutle River Hatchery, Kalama River Type-N Coho Program, Kalama River Type-S Coho Program, Lewis River Type-N Coho Program, Lewis River Type-S Coho Program, Fish First Wild Coho Program, Fish First Type-N Coho Program, Syverson Project Type-N Coho Program, Eagle Creek National Fish Hatchery, Sandy Hatchery, and the Bonneville/Cascade/Oxbow

		complex coho hatchery programs.		
Columbia River chum	Oncorhynchus keta	U.S.A.- OR, WA, including all naturally spawned populations of chum salmon in the Columbia River and its tributaries in Washington and Oregon, as well as three artificial propagation programs: the Chinook River (Sea Resources Hatchery), Grays River, and Washougal River/Duncan Creek chum hatchery programs.	64 FR 14508; Mar. 25, 1999 70 FR 37160; Jun 28, 2005	70 FR 52630; Sep 2, 2005
Hood Canal summer-run chum	Oncorhynchus keta	U.S.A.- WA, including all naturally spawned populations of summer-run chum salmon in Hood Canal and its tributaries as well as populations in Olympic Peninsula rivers between Hood Canal and Dungeness Bay, Washington, as well as eight artificial propagation programs: the Quilcene NFH, Hamma Hamma Fish Hatchery, Lilliwaup Creek Fish Hatchery, Union River/Tahuya, Big Beef Creek Fish Hatchery, Salmon Creek Fish Hatchery, Chimacum Creek Fish Hatchery, and the Jimmycomelately Creek Fish Hatchery summer-run chum hatchery programs.	64 FR 14508; Mar. 25, 1999 70 FR 37160; Jun 28, 2005	70 FR 52630; Sep 2, 2005
South-Central California Coast Steelhead	Oncorhynchus mykiss	U.S.A.- CA, including all naturally spawned populations of steelhead (and their progeny) in streams from the Pajaro River (inclusive), located in Santa Cruz	62 FR 43937; Aug 18, 1997 71 FR 834; January 5, 2006	70 FR 52488; Sep 2, 2005

		County, California, to (but not including) the Santa Maria River.		
Central California Coast Steelhead	Oncorhynchus mykiss	U.S.A.- CA, including all naturally spawned populations of steelhead (and their progeny) in streams from the Russian River to Aptos Creek, Santa Cruz County, Californian (inclusive), and the drainages of San Francisco and San Pablo Bays eastward to the Napa River (inclusive), Napa County, California. Excludes the Sacramento-San Joaquin River Basin of the Central Valley of California.	62 FR 43937; Aug 18, 1997 71 FR 834; January 5, 2006	70 FR 52488; Sep 2, 2005
California Central Valley Steelhead	Oncorhynchus mykiss	U.S.A.- CA, including all naturally spawned populations of steelhead (and their progeny) in the Sacramento and San Joaquin Rivers and their tributaries, excluding steelhead from San Francisco and San Pablo Bays and their tributaries.	63 FR 13347; Mar. 19, 1998 71 FR 834; January 5, 2006	70 FR 52488; Sep 2, 2005
Northern California Steelhead	Oncorhynchus mykiss	U.S.A.- CA, including all naturally spawned populations of steelhead (and their progeny) in California coastal river basins from Redwood Creek in Humboldt County, California, to the Gualala River, inclusive, in Mendocino County, California.	65 FR 36074; June 7, 2000 71 FR 834; January 5, 2006	70 FR 52488; Sep 2, 2005

Upper Willamette River Steelhead	Oncorhynchus mykiss	U.S.A.- OR, including all naturally spawned populations of winter-run steelhead in the Willamette River, Oregon, and its tributaries upstream from Willamette Falls to the Calapooia River, inclusive.	62 FR 43937; Aug 18, 1997 71 FR 834; January 5, 2006	70 FR 52630; Sep 2, 2005
Lower Columbia River Steelhead	Oncorhynchus mykiss	U.S.A.- OR, WA, including all naturally spawned populations of steelhead (and their progeny) in streams and tributaries to the Columbia River between the Cowlitz and Wind Rivers, Washington, inclusive, and the Willamette and Hood Rivers, Oregon, inclusive. Excluded are steelhead in the upper Willamette River Basin above Willamette Falls, Oregon, and from the Little and Big White Salmon Rivers, Washington.	63 FR 13347; Mar 19, 1998 71 FR 834; January 5, 2006	70 FR 52630; Sep 2, 2005
Middle Columbia River Steelhead	Oncorhynchus mykiss	U.S.A.- OR, WA, including all naturally spawned populations of steelhead in streams from above the Wind River, Washington, and the Hood River, Oregon (exclusive), upstream to, and including, the Yakima River, Washington. Excluded are steelhead from the Snake River Basin.	57 FR 14517; Mar 25, 1999. 71 FR 834; January 5, 2006	70 FR 52630; Sep 2, 2005
Snake River Basin Steelhead	Oncorhynchus mykiss	U.S.A.- OR, WA, ID, including all naturally spawned populations of steelhead (and their progeny) in streams in the Snake River Basin of southeast Washington,	62 FR 43937; Aug 18, 1997 71 FR 834; January 5, 2006	70 FR 52630; Sep 2, 2005

		northeast Oregon, and Idaho.		
Marine Invertebrates				
Elkhorn coral	Acropora palmata	Wherever found. Includes United States – Florida, Puerto Rico, U.S. Virgin Islands, Navassa; and wider Caribbean – Belize, Colombia, Costa Rica, Guatemala, Honduras, Mexico, Nicaragua, Panama, Venezuela and all the islands of the West Indies.	[Insert FEDERAL REGISTER page and date citation]	NA
Staghorn coral	Acropora cervicornis	Wherever found. Includes United States – Florida, Puerto Rico, U.S. Virgin Islands, Navassa; and wider Caribbean – Belize, Colombia, Costa Rica, Guatemala, Honduras, Mexico, Nicaragua, Panama, Venezuela and all the islands of the West Indies.	[Insert FEDERAL REGISTER page and date citation]	NA
Marine Plants				
Johnson's seagrass	Halophila johnsonii	Wherever found. U.S.A. - Southeastern FL between Sebastian Inlet and north Biscayne Bay.	63 FR 49035; Sep 14, 1998	65 FR 17786; Apr 5, 2000

[1] Species includes taxonomic species, subspecies, distinct population segments (DPSs) (for a policy statement, see 61 FR 4722, February 7, 1996), and evolutionarily significant units (ESUs) (for a policy statement, see 56 FR 58612, November 20, 1991).

[2] Jurisdiction for sea turtles by the Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, is limited to turtles while in the water.

* * * * *

[FR Doc. 06–4321 Filed 5–8–06; 8:45 am]

BILLING CODE 3510–22–C

Proposed Rules

Federal Register
Vol. 71, No. 89
Tuesday, May 9, 2006

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

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2006–24698; Directorate Identifier 2006–NM–026–AD]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 737–700 and 737–800 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 737–700 and 737–800 series airplanes. This proposed AD would require performing a one-time high frequency eddy current inspection for cracking of the backup intercostals located above the cutout for the forward airstair door; doing related investigative and corrective actions if any crack is found; and doing other specified corrective actions if no crack is found. This proposed AD results from a report of fatigue cracks discovered during a full-scale fatigue test conducted by the manufacturer. We are proposing this AD to detect and correct such cracking, which could result in more extensive fatigue cracking and lead to possible loss of cabin pressure.

DATES: We must receive comments on this proposed AD by June 23, 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–2006–24698; Directorate Identifier 2006–NM–026–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

This proposed AD results from a report of fatigue cracks discovered parallel to a line of fasteners on the two backup intercostals of the upper sill web during a full-scale fatigue test conducted by Boeing. We also received a report that similar cracks and upper sill web cracks were discovered on a Model 737–300 series airplane. This condition, if not corrected, could result in more extensive fatigue cracking of the backup intercostals and upper sill web and lead to possible loss of cabin pressure.

Other Relevant Rulemaking

As previously mentioned, similar cracking was discovered on a Model 737–300 series airplane, and it has been determined that the unsafe condition also applies to certain Model 737–100, –200, –300, –400, and –500 series airplanes. The corrective action for those airplane models is similar to that proposed for Model 737–700 and 737–800 series airplanes; however, the corrective action will be different due to the higher number of flight cycles that have accumulated on these earlier airplane models. Because the corrective action will be different, Boeing intends to issue a separate service bulletin for Model 737–100, –200, –300, –400, and –500 series airplanes. We may consider further rulemaking when that service bulletin is issued and approved, rather than attempt to include all affected airplane models in this proposed AD.

Relevant Service Information

We have reviewed Boeing Special Attention Service Bulletin 737–53–1236, Revision 1, dated November 10, 2005. The service bulletin describes procedures for performing a one-time high frequency eddy current (HFEC) inspection for cracking of the backup intercostals of the airstair doorway upper sill; doing related investigative and corrective actions if any crack is found; and doing other specified

corrective actions if no crack is found. Related investigative and corrective actions include performing an HFEC inspection for cracking at certain door stop fastener holes in the upper sill web and contacting Boeing for instructions on how to repair any crack discovered. Other specified corrective actions include installing replacement filler blocks and fasteners. 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 Proposed AD and Service Bulletin.''

Difference Between Proposed AD and Service Bulletin

The service bulletin specifies to contact the manufacturer for instructions on how to repair certain conditions, but this proposed AD would require repairing those conditions 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.

Costs of Compliance

There are about 146 airplanes of the affected design in the worldwide fleet. This proposed AD would affect about 54 airplanes of U.S. registry. The proposed HFEC inspection would take about 2 work hours per airplane, at an average labor rate of $80 per work hour. Based on these figures, the estimated cost of the proposed AD for U.S. operators is $8,640, or $160 per airplane.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Boeing: Docket No. FAA–2006–24698; Directorate Identifier 2006–NM–026–AD.

Comments Due Date

(a) The FAA must receive comments on this AD action by June 23, 2006.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Boeing Model 737–700 and 737–800 series airplanes, certificated in any category; as identified in Boeing Special Attention Service Bulletin 737–53–1236, Revision 1, dated November 10, 2005.

Unsafe Condition

(d) This AD results from a report of fatigue cracks discovered during a full-scale fatigue test conducted by the manufacturer. We are issuing this AD to detect and correct such cracking, which could result in more extensive fatigue cracking and lead to possible 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.

Inspection of Backup Intercostals

(f) Before the accumulation of 24,000 total flight cycles, or within 4,500 flight cycles after the effective date of this AD, whichever comes later: Perform a high frequency eddy current (HFEC) inspection for cracking of the backup intercostals located above the cutout for the forward airstair door, and, before further flight, do related investigative actions and applicable corrective actions if any crack is found, and other specified corrective actions if no crack is found. Related investigative actions, applicable corrective actions and other specified corrective actions must be done in accordance with the Accomplishment Instructions of Boeing Special Attention Service Bulletin 737–53–1236, Revision 1, dated November 10, 2005; except where the service bulletin specifies to contact Boeing for repair instructions, repair all cracks using a method approved in accordance with the procedures specified in paragraph (h) of this AD.

Actions Accomplished Using Original Issue of Service Bulletin

(g) Actions accomplished before the effective date of this AD in accordance with Boeing Service Bulletin 737–53–1236, dated July 11, 2002, are considered acceptable for compliance with the corresponding requirements of this AD.

Alternative Methods of Compliance (AMOCs)

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

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

(3) An AMOC that provides an acceptable level of safety may be used for any repair

required by this AD, if it is approved by an Authorized Representative for the Boeing Commercial Airplanes Delegation Option Authorization Organization who has been authorized by the Manager, Seattle ACO, to make those findings. For a repair method to be approved, the repair must meet the certification basis of the airplane, and the approval must specifically refer to this AD.

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

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E6–7011 Filed 5–8–06; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2006–24697; Directorate Identifier 2006–NM–045–AD]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 757–200, –200PF, and –200CB 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 757–200, –200PF, and –200CB series airplanes. This proposed AD would require doing initial and repetitive detailed or high frequency eddy current inspections for cracks around the rivets at the upper fastener row of the skin lap splice of the fuselage, and repairing any crack found. This proposed AD results from a report indicating that certain modified rivets were incorrectly installed in some areas of the skin lap splices during production because they were drilled with a countersink that was too deep. We are proposing this AD to detect and correct premature fatigue cracking at certain skin lap splice locations of the fuselage, and consequent rapid decompression of the airplane.

DATES: We must receive comments on this proposed AD by June 23, 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: Dennis Stremick, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 917–6450; 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–2006–24697; Directorate Identifier 2006–NM–045–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the proposed AD. We will consider all comments received by the closing date and may amend the proposed AD in light of those comments.

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

Examining the Docket

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

Discussion

We have received a report indicating that certain modified rivets were incorrectly installed in some areas of the skin lap splices of the fuselage during production because they were drilled with a countersink that was too deep. The deep countersink makes a knife edge condition in the skin panel. The knife edge condition can lead to cracks in the skin lap splices of the fuselage. This premature fatigue cracking could result in rapid decompression of the airplane.

Relevant Service Information

We have reviewed Boeing Special Attention Service Bulletin 757–53–0090, dated June 2, 2005. The service bulletin describes the following procedures, depending on the airplane configuration:

- Doing initial and repetitive detailed or high frequency eddy current (HFEC) inspections for cracks of the skin lap splice of the fuselage;
- Contacting Boeing for repair of cracking; and
- Sending inspection results to Boeing.

The service bulletin recommends compliance times at the following intervals:

SERVICE BULLETIN RECOMMENDED COMPLIANCE TIMES

Action	Recommended compliance times
Initial detailed or HFEC inspection	Before the accumulation of 37,500 total flight cycles or 3,000 flight cycles after issuance of the service bulletin, whichever is later.
Repetitive detailed inspections	Intervals not to exceed 1,200 flight cycles.

SERVICE BULLETIN RECOMMENDED COMPLIANCE TIMES—Continued

Action	Recommended compliance times
Repetitive HFEC inspections	Intervals not to exceed 12,000 flight cycles.

FAA's Determination and Requirements of the Proposed AD

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

Differences Between the Proposed AD and Service Bulletin

The service bulletin specifies that you may contact the manufacturer for instructions on how to repair certain conditions, but this proposed AD would require you to repair 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 Delegation Option Authorization Organization whom we have authorized to make those findings.

The Accomplishment Instructions of the service bulletin specify reporting inspection findings to the manufacturer. This proposed AD would not require that action. We do not need this information from operators.

These differences have been coordinated with the manufacturer.

Costs of Compliance

There are about 294 airplanes of the affected design in the worldwide fleet. This proposed AD would affect about 160 airplanes of U.S. registry. The following tables provide the estimated costs for U.S. operators to comply with either the detailed or HFEC inspections in this proposed AD.

ESTIMATED COSTS FOR DETAILED INSPECTION, PER INSPECTION CYCLE

Airplane group	Work hours	Average hourly labor rate	Cost per airplane
Group 1	7	$80	$560
Group 2	6	80	480
Group 3	12	80	960
Group 4	10	80	800

ESTIMATED COSTS FOR HFEC INSPECTION, PER INSPECTION CYCLE

Airplane group	Work hours	Average hourly labor rate	Cost per airplane
Group 1	12	$80	$960
Group 2	11	80	880
Group 3	20	80	1,600
Group 4	15	80	1,200

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–2006–24697; Directorate Identifier 2006–NM–045–AD.

Comments Due Date

(a) The FAA must receive comments on this AD action by June 23, 2006.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Boeing Model 757–200, –200PF, and –200CB series airplanes, certificated in any category; as identified in Boeing Special Attention Service Bulletin 757–53–0090, dated June 2, 2005.

Unsafe Condition

(d) This AD results from a report indicating that certain modified rivets were incorrectly installed in some areas of the skin lap splices during production because they were drilled with a countersink that was too deep. We are issuing this AD to detect and correct premature fatigue cracking at certain skin lap splice locations of the fuselage and consequent rapid decompression of the airplane.

Compliance

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

Initial and Repetitive Inspections

(f) Do initial and repetitive detailed or high frequency eddy current inspections for cracking around the rivets at the upper fastener row of the skin lap splice of the fuselage by doing all the actions in accordance with the Accomplishment Instructions of Boeing Special Attention Service Bulletin 757–53–0090, dated June 2, 2005, except as provided by paragraphs (g) and (h) of this AD. Do the inspections at the applicable times specified in Paragraph 1.E., ''Compliance,'' of the service bulletin; except where the service bulletin specifies a compliance time after the original release date of the service bulletin, this AD requires compliance after the effective date of this AD.

Repair

(g) If any crack is found during any inspection required by this AD: Before further flight, repair the crack using a method approved in accordance with the procedures specified in paragraph (i) of this AD.

No Reporting Required

(h) Although Boeing Special Attention Service Bulletin 757–53–0090, dated June 2, 2005, recommends that inspection results be reported to the manufacturer, this AD does not include that requirement.

Alternative Methods of Compliance (AMOCs)

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

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

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

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

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E6–7007 Filed 5–8–06; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2006–24694; Directorate Identifier 2006–NM–018–AD]

RIN 2120–AA64

Airworthiness Directives; Raytheon (Beech) Model 400 and 400A 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 Raytheon (Beech) Model 400 and 400A series airplanes. This proposed AD would require, among other actions, reviewing the airplane logbook to determine whether certain generator control unit (GCU) installation kits are installed, and replacing any incorrect GCU. This proposed AD results from reports of over-voltage conditions of the direct current (DC) starter generator. We are proposing this AD to prevent such over-voltage conditions due to the incompatibility between certain GCUs, which could result in the loss of normal electrical power, damage to some electrical components, or blown fuses during flight, and consequent unrecoverable loss of some or all essential equipment.

DATES: We must receive comments on this proposed AD by June 23, 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 Raytheon Aircraft Company, Department 62, P.O. Box 85, Wichita, Kansas 67201–0085, for the service information identified in this proposed AD.

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

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to submit any relevant written data, views, or arguments regarding this proposed AD. Send your comments to an address listed in the **ADDRESSES** section. Include the docket number ''FAA–2006–24694; Directorate Identifier 2006–NM–018–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 reports of over-voltage conditions of the direct current (DC) starter generator. In one case, over-voltage conditions resulted in complete loss of the DC electrical power during flight and loss of the primary flight display. The cause is the incompatibility between a Goodrich (formerly Lucas Aerospace) DC starter generator and a Shinko generator control unit (GCU). This condition, if not corrected, could result in loss of normal electrical power, damage to some electrical components, or blown fuses during flight, which could result in the unrecoverable loss of some or all essential equipment.

Relevant Service Information

We have reviewed Raytheon Service Bulletin SB 24–3713, dated November 2005. The service bulletin describes procedures for reviewing the airplane logbook to determine whether a certain GCU installation kit (Lucas Aerospace/Goodrich) is installed and replacing any incorrect Shinko GCU with a new Lucas Aerospace/Goodrich GCU. For certain findings, the service bulletin also describes the following procedures, as applicable:

- Inspecting to determine the part number (P/N) of both GCUs;
- Inspecting to determine the P/N of both current sense transformers on the lower inboard quadrant of the left-hand and right-hand engine inlets;
- Replacing any incorrect GCU with a certain new GCU; and
- Replacing any incorrect current sense transformer with a certain new transformer.

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 the Service Bulletin.''

Difference Between the Proposed AD and the Service Bulletin

Operators should note that the applicability of this proposed AD differs from the Effectivity of Raytheon Service Bulletin SB 24–3713. In addition to airplanes on which Kit No. 128–3004–1 P has been incorporated, this proposed AD also affects airplanes on which Kit No. 128–3004–3 P has been incorporated. We have determined that those airplanes also are subject to the identified unsafe condition.

We have coordinated this difference with the airplane manufacturer.

Costs of Compliance

There are about 43 airplanes of the affected design in the worldwide fleet. This proposed AD would affect about 40 airplanes of U.S. registry. The proposed inspection would take about 1 work hour per airplane, at an average labor rate of $80 per work hour. Based on these figures, the estimated cost of the proposed AD for U.S. operators is $3,200, or $80 per airplane.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Raytheon Aircraft Company (Formerly Beech): Docket No. FAA–2006–24694; Directorate Identifier 2006–NM–018–AD.

Comments Due Date

(a) The FAA must receive comments on this AD action by June 23, 2006.

Affected ADs

(b) None.

Applicability

(c) This AD applies to the airplanes identified in Table 1 of this AD, certificated in any category.

TABLE 1.—APPLICABILITY

Raytheon (Beech) model—	Serials—	On which—
(1) 400 series airplanes	RJ–1 through RJ–65 inclusive.	Kit part number (P/N) 128–3004–1 P or 128–3004–3 P has been incorporated (Lucas Aerospace/Goodrich Direct Current (DC) Starter Generator).
(2) 400A series airplanes	RK–1 through RK–23 inclusive.	Kit P/N 128–3004–1 P or 128–3004–3 P has been incorporated (Lucas Aerospace/Goodrich DC Starter Generator).

Unsafe Condition

(d) This AD results from reports of overvoltage conditions of the DC starter generator. We are issuing this AD to prevent overvoltage conditions of the DC starter generator due to the incompatibility between certain GCUs, which could result in the loss of normal electrical power, damage to some electrical components, or blown fuses during flight, and consequent unrecoverable loss of some or all essential equipment.

Compliance

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

Service Bulletin

(f) The term ''service bulletin,'' as used in this AD, means the Accomplishment Instructions of Raytheon Service Bulletin SB 24–3713, dated November 2005.

Review of Logbook

(g) Within 200 flight hours or 6 months after the effective date of this AD, whichever occurs first, review the airplane logbook to determine whether GCU installation kit, P/N 128–3001–1 P or 128–3001–3 P, is installed, in accordance with the service bulletin.

Installation Kit Not Found Installed: Replacement of Shinko GCU

(h) If no GCU installation kit, P/N 128–3001–1 P or 128–3001–3 P, is found installed or if the kit P/N cannot be conclusively determined during the review required by paragraph (g) of this AD, within 200 flight hours or 6 months after the effective date of this AD, whichever occurs first, replace the Shinko GCUs with new Lucas Aerospace/Goodrich GCUs (installation kit P/N 128–3001–1 P or 128–3001–3 P), in accordance with the service bulletin.

Installation Kit Found Installed: Inspections of GCUs and Current Sense Transformers and Replacement of Transformers as Applicable

(i) If any GCU installation kit, P/N 128–3001–1 P or 128–3001–3 P is found installed during the review required by paragraph (g) of this AD: Within 200 flight hours or 6 months after the effective date of this AD, whichever occurs first, inspect to determine the P/N of both GCUs, in accordance with the service bulletin; and at the times specified in Table 2, do the applicable action(s) in that table.

TABLE 2.—INSPECTION AND REPLACEMENT OF CURRENT SENSE TRANSFORMERS

If—	Then, within 200 flight hours or 6 months after the effective date of this AD, whichever occurs first	If—	Then—
(1) Both GCUs have P/N 45AS88801–19 or –25.	Inspect to determine the P/N of both current sense transformers on the lower inboard quadrant of the left-hand and right-hand engine inlets, in accordance with the service bulletin.	Both current sense transformers have P/N 45AS88801–21.	No further action is required by this AD.
		Either current sense transformer is not identified with P/N 45AS88801–21.	Within 200 flight hours or 6 months after the effective date of this AD, whichever occurs first, replace the current sense transformer with a new transformer, P/N 45AS88801–21, in accordance with the service bulletin.
(2) Either GCU does not have P/N 45AS88801–19 or –25.	Replace the GCU with a new GCU, P/N 45AS88801–19 or –25, and inspect to determine the P/N of both current sense transformers on the lower inboard quadrant of the left-hand and right-hand engine inlets; in accordance with the service bulletin.	Both current sense transformers have P/N 45AS88801–21.	No further action is required by this AD.
		Either current sense transformer is not identified with P/N 45AS88801–21.	Within 200 flight hours or 6 months after the effective date of this AD, whichever occurs first, replace the current sense transformer with a new transformer, P/N 45AS88801–21, in accordance with the service bulletin.

Alternative Methods of Compliance (AMOCs)

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

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

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

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E6–7014 Filed 5–8–06; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2006–24696; Directorate Identifier 2006–NM–038–AD]

RIN 2120–AA64

Airworthiness Directives; Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model EMB–145, –145ER, –145MR, –145LR, –145XR, –145MP, and –145EP 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 EMBRAER Model EMB–145, –145ER, –145MR, –145LR, –145XR, –145MP, and –145EP airplanes. This proposed AD would require replacing the electrical bonding clamps inside the fuel tanks and adjacent areas. This proposed AD results from a report of a failure of fitting clamp of an electrical bonding cable for the fuel tubing. We are proposing this AD to prevent loss of bonding protection in the interior of the fuel tanks or adjacent areas, and a consequent potential source of ignition in a fuel tank and possible fire or explosion.

DATES: We must receive comments on this proposed AD by June 8, 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 Empresa Brasileira de Aeronautica S.A. (EMBRAER), P.O. Box 343—CEP 12.225, Sao Jose dos Campos—SP, Brazil, for service information identified in this proposed AD.

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

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to submit any relevant written data, views, or arguments regarding this proposed AD. Send your comments to an address listed in the **ADDRESSES** section. Include the docket number ''FAA–2006–24696; Directorate Identifier 2006–NM–038–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the proposed AD. We will consider all comments received by the closing date and may amend the proposed AD in light of those comments.

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

Examining the Docket

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

Discussion

The Departmento de Aviacao Civil (DAC), which is the airworthiness authority for Brazil, notified us that an unsafe condition may exist on all EMBRAER Model EMB–145, –145ER, –145MR, –145LR, –145XR, –145MP, and –145EP airplanes. The DAC advises that it received a report of one failure of fitting clamp of an electrical bonding cable for the fuel tubing. Investigation into the failure identified a batch of electrical bonding cable fitting clamps that was manufactured with incorrect material; the incorrect aluminum alloy Type 1100, which is more ductile than the correct Type 2602 aluminum alloy, deforms during the installation process. The batch of clamps made from incorrect material was installed on numerous airplanes. This condition, if not corrected, could result in loss of bonding protection in the interior of the fuel tanks or adjacent areas, and a consequent potential source of ignition in a fuel tank and possible fire or explosion.

Relevant Service Information

EMBRAER has issued Service Bulletin 145–28–0028, dated November 7, 2005. The service bulletin describes procedures for replacing the electrical bonding clamps, having part numbers AN735D6 and AN735D4, inside the ventral, wing stub, and wing fuel tanks, and adjacent areas. The replacement includes measuring the electrical resistance between the tubes joined by the electrical bonding jumper. If the resistance is greater than 200 milliohms, the service bulletin describes repeating the clamp replacement and measuring the resistance until the resistance value is 200 milliohms or less. When the resistance is 200 milliohms or less, the service bulletin describes procedures for making the bonding protection inside the ventral, wing stub, and wing fuel tanks. Accomplishing the actions specified in the service information is intended to adequately address the unsafe condition. The DAC mandated the service information and issued Brazilian airworthiness directive 2006–02–03, effective February 24, 2006, to ensure the continued airworthiness of these airplanes in Brazil.

FAA's Determination and Requirements of the Proposed AD

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

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

Difference Between the Proposed AD and Brazilian Airworthiness Directive

Brazilian airworthiness directive 2006–02–03, dated February 24, 2006, is applicable to ''all EMB–145( ) aircraft models in operation.'' However, this does not agree with EMBRAER Service Bulletin 145–28–0028, dated November 7, 2005, which states that only certain EMB–145 airplanes are affected and identifies them by serial number. This proposed AD would be applicable only to the airplanes listed in the service bulletin. This difference has been coordinated with the DAC.

Costs of Compliance

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

ESTIMATED COSTS

Action	Work hours	Average labor rate per hour	Parts	Cost per airplane	Number of U.S.-registered airplanes	Fleet cost
Replacement of bonding clamp (all airplane groups).	2	$80	Between $57 and $87 (depending on kit/airplane group).	Between $217 and $247 (depending on kit/airplane group).	18	Between $3,906 and $4,446 (depending on kit/airplane group).

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):

Empresa Brasileira de Aeronautica S.A. (EMBRAER): Docket No. FAA–2006–24696; Directorate Identifier 2006–NM–038–AD.

Comments Due Date

(a) The FAA must receive comments on this AD action by June 8, 2006.

Affected ADs

(b) None.

Applicability

(c) This AD applies to EMBRAER Model EMB–145, –145ER, –145MR, –145LR, –145XR, –145MP, and –145EP airplanes; certificated in any category; as identified in EMBRAER Service Bulletin 145–28–0028, dated November 7, 2005.

Unsafe Condition

(d) This AD results from a report of a failure of fitting clamp of an electrical bonding cable for the fuel tubing. We are issuing this AD to prevent loss of bonding protection in the interior of the fuel tanks or adjacent areas, and a consequent potential source of ignition in a fuel tank and possible fire or explosion.

Compliance

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

Electrical Bonding Clamp Replacement

(f) Within 5,000 flight hours after the effective date of this AD: Replace the electrical bonding clamps having part numbers AN735D6 and AN735D4 inside the ventral, wing stub, and wing fuel tanks, and adjacent areas, by accomplishing all actions specified in the Accomplishment Instructions of EMBRAER Service Bulletin 145–28–0028, dated November 7, 2005.

Alternative Methods of Compliance (AMOCs)

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

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

Related Information

(h) Brazilian airworthiness directive 2006–02–03, effective February 24, 2006, also addresses the subject of this AD.

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

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E6–7013 Filed 5–8–06; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2006–24093; Directorate Identifier 2006–CE–19–AD]

RIN 2120–AA64

Airworthiness Directives; Pilatus Aircraft Ltd. Models PC–6, PC–6–H1, PC–6–H2, PC–6/350, PC–6/350–H1, PC–6/350–H2, PC–6/A, PC–6/A–H1, PC–6/A–H2, PC–6/B–H2, PC–6/B1–H2, PC–6/B2–H2, PC–6/B2–H4, PC–6/C–H2, and PC–6/C1–H2 Airplanes

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to supersede Airworthiness Directive (AD) 2003–13–04, which applies to Pilatus Aircraft Ltd (Pilatus) Model PC–6 airplanes, all manufacturer serial numbers (MSN) up to and including 939. AD 2003–13–04 currently requires you to inspect the integral fuel tank wing ribs for cracks and the top and bottom wing skins for distortion, repair any cracks or distortion before further flight, and do a fuel tank ventilating system installation. Since we issued AD 2003–13–04, the FAA determined the action should also apply to all the models of the PC–6 airplanes listed in the type certification data sheet of Type Certificate (TC) No. 7A15 that are produced in the United States through a licensing agreement between Pilatus and Fairchild Republic Company (also identified as Fairchild Industries, Fairchild Heli Porter, or Fairchild-Hiller Corporation). In addition, the intent of the applicability of AD 2003–13–04 was to apply to all the affected serial numbers of the airplane models listed in TC No. 7A15. Consequently, this proposed AD would retain all the actions of AD 2003–13–04, would add those Fairchild Republic Company airplanes to the applicability of this proposed AD, and would list out the individual specific airplane models. We are proposing this AD to detect and correct cracks in the ribs of the inboard integral fuel tanks in the left and right wings, which could lead to wing failure during flight.

DATES: We must receive comments on this proposed AD by June 9, 2006.

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

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

For service information identified in this proposed AD, contact Pilatus Aircraft Ltd., Customer Liaison Manager, CH–6371 Stans, Switzerland; telephone: +41 41 619 63 19; facsimile: +41 41 619 6224.

FOR FURTHER INFORMATION CONTACT: Doug Rudolph, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4059; facsimile: (816) 329–4090.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments regarding this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include the docket number, ''Docket No. FAA–2006–24093; Directorate Identifier 2006–CE–19–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 we receive concerning this proposed AD.

Discussion

Mandatory continuing airworthiness information and the FAA's determination that an unsafe condition existed on a Pilatus Model PC–6 airplane caused us to issue AD 2003–13–04, Amendment 39–13204 (68 FR 37394, June 24, 2003). AD 2003–13–04 currently requires that you inspect the integral fuel tank wing ribs for cracks and the top and bottom wing skins for distortion, repair any cracks or distortion before further flight, and do a fuel tank ventilating system installation on Pilatus Model PC–6 airplanes, all manufacturer serial numbers (MSN) up to and including 939.

The Federal Office for Civil Aviation (FOCA), which is the airworthiness authority for Switzerland, notified the FAA of the need to supersede AD 2003–13–04 to address an unsafe condition that may exist or could develop on Pilatus Model PC–6 airplanes. The FOCA reports that the AD action should also apply to all the models of the PC–6 airplanes listed in the type certification data sheet of TC No. 7A15 produced in the United States through a licensing agreement between Pilatus and Fairchild Republic Company (also identified as Fairchild Industries, Fairchild Heli Porter, or Fairchild-Hiller Corporation).

This condition, if not corrected, could result in cracks in the ribs of the inboard integral fuel tanks in the left and right wings, which could lead to wing failure during flight.

Foreign Airworthiness Authority Information

The FOCA recently issued Swiss AD Number HB 2005–289, effective date August 23, 2005, to ensure the continued airworthiness of all models of the PC–6 airplanes listed in TC No. 7A15, including those produced in the United States under a licensing agreement with Pilatus and Fairchild Republic Company (also identified as Fairchild Industries, Fairchild Heli Porter, or Fairchild-Hiller Corporation).

The State of Design for the Pilatus PC–6 airplanes is Switzerland and the airplanes are type-certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement.

Under this bilateral airworthiness agreement, the FOCA has kept us informed of the situation described above.

FAA's Determination and Requirements of the Proposed AD

We are proposing this AD because we have examined the FOCA's findings, evaluated all information and determined the unsafe condition described previously is likely to exist or

develop on other products of the same type design that are certificated for operation in the United States.

This proposed AD would supersede AD 2003–13–04 with a new AD that would retain all the actions of AD 2003–13–04 and would:

• Add manufacturer serial numbers (MSN) 2001 through 2092 for all the models of the PC–6 airplanes as listed in TC No. 7A15 and specified in the applicability section. These MSN are the airplanes produced in the United States through a licensing agreement with the Fairchild Republic Company; and

• List all the models of the PC–6 airplanes as listed in TC No. 7A15.

Costs of Compliance

We estimate that this proposed AD would affect 49 airplanes in the U.S. registry.

We estimate the following costs to do the proposed inspection:

Labor cost	Parts cost	Total cost per airplane	Total cost on U.S. operators
5 work hours × $80 per hour = $400	Not applicable	$400	$400 × 49 = $19,600.

We estimate the following costs for each rib to do any necessary rib repair that will be required based on the results of the proposed inspection. We have no way of determining the number of airplanes that may need this repair:

Labor cost	Parts cost	Total cost per rib
3 work hours × $80 per hour = $240 per rib	$50 per rib	$290

We estimate the following costs to install any inboard fuel tank vent system that will be required based on the results of this proposed inspection. We have no way of determining the number of airplanes that may need such installation.

Labor cost	Parts cost	Total cost per airplane
12 work hours × $80 per hour = $960	$200	$1,160

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.

Examining the AD Docket

You may examine the AD docket that contains the proposed AD, the regulatory evaluation, any comments received, and other information on the Internet at *http://dms.dot.gov;* or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone (800) 647–5227) is located at the street address stated in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

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 FAA amends § 39.13 by removing Airworthiness Directive (AD) 2003–13–04, Amendment 39–13204, and adding the following new AD:

Pilatus Aircraft Ltd.: Docket No. FAA–2006–24093; Directorate Identifier 2006–CE–19–AD.

Comments Due Date

(a) We must receive comments on this airworthiness directive (AD) action by June 9, 2006.

Affected ADs

(b) This AD supersedes AD 2003–13–04, Amendment 39–13204.

Applicability

(c) This AD affects the following Models PC–6, PC–6–H1, PC6–H2, PC–6/350, PC–6/350–H1, PC–6/350–H2, PC–6/A, PC–6/A–H1, PC–6/A–H2, PC–6/B–H2, PC–6/B1–H2, PC–6/B2–H2, PC–6/B2—H4, PC–6/C–H2, and PC–6/C1–H2 airplanes that are equipped with turbo-prop engines and are certificated in any category:

(1) Group 1 (maintains the actions from AD 2003–13–04): All manufacturer serial numbers (MSN) up to and including 939.

(2) Group 2: MSN 2001 through 2092.

Note: These airplanes are also identified as Fairchild Republic Company PC–6 airplanes, Fairchild Heli Porter PC–6 airplanes, or Fairchild-Hiller Corporation PC–6 airplanes.

Unsafe Condition

(d) This AD results from mandatory continuing airworthiness information (MCAI) issued by the airworthiness authority for Switzerland that requires retaining the actions of AD 2003–13–04 and adding MSN 2001 through 2092 for all the models of the PC–6 airplanes listed in the type certificate data sheet of Type Certificate (TC) No. 7A15. We are issuing this AD to detect and correct cracks in the ribs of the inboard integral fuel tanks in the left and right wings, which could lead to wing failure during flight.

Compliance

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

Actions	Compliance	Procedures
(1) Inspect: (i) The ribs in the inboard integral fuel tanks and related structure in the left and right wings for crack damage; (ii) The upper and lower wing skins for damage; and (iii) The inboard fuel tank area to determine if the inboard fuel tank vent system is installed.	(A) *For Group 1 Airplanes:* Within the next 100 hours time-in-service (TIS) after August 15, 2003 (the effective date of AD 2003–13–04), unless already done. (B) *For Group 2 Airplanes:* Within the next 90 days or 100 hours time-in-service (TIS), whichever occurs first, after the effective date of this AD, unless already done.	Follow Pilatus Aircraft Ltd. PC–6 Service Bulletin No. 57–002, dated November 27, 2002.
(2) If crack damage is found: (i) Correct the crack damage designated as repairable in the service bulletin. (ii) For other crack damage, obtain a repair scheme from the manufacturer through FAA at the address specified in paragraph (f) of this AD and incorporate this repair scheme.	Before further flight after the inspections required in paragraph (e)(1) of this AD.	Follow Pilatus Aircraft Ltd. PC–6 Service Bulletin No. 57–002, dated November 27, 2002.
(3) If wing distortion is found, obtain a repair scheme from the manufacturer through FAA at the address specified in paragraph (f) of this AD and incorporate this repair scheme.	Before further flight after the inspections required in paragraph (e)(1) of this AD.	Follow Pilatus Aircraft Ltd. PC–6 Service Bulletin No. 57–002, dated November 27, 2002.
(4) If the inboard fuel tank vent system is not installed, install the inboard fuel tank vent system.	Before further flight after the inspections required in paragraph (e)(1) of this AD.	Follow Pilatus Aircraft Ltd. PC–6 Service Bulletin No. 118, dated December 1972.

Alternative Methods of Compliance (AMOCs)

(f) The Manager, Standards Office, ATTN: Doug Rudolph, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4059; facsimile: (816) 329–4090, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19.

(g) AMOCs approved for AD 2003–13–04 are approved for this AD.

Related Information

(h) Swiss AD Numbers HB 2003–092, dated February 17, 2003, and HB 2005–289, effective date August 23, 2005, also address the subject of this AD. To get copies of the documents referenced in this AD, contact Pilatus Aircraft Ltd., Customer Liaison Manager, CH–6371 Stans, Switzerland; telephone: +41 41 619 63 19; facsimile: +41 41 619 6224. To view the AD docket, go to the Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL–401, Washington, DC, or on the Internet at *http://dms.dot.gov.* The docket number is Docket No. FAA–2006–24093; Directorate Identifier 2006–CE–19–AD.

Issued in Kansas City, Missouri, on May 3, 2006.

Barry R. Ballenger,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. E6–7021 Filed 5–8–06; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2003–NM–123–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A300 Airplanes; A300 B4–601, B4–603, B4–620, B4–622, B4–605R, B4–622R, F4–605R, F4–622R, and C4–605R Variant F Series Airplanes (Collectively Called A300–600 Series Airplanes); and A310 Airplanes

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

ACTION: Supplemental notice of proposed rulemaking; reopening of comment period.

SUMMARY: This document revises an earlier proposed airworthiness directive (AD), applicable to all of the airplanes identified above. That proposed AD would have required repetitive inspections to detect breaks in the bottom flange fitting of the ram air turbine (RAT); and corrective actions, if necessary. This new action revises the proposed AD by proposing to remove the requirement to repeat the inspections and, instead, revising the FAA-approved maintenance program to include a new Airplane Maintenance Manual task that specifies a detailed inspection after each RAT extension. This new action also proposes to require, for certain airplanes, an adjustment of the ejection jack; and, for certain other airplanes, replacement of the aluminum part with an improved steel part; these actions would terminate the inspection requirements of the earlier proposed AD. The actions specified by this new proposed AD are intended to prevent failure of the RAT yoke fitting, which could result in the

loss of RAT function and possible loss of critical flight control in the event of certain emergency situations. This action is intended to address the identified unsafe condition.

DATES: Comments must be received by June 5, 2006.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2003–NM–123–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: *9-anm-nprmcomment@faa.gov.* Comments sent via fax or the Internet must contain ''Docket No. 2003–NM–123–AD'' in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 or 2000 or ASCII text.

The service information referenced in the proposed rule may be obtained from Airbus, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

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

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this action may be changed in light of the comments received.

Submit comments using the following format:

- Organize comments issue-by-issue. For example, discuss a request to change the compliance time and a request to change the service bulletin reference as two separate issues.
- For each issue, state what specific change to the proposed AD is being requested.
- Include justification (e.g., reasons or data) for each request.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this action must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 2003–NM–123–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2003–NM–123–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to add an airworthiness directive (AD), applicable to Airbus Model A300 B2 and A300 B4; A300 B4–600, A300 B4–600R, A300 C4–605R Variant F, A300 F4–600R (collectively called A300–600); and A310 series airplanes, was published as a notice of proposed rulemaking (NPRM) in the **Federal Register** on April 1, 2004 (69 FR 17115). That NPRM would have required repetitive inspections to detect breaks in the bottom flange fitting of the ram air turbine (RAT); and corrective actions, if necessary. That NPRM also would have required submission of an inspection report to the airplane manufacturer. That NPRM resulted from a report that the swivel coupling of the ram air turbine (RAT) yoke fitting was found broken on a Model A310 series airplane. That condition, if not corrected, could result in the loss of RAT function and possible loss of critical flight control in the event of certain emergency situations.

Actions Since Issuance of Previous Proposal

The preamble to the NPRM specified that we considered the requirements ''interim action'' and that the manufacturer was analyzing inspection reports in order to obtain better insight into the nature, cause, and extent of the damage, and eventually to develop a final action to address the unsafe condition. That NPRM explained that we may consider further rulemaking if a final action is developed, approved, and available.

Since the issuance of that NPRM, Airbus has confirmed that the failure of the swivel yoke fitting is due to incorrect rigging of the RAT ejection jack, which leads to overstress of the bottom flange of the coupling yoke fitting. Airbus has developed an improved on-wing rigging procedure for airplanes equipped with certain Sundstrand RATs, which will prevent overload of the swivel coupling yoke fitting. Airbus has determined that, for airplanes equipped with Dowty Rotol RATs, an improved rigging procedure is not possible and, therefore, Airbus has developed a modification for replacing the aluminum part with an improved steel part.

Explanation of Relevant Service Information

Since we issued the original NPRM, Airbus has issued A300–600 All Operators Telex (AOT) 57A6096, Revision 01; and A310 AOT 57A2085, Revision 01; both dated April 11, 2005. (The original issues of these AOTs, both dated March 6, 2003, were referenced as the appropriate source of service information for accomplishing the required actions in the original NPRM. The original issue of French airworthiness directive, 2003–149(B), dated April 16, 2003, was also referenced in the original NPRM.) These AOTs describe procedures for doing a one-time detailed inspection for breaks of the bottom flange fitting of the RAT; replacing it with a new aluminum or steel part, if necessary; and doing an adjustment of the ejection jack. The Direction Générale de l'Aviation Civile (DGAC) classified these AOTs as mandatory.

Airbus has also issued Airbus Service Bulletins A300–57–0244, dated March 4, 2005; A300–57–6099, dated February 23, 2005; and A310–57–2086, dated March 1, 2005. These service bulletins describe procedures for replacing the existing aluminum swivel coupling fork fitting with a new steel part. The procedures in Service Bulletin A300–57–0244 apply to airplanes equipped with Dowty Rotol RATs. The procedures in Airbus Service Bulletins A300–57–6099 and A310–57–2086 apply to airplanes with Dowty Rotol or Sundstrand RATs.

Airbus has also issued Temporary Revision (TR) 29–015, dated April 12, 2005, to the Airbus A300 Aircraft Maintenance Manual (AMM) Chapter 29–25–00. Airbus has also issued revisions to the following AMM chapters: A300–600 AMM 29–25–00, and A310 AMM 29–25–00; each dated June 1, 2005. The TR and AMM chapters specify an inspection for breaks of the bottom flange of the RAT swivel coupling yoke fitting after each RAT retraction; replacement of the RAT swivel coupling yoke fitting with a new part if necessary; adjustment of the RAT extension jack if necessary; and adjustment of the RAT mechanical control system.

Accomplishing the actions specified in the service information is intended to adequately address the unsafe condition. The DGAC mandated the service information and issued the following French airworthiness directives to ensure the continued airworthiness of these airplanes in France: F–2003–149 R1, dated June 8, 2005 (which changes the repetitive inspection in the AOTs to a one-time inspection); F–2005–089, dated June 8, 2005; and F–2005–090 R1, dated July 6, 2005.

Comments

We have given due consideration to the comments received in response to the original NPRM.

Request To Remove Repetitive Inspection Requirement

FedEx states that it has inspected 90 airplanes of its affected fleet and has not found any cases of cracks in the flange fitting for the RAT. FedEx further states that it has incorporated Airbus's advice to prevent overstressing the fitting by performing a check for overfilling of the RAT jack fluid level. FedEx suggests that, based on its own experience with its own airplanes that range from 6,500 flight hours to 53,000 flight hours, the repetitive inspections proposed in paragraphs (b)(1) and (b)(2) of the original NPRM may not be necessary. FedEx does not object to the one-time inspection proposed in paragraph (b) of the original NPRM.

We partially agree. As discussed previously, Airbus has issued TRs to the A300, A300–600, and A310 AMMs to revise the maintenance programs. These TRs include the task of a detailed inspection of the fork fitting at each maintenance of the RAT, which includes an inspection after each RAT extension. This supplemental NPRM (SNPRM) proposes to require incorporating this new AMM task into the operator's FAA-approved maintenance program. We have determined that inspections accomplished at the interval of RAT maintenance actions are more appropriate than the 600 flight-hour interval proposed by the NPRM in paragraphs (b)(1) and (b)(2). We have removed the repetitive inspection requirements from paragraph (a) of the SNPRM (paragraphs (b)(1) and (b)(2) of the NPRM). We have replaced these repetitive inspection requirements with a proposal in paragraph (c) to require revising the FAA-approved maintenance program to include a new AMM task that specifies a detailed inspection after each RAT extension.

Request To Lengthen Repetitive Inspection Intervals

UPS requests that we lengthen the repetitive inspection intervals from intervals not to exceed 600 flight hours, to an interval of every 30 months. UPS states that this interval coincides with the existing mandatory checks of the RAT system.

As noted above, we have removed the repetitive inspection requirements from the SNPRM. Also as stated above, the repetitive inspection requirements of paragraph (b)(1) and (b)(2) of the NPRM have been removed and therefore the SNPRM has been revised relative to the NPRM.

Request To Lengthen Initial Inspection Threshold

The Air Transportation Association and American Airlines request that we extend the compliance time for doing the initial inspection of the yoke fitting. The commenters propose that we extend the compliance time for doing the initial inspection from the earlier of 600 flight hours or 3 months, to 6 months. American Airlines explains that it did the initial inspection on its A300–600 fleet in 2003, but found no cracks during this initial inspection; however, American Airlines notes that it experienced delays in doing the initial inspection because replacement parts for the yoke fitting were not available. American Airlines points out that in order to avoid grounding airplanes, operators will need to establish inventories of yoke fittings at field and main base maintenance stations before they do the initial inspection. The commenters therefore suggest that the extended compliance time for the initial inspection would allow operators to acquire replacement parts. The commenters state that, given the lack of findings in 2003, the extension should not present significant additional risk.

We agree. Since we issued the original NPRM, the DGAC and Airbus have re-assessed the risk based on fleet reports from the original inspections that the DGAC specified through its airworthiness directive F–2003–149(B), dated April 16, 2003, which was cited in the original NPRM. Extending the compliance time will not adversely affect safety. We have revised paragraph (a) of the SNPRM to propose a new compliance time of the earlier of 1,300 flight hours, or 6 months after the effective date of the proposed AD.

Request To Include Adjustment of Ejection Jack Length as Terminating Action for Inspections

UPS proposes that removing the ejection jack from the airplane and returning it to a component shop for verification of proper length and adjustment if necessary, would be sufficient to provide terminating actions for the repetitive inspections. UPS states that preliminary indications show that an overlength ejection jack is at the root of the failed yoke fittings, and that by ensuring proper length, the conditions for yoke fitting failures would be eliminated.

We partially agree. We agree that the root cause of the failed yoke fittings is overstress during the extension of an incorrectly adjusted RAT ejection jack. We disagree that sending the ejection jack to a component shop for verification and adjustment would eliminate the conditions for yoke fitting failures and thus eliminate the need for repetitive inspections. The RAT must be retracted after each extension using the AMM procedure that includes adjusting the ejection jack to ensure that the proper adjustment remains. Sending the jack away for adjustment and verification would not ensure that the correct length would still remain for subsequent RAT extensions. Repetitive inspections would still be specified in accordance with the revised AMM task after each RAT extension.

Explanation of Change to Applicability

We have revised the applicability of this supplemental NPRM to be consistent with the effectivity of the French airworthiness directives listed in Note 5 of this supplemental NPRM.

Clarification of Inspection Terminology

In this proposed AD, the ''inspection'' specified in the AMM chapters, and the ''detailed visual inspection'' specified in the AOTs, is referred to as a ''detailed inspection.'' We have included the definition for a detailed inspection in a note in the proposed AD.

Clarification of Alternative Method of Compliance (AMOC) Paragraph

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

Explanation of Removed Reporting Requirement

We have removed the inspection report proposed in paragraph (c) of the NPRM. The preamble of the NPRM stated that the manufacturer was analyzing these inspection reports in order to obtain better insight into the nature, cause, and extent of the damage, and eventually to develop a final action to address the unsafe condition. This SNPRM addresses that final action.

Explanation of Change to Cost Impact

After the existing AD was issued, we reviewed the figures we have used over the past several years to calculate AD costs to operators. To account for various inflationary costs in the airline industry, we find it necessary to increase the labor rate used in these calculations from $65 per work hour to $80 per work hour. The cost impact information, below, reflects this increase in the specified hourly labor rate.

Conclusion

Since this change expands the scope of the originally proposed rule, the FAA has determined that it is necessary to reopen the comment period to provide additional opportunity for public comment.

Cost Impact

The following table provides the estimated costs for U.S. operators to comply with this proposed AD. There are approximately 165 airplanes of U.S. registry that would be affected by this proposed AD.

ESTIMATED COSTS

Action	Work hours	Average labor rate per hour	Parts	Cost per airplane
Detailed Inspection	1	$80	$0	$80
AMM Revision	1	80	0	80
Replacement with Steel Fork Fitting	6	80	470	950

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

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 Impact

The regulations proposed herein 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. Therefore, it is determined that this proposal would not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this 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) 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. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Airbus: Docket 2003–NM–123–AD.

Applicability: Model A300 airplanes; A300 B4–601, B4–603, B4–620, B4–622, B4–605R, B4–622R, F4–605R, F4–622R, and C4–605R Variant F series airplanes (collectively called A300–600 series airplanes); and A310 airplanes; certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent failure of the ram air turbine (RAT) yoke fitting, which could result in the loss of RAT function and possible loss of critical flight control in the event of certain emergency situations, accomplish the following:

Detailed Inspections and Replacement

(a) Within 1,300 flight hours or 6 months after the effective date of this AD, whichever occurs first: For all airplanes, do a detailed inspection for breaks of the bottom flange fitting of the yoke fitting for the RAT swivel coupling in accordance with the applicable All Operators Telex (AOT) in paragraph (a)(1), (a)(2), or (a)(3) of this AD. If the flange fitting is broken, before further flight, replace the flange fitting with a new flange fitting in accordance with the applicable AOT. For Model A300 airplanes, A300–600 series airplanes, and A310 airplanes, equipped with Hamilton Sundstrand RATs, verify the adjustment of the ejection jack, and correct the adjustment as applicable.

(1) For Model A300 airplanes: Airbus A300 AOT 57A0241, dated March 6, 2003.

(2) For Model A300–600 series airplanes: Airbus A300–600 AOT 57A6096, Revision 01, dated April 11, 2005.

(3) For Model A310 airplanes: Airbus A310 AOT 57A2085, Revision 01, dated April 11, 2005.

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

(b) For Model A300 airplanes, A300–600 series airplanes, and A310 airplanes equipped with Dowty Rotol RATs, except airplanes on which Airbus Modification 12986 has been done: Within 12 months after the effective date of this AD, replace the RAT swivel coupling fork fitting with a new steel fitting, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A300–57–0244, dated March 4, 2005 (for Model A300 series airplanes); A300–57–6099, dated February 23, 2005 (for Model A300–600 airplanes); or A310–57–2086, dated March 1, 2005 (for Model A310 airplanes); as applicable.

Revisions

(c) Within 3 months after the effective date of this AD: Incorporate the information in the applicable airplane maintenance manual (AMM) specified in paragraphs (c)(1) and (c)(2) of this AD, and the Airbus temporary revision (TR) specified in paragraph (c)(3) of this AD, into the FAA-approved maintenance program to specify an inspection for breaks of the bottom flange of the RAT swivel coupling yoke fitting after each RAT extension; and replacement of the RAT swivel coupling yoke fitting with a new aluminum part as applicable; in accordance with method approved by either the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA; or the Direction Générale de l'Aviation Civile (or its delegated agent). The page blocks specified in paragraphs (c)(1) and (c)(2) of this AD, as applicable, are one approved method for the actions required by paragraph (c) of this AD. Thereafter, except as provided by paragraph (e) of this AD, no alternative inspection intervals may be approved for the bottom flange of the RAT swivel coupling yoke fitting.

(1) Airbus A300–600 AMM, Chapter 29–25–00, Page Block 301, dated June 1, 2005.

(2) Airbus A310 AMM, Chapter 29–25–00, Page Block 301, dated June 1, 2005.

(3) Airbus TR 29–015, dated April 12, 2005, to the Airworthiness Limitations (AWL) section of the Airbus A300 AMM, Chapter 29–25–00.

Note 2: After revising the maintenance program to include the required periodic inspections according to this paragraph, operators do not need to make a maintenance log entry to show compliance with this AD every time those inspections are accomplished thereafter.

Note 3: The actions required by paragraph (c)(3) of this AD may be done by inserting a copy of TR 29–015 into the AWL section of the Airbus A300 AMM, Chapter 29–25–00. When this TR has been included in general revisions of the AMM, the general revisions may be inserted in the AMM, provided the relevant information in the general revision is identical to that in TR 29–015.

Note 4: This AD requires revisions to certain operator maintenance documents to include new inspections. Compliance with these inspections is required by 14 CFR 91.403(c). For airplanes that have been previously modified, altered, or repaired in the areas addressed by these inspections, the operator may not be able to accomplish the inspections described in the revisions. In this situation, to comply with 14 CFR 91.403(c), the operator must request approval for an alternative method of compliance according to paragraph (e) of this AD. The request should include a description of changes to the required inspections that will ensure the continued damage tolerance of the affected structure. The FAA has provided guidance for this determination in Advisory Circular (AC) 25–1529.

Credit for Actions Accomplished Previously

(d) Actions done before the effective date of this AD in accordance with Airbus AOT 57A6096, dated March 6, 2003; or Airbus AOT 57A2085, dated March 6, 2003; are acceptable for compliance with the corresponding action in paragraph (a) of this AD.

Alternative Methods of Compliance

(e)(1) In accordance with 14 CFR 39.19, the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate, is authorized to approve alternative methods of compliance for this AD.

(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.

Note 5: The subject of this AD is addressed in French airworthiness directives F–2005–089, dated June 8, 2005; F–2005–090 R1, dated July 6, 2005; and F–2003–149 R1, dated June 8, 2005.

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

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E6–7003 Filed 5–8–06; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2006–24695; Directorate Identifier 2006–NM–035–AD]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 747–200B, 747–200C, 747–200F, 747–300, and 747SR 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 747–200B, 747–200C, 747–200F, 747–300, and 747SR series airplanes. This proposed AD would require doing repetitive inspections of engine struts 1 through 4, as applicable, for heat discoloration, cracking, buckling, or wrinkling. This proposed AD also would require a conductivity test to detect the extent of the heat damage and an inspection to detect cracking of the heat-discolored, buckled, or wrinkled area; and repair; if necessary. This proposed AD results from reports of heat damage and cracking of the skin and internal structure adjacent to and aft of the precooler exhaust vent on several engine struts. We are proposing this AD to detect and correct cracking, buckling, wrinkling, or heat damage of the skin and internal structure of the engine struts, which could result in extensive damage to the engine struts and consequent possible separation of an engine from the airplane during flight.

DATES: We must receive comments on this proposed AD by June 23, 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.
- Governmentwide 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: Ivan Li, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 917–6437; 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–2006–24695; Directorate Identifier 2006–NM–035–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 reports of heat damage and cracking of the skin and internal structure adjacent to and aft of the precooler exhaust vent on 14 engine struts on in-service airplanes. These airplanes had the terminating modification specified in Boeing Service Bulletin 747–54–2163 incorporated, which installed external titanium doublers and internal frame reinforcement to originally address high-temperature air from the precooler exhaust vent of the engine struts. However, the reported damage has occurred in unmodified areas, as well as modified areas. High-temperature air from the precooler exhaust vent could heat up and potentially anneal (reducing the strength) the skin and internal structure of the engine struts, which could result in cracking, buckling, wrinkling, or heat damage of the skin and internal structure of the engine struts. Such cracking, buckling, wrinkling, or heat damage, if not detected and corrected, could result in extensive damage to the engine strut and consequent possible separation of an engine from the airplane during flight.

Other Relevant Rulemaking

We have previously issued AD 95–13–07, amendment 39–9287 (60 FR 33336, June 28, 1995), applicable to certain Boeing Model 747 series airplanes. That AD requires modifications of the nacelle strut and wing structure, inspections and checks to detect discrepancies, and correction of discrepancies. The actions required by that AD must be done in accordance with Boeing Alert Service Bulletin 747–54A2158, dated November 30, 1994. That service bulletin refers to several service bulletins as additional sources of service information for doing the actions required by AD 95–13–07. One of those additional sources is Boeing Service Bulletin 747–54–2163.

We have determined that the actions specified in Boeing Service Bulletin 747–54–2163 continue to prevent failure of the strut and subsequent loss of the engine. Therefore, this proposed AD would not affect the requirements of AD 95–13–07.

Relevant Service Information

We have reviewed Boeing Special Attention Service Bulletin 747–54–2223, dated January 26, 2006. The service bulletin describes the following procedures:

- Doing repetitive detailed inspections of engine struts 1 through 4, as applicable, for heat discoloration, cracking, buckling, or wrinkling;
- Doing a conductivity test to detect the extent of the heat damage and a penetrant inspection or high frequency eddy current (HFEC) inspection to detect cracking of the heat-discolored, buckled, or wrinkled area, if necessary;
- Contacting Boeing for repair instructions if necessary.

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 ''Differences Between the Proposed AD and Service Bulletin.''

Differences Between the Proposed AD and Service Bulletin

The service bulletin specifies to contact the manufacturer for instructions on how to repair certain conditions, but this proposed AD would require repairing those conditions 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.

Costs of Compliance

There are about 112 airplanes of the affected design in the worldwide fleet. This proposed AD would affect about 33 airplanes of U.S. registry. The proposed detailed inspections would take about 4 or 8 work hours per airplane (depending on the airplane configuration), at an average labor rate of $80 per work hour. Based on these figures, the estimated cost of the proposed AD for U.S. operators is $10,560 or $21,120, or $320 or $640 per airplane, per inspection cycle (depending on the airplane configuration).

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–2006–24695; Directorate Identifier 2006–NM–035–AD.

Comments Due Date

(a) The FAA must receive comments on this AD action by June 23, 2006.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Boeing Model 747–200B, 747–200C, 747–200F, 747–300, and 747SR series airplanes, certificated in any category; as identified in Boeing Special Attention Service Bulletin 747–54–2223, dated January 26, 2006.

Unsafe Condition

(d) This AD results from reports of heat damage and cracking of the skin and internal structure adjacent to and aft of the precooler exhaust vent on several engine struts on in-service airplanes. We are issuing this AD to detect and correct cracking, buckling, wrinkling, or heat damage of the skin and internal structure of the engine struts, which could result in extensive damage to the engine struts and consequent possible separation of an engine from the airplane during flight.

Compliance

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

Service Bulletin

(f) The term ''service bulletin,'' as used in this AD, means the Accomplishment Instructions of Boeing Special Attention Service Bulletin 747–54–2223, dated January 26, 2006.

Repetitive Detailed Inspections

(g) Within 18 months after the effective date of this AD, do a detailed inspection of engine struts 1 through 4, as applicable, for heat discoloration, cracking, buckling, or wrinkling, in accordance with the service bulletin. Repeat the detailed inspection thereafter at intervals not to exceed 18 months.

Corrective Actions

(h) If any heat discoloration, buckling, or wrinkling is found during any detailed inspection required by paragraph (g) of this AD, before further flight, do a conductivity test to detect the extent of the heat damage and a penetrant inspection or high frequency eddy current inspection to detect cracking of the heat-discolored, buckled, or wrinkled area, in accordance with the service bulletin.

(1) If the conductivity test results are within the limits specified in the service bulletin and no cracking is detected, before further flight, repair any buckled or wrinkled area using a method approved in accordance with the procedures specified in paragraph (j) of this AD. Heat discoloration does not need to be repaired if the conductivity test results of the heat-discolored area are within the specified limits in the service bulletin.

(2) If the conductivity test results are outside the limits specified in the service bulletin or if any cracking is detected, before further flight, repair any cracking, heat discoloration, or buckled or wrinkled area using a method approved in accordance with the procedures specified in paragraph (j) of this AD.

(i) If any cracking is found during any detailed inspection required by paragraph (g) of this AD, before further flight, repair the cracking using a method approved in accordance with the procedures specified in paragraph (j) of this AD.

Alternative Methods of Compliance (AMOCs)

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

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

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

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

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E6–7016 Filed 5–8–06; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2006–23673; Directorate Identifier 2005–NM–233–AD]

RIN 2120–AA64

Airworthiness Directives; Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model EMB–135 and EMB–145, –145ER, –145MR, –145LR, –145XR, –145MP, and –145EP Airplanes

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

ACTION: Proposed rule; withdrawal.

SUMMARY: The FAA withdraws a notice of proposed rulemaking (NPRM) that proposed a new airworthiness directive (AD) for all EMBRAER Model EMB–135 and EMB–145, –145ER, –145MR, –145LR, –145XR, –145MP, and –145EP airplanes. The proposed AD would have required inspecting to determine the

part number of the ailerons. For airplanes with affected aileron part numbers, the proposed AD would have required reworking the aileron damper fitting, and for certain airplanes, replacing the rod end of the aileron damper assembly with an improved rod end. Since the proposed AD was issued, we have received new data indicating that there is no unsafe condition associated with structural failure of the rod end of the aileron damper. Accordingly, the proposed AD is withdrawn.

ADDRESSES: 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 U.S. Department of Transportation, 400 Seventh Street, SW., Room PL–401, Washington, DC. This docket number is FAA–2006–23673; the directorate identifier for this docket is 2005–NM–233–AD.

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

SUPPLEMENTARY INFORMATION:

Discussion

We proposed to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) with a notice of proposed rulemaking (NPRM) for a new AD for all EMBRAER Model EMB–135 and EMB–145, –145ER, –145MR, –145LR, –145XR, –145MP, and –145EP airplanes. That NPRM was published in the **Federal Register** on January 25, 2006 (71 FR 4067). The NPRM would have required inspecting to determine the part number of the ailerons. For airplanes with affected aileron part numbers, the NPRM would have required reworking the aileron damper fitting. Also, for certain airplanes, the NPRM would have required replacing the rod end of the aileron damper assembly with an improved rod end. The NPRM resulted from reports of structural failure of the rod end of the aileron damper, which was caused by insufficient clearance between the lugs of the aileron damper fitting and the rod end of the aileron damper. The proposed actions were intended to prevent failure of the aileron damper, which could result in failure of the aileron actuator and consequent reduced controllability of the airplane.

Comments

EMBRAER requests that we withdraw the NPRM. EMBRAER points out that the unsafe condition stated in the NPRM (failure of the aileron damper, which could result in failure of the aileron actuator and consequent reduced controllability of the airplane) is incorrect. While the NPRM was intended to address reports of structural failure of the rod end of the aileron damper, there is no unsafe condition caused by such a failure. The aileron damper was introduced to improve safety by increasing redundancy: the aileron damper prevents vibration of the aileron surface in the event of failure of both rods of the aileron power control actuator (PCA). Failure of the rod end of the aileron damper and subsequent failure of the aileron damper will not cause vibration of the aileron surface.

Further, while failure of the rod ends of the aileron PCA could result in reduced controllability of the airplane, this unsafe condition is already addressed by another action. EMBRAER notes that the FAA has previously issued AD 99–05–04 (64 FR 13894, March 23, 1999). That AD requires inspections to detect and correct cracking or failure of the rod ends of the aileron PCA on all EMBRAER Model EMB–145 series airplanes.

EMBRAER further states that repetitive inspections of the aileron damper rod ends and fitting lugs for integrity and general condition are specified as a Certification Maintenance Requirement (for Model EMB–135 airplanes) and a System Inspection Requirement (for Model EMB–145 airplanes). The failures of the aileron damper rod ends that prompted the NRPM were discovered during inspections performed under these requirements.

We agree with the commenter's request to withdraw the NPRM. EMBRAER Service Bulletin 145–27–0108, Revision 01, dated April 28, 2005, which the NPRM references as the appropriate source of service information for the required actions, was issued to correct insufficient clearance between the lugs of the aileron damper fitting and the rod end of the aileron damper. We have coordinated with EMBRAER and have determined that the actions in that service bulletin are not intended to address an unsafe condition. Doing those actions may provide an economic benefit to operators by preventing the need for an expensive repair in the event that damage is detected during routine inspections. Since there is no unsafe condition, the proposed AD is unnecessary.

FAA's Conclusions

Upon further consideration, we have determined that there is no unsafe condition associated with structural failure of the rod end of the aileron damper. Accordingly, the NPRM is withdrawn.

Withdrawal of the NPRM does not preclude the FAA from issuing another related action or commit the FAA to any course of action in the future.

Regulatory Impact

Since this action only withdraws an NPRM, it is neither a proposed nor a final rule and therefore is not covered under Executive Order 12866, the Regulatory Flexibility Act, or DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979).

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Withdrawal

Accordingly, we withdraw the NPRM, Docket No. FAA–2006–23673, Directorate Identifier 2005–NM–233–AD, which was published in the **Federal Register** on January 25, 2006 (71 FR 4067).

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

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E6–7015 Filed 5–8–06; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2006–24092; Directorate Identifier 2006–CE–18–AD]

RIN 2120–AA64

Airworthiness Directives; Pilatus Aircraft Ltd. Models PC–6, PC–6–H1, PC–6–H2, PC–6/350, PC–6/350–H1, PC–6/350–H2, PC–6/A, PC–6/A–H1, PC–6/A–H2, PC–6/B–H2, PC–6/B1–H2, PC–6/B2–H2, PC–6/B2–H4, PC–6/C–H2, and PC–6/C1–H2 Airplanes

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to supersede Airworthiness Directive (AD) 2003–09–01, which applies to Pilatus Aircraft Ltd (Pilatus) Model PC–6 airplanes, all manufacturer serial numbers (MSN) up to and including 939. AD 2003–09–01 currently requires you to inspect and correct, as necessary, the aileron control bellcrank assemblies at the wing and fuselage locations. Since we issued AD 2003–09–01, the FAA determined the action should also apply to all the models of the PC–6 airplanes listed in the type certification data sheet of Type Certificate (TC) No. 7A15 that are produced in the United States through a licensing agreement between Pilatus and Fairchild Republic Company (also identified as Fairchild Industries, Fairchild Heli Porter, or Fairchild-Hiller Corporation). In addition, the intent of the applicability of AD 2003–09–01 was to all the affected serial numbers of the airplane models listed in TC No. 7A15. Consequently, this proposed AD would retain all the actions of AD 2003–09–01, would add those Fairchild Republic Company airplanes to the applicability of this proposed AD, and would list out the individual specific airplane models. We are proposing this AD to detect and correct increased friction in the aileron control bellcrank assemblies, which could result in failure of the aileron flight-control system. Such failure could lead to problems in controlling flight.

DATES: We must receive comments on this proposed AD by June 9, 2006.

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

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

For service information identified in this proposed AD, contact Pilatus Aircraft Ltd., Customer Liaison Manager, CH–6371 Stans, Switzerland; telephone: +41 41 619 63 19; facsimile: +41 41 619 6224.

FOR FURTHER INFORMATION CONTACT: Doug Rudolph, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4059; facsimile: (816) 329–4090.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments regarding this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include the docket number, ''FAA–2006–24092; Directorate Identifier 2006–CE–18–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 we receive concerning this proposed AD.

Discussion

Mandatory continuing airworthiness information and the FAA's determination that an unsafe condition existed on a Pilatus Model PC–6 airplane caused us to issue AD 2003–09–01, Amendment 39–13130 (68 FR 22582, April 29, 2003). AD 2003–09–01 currently requires you to inspect and correct, as necessary, the aileron control bellcrank assemblies at the wing and fuselage locations on Pilatus Model PC–6 airplanes.

The Federal Office for Civil Aviation (FOCA), which is the airworthiness authority for Switzerland, notified the FAA of the need to supersede AD 2003–09–01 to address an unsafe condition that may exist or could develop on Model PC–6 airplanes, all manufacturer serial numbers (MSN) up to and including 939. The FOCA reports that the AD action should also apply to all the models of the PC–6 airplanes listed in the type certification data sheet of TC No. 7A15 produced in the United States through a licensing agreement between Pilatus and Fairchild Republic Company (also identified as Fairchild Industries, Fairchild Heli Porter, or Fairchild-Hiller Corporation).

This condition, if not corrected, could result in increased friction in the aileron control bellcrank assemblies, which could result in failure of the aileron flight-control system. Such failure could lead to problems in controlling flight.

Foreign Airworthiness Authority Information

The FOCA recently issued Swiss AD Number HB 2005–289, effective date August 23, 2005, to ensure the continued airworthiness of all models of the PC–6 airplanes listed in TC No. 7A15, including those produced in the United States under a licensing agreement with Pilatus and Fairchild Republic Company (also identified as Fairchild Industries, Fairchild Heli Porter, or Fairchild-Hiller Corporation).

The State of Design for the Pilatus PC–6 airplanes is Switzerland and the airplanes are type-certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement.

Under this bilateral airworthiness agreement, the FOCA has kept us informed of the situation described above.

FAA's Determination and Requirements of the Proposed AD

We are proposing this AD because we have examined the FOCA's findings, evaluated all information and determined the unsafe condition described previously is likely to exist or develop on other products of the same type design that are certificated for operation in the United States.

This proposed AD would supersede AD 2003–09–01 with a new AD that would retain all the actions of AD 2003–09–01 and would:

- Add manufacturer serial numbers (MSN) 2001 through 2092 for all the models of the PC–6 airplanes as listed in TC No. 7A15 and specified in the applicability section. These MSN are the airplanes produced in the United States through a licensing agreement with the Fairchild Republic Company; and
- List all the models of the PC–6 airplanes as listed in TC No. 7A15.

Costs of Compliance

We estimate that this proposed AD would affect 49 airplanes in the U.S. registry.

We estimate the following costs to do the proposed inspection and modifications:

Labor cost	Parts cost	Total cost per airplane	Total cost on U.S. operators
7 work hours × $80 per hour = $560	$300	$860	$860 × 49 = $42,140.

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.

Examining the AD Docket

You may examine the AD docket that contains the proposed AD, the regulatory evaluation, any comments received, and other information on the Internet at *http://dms.dot.gov;* or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone (800) 647–5227) is located at the street address stated in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

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 FAA amends § 39.13 by removing Airworthiness Directive (AD) 2003–09–01, Amendment 39–13130, and adding the following new AD:

Pilatus Aircraft LTD.: Docket No. FAA–2006–24092; Directorate Identifier 2006–CE–18–AD.

Comments Due Date

(a) We must receive comments on this airworthiness directive (AD) action by June 9, 2006.

Affected ADs

(b) This AD supersedes AD 2003–09–01, Amendment 39–13130.

Applicability

(c) This AD affects the following Models PC–6, PC–6–H1, PC–6–H2, PC–6/350, PC–6/350–H1, PC–6/350–H2, PC–6/A, PC–6/A–H1, PC–6/A–H2, PC–6/B–H2, PC–6/B1–H2, PC–6/B2–H2, PC–6/B2–H4, PC–6/C–H2, and PC–6/C1–H2 airplanes that are equipped with turbo-prop engines and are certificated in any category:

(1) *Group 1* (maintains the actions from AD 2003–09–01): All manufacturer serial numbers (MSN) up to and including 939.

(2) *Group 2:* MSN 2001 through 2092.

Note: These airplanes are also identified as Fairchild Republic Company PC–6 airplanes, Fairchild Heli Porter PC–6 airplanes, or Fairchild-Hiller Corporation PC–6 airplanes.

Unsafe Condition

(d) This AD results from mandatory continuing airworthiness information (MCAI) issued by the airworthiness authority for Switzerland that requires retaining the actions of AD 2003–09–01 and adding MSN 2001 through 2092 for all the models of the PC–6 airplanes listed in the type certificate data sheet of Type Certificate (TC) No. 7A15. We are issuing this AD to detect and correct increased friction in the aileron control bellcrank assemblies, which could result in failure of the aileron flight-control system. Such failure could lead to problems in controlling flight.

Compliance

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

Actions	Compliance	Procedures
(1) Inspect, before removal of the wing bellcrank assemblies, part numbers (P/N) 6132.0071.51 and 6132.0071.52, for installed circlips, P/N N237: (i) If circlips are installed, do the actions required in paragraphs (e)(5) and (e)(6) of this AD. (ii) If circlips are not installed, perform all actions required by paragraphs (e)(3), (e)(4), (e)(5), (e)(6), and (e)(7) of this AD.	(A) *For Group 1 Airplanes:* Within the next 100 hours time-in-service (TIS) after June 17, 2003 (the effective date of AD 2003–09–01), unless already done. (B) *For Group 2 Airplanes:* Within the next 100 hours TIS after the effective date of this AD, unless already done.	Follow Pilatus Aircraft Ltd. PC–6 Service Bulletin No. 27–001, dated June 5, 2002.

Actions	Compliance	Procedures
(2) Inspect, before removal of the fuselage bellcrank assembly, P/N 6232.0118.00, for the circlip installed on the housing to prevent axial movement of the bellcrank on its bearing and the flange of the housing to the rear. If the fuselage bellcrank assembly has either no circlip and/or it is not installed as required, perform the actions in paragraphs (e)(8) and (e)(9) of this AD.	Before further flight after the inspection required in paragraph (e)(1) of this AD.	Follow Pilatus Aircraft Ltd. PC–6 Service Bulletin No. 27–001, dated June 5, 2002.
(3) Remove the wing bellcrank assemblies, P/Ns 6132.0071.51 and 6132.0071.52, and inspect for worn or damaged bearings. Replace worn or damaged bearings.	Before further flight after the inspections required in paragraphs (e)(1) and (e)(2) of this AD, as applicable.	Follow Pilatus Aircraft Ltd. PC–6 Service Bulletin No. 27–001, dated June 5, 2002.
(4) Stake and lock the bearing in the housing of the wing bellcranks, P/Ns 6132.0071.51 and 6132.0071.52.	Before further flight after the inspections required in paragraphs (e)(1) and (e)(2) of this AD, as applicable.	Follow Pilatus Aircraft Ltd. PC–6 Service Bulletin No. 27–001, dated June 5, 2002.
(5) Inspect the wing bellcranks control-cable attachment bolts for correct type and for signs of rub damage on the heads. Replace bolts that are damaged and/or have a total length (including head) of more than 21.5 mm (0.85 in.)	Before further flight after the inspections required in paragraphs (e)(1) and (e)(2) of this AD.	Follow Pilatus Aircraft Ltd. PC–6 Service Bulletin No. 27–001, dated June 5, 2002.
(6) Inspect the wing bellcranks support plate for signs of rub damage caused by the bolts. If damage is found: (i) Obtain a repair scheme from the manufacturer through FAA at the address specified in paragraph (f) of this AD. (ii) Incorporate this repair scheme.	Before further flight after the inspections required in paragraphs (e)(1) and (e)(2) of this AD.	Follow Pilatus Aircraft Ltd. PC–6 Service Bulletin No. 27–001, dated June 5, 2002.
(7) Reinstall wing bellcrank assemblies	Before further flight after the inspections required in paragraphs (e)(1) and (e)(2) of this AD.	Follow Pilatus Aircraft Ltd. PC–6 Service Bulletin No. 27–001, dated June 5, 2002.
(8) Remove the fuselage bellcrank assembly, P/N 6232.0118.00, and inspect the housing for wear, damage, and signs of axial movement of the bearing in the housing. Replace worn or damaged bearings. If any signs of axial movement of a bearing are found: (i) Obtain a repair scheme from the manufacturer through FAA at the address specified in paragraph (f) of this AD. (ii) Incorporate this repair scheme.	Before further flight after the inspections required in paragraphs (e)(1) and (e)(2) of this AD.	Follow Pilatus Aircraft Ltd. PC–6 Service Bulletin No. 27–001, dated June 5, 2002.
(9) Reinstall the fuselage bellcrank assembly. Ensure that the fuselage bellcrank assembly is installed so that the surface of the bellcrank with the flange of the housing is installed to the rear. The effect of this is to lock the bellcrank on the bearing tube and thus prevent movement.	Before further flight after the inspections required in paragraphs (e)(1), (e)(2) and (e)(8) of this AD.	Follow Pilatus Aircraft Ltd. PC–6 Service Bulletin No. 27–001, dated June 5, 2002.
(10) Do not install any bellcrank assemblies, P/Ns 6132.0071.51, 6132,0071.52, and 6232.0118.00 (or FAA-approved equivalent part numbers), unless the aileron assembly has been inspected, modified, and installed.	(A) *For Group 1 Airplanes:* As of June 17, 2003 (the effective date of AD 2003–09–01). (B) *For Group 2 Airplanes:* As of the effective date of this AD.	Follow Pilatus Aircraft Ltd. PC–6 Service Bulletin No. 27–001, dated June 5, 2002.

Note 1: Axial movement of serviceable bearings in the housings of the wing bellcranks is permitted provided no wear or damage to the bearing is found.

Note 2: Any signs of axial movement of a bearing in the housing of the fuselage bellcrank assembly requires that you obtain a repair scheme from the manufacturer through FAA at the address specified in paragraph (f) of this AD and incorporate the repair scheme.

Alternative Methods of Compliance (AMOCs)

(f) The Manager, Standards Office, ATTN: Doug Rudolph, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4059; facsimile: (816) 329–4090, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19.

(g) AMOCs approved for AD 2003–09–01 are approved for this AD.

Related Information

(h) To get copies of the documents referenced in this AD, contact Pilatus Aircraft Ltd., Customer Liaison Manager, CH–6371 Stans, Switzerland; telephone: +41 41 619 63 19; facsimile: +41 41 619 6224. To view the AD docket, go to the Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL–401, Washington, DC, or on the Internet at *http://dms.dot.gov.* The docket number is Docket No. FAA–2006–24092; Directorate Identifier 2006–CE–18–AD.

Issued in Kansas City, Missouri, on May 3, 2006.

Barry R. Ballenger,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. E6–7017 Filed 5–8–06; 8:45 am]

BILLING CODE 4910–13–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[Docket No. EPA–R02–OAR–2006–0342; FRL–8167–8]

Approval and Promulgation of Implementation Plans; Carbon Monoxide Maintenance Plan, Conformity Budgets, Emissions Inventories; State of New Jersey

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a State Implementation Plan (SIP) revision submitted by the State of New Jersey. This revision will establish an updated ten-year carbon monoxide (CO) maintenance plan for the Nine Not-Classified Areas in the State (the City of Atlantic City, the City of Burlington, the Borough of Freehold, the Town of Morristown, the Borough of Penns Grove, the City of Perth Amboy, the Borough of Somerville, the Toms River Area, and the City of Trenton) and Camden County. In addition, this document proposes to approve revisions to the CO, NO_X, VOC, and $PM_{2.5}$ motor vehicle emissions budgets for Northern New Jersey. Finally, this document also proposes to approve revisions to the general conformity budget for McGuire Air Force Base and the 2002 base year emissions inventory.

The Nine Not Classified Areas and Camden County were redesignated to attainment of the CO National Ambient Air Quality Standard (NAAQS) on February 5, 1996 and maintenance plans were also approved at that time. By this action, EPA is proposing to approve the New Jersey Department of Environmental Protection's (New Jersey) second maintenance plans for these areas because they provide for continued attainment for an additional ten years of the CO NAAQS.

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

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R02–OAR–2006–0342, by one of the following methods:

- *http://www.regulations.gov:* Follow the on-line instructions for submitting comments.
- E-mail: *Werner.Raymond@epa.gov.*
- Fax: 212–637–3901.
- Mail: Raymond Werner, Chief, Air Programs Branch, Environmental Protection Agency, Region 2 Office, 290 Broadway, 25th Floor, New York, New York 10007–1866.
- Hand Delivery: Raymond Werner, Chief, Air Programs Branch, Environmental Protection Agency, Region 2 Office, 290 Broadway, 25th Floor, New York, New York 10007–1866. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30 excluding Federal holidays.

Instructions: Direct your comments to Docket ID No. EPA–R02–OAR–2006–0342. 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: Henry Feingersh *feingersh.henry@epa.gov* for general questions, Raymond Forde *forde.raymond@epa.gov* for emissions inventory questions, or Matthew Laurita *laurita.matthew@epa.gov* for mobile source related questions at the U.S. Environmental Protection Agency, Air Programs Branch, 290 Broadway, 25th Floor, New York, NY 10007–1866, telephone number (212) 637–4249, fax number (212) 637–3901.

Copies of the State submittals are available at the following addresses for inspection during normal business hours:

Environmental Protection Agency, Region II Office, Air Programs Branch, 290 Broadway, 25th Floor, New York, New York 10007–1866.

New Jersey Department of Environmental Protection, Office of Energy, Bureau of Air Quality Planning, 401 East State Street, CN027, Trenton, New Jersey 08625.

SUPPLEMENTARY INFORMATION: This action is being proposed under a procedure called parallel processing. Under parallel processing, EPA proposes action on a state submission before it has been formally adopted and submitted to EPA, and then EPA will take final action on its proposal if: (1) The state's final submission is substantially unchanged from the submission on which this proposal is based, or (2) if significant changes in the state's final submission are anticipated and adequately described in EPA's proposal as a basis for EPA's proposed action.

EPA views the SIP revisions proposed in today's proposal as separable actions. This means that if EPA receives adverse comments on particular portions of this notice and not on other portions, EPA may choose not to take final action at the same time in a single notice on all of these SIP revisions. Instead, EPA may choose to take final action on these SIP revisions in separate notices.

For detailed information on New Jersey's SIP revisions see the Technical Support Document, prepared in support of today's proposed action. A copy of the TSD is available upon request from the EPA Regional Office listed in the **ADDRESSES** section or it can be viewed at *http://www.regulations.gov.*

The following table of contents describes the format for this section:

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VIII. Conclusions
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I. What Is the Nature of EPA's Action?

EPA is proposing to approve an updated ten-year CO maintenance plan for the Nine Not-Classified Areas (the City of Atlantic City, the City of Burlington, the Borough of Freehold, the Town of Morristown, the Borough of Penns Grove, the City of Perth Amboy, the Borough of Somerville, the Toms River Area, and the City of Trenton) and Camden County in New Jersey. On June 28, 1996, the EPA approved a request from New Jersey to redesignate the Nine Not-Classified Areas and Camden County to attainment of the CO NAAQS (61 FR 33678). In addition, the EPA also approved at that time a ten-year CO maintenance plan for each of those areas. The Clean Air Act (the Act) requires that an area redesignated to attainment of the CO NAAQS must submit a second ten-year CO maintenance Plan to show how the area will continue to attain the CO standard for an additional ten years. On February 21, 2006, New Jersey submitted a second ten-year CO maintenance plan for the Nine Not-Classified Areas and Camden County and requested that EPA approve the plan. The following sections describe how the EPA made its determination proposing to approve the second ten-year maintenance plan. EPA is also proposing to approve revisions to the CO, NO_X, VOC, and $PM_{2.5}$ motor vehicle emissions budgets for Northern New Jersey. Finally, EPA also proposes to approve revisions to the general conformity budget for McGuire Air Force Base and the 2002 base year emissions inventory. These additional SIP revisions are discussed in sections III through VII.

II. CO Limited Maintenance Plan for Camden County and Nine Not-Classified Areas

A. What is a Limited Maintenance Plan?

A maintenance plan is a SIP revision that must demonstrate continued attainment of the applicable NAAQS in the maintenance area for at least ten years. The Act requires that a second ten-year plan be submitted in order to assure that the area will continue to stay in compliance with the relevant NAAQS. For the Nine Not Classified Areas and Camden County, New Jersey is proposing to utilize EPA's limited maintenance plan approach, as detailed in the EPA guidance memorandum, ''Limited Maintenance Plan Option for Nonclassifiable CO Nonattainment Areas'' from Joseph Paisie, Group Leader, Integrated Policy and Strategies Group, Office of Air Quality and Planning Standards OAQPS, dated October 6, 1995. Pursuant to this approach, EPA will consider the maintenance demonstration satisfied for ''not classified'' areas if the monitoring data show the design value is at or below 7.65 parts per million (ppm), or 85 percent of the level of the 8-hour CO NAAQS. The design value must be based on eight consecutive quarters of data. For such areas, there is no requirement to project emissions of air quality over the maintenance period. EPA believes if the area begins the maintenance period at, or below, 85 percent of the CO 8 hour NAAQS, the applicability of PSD requirements, the control measures already in the SIP, and Federal measures, should provide adequate assurance of maintenance over the initial 10-year maintenance period. In addition, the design value for the area must continue to be at or below 7.65 ppm until the time of final EPA action on the redesignation.

B. What Is Included in a Maintenance Plan?

Section 175A of the Act sets forth the elements of a maintenance plan for areas seeking redesignation from nonattainment to attainment. The initial and subsequent ten-year plans must each demonstrate continued attainment of the applicable NAAQS for at least ten years after approval. In this notice, EPA is proposing action on the second ten-year maintenance plan which covers the period from 2008 to 2017. The specific elements of a maintenance plan are:

1. Attainment Inventory

Since New Jersey's first ten-year maintenance plan contained an attainment inventory, this second ten-year maintenance plan did not need to include another one. However, given the amount of time that has passed since that submittal, New Jersey thought it more appropriate to submit a 2002 inventory which is discussed later in this notice. Since this was a Limited Maintenance Plan submittal, no projected inventories were required.

EPA's October 6, 1995 Limited Maintenance Plan guidance states that for inventory purposes the State is only required to submit an attainment inventory to EPA that is based on monitoring data which shows attainment. There is no requirement to project emissions over the maintenance period. This means if 2002 is a calendar year which has monitoring data which demonstrates attainment of the standard, the 2002 base year inventory can be used as the attainment year inventory and no projection inventories are required over the years of the maintenance period. Only calendar year 2002 summary emissions data (based on winter season day) are required. In addition, the inventory should be consistent with EPA's most recent guidance on emission inventories for nonattainment areas available at the time and should include emissions during the time period associated with the monitoring data showing attainment.

New Jersey submitted a limited maintenance plan which included a 2002 base year emissions inventory. The 2002 inventory is also classified as the attainment year inventory for the limited maintenance plan. New Jersey has elected 2002 because it is the attainment year base year that will be used for the limited maintenance plan and 2002 represents one of the years of violation free monitored data in the area. The inventory included peak winter season daily emissions from stationary point, stationary area, non-road mobile, and on-road mobile sources of CO. These emission estimates were prepared in accordance with EPA guidance.

EPA is approving the CO inventory for the counties of Atlantic, Burlington, Mercer, Middlesex, Monmouth, Morris, Ocean, Salem and Somerset (the 9 non-classified areas) and Camden County. Details of the inventory review are located in section VII.A. of this notice. A more detailed discussion of how the emission inventory was reviewed and the results are presented in the technical support document.

Tables 1 and 2 present a summary of the 2002 CO peak winter season daily emissions estimates in tons per day for the nine not classified areas and Camden County:

TABLE 1.—2002 ATTAINMENT INVENTORY NINE NOT CLASSIFIED AREAS CARBON MONOXIDE EMISSION INVENTORY

[Tons/peak winter season day]

County	Point	Area	Nonroad mobile	Onroad mobile	Total
Atlantic	0.48	62.98	21.57	153.15	238.18
Burlington	1.42	59.62	54.00	308.90	423.94
Mercer	1.46	14.32	43.01	224.90	283.69
Middlesex	8.27	6.34	107.85	531.04	653.50
Monmouth	0.72	30.42	78.43	423.04	532.61
Morris	1.23	46.59	97.30	393.14	538.26
Ocean	1.11	47.69	40.31	257.31	346.42
Salem	2.21	13.72	6.97	50.24	73.14
Somerset	1.17	11.65	47.55	211.93	272.30
Nine Not Classified Areas Total	18.07	293.33	496.99	2,553.65	3,362.04

TABLE 2.—2002 ATTAINMENT INVENTORY CAMDEN COUNTY CARBON MONOXIDE EMISSION INVENTORY

[Tons/peak winter season day]

County	Point	Area	Nonroad mobile	Onroad mobile
Camden	3.30	18.42	53.39	269.10

2. Maintenance Demonstration

New Jersey has met the Limited Maintenance Plan air quality criteria requirement by demonstrating that its highest monitored design value is less than 85 percent (7.65 parts per million) of the CO standard of 9.0 parts per million. The highest monitored design value for the 2002–2003 design year was 4.4 parts per million. In addition, New Jersey commits to continued implementation of all other federal and State measures already implemented as part of its CO SIP. Thus, according to the Limited Maintenance Guidance, emission projections are not required.

3. Monitoring Network

New Jersey continues to operate its CO monitoring network and will continue to work with the USEPA through the air monitoring network review process as required by 40 CFR part 58 to determine the adequacy of its network. New Jersey will continue annual reviews of its data in order to verify continued attainment of the NAAQS. As mentioned earlier, all of New Jersey's 8-hour design values are well below the 9.0 ppm 8-hour NAAQS for CO with the highest monitor reading 4.4 ppm. This can be seen in Table 3.

TABLE 3.—DESIGN VALUES FOR CO IN NEW JERSEY

[8-hour standard—9 parts per million]

Monitoring location	2002–2003 design value (parts per million)
Ancora S.H.	0.8
Burlington	2.5
Camden Lab [1]	2.1
East Orange	4.2
Elizabeth	4.4
Elizabeth Lab	3.1
Fort Lee [2]	2.6
Freehold	2.2
Hackensack	3.4
Jersey City	2.9
Morristown	2.4
Newark Lab [3]	2.9
Perth Amboy	2.5

Notes:
[1] Data not available October–December 2003.
[2] Data not available July–August 2002.
[3] Data not available July–December 2003.

In its SIP revision, New Jersey used the 2002–2003 design values since they coincide with the 2002 emissions inventory. EPA reviewed more recent data in addition to the 2002–2003 data and found the maximum 2004–2005 design value for New Jersey to be 3.4 ppm, which continues to show attainment of the NAAQS.

4. Verification of Continued Attainment

New Jersey will verify that the Nine Not-Classified Areas and Camden County areas continue to attain the CO NAAQS through an annual review of its monitoring data. If any design value exceeds 7.65 ppm, New Jersey will coordinate with USEPA Region II to verify and evaluate the data and then, if warranted, develop a full maintenance plan for the affected maintenance area.

5. Contingency Plan

Section 175A(d) of the Act requires that a maintenance plan include a contingency plan which includes contingency measures, as necessary, to promptly correct any violation of the NAAQS that occurs after redesignation of the area. Contingency measures do not have to be fully adopted at the time of redesignation. However, the contingency plan is considered to be an enforceable part of the SIP and should ensure that the contingency measures are adopted expeditiously once they are triggered by a specified event. In addition, the contingency plan includes a requirement that the State continue to implement all control measures used to bring the area into attainment.

The triggers specified in New Jersey's previous maintenance plan are included in this Limited Maintenance Plan. If air quality monitoring data indicate that the CO NAAQS were exceeded, New Jersey will analyze the data to determine the cause of the violation. If it is determined that the violation was caused by a non-local motor vehicle usage event, then the State will institute the contingency measures described below.

a. Control Measures

New Jersey has implemented a number of measures to control motor vehicle CO emissions. Emission reductions achieved through the

implementation of these control measures are enforceable. These measures include the Federal Motor Vehicle Control Program, Federal reformulated gasoline, New Jersey's pre-1990 modifications to its inspection and maintenance (I/M) program, and local transportation control measures.

The State of New Jersey has demonstrated that actual enforceable emission reductions are responsible for the air quality improvement and that the CO emissions in the base year are not artificially low due to local economic downturn. EPA finds that the combination of existing EPA-approved SIP and Federal measures contribute to the permanence and enforceability of reduction in ambient CO levels that have allowed Camden County to attain the NAAQS since 1990 and the nine not-classified areas to attain since 1986.

New Jersey commits to continuing to implement all control measures used to bring the area into attainment.

b. Contingency Measure

The State plans to continue to use the contingency measure from the original maintenance plan. The plan included implementation of an enhanced I/M program. This program is fully operational and the State commits to meet the performance standard for an enhanced I/M program in an effort to maintain the CO NAAQS. Although the plan is currently in place, EPA guidance allows for it to act as a contingency measure. In addition, since we had approved this measure in the previous maintenance plan, we are proposing to approve it in this notice.

6. Conformity

Section 176(c) of the Act defines conformity as meeting the SIP's purpose of eliminating or reducing the severity and number of violations of the NAAQS and achieving expeditious attainment of such standards. The Act further defines transportation conformity to mean that no Federal transportation activity will: (1) Cause or contribute to any new violation of any standard in any area; (2) increase the frequency or severity of any existing violation of any standard in any area; or (3) delay timely attainment of any standard or any required interim emission reductions or other milestones in any area. The Federal transportation conformity rule, 40 CFR part 93 subpart A, sets forth the criteria and procedures for demonstrating and assuring conformity of transportation plans, programs and projects which are developed, funded or approved by the U.S. Department of Transportation, and by metropolitan planning organizations or other recipients of federal funds under Title 23 U.S.C. or the Federal Transit Laws (49 U.S.C. chapter 53).

The transportation conformity rule applies within all nonattainment and maintenance areas. As prescribed by the Rule, once an area has an applicable SIP with motor vehicle emissions budgets, the expected emissions from planned transportation activities must be consistent with (''conform to'') such established budgets for that area.

In the case of the Nine Not Classified Areas and Camden County CO limited maintenance plan areas, however, the emissions budgets may be treated as essentially not constraining for the length of this second maintenance period as long as the area continues to meet the limited maintenance criteria, because there is no reason to expect that these areas will experience so much growth in that period that a violation of the CO NAAQS would result. In other words, emissions from on-road transportation sources need not be capped for the maintenance period because it is unreasonable to believe that emissions from such sources would increase to a level that would threaten the air quality in this area for the duration of this maintenance period. Therefore, for the limited maintenance plan CO maintenance area, all Federal actions that require conformity determinations under the transportation conformity rule are considered to satisfy the regional emissions analysis and ''budget test'' requirements in 40 CFR 93.118 of the rule.

Since limited maintenance plan areas are still maintenance areas, however, transportation conformity determinations are still required for transportation plans, programs and projects. Specifically, for such determinations, transportation plans, transportation improvement programs, and projects must still demonstrate that they are fiscally constrained (40 CFR part 108) and must meet the criteria for consultation and Transportation Control Measure (TCM) implementation in the conformity rule (40 CFR 93.112 and 40 CFR 93.113, respectively). In addition, projects in limited maintenance areas will still be required to meet the criteria for CO hot spot analyses to satisfy ''project level'' conformity determinations (40 CFR 93.116 and 40 CFR 93.123) which must incorporate the latest planning assumptions and models that are available. All aspects of transportation conformity (with the exception of satisfying the emission budget test) will still be required. Approval of the limited maintenance plan will not supersede the current 2007 motor vehicle emissions budget. Conformity determinations conducted prior to the end of 2007 would still have to include a budget test for 2007.

If one of the CO attainment areas should monitor CO concentrations at or above the limited maintenance eligibility criteria or 7.65 parts per million then that maintenance area would no longer qualify for a limited maintenance plan and would revert to a full maintenance plan. In this event, the limited maintenance plan would remain applicable for conformity purposes only until the full maintenance plan is submitted and EPA has found its motor vehicle emissions budget adequate for conformity purposes or EPA approves the full maintenance plan SIP revision. At that time regional emissions analyses would resume as a transportation conformity criteria.

III. Revisions to the CO Motor Vehicle Emissions Budgets for Northern New Jersey

A. Are These Budgets Approvable?

The proposed maintenance plan revises the motor vehicle emissions budgets (budgets) for CO for the New Jersey portion of the New York-Northern New Jersey-Long Island, NY–NJ–CT CO maintenance area for the years 2007 and 2014, previously approved by EPA in the August 30, 2004 **Federal Register** (69 FR 52834). These revised budgets include an allocation of a portion of a ''safety margin'' established in the CO maintenance plan.

A ''safety margin'' is the difference between the attainment level of emissions (from all sources) and the projected level of emissions (from all sources) in the maintenance plan. The attainment level of emissions is the level of emissions during one of the years in which the area met the air quality health standard. For example, 1996 is the base year of Northern New Jersey's first ten-year maintenance plan, and the safety margin is calculated using the differences between 1996 and future year total emissions.

The total emissions in 1996 from mobile, stationary and area sources equaled 1365.31 tons per day of CO. New Jersey projected the CO emissions in Northern New Jersey from all sources for the years 2007 and 2014 to be 997.71 tons per day and 1071.93 tons per day, respectively. The CO safety margin for Northern New Jersey in 2007 and 2014 is calculated to be the difference between the total emissions in 1996 and the total emissions for each of the projected years, 367.60 tons per day for 2007 and 293.38 tons per day for 2014. The 2007 and 2014 CO emission projections reflecting the total of point,

area and mobile source reductions are illustrated in Table 4.

TABLE 4.—CO EMISSIONS AND SAFETY MARGIN DETERMINATIONS, NORTHERN NEW JERSEY

[Tons/day]

Source category	CO emissions		
	1996	2007	2014
Total	1365.31	997.71	1071.93
Safety Margin	N/A	367.60	293.38

In the submittal the State requested to allocate the entire safety margin to both the 2007 and 2014 budgets. This approach provides the transportation sector with an adequate budget increase for the two future scenario years to account for changes in transportation-related emissions due to updated planning assumptions, while still meeting the requirements of the maintenance plan. The CO motor vehicle emissions budgets that include the safety margin allocations are outlined below in Table 5.

TABLE 5.—CARBON MONOXIDE MOTOR VEHICLE EMISSIONS BUDGETS

[Tons/day]

Year	Prior motor vehicle emissions budgets	Safety margin allocation	Final motor vehicle emissions budgets
2007	783.39	367.60	1150
2014	605.63	293.38	899

The planned allowable levels of CO emissions are projected to maintain the area's air quality consistent with the air quality health standard. The safety margin credit can be allocated to the transportation sector while maintaining air quality attainment. The total emission level, even with this allocation, will be below the attainment level, or safety level, and thus is acceptable.

These revised CO budgets are consistent with the State's emission baseline, projected inventories for highway mobile sources and use of a margin of safety. EPA is proposing to approve the 2007 and 2014 budgets for CO.

IV. Revisions to the NO_X and VOC Motor Vehicle Emissions Budgets for Northern New Jersey

A. Are the Revised Motor Vehicle Emissions Budgets Consistent With New Jersey's 1-Hour Ozone Attainment Demonstration?

New Jersey is proposing to revise the 2005 and 2007 VOC and NO_X motor vehicle emissions budgets (budgets) for the Northern New Jersey nonattainment area by setting new budgets based on updated planning assumptions. These updated budgets apply to the North Jersey Transportation Planning Authority. In its proposal, New Jersey included a relative reduction comparison to show that its 1-Hour Ozone Attainment Demonstration SIP continues to demonstrate attainment using revised inventories for the Northern New Jersey nonattainment area. New Jersey's attainment demonstration used photochemical grid modeling supplemented with weight of evidence. As such, the State's methodology for the relative reduction comparison consists of comparing the updated on-road mobile inventories with the previously approved (67 FR 5152) inventories for the Northern New Jersey nonattainment area to determine if attainment will still be predicted by the established attainment dates. Specifically, the State calculated the relative reductions (expressed as percent reductions) in ozone precursors between the previous 1996 base year and attainment year inventories. These percent reductions were then compared to the percent reductions between the revised 1996 base year and attainment year inventories.

New Jersey's relative reduction comparison shows that for the Northern New Jersey nonattainment area the percent reduction of VOC emissions achieved in the revised inventories is higher than the percent reduction previously calculated, however the percent reduction of NO_X emissions achieved in the revised inventories is lower than the percent reduction previously calculated, and thus a slight NO_X shortfall is indicated. New Jersey has previously demonstrated in its Rate of Progress SIP, approved by EPA on February 4, 2002 (67 FR 5152), that VOC or NO_X emission reductions are equally valuable towards attaining the 1-hour ozone standard. Therefore, New Jersey substituted excess VOC emission reductions for NO_X emission reductions, as allowed for under Section 182(c)(2)(C) of the Clean Air Act. To make such an equivalency demonstration, the State converted the percentage changes for VOC and NO_X to +14.01 and −6.09 tons per day, respectively. Based on the emission inventories, New Jersey has determined for the Northern New Jersey nonattainment area that approximately 1.29 tons of VOC emissions equals 1 ton of NO_X emissions, as the emissions relate to their potential to form ozone. Consistent with EPA's policy on substitution of ozone precursor emission reductions, New Jersey increased the NO_X reductions and decreased VOC reductions by their equivalent amounts, resulting in offsetting effects with respect to ozone formation. Thus, the required emission reductions needed to attain the 1-hour ozone NAAQS are achieved for the Northern New Jersey nonattainment area, and the SIP continues to demonstrate attainment.

New Jersey's proposed SIP revision demonstrates that the new levels of motor vehicle emissions calculated using updated planning assumptions continue to support achievement of the projected attainment of the 1-Hour

Ozone NAAQS by the attainment date of 2007 for the Northern New Jersey nonattainment area.

B. Are These Budgets Approvable?

Table 6 below summarizes New Jersey's revised budgets contained in the proposed SIP revision. These budgets were developed using the latest planning assumptions, including 2005 vehicle registration data, vehicle miles traveled (VMT), speeds, fleet mix, and SIP control measures and are for the North Jersey Transportation Planning Authority. The 2005 budgets are revised budgets based on the Reasonable Further Progress plan and the 2007 budgets are revised attainment year budgets. The increase in the NO_X budget is attributed to the updated planning assumptions and does not necessarily indicate an actual increase in emissions. As described above, New Jersey, in its proposal, has demonstrated that attainment is not impacted by this revision.

TABLE 6.—REVISED MOTOR VEHICLE EMISSIONS BUDGETS FOR THE NORTH JERSEY TRANSPORTATION PLANNING AUTHORITY

[Tons/day]

	VOC		NO_X	
	2005	2007	2005	2007
Previous	148.27	125.82	253.05	198.34
Updated	146.33	122.53	327.83	256.58

EPA is proposing to approve the revisions to the 2005 and 2007 budgets for VOC and NO_X for the North Jersey Transportation Planning Authority.

V. $PM_{2.5}$ Motor Vehicle Emissions Budgets for Northern New Jersey

A. Are these budgets approvable?

The proposed early progress $PM_{2.5}$ SIP establishes motor vehicle emission budgets for 2009 for the New Jersey portion of the New York-Northern New Jersey-Long Island, NY-NJ-CT $PM_{2.5}$ nonattainment area. The NY-NJ-CT $PM_{2.5}$ nonattainment area and the Northern New Jersey portion thereof is violating the annual $PM_{2.5}$ standard, and therefore these budgets are being established for annual emissions of direct $PM_{2.5}$ and NO_X, a $PM_{2.5}$ precursor. Northern New Jersey and the larger nonattainment area are not violating and are significantly below the 24-hour $PM_{2.5}$ standard, and EPA believes that the State has deemed that by attaining the annual standard they will continue to meet the 24-hour standard. Therefore, New Jersey did not address or establish budgets for the 24-hour $PM_{2.5}$ standard in this SIP revision. These budgets are established for annual emissions of direct $PM_{2.5}$ and NO_X, a $PM_{2.5}$ precursor. Other $PM_{2.5}$ precursors (VOC, SO_X, and NH_3) were not found to be significant by either New Jersey or EPA prior to this submittal and were not included in the motor vehicle emissions budgets. Additionally, fugitive dust emissions, which include re-entrained road dust and transportation-related construction dust, were not found to be significant by either New Jersey or EPA and were not included in the budgets. However, approval of these budgets does not preclude New Jersey or EPA from finding any of the above precursors or fugitive dust to be significant contributors to nonattainment of the $PM_{2.5}$ standard in the future. New Jersey may choose to include any or all precursors and fugitive dust in future SIP submittals.

EPA allows for the establishment of motor vehicle emission budgets for $PM_{2.5}$ prior to the state submitting its first required $PM_{2.5}$ SIP (69 FR 40028). These budgets are set through the establishment of an early SIP that meets all the requirements of a SIP submittal, and in which emissions from all sources, when projected from the base to a future year, show some progress toward attainment. EPA has interpreted the phrase ''some progress toward attainment'' to mean a 5% to 10% reduction in emissions from all sources (69 FR 40019). For this SIP submittal emissions were projected from the 2002 base year to 2009, the attainment year.

Submittal of this early progress SIP does not satisfy the requirement to submit a full $PM_{2.5}$ attainment SIP. New Jersey may revise the 2009 budgets in the $PM_{2.5}$ attainment SIP with appropriate supporting documentation.

The total annual emissions in 2002 from mobile, stationary and area sources for Northern New Jersey equaled 13,952 tons per year of direct $PM_{2.5}$ and 236,251 tons per year of NO_X. New Jersey projected the $PM_{2.5}$ and NO_X emissions from all sources for 2009 to be 13,049 tons per year of direct $PM_{2.5}$ and 159,990 tons per year of NO_X. This represents a 6.5% reduction in direct $PM_{2.5}$ and a 32.3% reduction in NO_X emissions from 2002 to 2009, thereby meeting EPA's 5% to 10% minimum reduction guideline. The 2002 and 2009 emission projections reflecting the point, area and mobile source reductions are illustrated in Tables 7 and 8.

TABLE 7.—DIRECT $PM_{2.5}$ EMISSIONS, NJ PORTION OF THE NY-NJ-CT NONATTAINMENT AREA

[Tons/year]

Source category	Direct $PM_{2.5}$ emissions		
	2002	2009	Percent change
On-Road	2,220	1,296	−42
Nonroad	3,206	2,788	−13
Stationary	2,790	3,035	9
Area	5,736	5,930	3
Total	13,952	13,049	−6.5

TABLE 8.—NO_X EMISSIONS, NJ PORTION OF THE NY-NJ-CT NONATTAINMENT AREA

[Tons/year]

Source category	NO_X emissions		
	2002	2009	Percent change
On-Road	137,701	66,004	−52
Nonroad	45,957	37,694	−18
Stationary	34,420	36,804	7
Area	18,173	19,488	7
Total	236,251	159,990	−32.3

A detailed review of the 2002 $PM_{2.5}$ and NO_X annual emission inventories are covered in section VII. A. of this notice. Tables 11 and 12 present a summary of 2002 $PM_{2.5}$ and NO_X annual emission estimates by source sector and by county for the New Jersey portion of the New York-Northern New Jersey-Long Island, NY-NJ-CT $PM_{2.5}$ nonattainment area.

In the submittal, the State has established ''sub-area budgets'' for the two metropolitan planning organizations (MPO) within the New Jersey portion of the larger $PM_{2.5}$ nonattainment area, the North Jersey Transportation Planning Authority (NJTPA) and the Delaware Valley Regional Planning Commission (DVRPC). These sub-area budgets allow each MPO to work independently to demonstrate conformity by meeting its own $PM_{2.5}$ and NO_X budgets. Each MPO must still verify, however, that the other MPO currently has a conforming long range transportation plan and transportation improvement program (TIP) prior to making a new plan/TIP conformity determination. The sub-area budgets are listed in Table 9.

TABLE 9.—2009 SUB-AREA MOTOR VEHICLE EMISSIONS BUDGETS NY-NJ-CT NONATTAINMENT AREA

[Tons/year]

MPO	Direct $PM_{2.5}$	NO_X
NJTPA [1]	1,207	61,676
DVRPC [2]	89	4,328

[1] Covers Bergen, Essex, Hudson, Middlesex, Monmouth, Morris, Passaic, Somerset, and Union Counties.
[2] Covers Mercer County only.

The proposed 2009 $PM_{2.5}$ budgets are consistent with the State's 2002 emission baseline and 2009 projected inventories for highway mobile sources, as described in Sections VII.A. and B. of this notice. EPA is therefore proposing to approve the 2009 sub-area budgets for direct $PM_{2.5}$ and NO_X, because these budgets meet all applicable requirements.

These budgets are currently undergoing a process to find if they are adequate for transportation conformity purposes prior to EPA's final SIP action. Once budgets are deemed adequate, they may be used in making conformity determinations. EPA believes that the proposed 2009 budgets meet EPA's adequacy criteria (40 CFR 93.118(e)(4)) and, through a separate process, is taking comments through April 24, 2006 prior to making an adequacy determination. For more information on the adequacy process please see EPA's adequacy Web site: *http://www.epa.gov/otaq/stateresources/transconf/adequacy.htm*. The adequacy process is separate from the SIP approval process; therefore, these budgets may be found adequate prior to EPA finalizing any approval action for this SIP. The result of EPA's adequacy finding will be published in the **Federal Register**.

VI. Revisions to the General Conformity Budget for McGuire Air Force Base

A. Are These Budgets Approvable?

New Jersey is proposing to update the 1-hour ozone general conformity emissions budgets for the McGuire Air Force Base previously approved by EPA in the July 23, 2003 **Federal Register** (68 FR 43462). Due to McGuire Air Force Base's vital role in the national defense and need to have operational flexibility in order to meet its present and future emissions, New Jersey is proposing a change to the 2005 emissions budgets. The year 2005 NO_X budget is being increased by 450 tons per year and the VOC budget is being decreased by 468 tons per year. This budget will be used in preparation for a new budget to be determined by the 8-hour ozone attainment demonstration. New Jersey is proposing this change consistent with EPA's policy on substitution of ozone precursor emission reductions. Based on the emission inventories, New Jersey has determined for the Trenton nonattainment area that approximately 1 ton per year of NO_X emissions equals 1.04 tons per year of VOC emissions, as the emissions relate to their potential to form ozone. Thus, increasing NO_X and decreasing VOC by their equivalent amounts results in offsetting effects with respect to ozone formation. The VOC emission reduction has been achieved through the implementation of pollution prevention measures. Table 10 below summarizes the revised general conformity budgets. The revised 2005 budgets would apply to 2005 and all future years until new budgets are established based on the 8-hour ozone attainment demonstration. EPA is proposing to approve the revised 2005 general conformity emissions budgets.

TABLE 10.—MCGUIRE AIR FORCE BASE GENERAL CONFORMITY EMISSIONS BUDGETS

	Previously approved budgets		New budgets	
	VOC (tons/year)	NO_X (tons/year)	VOC (tons/year)	NO_X (tons/year)
2005 [1]	1,198	1,084	730	1,534

[1] 2005 budgets updated such that the increase in NO_X is offset by a decrease in VOC, resulting in no expected net increase in ozone formation.

VII. New Jersey Emissions Inventory

A. 2002 Base Year Inventory

On November 18, 2002, EPA designated the 2002 base year inventory as the inventory for SIP planning process to address the pollutants for the eight hour-ozone, $PM_{2.5}$ and CO national ambient air quality standards. Identifying the base year gives certainty to States, and the selection of 2002 harmonizes the date for EPA's Consolidated Emissions Reporting rule (See 67 FR 39602 dated June 10, 2002), which requires submission of the ozone, $PM_{2.5}$ and CO emission inventories every three years; 2002 is one of the required years for such updates. These requirements allow the EPA, based on the state's progress in reducing emissions, to periodically reassess its policies and air quality standards and revise them as necessary. Most important, the 2002 ozone, $PM_{2.5}$ and CO inventories will be used to develop and assess new control strategies that the states will need to submit in their attainment demonstration SIPs for the national ambient air quality standards for ozone, $PM_{2.5}$ and CO. The base year inventory plays an important role in modeling demonstrations for areas classified as nonattainment and transport regions. The base year inventory may also serve as part of statewide inventories for purposes of regional modeling in transport areas. For the reasons stated above, EPA would therefore emphasize the importance and benefits of developing comprehensive, current, and accurate 2002 ozone, $PM_{2.5}$ and CO emission inventories.

There are specific components of an acceptable emission inventory. The emission inventory must meet certain minimum requirements for reporting each source category. Specifically, the source requirements are detailed below.

The review process, which is described in supporting documentation, is used to determine that all components of the base year inventory are present. This review also evaluates the level of supporting documentation provided by the state, assesses whether the emissions were developed according to current EPA guidance, and evaluates the quality of the data.

The review process is outlined here and consists of 9 points that the inventory must include. For a base year emission inventory to be acceptable, it must pass all of the following acceptance criteria:

1. Evidence that the inventory was quality assured by the state and its implementation documented.
2. The point source inventory was complete.
3. Point source emissions were prepared or calculated according to the current EPA guidance.
4. The area source inventory was complete.
5. The area source emissions were prepared or calculated according to the current EPA guidance.
6. Biogenic emissions were prepared according to current EPA guidance or another approved technique.
7. Non-road mobile emissions were prepared according to current EPA guidance for all of the source categories.
8. The method (e.g., HPMS or a network transportation planning model) used to develop VMT estimates followed EPA guidance.
9. The MOBILE model was correctly used to produce emission factors for each of the vehicle classes.

Based on EPA's review, New Jersey satisfied all of EPA's requirements for purposes of providing a comprehensive, accurate, and current inventory of actual emissions for ozone, $PM_{2.5}$ and CO nonattainment areas. Where applicable, annual emissions are provided for VOC, NO_X, CO, $PM_{2.5}$, PM_{10}, NH_3 and SO_2 emissions; VOC, NO_X and CO peak summer season daily emissions are provided for ozone nonattainment areas and CO peak winter season daily emissions are provided for CO nonattainment areas. The inventory was developed in accordance with *Emission Inventory Guidance for Implementation of ozone and Particulate Matter NAAQS and Regional Haze Regulation*, dated August 2005. A summary of EPA's review is given below:

1. The Quality Assurance (QA) plan was implemented for all portions of the inventory. The QA plan included a QA/Quality control (QC) program for assessing data completeness and standard range checking. Critical data elements relative to the inventory sources were assessed for completeness. QA checks were performed relative to data collection and analysis, and double counting of emissions from point, area and mobile sources. QA/QC checks were conducted to ensure accuracy of units, unit conversions, transposition of figures, and calculations.
2. The inventory is well documented. New Jersey provided documentation detailing the methods used to develop emissions estimates for each category. In addition, New Jersey identified the sources of data used in developing the inventory.
3. The point source emissions are complete in accordance with EPA guidance.
4. The point source emissions were prepared/calculated in accordance with EPA guidance.
5. The area source emissions are complete and were prepared/calculated in accordance with EPA guidance.
6. Biogenic emissions were prepared/calculated using the EPA's Biogenic Emission Inventory System Model version 3.12 in accordance with EPA guidance.
7. Emission estimates for the non-road mobile source categories were correctly based on the latest nonroad mobile model and prepared in accordance with EPA guidance.
8. The method used to develop VMT estimates was in accordance with EPA guidance and was adequately described and documented in the inventory report.
9. Mobile model 6.2.03 was used correctly for each of the vehicle classes.

The 2002 base year inventory has been developed in accordance with EPA guidance. Therefore, EPA is proposing to approve the 2002 base year VOC, NO_X, CO, $PM_{2.5}$, PM_{10}, NH_3 and SO_2 emission inventories.

A more detailed discussion of how the emission inventory was reviewed and the results of the review are presented in the technical support document. Detailed emission inventory development procedures can be found in the following document: *Emission Inventory Guidance for Implementation*

of ozone and Particulate Matter NAAQS and Regional Haze Regulation, dated August 2005.

Tables 11 and 12 present a summary of 2002 $PM_{2.5}$ and NO_X annual emission estimates by source sector and by county for the New Jersey portion of the New York-Northern New Jersey-Long Island, NY-NJ-CT $PM_{2.5}$ nonattainment area. Tables 13, 14 and 15 present a summary of VOC, NO_X and CO peak summer season daily emissions by source sector by county in New Jersey. Tables 16 through 22 present a summary of the 2002 VOC, NO_X, CO, $PM_{2.5}$, NH_3, PM_{10}, and SO_2 annual emissions by source sector by county in New Jersey. Section II.B.1, Tables 1 and 2 present CO peak winter season daily emissions.

TABLE 11.—2002 ANNUAL $PM_{2.5}$ BASE YEAR INVENTORY, THE NEW JERSEY PORTION OF THE NEW YORK-NORTHERN NEW JERSEY-LONG ISLAND, NY-NJ-CT $PM_{2.5}$ NONATTAINMENT AREA

[In tons/year]

County	Point	Area	Nonroad mobile	Onroad mobile
Bergen	149	537	478	376
Essex	185	411	393	291
Hudson	1,077	269	345	134
Mercer	188	530	203	141
Middlesex	483	467	346	347
Monmouth	55	981	501	244
Morris	39	1,284	280	209
Passaic	19	543	178	141
Somerset	55	441	149	152
Union	540	272	333	185
Total	2,790	5,736	2,788	2,200

TABLE 12.—2002 ANNUAL NO_X BASE YEAR INVENTORY, THE NEW JERSEY PORTION OF THE NEW YORK-NORTHERN NEW JERSEY-LONG ISLAND, NY-NJ-CT $PM_{2.5}$ NONATTAINMENT AREA

[In tons/year]

County	Point	Area	Nonroad mobile	Onroad mobile
Bergen	988	2,815	6,707	23,917
Essex	2,441	2,436	8,137	16,537
Hudson	9,674	1,735	5,976	7,853
Mercer	13,034	1,257	2,427	8,505
Middlesex	3,567	2,343	4,849	22,147
Monmouth	240	1,806	4,316	14,860
Morris	284	1,752	3,151	13,758
Passaic	122	1,361	2,413	8,748
Somerset	313	1,048	2,097	9,090
Union	3,757	1,621	5,883	12,294
Total	34,420	18,173	45,957	137,701

TABLE 13.—2002 STATEWIDE VOC SUMMER SEASON DAILY EMISSION INVENTORY

[By county and source sector]

County	VOC tons per day				
	Point sources	Area sources	Onroad mobile source	Nonroad mobile sources	Biogenic
Atlantic	0.15	11.04	12.85	10.25	40.38
Bergen	5.72	36.86	36.09	22.05	4.60
Burlington	4.02	17.54	15.80	10.01	39.84
Camden	1.23	22.68	13.80	7.23	20.06
Cape May	0.20	5.26	4.72	22.61	19.55
Cumberland	0.46	8.93	5.37	11.03	28.41
Essex	2.95	31.53	18.26	11.92	3.40
Gloucester	32.01	20.39	9.10	5.91	16.83
Hudson	7.33	21.09	9.10	5.22	3.27
Hunterdon	0.64	5.49	5.99	3.66	12.44
Mercer	2.13	13.06	11.60	7.01	12.65
Middlesex	16.08	34.87	26.00	14.58	12.78
Monmouth	1.37	24.65	22.26	21.26	22.00
Morris	1.27	20.81	18.87	15.09	13.75
Ocean	0.26	24.01	14.30	21.54	43.80

TABLE 13.—2002 STATEWIDE VOC SUMMER SEASON DAILY EMISSION INVENTORY—Continued

[By county and source sector]

County	VOC tons per day				
	Point sources	Area sources	Onroad mobile source	Nonroad mobile sources	Biogenic
Passaic	1.99	19.84	10.22	6.62	11.04
Salem	4.92	3.47	4.23	3.37	18.64
Somerset	0.73	12.29	10.65	6.87	12.20
Sussex	0.25	5.69	4.62	3.86	20.48
Union	26.56	25.26	15.92	7.75	2.31
Warren	2.88	5.07	4.99	2.78	13.50
Total in State	113.15	369.83	274.74	220.60	371.95

TABLE 14.—2002 STATEWIDE NO_X SUMMER SEASON DAILY EMISSION INVENTORY

[By county and source sector]

County	NO_X tons per day				
	Point sources	Area sources	Onroad mobile sources	Nonroad mobile sources	Biogenic
Atlantic	1.67	1.17	24.50	6.26	0.21
Bergen	3.64	3.83	63.24	23.38	0.07
Burlington	12.35	1.77	31.10	12.88	0.26
Camden	2.69	2.10	27.00	9.44	0.21
Cape May	19.15	0.42	8.82	5.92	0.19
Cumberland	10.50	0.65	10.61	7.94	0.34
Essex	16.18	3.31	44.06	25.70	0.07
Gloucester	14.48	1.01	18.50	8.01	0.19
Hudson	51.61	2.24	21.05	20.71	0.07
Hunterdon	9.47	0.54	17.17	4.70	0.19
Mercer	47.87	1.72	22.70	9.32	0.20
Middlesex	44.47	3.33	58.00	17.54	0.16
Monmouth	0.86	2.23	38.15	15.74	0.22
Morris	1.18	2.40	35.06	11.58	0.12
Ocean	3.68	2.39	24.65	7.57	0.27
Passaic	0.68	1.79	23.01	8.88	0.10
Salem	15.26	0.31	11.91	3.21	0.32
Somerset	3.60	1.44	23.85	7.57	0.15
Sussex	0.21	0.57	7.47	2.46	0.15
Union	18.88	2.26	32.22	20.25	0.08
Warren	1.93	0.47	15.60	2.48	0.22
Total in State	280.36	35.92	558.66	231.56	3.78

TABLE 15.—2002 STATEWIDE CO SUMMER SEASON DAILY EMISSION INVENTORY

[By county and source sector]

County	CO tons per day				
	Point sources	Area sources	Onroad mobile sources	Nonroad mobile sources	Biogenic
Atlantic	0.36	2.66	155.53	70.26	2.96
Bergen	2.36	2.07	324.50	358.25	0.54
Burlington	1.48	1.97	168.90	121.35	3.33
Camden	3.28	6.89	145.90	112.44	1.57
Cape May	2.18	0.66	53.58	80.06	1.54
Cumberland	1.56	1.13	56.91	50.35	2.28
Essex	3.61	2.40	187.93	182.98	0.45
Gloucester	3.27	1.54	99.80	77.69	1.41
Hudson	9.42	1.22	87.49	68.72	0.44
Hunterdon	6.43	1.03	64.94	48.31	1.60
Mercer	1.51	1.37	122.70	104.18	1.42
Middlesex	34.20	2.54	287.54	228.84	1.16

TABLE 15.—2002 STATEWIDE CO SUMMER SEASON DAILY EMISSION INVENTORY—Continued

[By county and source sector]

County	CO tons per day				
	Point sources	Area sources	Onroad mobile sources	Nonroad mobile sources	Biogenic
Monmouth	1.28	1.79	227.22	212.60	1.98
Morris	2.24	2.35	209.14	227.91	1.42
Ocean	1.21	29.78	135.96	143.85	3.89
Passaic	0.40	1.23	105.86	98.09	1.13
Salem	2.28	0.57	49.04	21.42	1.63
Somerset	5.96	1.16	112.52	107.75	1.40
Sussex	0.33	1.80	42.35	37.57	2.00
Union	3.87	1.11	162.44	118.31	0.36
Warren	2.12	1.19	56.12	26.89	1.58
Total in State	89.35	66.45	2,856.37	2,497.80	34.09

TABLE 16.—2002 STATEWIDE VOC ANNUAL EMISSION INVENTORY

[By county and source sector]

County	VOC tons per year				
	Point sources	Area sources	Onroad mobile sources	Nonroad mobile sources	Biogenic
Atlantic	52	5,492	3,613	3,521	14,748
Bergen	773	11,243	14,048	6,361	1,681
Burlington	927	7,057	6,278	3,000	14,552
Camden	453	7,228	5,512	2,110	7,326
Cape May	39	2,474	1,348	8,480	7,140
Cumberland	102	3,208	1,492	4,196	10,377
Essex	791	9,568	7,238	3,739	1,244
Gloucester	11,560	7,032	3,650	1,686	6,148
Hudson	2,104	6,628	3,567	1,617	1,195
Hunterdon	144	2,468	2,441	1,038	4,545
Mercer	446	4,445	4,636	1,922	4,619
Middlesex	4,366	10,594	10,478	4,115	4,669
Monmouth	287	8,477	8,973	6,996	8,036
Morris	309	7,947	7,662	4,211	5,024
Ocean	76	7,746	5,792	7,714	15,998
Passaic	253	6,537	4,109	2,081	4,034
Salem	1,034	1,516	1,205	1,162	6,809
Somerset	224	4,075	4,311	1,898	4,455
Sussex	38	3,656	1,881	1,490	7,479
Union	5,382	7,652	6,354	2,237	843
Warren	809	2,631	2,001	832	4,931
Total in State	30,169	127,673	106,589	70,407	135,851

TABLE 17.—2002 STATEWIDE NO_X ANNUAL EMISSION INVENTORY

[By county and source sector]

County	NO_X tons per year				
	Point sources	Area sources	Onroad mobile sources	Nonroad mobile sources	Biogenic
Atlantic	129	964	6,764	1,771	78
Bergen	988	2,815	23,917	6,707	25
Burlington	1,273	1,424	11,644	3,776	97
Camden	776	1,523	10,074	2,669	77
Cape May	3,819	357	2,433	1,959	68
Cumberland	1,778	469	2,883	2,574	125
Essex	2,441	2,436	16,537	8,137	27
Gloucester	4,645	800	6,899	2,200	71
Hudson	9,776	1,735	7,853	5,976	27

TABLE 17.—2002 STATEWIDE NO_X ANNUAL EMISSION INVENTORY—Continued

[By county and source sector]

County	NO_X tons per year				
	Point sources	Area sources	Onroad mobile sources	Nonroad mobile sources	Biogenic
Hunterdon	491	424	6,444	1,223	69
Mercer	13,034	1,257	8,505	2,427	72
Middlesex	3,651	2,343	22,147	4,849	58
Monmouth	240	1,806	14,860	4,316	79
Morris	284	1,752	13,748	3,151	43
Ocean	395	1,507	9,538	2,138	98
Passaic	122	1,361	8,748	2,413	38
Salem	3,267	227	3,185	932	116
Somerset	313	1,048	9,090	2,097	54
Sussex	39	495	2,936	615	55
Union	4,080	1,621	12,294	5,883	28
Warren	580	379	5,782	631	79
Total in State	52,121	26,742	206,280	66,443	1,382

TABLE 18.—2002 STATEWIDE CO ANNUAL EMISSION INVENTORY

[By county and source sector]

County	CO tons per year				
	Point sources	Area sources	Onroad mobile sources	Nonroad mobile sources	Biogenic
Atlantic	66	10,726	53,885	19,798	1,080
Bergen	619	1,453	166,589	93,002	199
Burlington	413	9,709	83,768	31,350	1,216
Camden	1,154	3,789	72,489	29,402	574
Cape May	311	4,145	18,758	26,265	562
Cumberland	126	3,196	19,994	15,941	831
Essex	624	1,306	96,967	53,407	164
Gloucester	1,029	4,513	49,458	19,203	516
Hudson	2,058	896	44,767	20,015	161
Hunterdon	259	3,973	34,283	11,896	585
Mercer	323	2,567	61,101	25,685	518
Middlesex	3,034	1,309	149,288	57,965	424
Monmouth	381	5,252	118,952	55,614	722
Morris	266	8,121	109,947	56,136	519
Ocean	271	10,563	72,072	40,914	1,420
Passaic	68	2,985	55,414	26,769	412
Salem	487	2,389	17,071	5,991	595
Somerset	226	2,079	59,270	26,731	511
Sussex	83	8,995	23,055	10,883	731
Union	1,012	794	84,178	31,780	133
Warren	444	5,306	29,700	7,198	578
Total in State	13,254	94,067	1,421,004	665,944	12,451

TABLE 19.—2002 STATEWIDE $PM_{2.5}$ ANNUAL EMISSION INVENTORY

[By county and source sector]

County	$PM_{2.5}$ tons per year				
	Point sources	Area sources	Onroad mobile sources	Nonroad mobile sources	Biogenic
Atlantic	19	1,541	104	225	NA
Bergen	149	537	376	478	NA
Burlington	308	1,448	193	413	NA
Camden	233	754	167	228	NA
Cape May	109	637	40	468	NA
Cumberland	280	495	52	374	NA

TABLE 19.—2002 STATEWIDE $PM_{2.5}$ ANNUAL EMISSION INVENTORY—Continued

[By county and source sector]

County	$PM_{2.5}$ tons per year				
	Point sources	Area sources	Onroad mobile sources	Nonroad mobile sources	Biogenic
Essex	185	411	291	393	NA
Gloucester	426	754	112	222	NA
Hudson	1,077	269	134	345	NA
Hunterdon	50	644	111	103	NA
Mercer	188	530	141	203	NA
Middlesex	483	467	347	346	NA
Monmouth	55	981	244	501	NA
Morris	39	1,284	209	280	NA
Ocean	38	1,734	160	409	NA
Passaic	19	543	141	178	NA
Salem	371	377	57	122	NA
Somerset	55	441	152	149	NA
Sussex	5	1,301	54	89	NA
Union	540	272	185	333	NA
Warren	240	809	92	64	NA
Total in State	4,868	16,230	3,361	5,922	NA

TABLE 20.—2002 STATEWIDE NH_3 ANNUAL EMISSION INVENTORY

[By county and source sector]

County	$PM_{2.5}$ tons per year				
	Point sources	Area sources	Onroad mobile sources	Nonroad mobile sources	Biogenic
Atlantic	0	184	297	13	329
Bergen	0	543	821	163	863
Burlington	0	522	454	39	520
Camden	0	281	393	46	518
Cape May	5	86	107	6	130
Cumberland	1	310	118	20	203
Essex	0	598	492	82	762
Gloucester	0	445	265	22	274
Hudson	14	461	222	56	572
Hunterdon	0	569	187	14	164
Mercer	3	310	331	41	347
Middlesex	11	492	765	108	746
Monmouth	0	399	628	47	651
Morris	0	273	572	75	544
Ocean	0	258	396	21	616
Passaic	0	264	292	65	505
Salem	1	463	97	7	89
Somerset	0	423	317	43	309
Sussex	0	296	135	8	235
Union	3	456	425	82	501
Warren	0	371	152	12	153
Total in State	38	8,005	7,469	970	9,032

TABLE 21.—2002 STATEWIDE PM_{10} ANNUAL EMISSION INVENTORY

[By county and source sector]

County	PM_{10} tons per year				
	Point sources	Area sources	Onroad mobile sources	Nonroad mobile sources	Biogenic
Atlantic	17	1,863	154	248	NA
Bergen	135	981	524	524	NA
Burlington	318	2,145	275	471	NA

TABLE 21.—2002 STATEWIDE PM_{10} ANNUAL EMISSION INVENTORY—Continued

[By county and source sector]

County	PM_{10} tons per year				
	Point sources	Area sources	Onroad mobile sources	Nonroad mobile sources	Biogenic
Camden	126	1,210	238	249	NA
Cape May	102	799	58	509	NA
Cumberland	266	721	73	407	NA
Essex	203	646	389	444	NA
Gloucester	531	1,169	161	242	NA
Hudson	1,705	431	179	375	NA
Hunterdon	50	1,115	148	113	NA
Mercer	221	967	201	224	NA
Middlesex	537	1,162	486	376	NA
Monmouth	48	1,575	352	545	NA
Morris	46	1,813	305	309	NA
Ocean	39	2,377	229	446	NA
Passaic	18	835	195	194	NA
Salem	435	590	77	132	NA
Somerset	76	984	211	164	NA
Sussex	6	1,667	77	99	NA
Union	434	512	261	362	NA
Warren	240	1,195	123	71	NA
Total in State	5,555	24,760	4,718	6,505	NA

TABLE 22.—2002 STATEWIDE SO_2 ANNUAL EMISSION INVENTORY

[By county and source sector]

County	SO_2 tons per year				
	Point sources	Area sources	Onroad mobile sources	Nonroad mobile sources	Biogenic
Atlantic	10	498	202	176	NA
Bergen	82	819	634	620	NA
Burlington	286	459	361	2,462	NA
Camden	162	506	313	1,057	NA
Cape May	12,178	163	75	993	NA
Cumberland	665	412	89	2,115	NA
Essex	2,110	1,078	429	980	NA
Gloucester	5,431	390	211	1,243	NA
Hudson	19,250	625	196	1,582	NA
Hunterdon	18	391	163	123	NA
Mercer	14,379	450	264	501	NA
Middlesex	504	689	590	612	NA
Monmouth	55	510	453	929	NA
Morris	52	798	403	276	NA
Ocean	38	652	290	216	NA
Passaic	26	494	231	223	NA
Salem	4,590	156	85	673	NA
Somerset	41	273	250	180	NA
Sussex	0	566	98	69	NA
Union	1,253	602	321	1,680	NA
Warren	101	345	134	63	NA
Total in State	61,231	10,876	5,793	16,772	NA

B. 2009 Projection Year Inventory

New Jersey included in its submittal 2009 projection year inventories with post-2002 controls showing that future emissions will be less than 5 percent of those contained in the 2002 base year emissions inventory. Annual $PM_{2.5}$ and NO_X point, area, nonroad mobile and onroad mobile emissions were projected from 2002 base year to 2009. New Jersey did so using the appropriate growth factors and methodologies, in a manner acceptable to EPA.

The development of the projection year inventory involved several methodologies depending on the source category in question. This depended heavily upon what type of indicator was considered to have a significant impact on emissions. In all cases mentioned

below, the 2002 emissions were grown to the 2009 projection year:

1. Major point sources were grown using growth factors from EPA EGAS model version 4.0 for all point sources except those that combust fuel. For combustion sources, projection data were obtained from the Annual Energy Outlook report produced by the U.S. Department of Energy's (DOE) Energy Information Administration (EIA).

2. Area sources were grown using growth factors from EPA EGAS model version 4.0 for all area sources except those that combust fuel. For combustion sources, projection data were obtained from the Annual Energy Outlook report produced by the DOE–EIA.

3. Nonroad mobile source emissions were developed by conducting independent runs for 2009 emission inventories by using the NONROAD 2004 emissions model.

4. Aircraft emissions were developed for 2002 using landings and take offs (LTO) operation numbers for each aircraft type into the Emissions and Dispersion Modeling Systems for NO_X emissions, and $PM_{2.5}$ emission factors were used with LTO data to estimate $PM_{2.5}$ annual emissions. Growth factors from FAA database based on future flight operations were used to project emissions from 2002 to 2009.

5. Commercial Marine Vessels (CMV) emissions were grown from 2002–2009 based on an extensive review of historical trends in the different types of CMV calling in on the Northern New Jersey ports to project CMV growth. This information was obtained from the Maritime Association of the Port of New York and New Jersey.

6. Calendar year 2009 onroad mobile source emission factor data were generated from the Mobile 6.2.03 model. Emission factors from the model were then applied to actual and projected VMT and fleet distribution data based on annual or projection measurements of VMT taken from the Transportation Demand Model and Highway Performance Monitoring System from the North Jersey Transportation Planning Authority and Delaware Valley Regional Planning Commission.

EPA finds the methodologies for all sources to be acceptable in accordance with EPA guidance for inventory budget planning purposes.

A summary of the 2009 annual $PM_{2.5}$ and NO_X emissions in the New Jersey portion of the New York-Northern New Jersey-Long Island NY-NJ-CT $PM_{2.5}$ nonattainment area is found in section V. of this notice. A more detailed discussion of how the 2009 emission inventory was reviewed and the results are presented in the technical support document.

VIII. Conclusions

EPA has evaluated New Jersey's submittals for consistency with the Act and Agency regulations and policy. EPA is proposing to approve New Jersey's CO limited maintenance plan because it meets the requirements set forth in section 175A of the Act and continues to demonstrate that the NAAQS for CO will continue to be met for the next ten years. EPA is proposing to approve the revisions to the CO, NO_X, VOC, and $PM_{2.5}$ motor vehicle emissions budgets for Northern New Jersey. Finally, this notice also proposes to approve revisions to the general conformity budget for McGuire Air Force Base and the 2002 base year emission inventories.

Note that New Jersey will be submitting additional information on the emission inventories. EPA will consider all information submitted prior to any final rulemaking action as a supplement or amendment to the February 21, 2006 submittal.

EPA views the SIP revisions proposed in today's proposal as separable actions. This means that if EPA receives adverse comments on particular portions of this notice and not on other portions, EPA may choose not to take final action at the same time in a single notice on all of these SIP revisions. Instead, EPA may choose to take final action on these SIP revisions in separate notices.

Interested parties may participate in the Federal rulemaking procedure by submitting written comments to the EPA Region 2 Office by one of the methods discussed in the **ADDRESSES** section of this action.

IX. Statutory and Executive Order Reviews

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

This proposed rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely proposes to approve a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This proposed rule also is not subject to Executive Order 13045 ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), because it is not economically significant.

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

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Intergovernmental relations, Ozone, Particulate matter, Reporting and

recordkeeping requirements, Volatile organic compounds.

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

Dated: April 28, 2006.

Alan J. Steinberg,

Regional Administrator, Region 2.

[FR Doc. 06–4287 Filed 5–8–06; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2006–0322; FRL–8167–9]

Approval and Promulgation of Implementation Plans; Las Vegas Valley Carbon Monoxide Attainment Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve a revised attainment plan for the Las Vegas Valley carbon monoxide nonattainment area on the condition that Clark County and the State of Nevada withdraw the 2030 motor vehicle emission budget, or, in the alternative, to disapprove the plan. This plan has been submitted to the Agency by the State of Nevada as a revision to the Nevada state implementation plan. The revised attainment plan includes revised base year and future year emissions inventories and a revised demonstration of continued attainment of the carbon monoxide national ambient air quality standard in Las Vegas Valley through 2030 based on the most recent emissions models and planning assumptions and establishes new motor vehicle emissions budgets. EPA is proposing this action under section 110(k) of the Clean Air Act, which obligates the Agency to take action on State submittals of revisions to state implementation plans. The intended effect of this proposed approval action is to update the carbon monoxide motor vehicle emissions budgets in the Las Vegas area and thereby make them available for the purposes of transportation conformity, and the intended effect of this proposed disapproval action is to retain the previously-approved budgets.

DATES: Any comments on this proposal must arrive by June 8, 2006. Public comments on this action are requested and will be considered before taking final action.

ADDRESSES: Submit comments, identified by docket number EPA–R09–OAR–2006–0322, by one of the following methods:

1. *http://www.regulations.gov:* Follow the on-line instructions for submitting comments.

2. E-mail: *oconnor.karina@epa.gov.*

3. Mail or deliver: Karina O'Connor (AIR–2), U.S. Environmental Protection Agency Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901.

Instructions: Direct your comments to EPA–R09–OAR–2006–0322. 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.

Docket: All documents in the electronic docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other information, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California. To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Karina O'Connor, EPA Region IX, telephone number: (775) 833–1276; fax number: (775) 833–1276; e-mail address: *oconnor.karina@epa.gov.*

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

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I. Summary of Action

Under section 110(k) of the Clean Air Act (CAA or Act), EPA proposes to approve a revised attainment plan for the Las Vegas Valley carbon monoxide (CO) nonattainment area on the condition that Clark County and the State of Nevada withdraw the 2030 motor vehicle emission budget, or, in the alternative, to disapprove the plan.

This plan has been submitted to EPA by the Nevada Division of Environmental Protection (NDEP) as a revision to the Nevada state implementation plan (SIP). The revised attainment plan includes revised base year and future year emissions inventories and a revised demonstration of continued attainment of the carbon monoxide national ambient air quality standard in Las Vegas Valley through 2030 based on the most recent emissions models and planning assumptions and establishes new motor vehicle emissions budgets. The intended effect of this proposed approval action is to update the carbon monoxide motor vehicle emissions

budgets in the Las Vegas area and thereby make them available for the purposes of transportation conformity, and the intended effect of this proposed disapproval action is to retain the previously-approved budgets. The currently approved attainment plan did not include 2030 budgets, therefore we do not need 2030 budgets to be able to approve the remaining budgets in the revised plan.

II. Introduction

A. What Is the Purpose of this Proposed Rulemaking?

The purpose of this proposed rulemaking is to present our evaluation and conclusions with respect to a submittal of a revision to the Nevada SIP, identified below, that includes a revised attainment plan for the Las Vegas CO nonattainment area. The revised plan includes updated emissions inventories and dispersion modeling in support of new motor vehicle emissions budgets.

B. What Did the State Submit to EPA?

Under a letter dated February 14, 2006, NDEP submitted the *Carbon Monoxide State Implementation Plan Revision, Las Vegas Valley Nonattainment Area, Clark County, Nevada* (October 2005) (''2005 CO plan''), to EPA as a revision to the Nevada SIP following the plan's adoption by the Clark County Board of Commissioners on October 4, 2005. Prepared by the Clark County Department of Air Quality and Environmental Management (DAQEM), the 2005 CO plan includes a revised emissions inventory, a revised modeling demonstration of continued attainment, and revised motor vehicle emissions budgets. The inventories and modeling demonstration included in the 2005 CO plan relate to analysis years 1996, 2006, 2010, 2015, 2020 and 2030. The plan allocates almost all of the estimated safety margins [1] in years 2006, 2010, 2015, 2020, and 2030 to the on-road motor vehicle emissions category.

Also submitted by NDEP on February 14, 2006 is a report entitled, ''Supplement to the Carbon Monoxide State Implementation Plan Revision,'' which was prepared by DAQEM in response to comments raised by EPA subsequent to the Clark County Board of Commissioners' adoption of the 2005 CO plan. This supplemental report presents an air quality trends analysis in further support for the plan's forecast of continued attainment through 2030 with the plan's proposed motor vehicle emissions budgets.

C. What is a SIP and How Is it Revised From Time to Time?

The Clean Air Act requires States to attain and maintain ambient air quality equal to or better than standards that provide an adequate margin of safety for public health and welfare. These ambient air quality standards are established by EPA and are known as the National Ambient Air Quality Standards (NAAQS). Carbon monoxide (CO) is one of the pollutants for which EPA has established NAAQS.

The State's plan for attaining and maintaining the NAAQS are outlined in the SIP for that state. The SIP is a planning document that, when implemented, is designed to ensure the achievement of the NAAQS. Each State currently has a SIP in place, and the Act requires that States make SIP revisions periodically as necessary to provide continued compliance with the standards. The State of Nevada's SIP is identified at title 40, part 52, subpart DD of the Code of Federal Regulations (40 CFR part 52, subpart DD).

SIPs may include, among other things, the following: (1) An inventory of emission sources; (2) statutes and regulations adopted by the State legislature and executive agencies; (3) air quality analyses that include demonstrations that adequate controls are in place to meet the NAAQS; and (4) contingency measures to be undertaken if an area fails to attain the standard or make reasonable progress toward attainment by the required date. The State must make the SIP available for public review and comment through a public hearing before it is adopted by the State and submitted to EPA by the Governor or his appointed designee. When EPA takes Federal action to approve the SIP submittal, the rules and regulations become federally enforceable.

For an area designated as nonattainment for a given NAAQS, the State first submits a plan with emissions reduction measures to bring the area into attainment. Once the area has attained the standard based on monitored air quality, the State then submits a redesignation request to attainment and a maintenance plan demonstrating that the area will continue to maintain the standard for at least 10 years after the redesignation into attainment.

D. What Is the Background of Today's Action?

Based on CO monitoring data from the mid-1970's, EPA designated Las Vegas Valley [2] as a CO nonattainment area under the Clean Air Act, as amended in 1977. See 43 FR 8962, 9012 (March 3, 1978). In response, Clark County and the State of Nevada adopted and implemented various air quality plans and programs, including a vehicle inspection and maintenance (I/M) program, to reduce CO levels in Las Vegas Valley, but the CO NAAQS was not attained by the then-applicable 1987 attainment date.

The Clean Air Act was significantly amended by Congress in 1990 to establish new attainment dates and planning and control requirements for areas that had failed to attain the NAAQS under the 1977 Amendments. Under the 1990 Amended Act, Las Vegas Valley was classified as a ''moderate'' nonattainment area for CO with a new attainment date of December 31, 1995 and subject to the specific requirements for such areas. EPA later extended the attainment date to December 31, 1996, but given monitoring data from that period showing continued CO NAAQS violations, EPA reclassified Las Vegas Valley in 1997 as a ''serious'' CO nonattainment area with an attainment date of December 31, 2000 and subject to the additional requirements applicable to such areas. See 62 FR 51604 (October 2, 1997).

In response to the ''moderate'', and then ''serious,'' nonattainment classification and related CAA requirements, Clark County and the State of Nevada adopted and implemented new air quality plans and programs, including wintertime gasoline specifications for oxygen content and Reid Vapor Pressure(RVP), enhancement to the vehicle I/M program and a ''serious'' area attainment plan, the *Carbon Monoxide State Implementation Plan, Las Vegas Valley Nonattainment Area, Clark County, Nevada* (August 2000) (''2000 CO plan''). The 2000 CO plan included a base year (1996) emission inventory, future-year emissions projections, an attainment demonstration, and additional control measures, including additional wintertime gasoline specifications for sulfur and aromatics (referred to as ''cleaner burning gasoline''), an alternative fuels program for government vehicles, and a

[1] The term ''safety margin'' refers to the amount by which the total projected emissions from all sources of a given pollutant are less than the total emissions that would satisfy the applicable requirement for reasonable further progress, attainment or maintenance. See 40 CFR 93.101. The 2005 CO plan also allocates a small portion of the safety margins to certain point sources.

[2] The boundaries of the Las Vegas Valley CO nonattainment area are defined by reference to State hydrographic area #212, which covers the central portion of Clark County. See 40 CFR 81.329.

transportation control measure program. The plan also established motor vehicle emissions budgets and provided modeling documentation showing that the CO standard would continue to be attained beyond the attainment deadline of 2000 through the 2020 analysis year. In 1998, we approved the wintertime gasoline specification for oxygen content (i.e. oxygenated fuel program) (64 FR 29573, June 2, 1999), and in 2004, we approved the revised vehicle I/M program, the wintertime gasoline specification for RVP, and all of the elements of the 2000 CO plan (except for the contingency provisions [3], including the new control measures (e.g., cleaner burning gasoline rule), emissions inventories, attainment demonstration, and motor vehicle emissions budgets (69 FR 56351, September 21, 2004).

The 2000 CO plan established motor vehicle emission budgets for years 2000, 2010, and 2020. These budgets were developed using MOBILE5b, which was the latest EPA-approved motor vehicle emission factor model at that time. EPA officially released a new version of motor vehicle emissions model, MOBILE6, on January 29, 2002 (67 FR 4254). All SIPs and SIP revisions that are developed after that date must use the new model to estimate motor vehicle emissions. The release of MOBILE6 also began a 24-month grace period for conformity. All conformity determinations that are initiated after January 29, 2004 must use MOBILE6. As discussed in the following section of this notice, MOBILE6 has now been revised with the release of MOBILE6.2. Besides the release of updated emissions models, another circumstance that has changed since adoption of the 2000 CO plan is the change in the expected rate of population growth in Las Vegas Valley. The most recent forecasts show population growth outpacing the corresponding projections used for the 2000 CO plan.

In response to these changes, DAQEM, in consultation with the Regional Transportation Commission of Southern Nevada (RTC), undertook a comprehensive air quality planning effort to review and update the 2000 CO plan and the associated motor vehicle emission budgets to maintain consistency for future conformity findings. The planning efforts included detailed technical analyses, such as preparation of new base and future year emissions inventories and regional and hotspot dispersion modeling, and culminated in the preparation, adoption and submittal of the 2005 CO plan, which is the subject of today's proposed action.

E. What Are MOBILE6 and MOBILE6.2?

MOBILE is an EPA emissions factor model for estimating pollution from on-road motor vehicles in states except for California. MOBILE calculates emissions of volatile organic compounds (VOCs), nitrogen oxides (NO_X) and carbon monoxide (CO) from passenger cars, motorcycles, buses, and light-duty and heavy-duty trucks. The model accounts for the emission impacts of factors such as changes in vehicle emission standards, changes in vehicle populations and activity, and variation in local conditions such as temperature, humidity, fuel quality, and air quality programs.

MOBILE is used to calculate current and future inventories of motor vehicle emissions at the national and local level. These inventories are used to make decisions about air pollution policies and programs at the federal, state and local level. Inventories based on MOBILE are also used to meet the Federal Clean Air Act's SIP and transportation conformity requirements.

The MOBILE model was first developed in 1978. It has been updated many times to reflect changes in the vehicle fleet and fuels, to incorporate EPA's growing understanding of vehicle emissions, and to cover new emissions regulations and modeling needs. Although some minor updates were made in 1996 with the release of MOBILE5b, MOBILE6 was the first major revision to MOBILE since MOBILE5a was released in 1993. Released in 2002 (67 FR 4254, January 29, 2002), MOBILE6 incorporates new and improved vehicle and emissions data and a new understanding of vehicle emissions processes.

In 2004 (69 FR 28830), MOBILE6 was updated with the release of MOBILE6.2, which adds the capability to generate direct particulate matter emission factors and emission factors for particulate precursors. MOBILE6.2 also corrects some minor coding errors in MOBILE6 and incorporates some revisions to CO emission factors for cars and light-duty trucks that meet national low emission vehicle (NLEV), low emission vehicle (LEV), and Tier 2 vehicle standards. MOBILE6.2 is now the latest emission model released by EPA and should be used by all areas for SIP and conformity analyses. Further details on MOBILE models can be found at *http://www.epa.gov/otaq/mobile6.htm.*

F. What Is the Current Status of CO Levels in Las Vegas Valley and How Do the Levels Compare With the Federal Standards?

The national 8-hour CO ambient standard is attained when the highest 8-hour CO concentration of 9 parts per million (ppm) is exceeded no more than one time in a calendar year. Since the initial operation of CO monitors in Las Vegas Valley in the 1970's, exceedances of the CO standard occurred relatively frequently during the winter months, but, with the implementation of various State and local CO control measures (e.g., fuel specifications and vehicle I/M program) and also the implementation of the Federal motor vehicle control program (e.g., exhaust emission standards for new light-duty vehicles, light-duty trucks, and heavy-duty trucks), CO levels trended downward in Las Vegas Valley despite large increases in population and VMT through the 1980's and 1990's.

By the late-1990's, ambient CO conditions had improved to such an extent that exceedances were no longer recorded at any of the CO monitoring stations. The last exceedances of the 8-hour CO standard in Las Vegas Valley were recorded in 1998, and based on the record of clean data during the 1999–2000 period, we determined that Las Vegas Valley attained the CO NAAQS by the applicable ''serious'' area attainment date of December 31, 2000. See 70 FR 31353 (June 1, 2005). Since 2000, and through year 2005, the highest 8-hour CO concentration measured by the CO monitoring network in Las Vegas Valley was 7 ppm (measured at the Sunrise Acres monitoring site), which is well below the CO standard of 9 ppm. Thus, after attaining the CO standard in 2000, Las Vegas Valley has continued to attain the standard up to the present time.

III. Review of Las Vegas Valley 2005 CO Plan Submittal

A. What Is the Purpose and Content of Nevada's Submittal?

DAQEM's purpose in preparing the 2005 CO plan is to update the CO motor vehicle emissions budgets from the 2000 CO plan for use in transportation conformity determinations.

The 2005 CO plan generally follows the outline of the 2000 CO plan and provides expanded discussion of the plan elements for which new information is available or for which circumstances have changed since adoption of the previous plan. First, the 2005 CO plan discusses the changes to the CO monitoring network and ambient CO level trends since 2000, as well as

[3] Note that the contingency measure requirement was removed when EPA made a finding of attainment in June 2005 (See 70 FR 31353).

the results of the CO saturation study, which was completed in January 2002. See chapter 2 and appendix B of the 2005 CO plan. The 2005 CO plan then provides a comprehensive revision to the base year (1996) emissions inventory and future year emissions projections reflecting updated underlying data, such as population and VMT forecasts, and also updated methods, such as MOBILE6.2 and NONROAD2004 for on-road and nonroad sources, respectively. The 2005 CO plan summarizes the control measures that have contributed to attainment of the CO NAAQS in Las Vegas Valley and that are being counted on for continued attainment of the standard but neither repeals nor modifies any such measure. The remainder of the 2005 CO plan provides updated dispersion modeling results reflecting the updated emissions estimates and extends the showing of continued attainment from 2020 (as provided for in the 2000 CO plan) to 2030, and supporting the establishment of new motor vehicle emissions budgets.

Included with the 2005 CO plan are technical appendices which include a technical support document for the emission inventory and dispersion modeling, the carbon monoxide monitoring saturation study, a study on the effectiveness of the area's vehicle I/M program, airport modeling studies, a support letter from the area's Metropolitan Planning Organization (i.e., the RTC) and documentation of the public review process for the plan.

Enclosed with the 2005 CO plan, NDEP also submitted a report entitled, ''Supplement to the Carbon Monoxide State Implementation Plan Revision,'' which was prepared by DAQEM in response to comments raised by EPA after adoption of the 2005 CO plan on October 4, 2005. The supplemental report presents an air quality trends analysis in further support for the plan's forecast of continued attainment through 2030 with the plan's proposed motor vehicle emissions budgets.

B. How Is EPA Evaluating This Submittal?

Section 110(l) of the Clean Air Act requires SIP revisions to be subject to reasonable notice and public hearing prior to adoption by the applicable State or local agency and submittal to EPA. In this instance, the Clark County Board of Commissioners adopted the 2005 CO plan on October 4, 2005, following a 30-day comment period and a public hearing, properly noticed in a newspaper of general circulation in Las Vegas Valley. NDEP, the Governor's designee for SIP submittals in Nevada, then submitted the 2005 CO plan to EPA as a revision to the Nevada SIP on February 14, 2006. Thus, we find that the procedural requirements for SIP submittals under CAA section 110(l) have been satisfied.

Section 110(l) also prohibits EPA from approving any SIP revision that would interfere with any applicable requirement concerning attainment and reasonable further progress or any other applicable requirement of the Act. In this instance, the SIP revision involves an update to emissions inventories, dispersion modeling, and motor vehicle emissions budgets previously approved by EPA.

We review emissions inventories to ensure they are comprehensive and accurate and are based on the latest planning assumptions and emissions models. We review modeling demonstrations to ensure they are consistent with the underlying emissions estimates and reflect reasonable methods and assumptions. We review motor vehicle emissions budgets to ensure that the budgets are clearly related to the emissions inventory and the control measures in the applicable plan and that the budgets, when considered together with all other emissions sources, are consistent with applicable requirements for reasonable further progress, attainment, or maintenance.

As described in the following sections of this notice, we conclude that, for the base year (1996) through 2020, the models and methods used to revise the emissions inventories and dispersion modeling are acceptable and that the motor vehicle emissions budgets are clearly related to the revised inventories and EPA-approved CO control measures for Las Vegas Valley and that the budgets are consistent with continued attainment of the CO NAAQS in Las Vegas Valley through 2030 and thus approvable under CAA section 110(l). However, the 2005 CO plan fails to demonstrate continued attainment in the horizon year of 2030 because the micro-scale modeling for Clark County airports extends only through 2020. Based on these conclusions, we are proposing to approve the Las Vegas Valley 2005 CO plan and related motor vehicle emissions budgets as a revision to the Nevada SIP on the condition that Clark County and the State of Nevada withdraw the 2030 motor vehicle emissions budgets, or to disapprove the plan in the alternative if no such withdrawal is made.

C. How Have Emissions of Carbon Monoxide in Las Vegas Valley Changed?

The emissions inventory is a list, by source, of the air contaminants directly emitted into the air within a given area. The data in the emissions inventory are based on calculations and are developed using emission factors, which convert source activity levels into an estimate of emissions contributions for those sources. For the 2000 CO plan, the Clark County Department of Air Quality, which performed the air quality planning functions now performed by DAQEM, developed a base case emissions inventory for the base year 1996 and then projected inventories for years 2000, 2010 and 2020. The general categories of CO sources included on-road motor vehicles, nonroad mobile sources, and stationary area and point sources, and the emissions estimates corresponded to an average day during the peak CO (*i.e.*, winter) season.[4]

For the 2005 CO plan, DAQEM developed updated estimates for the 1996 base year and for years 2010 and 2020 but also developed new estimates of emissions for certain interim years, 2006 and 2015, not previously quantified, and developed an emissions inventory for a new horizon year, 2030. The 2005 CO plan inventories cover the same basic source categories but adjust the emissions estimates to correspond to the second Sunday and second Monday in December consistent with the December 8–9, 1996 episode used for dispersion modeling purposes in the plan. The most significant changes in the emission inventories for the 2005 CO plan are in the on-road motor vehicle and nonroad mobile source categories.

The 2005 CO plan is based on the latest available forecasts of population. These updated forecasts reflect a higher rate of growth in population in Las Vegas Valley than had been assumed for the 2000 CO plan. For example, for years 2010 and 2020, the population forecasts used in the 2005 CO plan are 25 to 30% higher than the corresponding forecasts used in the 2000 CO plan.

The RTC used the updated population forecasts to provide updated travel demand forecasts for the purposes of emissions inventory preparation and dispersion modeling for the 2005 CO plan. To develop the travel demand forecasts for future years, RTC used the TransCAD travel demand model, a model that has replaced TRANPLAN, the older model that had been used for the 2000 CO plan. For the base year, the original TRANPLAN-derived data was used, but TransCAD-derived data was used for all future years. TransCAD

[4] That is, except for on-road motor vehicles, which reflect average daily conditions during the month of December.

incorporates a number of refinements as compared to TRANPLAN including more accurate temporal and spatial allocation of vehicle miles traveled (VMT). Further details regarding VMT processing are provided in chapter 2 of DAQEM's Technical Support Document, which is included as appendix A of the 2005 CO plan.

RTC's updated travel demand forecasts provided the basis for updated motor vehicle emissions estimates through application of MOBILE6.2 emissions factors. As noted above, MOBILE6.2 represents a significant revision of the previous model, MOBILE5b, which was used for the 2000 CO plan, is the latest EPA emissions factor model for estimating pollution from on-road motor vehicles, and incorporates the effects of national vehicle control programs and, with the appropriate input controls, the effects of local control programs such as the State's alternate ''low'' enhanced vehicle I/M program and the wintertime gasoline specifications for RVP, sulfur and oxygen.

The MOBILE6.2-derived emissions factors for the 2005 CO plan reflect an assumed vehicle I/M effectiveness of 100% instead of 50% as assumed for the 2000 CO plan. To provide support for this change, DAQEM commissioned a study of the effectiveness of the decentralized (*i.e.*, privately owned and operated as opposed to state-run or ''centralized'') network of I/M testing stations in Las Vegas Valley that concluded that the ''test-and-repair'' stations are equally as effective as ''test-only'' stations at reducing emissions. We note that Nevada I/M regulations allow ''test-only [5]'' stations to perform certain types of automotive services (*e.g.*, change of oil; and replacement of oil, air, or fuel filters) that ''test-only'' stations as defined in EPA's I/M regulations are not allowed to perform. See 40 CFR 51.353(a).

However, we also note that, based on information contained in the DAQEM study cited above, only 25% of the ''test-only'' stations in Las Vegas Valley actually offer these limited services and 75% only perform emissions testing. Thus, the presumptive equivalency (to centralized test-only stations), *i.e.*, assumption of 100% I/M effectiveness, allowed under 40 CFR 51.353(a) is not unreasonable with respect to the ''test-only'' stations in Las Vegas Valley. Furthermore, given the results of the DAQEM study cited above that the ''test-and-repair'' stations are equally as effective as the ''test-only'' stations, the assumption of 100% effectiveness for the overall I/M program in Las Vegas Valley is also not unreasonable. DAQEM included a copy of the study of I/M effectiveness as appendix C of the 2005 CO plan.

With respect to nonroad mobile sources, the 2005 CO plan incorporates updated information concerning airport and railroad operations and activities, and reflects use of an emissions model (NONROAD) [6] for the other types of nonroad sources. NONROAD was not available at the time when the 2000 CO plan was being prepared and represents a significant refinement in the method for estimating emissions from nonroad sources as compared to the 1991 EPA study that was used for the 2000 CO plan. Clark County land use/land cover data were used as inputs to the NONROAD model to estimate revised emissions for these categories in both the base and future year inventories.

For the 2005 CO plan, stationary area and point sources are largely consistent with the corresponding emissions estimates for these source categories in the 2000 CO plan except for seven specific point sources for which the future-year projections in the 2005 CO plan incorporate potentials to emit (rather than projected actual emissions) plus a 70 tons per year additional buffer.

Tables 1 and 2 summarize the emissions estimates contained in the 2005 CO plan. Table 1 represents the second Sunday in December and table 2 represents the second Monday in December. The inventories were prepared for these particular conditions because the dispersion modeling demonstration of continued attainment is predicated on the December 8–9, 1996 episode.

As shown in these two tables, on-road motor vehicles continue to represent the most significant source category for CO emissions in Las Vegas Valley, but the contribution from on-road sources is expected to decrease from roughly 70 to 75% of the total CO inventory under existing conditions to 65 to 70% by 2030. Nonroad mobile source account for 20 to 25% of the total inventory under existing conditions but the relative contribution from this source category is expected to increase to 25 to 30% by 2030. The 2005 CO plan estimates that stationary area and point sources account for 5 to 10% of the CO inventory both now and in the future.

TABLE 1.—LAS VEGAS VALLEY CO NONATTAINMENT AREA EMISSIONS, DECEMBER SUNDAY (TONS) BY SOURCE CATEGORY

Source category	1996	2006	2010	2015	2020	2030
On-road motor vehicle	329	275	287	276	273	296
Nonroad mobile	102	89	99	109	121	143
Stationary area	9	13	14	16	18	22
Point	3	16	16	16	16	16
Total	445	392	415	418	428	477

TABLE 2.—LAS VEGAS VALLEY CO NONATTAINMENT AREA EMISSIONS, DECEMBER MONDAY (TONS) BY SOURCE CATEGORY

Source category	1996	2006	2010	2015	2020	2030
On-road motor vehicle	511	441	464	451	447	486
Nonroad mobile	138	111	123	136	150	178

[5] Vehicles are tested annually in a decentralized network that employs stations licensed as either test-only or test-and-repair.

[6] NONROAD is EPA's model for estimating emissions from nonroad vehicles such as construction equipment, lawn and garden equipment and recreational equipment. For the 2005 CO plan, DAQEM used the latest version of NONROAD (NONROAD2004) available at the time of plan preparation. NONROAD2004 has since been superseded by NONROAD2005, which is the final version of NONROAD. The previous versions, including NONROAD2004, were draft versions, but nonetheless represented the best method for calculating emissions from nonroad mobile sources, excluding commercial marine, locomotive, and aircraft, at the time of their release.

TABLE 2.—LAS VEGAS VALLEY CO NONATTAINMENT AREA EMISSIONS, DECEMBER MONDAY (TONS) BY SOURCE CATEGORY—Continued

Source category	1996	2006	2010	2015	2020	2030
Stationary area	10	13	15	17	19	23
Point	3	16	16	16	16	16
Total	662	581	617	619	631	702

Source: Derived from 2005 CO plan, Table 3–12.

Based on our review of the documentation provided in the 2005 CO plan as summarized above, we find that the revised base year and future year CO emissions inventories reflect the latest planning assumptions and emissions models and provide a comprehensive and accurate assessment of CO emissions in Las Vegas Valley for the various impact analysis years. Furthermore, we find that the revised inventories provide a reasonable basis upon which to update the dispersion modeling analysis, as discussed in the following section of this notice.

D. How Has the Attainment Demonstration Changed?

The 2000 CO plan's attainment demonstration included both an areawide and a hot-spot modeling analysis at heavily-traveled intersections, and the revised demonstration in the 2005 CO plan also includes both the regional and micro-scale modeling analyses. As in the previous attainment demonstration, areawide analysis was conducted using the Urban Airshed Model (UAM), according to our ''Guidance for Application of Urban Areawide Models for CO Attainment Demonstrations'' (1992).

The 2000 CO plan provided a modeling demonstration of attainment from the nonattainment conditions in 1996 for the applicable attainment date of 2000 through implementation of new control measures. The 2000 CO plan also demonstrated continued attainment beyond 2000 by developing CO level estimates for impact analysis years 2010 and 2020. Since Las Vegas Valley has already attained the CO NAAQS, the 2005 CO plan does not need to demonstrate attainment per se but must demonstrate continued attainment of the standard, and it does so for the following impact analysis years: 2006, 2010, 2015, 2020 and 2030.

For the 2005 CO plan, the UAM analysis uses the same December 8–9, 1996 episode as in the previous demonstration, but with the revised emission inventory information described in the previous section of this notice. Overall, the spatial pattern of predicted 8-hour maximum CO agrees with the previous modeling in the 2000 CO plan and with the distribution of observed CO for this period. Unlike the modeling documented in the 2000 CO plan, no external scaling was needed for the UAM results in the new modeling runs. The maximum CO concentration predicted for the base case 1996 episode was 11.4 ppm which is close to the 11.2 ppm predicted in the 2000 CO plan, along Las Vegas Boulevard near the intersection with Spring Mountain Road. Model performance for the base year UAM simulation is within our acceptable range of accuracy: +19 percent for the unpaired peak prediction, -15% percent for the paired peak prediction, and 1 hour for the timing error. See the 2005 CO plan, page 5–2. Once the model performance was verified, the 1996 base case emission inventory was projected into the future and then these projected emission inventories were used with the 1996 meteorological conditions to simulate the impact of emission changes in the future.

The simulations showed that emissions in future years with controls would continue to support peak concentrations well below the 9 ppm 8-hour CO standard. Concentrations for the 8-hour average are shown for the maximum concentration predicted over the modeling domain. The predicted regional maximum 8-hour average CO concentration is 8.0 ppm in the year 2030, assuming continued implementation of all previously adopted control measures (*e.g.*, the vehicle I/M program and the wintertime gasoline specifications). Results for all future years modeled are shown in table 3.

TABLE 3.—UAM RESULTS FOR FUTURE YEAR SCENARIOS

Year	Concentrations (ppm)
2006	7.37
2010	7.17
2015	6.47
2020	6.74
2030	7.96

Source: 2005 CO plan, Table 6–3.

The UAM analysis thus shows attainment with a margin of safety based on continued implementation of fully adopted control measures. However, an additional model, CAL3QHC must be used to determine the maximum CO levels in the area. CAL3QHC is needed to predict the micro-scale impacts of vehicles operating at congested intersections. Vehicles operating within congested conditions spend more time in idle modes that can contribute to high levels of CO near the roadways. As in the 2000 CO plan, micro-scale modeling was completed for three intersections (1) Charleston Blvd./ Eastern Avenue, (2) Charleston Blvd./ Fremont Street and (3) Eastern Avenue/ Fremont Street. These three intersections comprise the ''5 points'' area, which is near the Sunrise Acres CO monitoring station. For years 2006, 2010, 2015, 2020 and 2030, traffic data from the roadways were combined with emission factors from MOBILE6.2 and meteorological data to predict local hotspot concentrations. These hourly results from the micro-scale model were then combined with hourly concentrations from the background UAM grid cell to compute maximum running 8-hour concentrations. The combined results of the CAL3QHC and UAM results are shown in Table 4 below.

TABLE 4.—INTERSECTION MAXIMUM PREDICTED COMBINED 8-HOUR CO LEVELS

[ppm]

Intersection	2006	2010	2015	2020	2030
Charleston/Eastern	6.14	5.61	4.97	4.67	4.83
Charleston/Fremont	5.09	4.81	4.31	4.07	4.20
Eastern/Fremont	5.66	5.32	4.76	4.48	4.58

Source: 2005 CO plan, Table 6–5.

As in the 2000 CO plan, in addition to roadway intersections modeling, the 2005 CO plan includes an analysis of CO levels at airports in Las Vegas Valley. To model the impact of airport sources, the Emissions and Dispersion Modeling System (EDMS) model was again used. This model was developed for evaluating the specific emission sources typically located at airports. The hotspot results from EDMS must be combined with the results of the UAM analysis to predict the concentrations at receptors around the airports. The 2005 CO plan presents the results of the combined UAM and EDMS models for the all future years in table 4–5 of appendix A. No values were modeled above the 9.0 ppm CO standard at any publicly accessible receptor location. The peak combined concentration at McCarran International Airport for future years is 8.45 ppm for 2020. We note however that the micro-scale analysis for the airports' environs does not extend beyond year 2020, and thus that analysis demonstrates continued attainment through 2020, but not in year 2030.

Based on our review of the documentation provided in the 2005 CO plan as summarized above, we find that the revised modeling results are consistent with the underlying emission estimates and reflect reasonable methods and assumptions. Further, we find that the revised modeling results demonstrate continued attainment of the CO NAAQS in Las Vegas Valley through 2020 but that the plan fails to demonstrate continued attainment in 2030 because of the lack of micro-scale analysis in the environs of the Clark County airports in that year.

E. Are Las Vegas Valley's Motor Vehicle Emissions Budgets Approvable?

The CO motor vehicle emissions budgets from the EPA-approved 2000 CO plan are 310.2, 329.5, and 457.4 tons of CO per average (December) day for years 2000, 2010, and 2020, respectively. Conformity determinations must be made using the latest planning assumptions and emissions models. In light of updated population forecasts for Las Vegas Valley that show higher levels of growth than expected in the 2000 CO plan as well as the significant differences between the MOBILE6.2 and MOBILE5b emissions model, DAQEM, in consultation with the RTC, developed the 2005 CO plan to replace the budgets from the 2000 CO plan, which are based on outdated population forecasts and MOBILE5b, with new budgets reflecting the latest planning assumptions and MOBILE6.2 and thereby provide for consistency between the CO attainment planning in Las Vegas Valley and future conformity determinations.

During the course of preparing the 2005 CO plan, DAQEM recognized, from the revised dispersion modeling analysis discussed above, the possibility that the reduction in CO emissions factors over time due to the implementation of new Federal motor vehicle standards, the area's I/M program and wintertime gasoline specifications, would offset the higher level of expected population growth and keep the area in attainment of the CO NAAQS with some margin of safety. Therefore, as part of this SIP revision, DAQEM explored scaling up emissions to determine how much more the area's emissions estimate could grow while still keeping the area in attainment.

DAQEM conducted several sensitivity analyses to determine the impacts of scaling up emissions in the modeling domain. In the first test runs, the modeling domain was split into a central urban core and an outer domain. Total emissions for all sources were doubled in the outer domain. The resulting UAM predicted concentrations for all future years modeled are shown in table 5. A comparison of the results in table 5 with the results in table 3 shows that CO concentrations only increase slightly with the doubling of outer domain CO emissions.

TABLE 5.—UAM RESULTS FOR FUTURE YEAR SCENARIOS WITH DOUBLED OUTER DOMAIN EMISSIONS

Year	Concentrations (ppm)
2006	7.41
2010	7.24
2015	6.54
2020	6.80
2030	8.03

Source: 2005 CO plan, Table 6–3.

In the next sensitivity analysis, on-road motor vehicle emissions were scaled up from the base case over the entire modeling domain until the modeled UAM concentrations reached 8.9 ppm. Then, motor vehicle emissions in the outer domain were increased an additional 70%. The final revised emissions for this sensitivity analysis are shown in table 6.[7]

TABLE 6.—BASE AND SCALED ON-ROAD EMISSIONS FOR THE FINAL SENSITIVITY ANALYSIS

[Tons per December weekday]

Year	Base			Scaled		
	Urban	Outer	Total	Urban	Outer	Total
2006	345	96	441	427	196	623
2010	347	117	464	438	252	690
2015	320	131	451	453	315	768

[7] Note that DAQEM has not submitted, and EPA is not acting on, sub-area motor vehicle emission budgets for the Las Vegas area. The modeling domain was split into urban and outer areas so that DAQEM could examine the sensitivity of the model to increases in emissions in the outer areas. For transportation conformity purposes, we are only acting on the total motor vehicle emissions budgets from both areas combined together.

TABLE 6.—BASE AND SCALED ON-ROAD EMISSIONS FOR THE FINAL SENSITIVITY ANALYSIS—Continued

[Tons per December weekday]

Year	Base			Scaled		
	Urban	Outer	Total	Urban	Outer	Total
2020	309	138	447	463	354	817
2030	318	167	485	464	417	881

Source: Derived from 2005 CO plan, Table 6–4.

The final scaled revised emissions were then input into UAM to determine the resulting peak UAM concentrations. Then, to assess the micro-scale impacts of increased numbers of vehicles operating at congested intersections, the UAM results in the appropriate grid cells were combined with additional CAL3QHC modeling of increased traffic. Those combined results, and the maximum modeled UAM CO concentrations are presented in table 7.

Increased UAM concentrations in grid cells around the airports were also examined with the combined EDMS modeling. Again, no values were modeled above the 9.0 ppm standard in any publicly accessible receptor locations. The peak combined concentration at McCarran International Airport for future years is 8.98 ppm for 2020. However, as noted in the previous section of this notice, the micro-scale analysis for the airports' environs does not extend beyond 2020.

TABLE 7.—UAM AND CAL3QHC MAXIMUM PREDICTED 8-HOUR CO LEVELS

[ppm]

Modeled cell or intersection	2006	2010	2015	2020	2030
Peak UAM Grid Cell (Domain-wide):	8.96	8.98	8.98	8.97	8.97
Peak Combined UAM (for applicable grid cell) & CAL3QHC:					
Charleston/Eastern	7.45	6.97	6.85	6.78	6.84
Charleston/Fremont	6.17	5.99	5.93	5.88	5.91
Eastern/Fremont	6.85	6.61	6.54	6.48	6.45

Source: 2005 CO plan, Appendix A: Tables 5–5 and Table 5–6.

Since the maximum modeled concentrations for this final sensitivity test resulted in concentrations close to the standard, to account for modeling uncertainty, DAQEM also completed an air quality trend analysis for the ten year period from 1996 to 2005 to provide additional support for the modeling demonstration. DAQEM prepared this additional analysis in response to EPA comments after adoption of the 2005 CO plan by the Clark County Board of Commissioners, and NDEP enclosed this analysis, entitled ''Supplement to the Carbon Monoxide State Implementation Plan Revision,'' with the February 14, 2006 SIP revision containing the 2005 CO plan.

DAQEM conducted the trend analysis based on meteorological and monitoring data collected at the Sunrise monitoring station for each day from November 1st though January 31st (CO season), because the 8-hour maximum CO concentrations are typically recorded at this site. After normalization, linear regression analysis and a multivariate linear regression analysis was performed to predict trends at the site. The results of the analysis show a continued downward trend of maximum CO concentrations for future years, independent of meteorology, and suggest that event if CO emissions were increased by 80%, that future emissions would still be below 9.0 ppm, i.e., in attainment with the CO NAAQS.

The 2005 CO plan establishes the emissions shown in the final scaled on-road motor vehicle emissions table (see the far-right column in table 6, above) as the new motor vehicle emissions budgets for Las Vegas Valley. The budgets are also summarized below in table 8. These budgets reflect allocations of the safety margin to the motor vehicle source category varying from approximately 180 tons per year in 2006 to nearly 400 tons per day in 2030. Based on the scaled modeling results in the 2005 CO plan and the supplemental trend analysis prepared by DAQEM, we find that, with the exception of the 2030 budget, replacement of the current budgets with the motor vehicle emissions budgets in the 2005 CO plan would not interfere with continued attainment of the CO NAAQS in Las Vegas Valley and are therefore approvable. However, we cannot find that establishment of the 2030 budget would not interfere with continued attainment because the micro-scale analysis in the environs of the County airports does not extend to that year.

TABLE 8.—ON-ROAD MOTOR VEHICLE EMISSIONS BUDGETS

[Tons per December weekday]

Year	Budget
2006	623
2010	690
2015	768
2020	817
2030	881

Source: 2005 CO plan, Table 7–1.

F. How Does This Action Affect Transportation Conformity?

Under section 176(c) of the Act, transportation plans, programs, and projects in nonattainment or maintenance areas that are funded or approved under 23 U.S.C or Federal Transit Laws, must conform to the applicable SIPs. In short, a transportation plan is deemed to conform to the applicable SIP if the emissions resulting from implementation of that transportation plan are less than or equal to the motor vehicle emissions budget established in the SIP for the attainment year and other analysis years. If the condition is met on our proposed approval (i.e., Clark County and the State of Nevada withdraw the 2030 budget) and our action is otherwise finalized as

proposed here today, the CO motor vehicle emissions budgets shown in table 8 above (minus the 2030 budget) must be used by U.S. Department of Transportation and the Regional Transportation Commission of Southern Nevada for transportation conformity determinations made after the effective date of our final rule.

IV. Proposed Action and Request for Public Comment

Pursuant to section 110(k) of the Act, we propose to approve the *Carbon Monoxide State Implementation Plan Revision, Las Vegas Valley Nonattainment Area, Clark County, Nevada* (October 2005), which was adopted by the Clark County Board of Commissioners on October 4, 2005 and submitted to EPA by NDEP on February 14, 2006, as a revision to the Nevada SIP on the condition that Clark County and the State of Nevada withdraw the 2030 motor vehicle emission budget, or, in the alternative, we propose to disapprove the plan. The plan disapproval will not trigger any Clean Air Act 179(b) sanctions.

Our proposed approval is based on our evaluation of the plan submittal and determination that the plan's revised base year and projected emission inventories and modeling demonstration of continued attainment of the CO standard through 2020 reflect acceptable methods and the most recent models and planning assumptions. Our proposed disapproval is based on our finding that the plan does not demonstrate continued attainment in year 2030 because it lacks micro-scale modeling analysis for the environs of the County's airports in that year.

Furthermore, we find that, with the exception of the 2030 budget, the new motor vehicle emissions budgets established in the plan and reflecting scaled inventories are also consistent with continued attainment of the CO NAAQS in Las Vegas Valley. Thus, we propose to approve the following motor vehicle emissions budgets from the 2005 CO plan as meeting the purposes of section 176(c)(1) and the transportation conformity rule at 40 CFR part 93, subpart A contingent upon the withdrawal of the 2030 budget by Clark County and the State of Nevada, and to disapprove the submitted budgets in the 2005 CO plan, in the alternative, if no such withdrawal is made:

CO Motor Vehicle Emissions Budget

[December weekday]

Year	Tons per day
2006	623
2010	690
2015	768
2020	817

Our action in approving the submitted plan revision and related motor vehicle emissions budgets, if the county and state withdraw the 2030 budget and if this action is otherwise finalized as proposed, would have the effect of replacing the existing CO motor vehicle emissions budgets from the Las Vegas Valley 2000 CO plan for the purposes of transportation conformity. EPA is soliciting public comment on the issues discussed in this document. These comments will be considered before taking final action.

V. Statutory and Executive Order Reviews

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

This proposed rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This proposed action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This proposed action merely approves a state plan implementing a Federal standard or disapproves the plan in the alternative, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This proposed rule also is not subject to Executive Order 13045, ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), because it is not economically significant.

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

List of Subjects in 40 CFR Part 52

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

Dated: May 1, 2006.

Wayne Nastri,

Regional Administrator, Region IX.

[FR Doc. E6–7032 Filed 5–8–06; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 594

[Docket No. NHTSA 2006–24128; Notice 2]

RIN 2127–AJ87

Schedule of Fees Authorized by 49 U.S.C. 30141

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

ACTION: Notice of proposed rulemaking; Correction.

SUMMARY: This document corrects the docket number identified in a notice of proposed rulemaking published in the **Federal Register** on April 19, 2006, proposing fees for Fiscal Year 2007 and until further notice relating to the registration of importers and the importation of motor vehicles that are not certified as conforming to the Federal motor vehicle safety standards (FMVSS).

FOR FURTHER INFORMATION CONTACT: Coleman Sachs, Office of Vehicle Safety Compliance, NHTSA (202–366–5291).

Correction

NHTSA is correcting the docket number for the notice of proposed rulemaking, published on April 19, 2006 (at 71 FR 20061), proposing fees, as authorized by 49 U.S.C. 30141, relating to the registration of importers and the importation of motor vehicles that are not certified as conforming to the FMVSS. The docket number was incorrectly identified as ''NHTSA 2006–2412''. The correct docket number is ''NHTSA 2006–24128''. The correct docket number should be identified on any comments submitted in response to the notice of proposed rulemaking.

Ronald L. Medford,

Senior Associate Administrator for Vehicle Safety.

[FR Doc. E6–6936 Filed 5–8–06; 8:45 am]

BILLING CODE 4910–59–P

Notices

Federal Register
Vol. 71, No. 89
Tuesday, May 9, 2006

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

ADVISORY COUNCIL ON HISTORIC PRESERVATION

Notice of Meeting

AGENCY: Advisory Council on Historic Preservation.

ACTION: Notice of Meeting.

SUMMARY: Notice is hereby given that the Advisory Council on Historic Preservation (ACHP) will meet on Friday, May 19, 2006. The meeting will be held in Salon F, Salt Lake City Marriott Downtown, 75 South West Temple, Salt Lake City, Utah, beginning at 8:30 a.m.

The ACHIP was established by the National Historic Preservation Act of 1966 (16 U.S.C. 470 *et seq.*) to advise the President and Congress on national historic preservation policy and to comment upon Federal, federally assisted, and federally licensed undertakings having an effect upon properties listed in or eligible for inclusion in the National Register of Historic Places. The ACHP's members are the Architect of the Capitol; the Secretaries of the Interior, Agriculture, Defense, and Transportation; the Administrators of the Environmental Protection Agency and General Services Administration; the Chairman of the National Trust for Historic Preservation; the President of the National Conference of State Historic Preservation Officers; a Governor; a Mayor; a Native American; and eight non-Federal members appointed by the President.

The agenda for the meeting includes the following:

Call to Order 8:30 a.m.
I. Chairman's Welcome
II. Swearing In Ceremony
III. *Preserve America* Community Recognition Event
IV. *Preserve America* Program Status Report
  A. ''The *Preserve America* Executive Order Report to the President''—Next Steps
  B. *Preserve America* Summit
V. Energy Policy Act Discussion
VI. Report of the Preservation Initiatives Committee
  A. Heritage Tourism Issues
  B. Legislation
VII. Report of the Federal Agency Programs Committee
  A. Update on Gulf Coast Recovery Efforts
  B. Agency Program Issues
VIII. Report of the Communications, Education, and Outreach Committee
  A. Business Meeting Recognition Events
  B. 2007 *Preserve America* Presidential Award Outreach
IX. Report of the Native American Advisory Group
X. Report of the Affordable Housing and Historic Preservation Task Force
XI. Report of the Base Realignment and Closure Task Force
XII. Chairman's Report
  A. Strategic Planning Process Schedule and Goals
  B. ACHP Alumni Foundation
  C. Legislative Issues
  1. ACHP Reauthorization Legislation
XIII. Executive Director's Report
XIV. New Business
XV. Adjourn

Note: The meetings of the ACHP are open to the public. If you need special accommodations due to a disability, please contact the Advisory Council on Historic Preservation, 1100 Pennsylvania Avenue, NW., Room 809, Washington, DC, 202–606–8503, at least seven (7) days prior of the meeting.

FOR FURTHER INFORMATION CONTACT: Additional information concerning the meeting is available from the Executive Director, Advisory Council on Historic Preservation, 1100 Pennsylvania Avenue, NW., #809, Washington, DC 20004.

Ralston Cox,

Acting Executive Director.

[FR Doc. 06–4300 Filed 5–8–06; 8:45 am]

BILLING CODE 4310–KY–M

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2006–0064]

Notice of Request for Extension of Approval of an Information Collection; Specimen Submission

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Extension of approval of an information collection; comment request.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Animal and Plant Health Inspection Service's intention to request an extension of approval of an information collection associated with livestock disease surveillance programs.

DATES: We will consider all comments that we receive on or before July 10, 2006.

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

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov* and, in the lower ''Search Regulations and Federal Actions'' box, select ''Animal and Plant Health Inspection Service'' from the agency drop-down menu, then click on ''Submit.'' In the Docket ID column, select APHIS–2006–0064 to submit or view public comments and to view supporting and related materials available electronically. Information on using Regulations.gov, including instructions for accessing documents, submitting comments, and viewing the docket after the close of the comment period, is available through the site's ''User Tips'' link.
- *Postal Mail/Commercial Delivery:* Please send four copies of your comment (an original and three copies) to Docket No. APHIS–2006–0064, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comment refers to Docket No. APHIS–2006–0064.

Reading Room: You may read any comments that we receive on this docket in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue, SW., Washington, DC. Normal reading room

hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690–2817 before coming.

Other Information: Additional information about APHIS and its programs is available on the Internet at *http://www.aphis.usda.gov.*

FOR FURTHER INFORMATION CONTACT: For information regarding livestock disease surveillance programs, contact Ms. Connie J. Osmundson, Financial Analyst, National Veterinary Services Laboratories, VS, APHIS, 1800 Dayton Road, Ames, IA 50010; (515) 663–7571. For copies of more detailed information on the information collection, contact Mrs. Celeste Sickles, APHIS' Information Collection Coordinator, at (301) 734–7477.

SUPPLEMENTARY INFORMATION:

Title: Specimen Submission.

OMB Number: 0579–0090.

Type of Request: Extension of approval of an information collection.

Abstract: The United States Department of Agriculture (USDA) is responsible for, among other things, preventing the interstate spread of livestock diseases and for eradicating such diseases from the United States when feasible.

In connection with this mission, the Veterinary Services (VS) program of USDA's Animal and Plant Health Inspection Service conducts disease surveillance programs. The VS Form 10–4 and its supplemental sheet (VS Form 10–4A) are critical components of these programs. They are routinely used whenever specimens (such as blood, milk, tissue, or urine) from any animal (including cattle, swine, sheep, goats, horses, and poultry) are submitted to our National Veterinary Services Laboratories for disease testing.

We are asking the Office of Management and Budget (OMB) to approve our use of these information collection activities for an additional 3 years.

The purpose of this notice is to solicit comments from the public (as well as affected agencies) concerning our information collection. These comments will help us:

(1) Evaluate whether the collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of our estimate of the burden of the information collection, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the information collection on those who are to respond, through use, as appropriate, of automated, electronic, mechanical, and other collection technologies, *e.g.*, permitting electronic submission of responses.

Estimate of burden: The public reporting burden for this collection of information is estimated to average 0.25 hours per response.

Respondents: State veterinarians, accredited veterinarians, animal health technicians, other State personnel who are qualified and authorized to collect and submit specimens for laboratory analysis, and herd owners.

Estimated annual number of respondents: 14,000.

Estimated annual number of responses per respondent: 2.

Estimated annual number of responses: 28,000.

Estimated total annual burden on respondents: 7,000 hours. (Due to averaging, the total annual burden hours may not equal the product of the annual number of responses multiplied by the reporting burden per response.)

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Done in Washington, DC, this 3rd day of May 2006.

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. E6–7009 Filed 5–8–06; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Forest Service

Plumas National Forest; Beckwourth Ranger District, California; Beckwourth Ranger District Tall Whitetop Project

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare an Environmental Impact Statement.

SUMMARY: The USDA Forest Service Plumas National Forest will prepare an Environmental Impact Statement (EIS) to eradicate populations of the noxious weed tall whitetop (*Lepidium latifolium*), along the Middle Fork of the Feather River approximately one-mile southwest of the town of Beckwourth.

DATES: Although comments will be accepted throughout any phase of this project, it would be most helpful if comments on the scope of the analysis were received within 30 days of the date of publication of this notice of intent in the **Federal Register**. The draft EIS is expected in September 2006 and the final EIS is expected in January 2007.

ADDRESSES: Send written comments to Acting District Ranger, Ronald L. Baer, Plumas National Forest, P.O. Box 7, Blairsden, CA 96103. Fax: (530) 836–0493. Comments may be: (1) Mailed to the Responsible Official; (2) hand delivered between the hours of 8 a.m.–4:30 p.m. weekdays Pacific Time; (3) faxed to (530) 836–0493; or (4) electronically mailed to: *comments-pacificsouthwest-plumas@fs.fed.us*. Comments submitted electronically must be in Rich Text Format (.rtf).

FOR FURTHER INFORMATION CONTACT: Terry R. Miller, Interdisciplinary Team Leader, Plumas National Forest, Beckwourth Ranger District, P.O. Box 7, Blairsden, CA 96103 (530) 836–2575.

SUPPLEMENTARY INFORMATION:

Project Location

The project area is one-mile southwest of the town of Beckwourth, T23N, R14E Sec. 26, 27, 28, and 29. It is comprised of the river corridor on either side of the junction of county road A–23 and highway 70.

Purpose and Need for Action

The effects of eradicating a noxious weed using an integrative pest management strategy will be analyzed in this EIS. The purpose of the project is to eradicate tall whitetop in the project area. Tall whitetop is invading the project area along the Middle Fork of the Feather River at a rapid rate. In 2003 there was one known location. Currently there are eighty-six tall whitetop locations. These locations total an estimated 36,000 plants over approximately 8 total acres. Hand pulling, over the last four years, at the original known site has proven ineffective for controlling the relatively small population there. Without effective treatment tall whitetop would continue to spread, invading additional acres nearby and potentially spreading throughout the entire corridor of the Middle Fork of the Feather River.

Proposed Action

Scattered populations of the noxious weed, tall whitetop, would be treated in order to eradicate it from the 844-acre project area. These scattered areas total approximately 8 acres, less than 1 percent of the project area.

A three-step process would be used over a period of five years to ensure successful eradication of tall whitetop from the project area. First plants would

be mechanically removed by hand pulling or mowing. Then resprouting plants would be chemically treated with herbicides. The three herbicides that are being proposed for use are glyphosate (such as Rodeo™), 2,4-D (such as Weedar 64™), and chlorsulfuron (such as Telar™). Finally, the areas would be seeded with native grasses to revegetate the areas.

Herbicide treatments would be designed to be as effective as possible in eradicating noxious weeds while protecting sensitive resources. By using different herbicides on uplands (areas upslope from the river) and floodplains (areas along the river), treatments would balance effectiveness and resource protection.

Upland habitat in the project area consists of 504 acres, of which two areas totaling 50 square feet are currently infested with tall whitetop. Within this area the use of more persistent herbicides will be prescribed for this area and if new populations are discovered in this habitat over the life of the project. Chlorsulfuron has the necessary persistence and selectivity to be the most effective choice for treatment in upland areas where water quality and riparian habitats are not affected. The advantage of using this herbicide is that the treatment is more effective. Therefore, the number of times the area will be retreated is limited.

Floodplains can generally be described as the area between the water's edge and its high water line. Floodplains make up 340 acres in the project area. Currently, most of the tall whitetop, approximately 8 acres, within the project area exists within the floodplain of the Middle Fork of the Feather River. The least persistent herbicides (glyphosate and the amine formulation of 2,4-D) would be used in the floodplain area where the intent is to minimize any opportunity for residual chemicals to be present in the soil and wash or leach into the watercourse. Herbicides selected for these areas are those approved for use because they are proven to have the lowest potential impacts to water and aquatic species and related habitat. The application of herbicides in these areas would occur after the last high water event of the season, with ample time allowed for chemical degradation prior to the first high water event of the next year. It is anticipated that chemical treatment in the floodplain zone would occur from May through July.

The proposed herbicides and their maximum application rates in acid equivalent per acre or active ingredient per acre are 2,4-D (1.9 lbs AE/ac), Glyphosate (3.0 lbs AE/ac), Chlorsulfuron (1.125 oz a.i./ac/). In addition to the specific herbicides, the additive R-11 and a colorant would be utilized. R-11 is a spreader/activator that improves the activity and penetration of the herbicide by reducing surface tension, allowing the herbicide mixture to spread evenly over the surface of the vegetation. The colorant is added to indicate where the herbicide has been applied.

Lead Agency: The USDA Forest Service is the lead agency for this proposal.

Responsible Official: Beckwourth Ranger District Acting District Ranger, Ronald L. Baer is the responsible official. Beckwourth Ranger District, P.O. Box 7, Blairsden, CA 96103.

Nature of Decision To Be Made

The responsible official will decide whether to implement this project as proposed, implement the project based on an alternative to this proposal that is formulated to resolve identified issues or not implement this project at this time. The responsible official will be the Beckwourth Ranger District Acting District Ranger.

Scoping Process

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

A copy of the proposed action and/or a summary of the proposed action will be mailed to adjacent landowners, as well as to those people and organizations that have indicated a specific interest in the Beckwourth Ranger District Tall Whitetop project, to Native American entities, and federal, state and local agencies. The public will be notified of any meetings regarding this proposal by mailings and press releases sent to the local newspaper and media. There are no meetings planned at this time.

Permits or Licenses Required: None.

Comment

This notice of intent initiates the scoping process which guides the development of the EIS. Our desire is to receive substantive comments on the merits of the proposed action, as well as comments that address errors, misinformation, or information that has been omitted. Substantive comments are defined as comments within the scope of the proposal, that have a direct relationship to the proposal, and that include supporting reasons for the responsible official's consideration.

Early Notice of Importance of Public Participation in Subsequent Environmental Review: A draft environmental impact statement will be prepared for comment. The comment period on the draft environmental impact statement will be 45 days from the date the Environmental Protection Agency publishes the notice of availability in the **Federal Register**.

The Forest Service believes, at this early stage, it is important to give reviewers notice of several court rulings related to public participation in the environmental review process. First, reviewers of draft environmental impact statements must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC,* 435 U.S. 519, 553 (1978). Also, environmental objections that could be raised at the draft environmental impact statement stage but that are not raised until after completion of the final environmental impact statement may be waived or dismissed by the courts. *City of Angoon* v. *Hodel,* 803 F.2d 1016, 1022 (9th Cir. 1986) and *Wisconsin Heritages, Inc.* v. *Harris,* 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 45-day comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final environmental impact statement.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the draft environmental impact statement should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft statement. Comments may also address the adequacy of the draft environmental impact statement or the merits of the alternatives formulated and discussed in the statement. Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.

Comments received, including the names and addresses of those who comment, will be considered part of the public record on this proposal and will be available for public inspection.

Authority: 40 CFR 1501.7 and 1508.22; Forest Service Handbook 1909.15, section 21.

Dated: May 1, 2006.

Ronald L. Baer,

Acting District Ranger.

[FR Doc. E6–7022 Filed 5–8–06; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF AGRICULTURE

Forest Service

Siskiyou County Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Siskiyou County Resource Advisory Committee will meet in Yreka, California, May 15, 2006. The meeting will include routine business, and discussion and recommendation of fifteen (15) previously submitted project proposals.

DATES: The meeting will be held May 15, 2006, from 4 p.m. until 6 p.m.

ADDRESSES: The meeting will be held at the Yreka High School Library, Preece Way, Yreka, California.

FOR FURTHER INFORMATION CONTACT: Bob Talley, RAC Coordinator, Klamath National Forest, (530) 841–4423 or electronically at *rtalley@fs.fed.us*.

SUPPLEMENTARY INFORMATION: The meeting is open to the public. Public comment opportunity will be provided and individuals will have the opportunity to address the Committee at that time.

Dated: May 3, 2006.

Margaret J. Boland,

Designated Federal Official.

[FR Doc. 06–4308 Filed 5–8–06; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Notice of Sanders County Resource Advisory Committee Meeting

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: Pursuant to the authorities in the Federal Advisory Committee Act (Pub. L. 92–463) and under the Secure Rural Schools and Community Self-Determination Act of 2000 (Pub. L. 106–393) the Lolo and Kootenai National Forests' Sanders County Resource Advisory Committee will meet on May 18 at 7 p.m. in Thompson Falls, Montana for a business meeting. The meeting is open to the public.

DATES: May 18, 2006.

ADDRESSES: The meeting will be held at the Thompson Falls Courthouse, 1111 Main Street, Thompson Falls, MT 59873.

FOR FURTHER INFORMATION CONTACT: Randy Hojem, Designated Federal Official (DFO), District Ranger, Plains Ranger District, Lolo National Forest at (406) 826–3821.

SUPPLEMENTARY INFORMATION: Agenda topics include reviewing progress on current RAC projects, and receiving public comment. If the meeting location is changed, notice will be posted in the local newspapers, including the Clark Fork Valley Press, and Sanders County Ledger.

Dated: May 1, 2006.

Randy Hojem,

DFO, Plains Ranger District, Lolo National Forest.

[FR Doc. 06–4313 Filed 5–8–06; 8:45 am]

BILLING CODE 3410–11–M

BROADCASTING BOARD OF GOVERNORS

Sunshine Act; Meeting

DATE AND TIME: Wednesday, May 10, 2006, 2–3 p.m.

PLACE: Cohen Building, Room 3321, 330 Independence Ave., SW., Washington, DC 20237.

CLOSED MEETING: The members of the Broadcasting Board of Governors (BBG) will meet in closed session to review and discuss a number of issues relating to U.S. Government-funded non-military international broadcasting. They will address internal procedural, budgetary, and personnel issues, as well as sensitive foreign policy issues relating to potential options in the U.S. international broadcasting field. This meeting is closed because if open it likely would either disclose matters that would be properly classified to be kept secret in the interest of foreign policy under the appropriate executive order (5 U.S.C. 552b.(c)(1)) or would disclose information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed agency action. (5 U.S.C. 552b.(c)(9)(B)). In addition, part of the discussion will relate solely to the internal personnel and organizational issues of the BBG or the International Broadcasting Bureau. (5 U.S.C. 552b–k.(c)(2) and (6)).

FOR FURTHER INFORMATION CONTACT: Persons interested in obtaining more information should contact Carol Booker at (202) 203–4545.

Dated: May 3, 2006.

Carol Booker,

Legal Counsel.

[FR Doc. 06–4345 Filed 5–5–06; 11:07 am]

BILLING CODE 8230–01–M

DEPARTMENT OF COMMERCE

Foreign–Trade Zones Board

[Docket 16–2006]

Foreign–Trade Zone 202 Los Angeles, California, Application for Subzone, Sony Electronics, Inc., (Audio, Video, Communications and Information Technology Products and Accessories), Los Angeles, Carson and Lynwood, California

An application has been submitted to the Foreign–Trade Zones Board (the Board) by the Board of Harbor Commissioners of the City of Los Angeles, grantee of FTZ 202, requesting special–purpose subzone status for the warehousing and distribution facilities of Sony Electronics, Inc. (Sony), located in Los Angeles, Carson and Lynwood, California. 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 28, 2006.

The Sony facilities (250 employees) consist of five sites on 65 acres: *Site 1* (21.5 acres) is located at 2201 East Carson St., Carson; *Site 2* (20.1 acres) is located at 1651 E. Glenn Curtiss St., Carson; Site 3 (1 acre) is located at 6041 W. Imperial Highway, Los Angeles; *Site 4* (7 acres) is located at 1071 E. 233rd St., Carson; and *Site 5* (15 acres) is located at 2700 E. Imperial Highway, Lynwood. The facilities are used for the storage, distribution, packaging, kitting, inspecting, testing and repair of audio, video, communications and information technology products and accessories.

Zone procedures would exempt Sony from customs duty payments on products that are re–exported. Some 5 percent of the products are re–exported. On its domestic sales, the company would be able to defer duty payments until merchandise is shipped from the facilities and entered for consumption. FTZ designation would further allow Sony to utilize certain customs procedures resulting in increased efficiencies for its logistics and distribution operations. In addition, Sony is requesting authority to choose the duty rates during customs entry procedures that apply to digital camera and camcorder kits (HTS 8525.40, duty

rate ranges from duty–free to 2.1%) for the following imported components: memory sticks, digital still cameras, digital camcorders, rechargeable battery packs and soft carrying cases (HTS 4202.91, 8507.80, 8523.90, 8525.40, duty rate ranges from duty–free to 4.5%). The company has also indicated that it will import soft carrying cases (HTS 4202.92, duty rate 17.6%), but that they will be admitted to the zone in privileged foreign status. The request indicates that the savings from FTZ procedures would help improve the plants' international competitiveness.

In accordance with the Board's regulations, a member of the FTZ staff has been appointed examiner to investigate the application and report to the Board.

Public comment is invited from interested parties. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is July 10, 2006. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period to July 24, 2006.

A copy of the application and accompanying exhibits will be available for public inspection at each of the following locations:
U.S. Department of Commerce Export Assistance Center, 444 South Flower Street, 34th Floor, Los Angeles, CA 90071.

Office of the Executive Secretary, Foreign–Trade Zones Board, U.S. Department of Commerce, Room 1115, 1401 Constitution Ave. NW., Washington, DC 20230.

Dated: April 28, 2006.

Dennis Puccinelli,

Executive Secretary.

[FR Doc. E6–7043 Filed 5–8–06; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

Foreign–Trade Zones Board

[Docket 17–2006]

Foreign–Trade Subzone 29F - Harrodsburg, KY, Hitachi Automotive Products (USA), Inc., Removal of Restriction (Automotive Components)

A application has been submitted to the Foreign–Trade Zones Board (the Board) by Hitachi Automotive Products, Inc. (HAP), operator of Subzone 29F, at the HAP automotive components manufacturing plant in Harrodsburg, Kentucky, requesting removal of the restriction pursuant to Board Order 497. It was formally filed on April 28, 2006.

Subzone 29F was approved by the Board in 1990 with authority granted for the manufacture of automotive components under FTZ procedures for the U.S. market and export (Board Order 497, 56 FR 674, 1–8–91). The manufacturing authority was approved with a restriction requiring that privileged foreign status (19 CFR 146.41) must be elected on all foreign–origin merchandise admitted to the subzone for use in the manufacture of automotive components, except for merchandise that is used in the manufacture of high–tech, electronic automotive components, such as control units, electronic throttle bodies, and mass air sensors. The restriction precludes inverted tariff benefits on foreign–origin merchandise used to manufacture standard, commodity–type components (e.g., starters, alternators, pressure sensors) for the U.S. market.

HAP is now requesting that the Board remove the restriction requiring that foreign–origin merchandise must be admitted to the subzone under privileged foreign status when such merchandise is to be used in the manufacture of standard, commodity–type products. The commodity–type automotive components subject to unrestricted FTZ benefits would include: Hydraulic pumps, fuel injection pumps, filters, catalytic converters, valves and actuators, motors, inverters, ignition coils, starters, generators, voltage regulators, transistors, conductors, thermistors, carbon brushes, integrated circuits, relay boxes, terminal covers, and wiring sets (duty rate range: free - 4.4%). Foreign–origin material inputs comprise approximately 80 percent of HAP's finished automotive components' material value and include: adhesives, plastic fittings, plastic and rubber belts, fasteners, gaskets/seals/o–rings, metal fittings, labels, plastic wedging, springs, brackets, plates, filters, bearings, air pumps/compressors, valves, switches, electric motors, tubes/pipes/profiles, aluminum plugs, transformers, crankshafts, camshafts, gears, pulleys, couplings, clutches, parts of electric motors, pinions, magnets, ignition parts, diodes, transistors, semiconductors, liquid crystal devices, electrical instruments, television cameras, navigation apparatus, capacitors, resistors, printed/integrated circuits, fuses, rheostats, connectors, terminals, piezoelectric crystals, regulators, lamps, wires, cables, insulators, brushes, steering wheels, hubs, brackets, shafts, and measuring instruments (duty rate range: free - 8.6%).

FTZ procedures exempt HAP from Customs duty payments on the foreign component inputs used in production for export to non–NAFTA countries. On its domestic shipments and exports to NAFTA markets, the company would be able to elect the duty rate that applies to finished automotive components (2.5%) for the foreign inputs within the finished commodity–type automotive components. On the finished, commodity–type components shipped from the HAP plant in–bond to U.S. light vehicle auto assembly plants with subzone status, no duties would be paid on the foreign–origin inputs until the finished vehicles are formally entered for consumption, at which time the automobile duty rate (2.5%) would be applied to the foreign–origin inputs. The request indicates that the savings from FTZ procedures will continue to help improve the HAP facility's international competitiveness. 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 is invited from interested parties. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is July 10, 2006. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period to July 24, 2006.

A copy of the application and accompanying exhibits will be available for public inspection at each of the following locations: U.S. Department of Commerce Export Assistance Center, Room 634B, 601 West Broadway, Louisville, Kentucky 40202; and, Office of the Executive Secretary, Foreign–Trade Zones Board, Room 1115, U.S. Department of Commerce, 1401 Constitution Avenue, NW., Washington, District of Columbia 20230–0002; Tel: (202) 482–2862.

Dated: April 28, 2006.

Dennis Puccinelli,

Executive Secretary.

[FR Doc. E6–7053 Filed 5–8–06; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

Foreign–Trade Zones Board

[Docket 18–2006]

Foreign–Trade Zone 47 Boone County, Kentucky, Application For Foreign–Trade Subzone Status, adidas Sales, Inc. (Apparel, Footwear, and Sporting Equipment), Hebron, Kentucky

An application has been submitted to the Foreign–Trade Zones Board (the Board) by the Northern Kentucky Foreign–Trade Zone Inc., grantee of FTZ 47, requesting special–purpose subzone status for the warehousing and distribution facilities (apparel, footwear, and sporting equipment) of adidas Sales, Inc. (adidas), located in Hebron, Kentucky. The application was submitted pursuant to 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 28, 2006.

The facilities for which subzone status is proposed are located at three sites in Hebron, Kentucky (62.19 acres total; 1,012,507 sq. ft. of enclosed space): Site # 1 (25 acres; 492,507 sq. ft. of enclosed space) located at 1081/1085 Aviation Boulevard; Site # 2 (12.09 acres; 205,000 sq. ft. of enclosed space) located at 2055/2095 Global Way; and Site # 3 (25.1 acres; 315,000 sq. ft. of enclosed space) located at 1505 Worldwide Boulevard. The facilities (approximately 730 employees) may be used under FTZ procedures for warehousing and distribution of apparel, footwear, and sporting equipment.

Zone procedures would allow adidas to defer Customs duty payments until merchandise is shipped from its facilities to the U.S. market. The company would be able to avoid duty on foreign merchandise which becomes scrap/waste, estimated at less than one percent of imported products. The application indicates that adidas also anticipates realizing significant logistical/procedural benefits and that savings from FTZ procedures could help improve the facilities' international competitiveness.

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 is invited from interested parties. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is July 10, 2006. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period to July 24, 2006.

A copy of the application and accompanying exhibits will be available for public inspection at each of the following locations:
U.S. Department of Commerce Export Assistance Center, 36 East 7th Street, Suite 2650, Cincinnati, OH 45202.
Office of the Executive Secretary, Foreign–Trade Zones Board, U.S. Department of Commerce, Room 1115, 1401 Constitution Ave. NW., Washington, DC 20230.

Dated: April 28, 2006.

Dennis Puccinelli,

Executive Secretary.

[FR Doc. E6–7054 Filed 5–8–06; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

Foreign–Trade Zones Board

Change of Address; Submission of Comments

The office of the Foreign–Trade Zones (FTZ) Board staff is moving from the Franklin Court Building to the Herbert Clark Hoover Building (Main Commerce Building). Submissions to the FTZ Board should hereafter be directed to the address below:
Foreign–Trade-Zones Board,
U.S. Department of Commerce,
1401 Constitution Ave. NW.,
Room 1115,
Washington, DC 20230.

Dated: May 1, 2005.

Dennis Puccinelli,

Executive Secretary.

[FR Doc. E6–7055 Filed 5–8–06; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–560–818 and C–560–819]

Notice of Postponement of Final Determination of Antidumping and Countervailing Duty Investigations and Extension of Provisional Measures: Certain Lined Paper Products from Indonesia

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

EFFECTIVE DATE: May 9, 2006.

FOR FURTHER INFORMATION CONTACT: Damian Felton or Brandon Farlander, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–0133 or (202) 482–0182, respectively.

SUPPLEMENTARY INFORMATION:

Postponement of Final Determination

The Department of Commerce (''the Department'') is postponing the final determination in the antidumping and countervailing duty investigations of certain lined paper products (''CLPP'') from Indonesia. On October 6, 2005, the Department initiated the antidumping duty investigation of CLPP from Indonesia. *See Initiation of Antidumping Duty Investigation: Certain Lined Paper Products from India, Indonesia, and the People's Republic of China*, 70 FR 58374 (October 6, 2005). On October 7, 2005, the Department initiated the countervailing duty investigation of CLPP from Indonesia. *See Initiation of Countervailing Duty Investigation: Certain Lined Paper Products from India (C–533–844) and Indonesia (C- 560–819)*, 70 FR 58690 (October 7, 2005).

On February 13, 2006, the Department published its affirmative countervailing duty determination. *See Notice of Preliminary Affirmative Countervailing Duty Determination: Certain Lined Paper Products from Indonesia*, 71 FR 7524 (February 13, 2006). On February 17, 2006, Petitioner submitted a letter requesting alignment of the final countervailing duty determination with the final determination in the companion antidumping investigation. On March 7, 2006, the Department published notification of alignment for the final determinations in the antidumping and countervailing duty investigations of CLPP from Indonesia. *See Certain Lined Paper Products From India and Indonesia: Alignment of First Countervailing Duty Determination With Antidumping Duty Determination*, 71 FR 11379 (March 7, 2006). On March 27, 2006, the Department published its affirmative preliminary antidumping duty determination. *See Notice of Preliminary Determination of Sales at Less Than Fair Value: Certain Lined Paper Products from Indonesia*, 71 FR 15162 (March 27, 2006). This notice states that the Department will issue its final determination no later than 75 days after the date of the preliminary determination.

Section 735(a)(2)(A) of the Tariff Act of 1930, as amended, (the Act) and 19 CFR 351.210(b)(2)(ii) provide that a final determination in an antidumping duty investigation may be postponed until no later than 135 days after the date of the

publication of the preliminary determination if, in the event of an affirmative preliminary determination, a request for such postponement is made by exporters who account for a significant proportion of exports of the subject merchandise. Additionally, the Department's regulations, at 19 CFR 351.210(e)(2)(ii), require that requests by a respondent for postponement of a final determination be accompanied by a request for an extension of the provisional measures from a four-month period to not more than six months.

On April 24, 2006, in accordance with section 735(a)(2)(A) of the Act and 19 CFR 351.210(b)(2)(ii), PT. Pabrik Kertas Tjiwi Kimia Tbk., which is the only mandatory respondent in the antidumping investigation and which accounts for a significant portion of exports of CLPP from Indonesia (*see* the Memorandum from Natalie Kempkey to Susan Kuhbach entitled ''Antidumping Investigation of Certain Lined Paper Products from Indonesia: Selection of Respondents''), requested that the Department: (1) Postpone the final determination; and (2) extend the provisional measures period from four months to a period not longer than six months. Accordingly, pursuant to section 735(a)(2)(A) of the Act and 19 CFR 351.210(b)(2)(ii), because: (1) The preliminary determination is affirmative; (2) the requesting exporter accounts for a significant proportion of exports of the subject merchandise in this investigation; and (3) no compelling reasons for denial exist, we are postponing the final determination until no later than 135 days after the publication of the preliminary determination in the **Federal Register** (*i.e.*, until no later than August 9, 2006). Suspension of liquidation will be extended accordingly.

In addition, because the countervailing duty investigation of CLPP from Indonesia has been aligned with the concurrent antidumping duty investigation under section 705(a)(1) of the Act, the time limit for completion of the final determination in the countervailing duty investigation will be the same date, August 9, 2006, as the final determination of the concurrent antidumping duty investigation. *See Postponement of Final Determination of Antidumping and Countervailing Duty Investigations of Hot–Rolled Flat–Rolled Carbon–Quality Steel From Brazil*, 64 FR 24321 (May 6, 1999).

This notice of postponement is published pursuant to section 735(a) of the Act and 19 CFR 351.210(g).

Dated: May 3, 2006.

David M. Spooner,

Assistant Secretary for Import Administration.

[FR Doc. E6–7041 Filed 5–8–06; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

A–533–838

Carbazole Violet Pigment 23 from India: Notice of Rescission of Antidumping Duty New Shipper Review

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

EFFECTIVE DATE: May 9, 2006.

SUMMARY: In response to a request from Gharda Chemicals, Ltd., on January 27, 2006, the Department of Commerce published in the **Federal Register** a notice announcing the initiation of a new shipper review of the antidumping duty order on carbazole violet pigment 23 from India covering the period December 1, 2004, through November 30, 2005. On April 21, 2006, Gharda Chemicals, Ltd., withdrew its request for a new shipper review and, therefore, we are rescinding this review.

FOR FURTHER INFORMATION CONTACT: Dmitry Vladimirov or Minoo Hatten at (202) 482–0665 and (202) 482–1690, respectively, Office 5, AD/CVD Operations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Background

The Department of Commerce (the Department) published the antidumping duty order on carbazole violet pigment 23 from India on December 29, 2004 (69 FR 77988). On September 22, 2005, we received a timely request for a new shipper review of the antidumping duty order on carbazole violet pigment 23 from India from Gharda

Chemicals, Ltd. (Gharda). On January 17, 2006, Gharda submitted additional information to supplement its new shipper review request in response to our January 10, 2006, letter requesting that Gharda correct certain deficiencies in its new shipper review request. Pursuant to section 751(a)(2)(B) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.214(d)(1), we initiated a new shipper review on January 27, 2006, for shipments of carbazole violet pigment 23 from India produced and exported by Gharda (71 FR 4569). Gharda withdrew its request for a new shipper review on April 21, 2006.

Rescission of New Shipper Review

Section 351.214(f)(1) of the Department's regulations provides that the Department may rescind a new shipper review if the party that requested the review withdraws its request for review within sixty days of the date of publication of the notice of initiation of the requested review. Although Gharda withdrew its request after the 60–day deadline, we find it reasonable to extend the deadline because we have not yet committed significant resources to the Gharda new shipper review. Specifically, we have not started calculating a margin for Gharda and we have not yet verified Gharda's data. Further, Gharda was the only party to request the review. Finally, we have not received any submissions opposing the withdrawal of the request for the review. For these reasons, we are rescinding the new shipper review of the antidumping duty order on carbazole violet pigment 23 from India with respect to Gharda in accordance with 19 CFR 351.214(f)(1).

Notification

As of the date of the publication of this rescission notice in the **Federal Register**, we will instruct U.S. Customs and Border Protection that importers will no longer have the option of posting a bond to fulfill security requirements for shipments of carbazole violet pigment 23 from India produced and exported by Gharda and entered, or withdrawn from warehouse, for consumption in the United States. We will issue assessment instructions within 15 days of the date of the publication of this notice and, in accordance with 19 CFR 351.212(c), we will instruct U.S. Customs and Border Protection to assess antidumping duties at the cash–deposit rate in effect at the time of entry for all shipments of carbazole violet pigment 23 from India produced and exported by Gharda and entered, or withdrawn from warehouse, for consumption during the period December 1, 2004, through November 30, 2005.

This notice also serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return/ destruction of APO material or conversion to judicial protective order is

hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanctions.

This notice is published in accordance with section 751(a) of the Act and 19 CFR 351.214(f)(3).

Dated: May 3, 2006.

Stephen J. Claeys,

Deputy Assistant Secretary for Import Administration.

[FR Doc. E6–7042 Filed 5–8–06; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–351–824, A–823–805, A–570–828]

Silicomanganese from Brazil, Ukraine, and the People's Republic of China; Five-year Sunset Reviews of Antidumping Duty Orders; Final Results

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

SUMMARY: On January 3, 2006, the Department of Commerce (the Department) initiated sunset reviews of the antidumping duty orders on silicomanganese from Brazil, Ukraine, and the People's Republic of China pursuant to section 751(c) of the Tariff Act of 1930, as amended (the Act). On the basis of the notice of intent to participate and adequate substantive responses filed on behalf of the sole domestic interested party and inadequate responses from respondent interested parties, the Department conducted expedited sunset reviews. As a result of these sunset reviews, the Department finds that revocation of the antidumping duty orders would be likely to lead to continuation or recurrence of dumping and the magnitude of the margins likely to prevail is set forth in the section entitled ''Final Results of Reviews.''

EFFECTIVE DATE: May 9, 2006.

FOR FURTHER INFORMATION CONTACT: Zev Primor or Janis Kalnins, Office 5, AD/CVD Operations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC, 20230; telephone: (202) 482–4114 or (202) 482–1392, respectively.

SUPPLEMENTARY INFORMATION:

Background

On January 3, 2006, the Department initiated sunset reviews of the antidumping duty orders on silicomanganese from Brazil, Ukraine, and the People's Republic of China pursuant to section 751(c) of the Act. See *Initiation of Five-year (''Sunset'') Reviews*, 71 FR 91 (January 3, 2006). The Department received a Notice of Intent to Participate from Eramet Marietta Inc. (Eramet) within the deadline specified in 19 CFR 351.218(d)(1)(i), (Sunset Regulations). Eramet claimed interested–party status under section 771(9)(C) of the Act as a manufacturer of a domestic like product in the United States. We received complete substantive responses from Eramet within the 30-day deadline specified in 19 CFR 351.218(d)(3)(i). In its substantive response, Eramet indicated that Elkem was the petitioner in the original investigation but that, since Eramet purchased Elkem's silicomanganese operations in 1999, it has participated actively in all administrative reviews and sunset reviews.

We did not receive substantive responses from any respondent interested parties in the sunset reviews of the antidumping duty orders on silicomanganese from Brazil, Ukraine, and the People's Republic of China. As a result, pursuant to section 751(c)(3)(B) of the Act and 19 CFR 351.218(e)(1)(ii)(C)(2), the Department conducted expedited sunset reviews of these orders.

Scope of the Orders

The merchandise covered by these orders is silicomanganese. Silicomanganese, which is sometimes called ferrosilicon manganese, is a ferroalloy composed principally of manganese, silicon and iron, and normally contains much smaller proportions of minor elements, such as carbon, phosphorus, and sulfur. Silicomanganese generally contains by weight not less than 4 percent iron, more than 30 percent manganese, more than 8 percent silicon, and not more than 3 percent phosphorous. All compositions, forms, and sizes of silicomanganese are included within the scope of the order, including silicomanganese slag, fines, and briquettes. Silicomanganese is used primarily in steel production as a source of both silicon and manganese.

Silicomanganese is currently classifiable under subheading 7202.30.0000 of the *Harmonized Tariff Schedule of the United States* (HTSUS). Some silicomanganese may also currently be classifiable under HTSUS subheading 7202.99.5040. These orders cover all silicomanganese, regardless of its tariff classification. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of these orders remain dispositive.

Analysis of Comments Received

All issues raised in these cases are addressed in the ''Issues and Decision Memorandum'' from Stephen J. Claeys, Deputy Assistant Secretary for Import Administration, to David M. Spooner, Assistant Secretary for Import Administration, dated May 3, 2006 (Decision Memorandum), which is hereby adopted by this notice. The issues discussed in the Decision Memorandum include the likelihood of continuation or recurrence of dumping and the magnitude of the margins likely to prevail if the orders were revoked. Parties can find a complete discussion of all issues raised in these sunset reviews and the corresponding recommendations in this public memorandum, which is on file in the CRU, Room B–099 of the main Department building.

In addition, a complete version of the Decision Memorandum can be accessed directly on the Web at http://ia.ita.doc.gov. The paper copy and electronic version of the Decision Memorandum are identical in content.

Final Results of Reviews

We determine that revocation of the antidumping duty orders on silicomanganese from Brazil, Ukraine, and the People's Republic of China would likely lead to continuation or recurrence of dumping at the following percentage weighted–average margins:

Manufacturers/Exporters/Producers	Weighted–Average Margin (Percent)
Brazil.	
Rio Doce Manganês S.A. (RDM),. Companhia Paulista de Ferro–Ligas (CPFL),. and Urucum Mineração S.A. (Urucum). (collectively RDM/CPFL)	64.93

Manufacturers/Exporters/Producers	Weighted–Average Margin (Percent)
All Others	17.60
Ukraine.	
All Manufacturers/Producers/Exporters	163.00
The People's Republic of China.	
All Manufacturers/Producers/Exporters	150.00

This notice also serves as the only reminder to parties subject to administrative protective orders (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

We are issuing and publishing these results and notice in accordance with sections 751(c), 752, and 777(i)(1) of the Act.

Dated: May 3, 2006.

David M. Spooner,

Assistant Secretary for Import Administration.

[FR Doc. E6–7044 Filed 5–8–06; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

A–570–890

Wooden Bedroom Furniture from the People's Republic of China: Notice of Initiation and Preliminary Results of Changed Circumstances Review, and Intent to Revoke Order in Part

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

EFFECTIVE DATE: May 9, 2006.

SUMMARY: On February 2, 2006, and in an amendment on March 16, 2006, the Department of Commerce (the ''Department'') received a request on behalf of the petitioners, the American Furniture Manufacturers Committee for Legal Trade and its individual members (the ''AFMC'') for a changed circumstances review and a request to revoke in part the antidumping duty (''AD'') order on wooden bedroom furniture from the People's Republic of China with respect to jewelry armoires that have at least one side door, whether or not the door is lined with felt or felt–like material. In its February 2, 2006, submission, AFMC stated that it no longer has any interest in antidumping relief from imports of such jewelry armoires with respect to the subject merchandise defined in the ''Scope of the Review'' section below. Interested parties are invited to comment on these preliminary results.

FOR FURTHER INFORMATION CONTACT: Will Dickerson or Robert Bolling, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington D.C. 20230; telephone (202) 482–1778 and (202) 482–3434, respectively.

SUPPLEMENTARY INFORMATION:

Background

On January 4, 2005, the Department published the Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order on Wooden Bedroom Furniture from the People's Republic of China (70 FR 329). On February 2, 2006, and in an amendment on March 16, 2006, AFMC requested revocation in part of the AD order pursuant to sections 751(b)(1) and 782(h) of the Tariff Act of 1930, as amended (''the Act''), with respect to jewelry armoires that have at least one side door, whether or not lined with felt or felt–like material, as described below.

Scope of the Order

The product covered is wooden bedroom furniture. Wooden bedroom furniture is generally, but not exclusively, designed, manufactured, and offered for sale in coordinated groups, or bedrooms, in which all of the individual pieces are of approximately the same style and approximately the same material and/or finish. The subject merchandise is made substantially of wood products, including both solid wood and also engineered wood products made from wood particles, fibers, or other wooden materials such as plywood, oriented strand board, particle board, and fiberboard, with or without wood veneers, wood overlays, or laminates, with or without non–wood components or trim such as metal, marble, leather, glass, plastic, or other resins, and whether or not assembled, completed, or finished.

The subject merchandise includes the following items: (1) Wooden beds such as loft beds, bunk beds, and other beds; (2) wooden headboards for beds (whether stand–alone or attached to side rails), wooden footboards for beds, wooden side rails for beds, and wooden canopies for beds; (3) night tables, night stands, dressers, commodes, bureaus, mule chests, gentlemen's chests, bachelor's chests, lingerie chests, wardrobes, vanities, chessers, chifforobes, and wardrobe–type cabinets; (4) dressers with framed glass mirrors that are attached to, incorporated in, sit on, or hang over the dresser; (5) chests–on-chests[1], highboys[2], lowboys[3], chests of drawers[4], chests[5], door chests[6], chiffoniers[7], hutches[8], and armoires[9]; (6) desks, computer stands, filing cabinets, book cases, or writing tables that are attached to or incorporated in the subject merchandise; and (7) other bedroom furniture consistent with the above list.

The scope of the order excludes the following items: (1) seats, chairs, benches, couches, sofas, sofa beds, stools, and other seating furniture; (2) mattresses, mattress supports (including box springs), infant cribs, water beds,

[1] A chest-on-chest is typically a tall chest-of-drawers in two or more sections (or appearing to be in two or more sections), with one or two sections mounted (or appearing to be mounted) on a slightly larger chest; also known as a tallboy.

[2] A highboy is typically a tall chest of drawers usually composed of a base and a top section with drawers, and supported on four legs or a small chest (often 15 inches or more in height).

[3] A lowboy is typically a short chest of drawers, not more than four feet high, normally set on short legs.

[4] A chest of drawers is typically a case containing drawers for storing clothing.

[5] A chest is typically a case piece taller than it is wide featuring a series of drawers and with or without one or more doors for storing clothing. The piece can either include drawers or be designed as a large box incorporating a lid.

[6] A door chest is typically a chest with hinged doors to store clothing, whether or not containing drawers. The piece may also include shelves for televisions and other entertainment electronics.

[7] A chiffonier is typically a tall and narrow chest of drawers normally used for storing undergarments and lingerie, often with mirror(s) attached.

[8] A hutch is typically an open case of furniture with shelves that typically sits on another piece of furniture and provides storage for clothes.

[9] An armoire is typically a tall cabinet or wardrobe (typically 50 inches or taller), with doors, and with one or more drawers (either exterior below or above the doors or interior behind the doors), shelves, and/or garment rods or other apparatus for storing clothes. Bedroom armoires may also be used to hold television receivers and/or other audio-visual entertainment systems.

and futon frames; (3) office furniture, such as desks, stand–up desks, computer cabinets, filing cabinets, credenzas, and bookcases; (4) dining room or kitchen furniture such as dining tables, chairs, servers, sideboards, buffets, corner cabinets, china cabinets, and china hutches; (5) other non–bedroom furniture, such as television cabinets, cocktail tables, end tables, occasional tables, wall systems, book cases, and entertainment systems; (6) bedroom furniture made primarily of wicker, cane, osier, bamboo or rattan; (7) side rails for beds made of metal if sold separately from the headboard and footboard; (8) bedroom furniture in which bentwood parts predominate[10]; (9) jewelry armories[11]; (10) cheval mirrors[12] (11) certain metal parts[13] (12) mirrors that do not attach to, incorporate in, sit on, or hang over a dresser if they are not designed and marketed to be sold in conjunction with a dresser as part of a dresser–mirror set.

Imports of subject merchandise are classified under subheading 9403.50.9040 of the Harmonized Tariff Schedule of the United States (''HTSUS'') as ''wooden...beds'' and under subheading 9403.50.9080 of the HTSUS as ''other...wooden furniture of a kind used in the bedroom.'' In addition, wooden headboards for beds, wooden footboards for beds, wooden side rails for beds, and wooden canopies for beds may also be entered under subheading 9403.50.9040 of the HTSUS as ''parts of wood'' and framed glass mirrors may also be entered under subheading 7009.92.5000 of the HTSUS as ''glass mirrors...framed.'' This order covers all wooden bedroom furniture meeting the above description, regardless of tariff classification. Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of this proceeding is dispositive.

[10] As used herein, bentwood means solid wood made pliable. Bentwood is wood that is brought to a curved shape by bending it while made pliable with moist heat or other agency and then set by cooling or drying. See Customs' Headquarters' Ruling Letter 043859, dated May 17, 1976.

[11] Any armoire, cabinet or other accent item for the purpose of storing jewelry, not to exceed 24'' in width, 18'' in depth, and 49'' in height, including a minimum of 5 lined drawers lined with felt or felt-like material, at least one side door lined with felt or felt-like material, with necklace hangers, and a flip-top lid with inset mirror. See Memorandum from Laurel LaCivita to Laurie Parkhill, Office Director, Issues and Decision Memorandum Concerning Jewelry Armoires and Cheval Mirrors in the Antidumping Duty Investigation of Wooden Bedroom Furniture from the People's Republic of China, dated August 31, 2004.

[12] Cheval mirrors, *i.e.*, any framed, tiltable mirror with a height in excess of 50'' that is mounted on a floor-standing, hinged base.

[13] Metal furniture parts and unfinished furniture parts made of wood products (as defined above) that are not otherwise specifically named in this scope (*i.e.*, wooden headboards for beds, wooden footboards for beds, wooden side rails for beds, and wooden canopies for beds) and that do not possess the essential character of wooden bedroom furniture in an unassembled, incomplete, or unfinished form. Such parts are usually classified under HTSUS subheading 9403.90.7000.

Initiation and Preliminary Results of Changed Circumstances Review, and Intent to Revoke Order in Part

At the request of AFMC, and in accordance with sections 751(d)(1) and 751(b)(1) of the Act and 19 CFR 351.216, the Department is initiating a changed circumstances review of wooden bedroom furniture from the People's Republic of China to determine whether partial revocation of the AD order is warranted with respect to jewelry armoires that have at least one side door, whether or not the door is lined with felt or felt–like material. Section 782(h)(2) of the Act and 19 CFR 351.222(g)(1)(i) provide that the Department may revoke an order (in whole or in part) if it determines that producers accounting for substantially all of the production of the domestic like product have no further interest in the order, in whole or in part. In addition, in the event the Department determines that expedited action is warranted, 19 CFR 351.221(c)(3)(ii) permits the Department to combine the notices of initiation and preliminary results.

In accordance with section 751(b) of the Act, and 19 CFR 351.222(g)(l)(i) and 351.221(c)(3), we are initiating this changed circumstances review and have determined that expedited action is warranted. In accordance with 19 CFR 351.216(c), we find that the petitioners' affirmative statement of no interest constitutes good cause for the conduct of this review. Additionally, our decision to expedite this review stems from the domestic industry's lack of interest in applying the AD order to the specific wooden bedroom furniture (i.e., jewelry armories discussed above) covered by this request.

Based on the expression of no interest by the petitioners and absent any objection by any other domestic interested parties, we have preliminarily determined that substantially all of the domestic producers of the like product have no interest in the continued application of the AD order on wooden bedroom furniture to the merchandise that is subject to this request. Therefore, we are notifying the public of our intent to revoke, in part, the AD order as it relates to imports of the jewelry armoires from the People's Republic of China that have at least one side door, whether or not the door is lined with felt or felt–like material.

Therefore, we intend to change footnote 11 of the scope on wooden bedroom furniture from the People's Republic of China to read as follows:

> Any armoire, cabinet or other accent item for the purpose of storing jewelry, not to exceed 24'' in width, 18'' in depth, and 49'' in height, including a minimum of 5 lined drawers lined with felt or felt–like material, at least one side door (whether or not the door is lined with felt or felt–like material), with necklace hangers, and a flip–top lid with inset mirror. See Memorandum from Laurel LaCivita to Laurie Parkhill, Office Director, Issues and Decision Memorandum Concerning Jewelry Armoires and Cheval Mirrors in the Antidumping Duty Investigation of Wooden Bedroom Furniture from the People's Republic of China dated August 31, 2004. See Wooden Bedroom Furniture from the People's Republic of China: Notice of Final Results of Changed Circumstances Review and Revocation in the Part (FR citation and date to be added).

Public Comment

Interested parties are invited to comment on these preliminary results. Written comments may be submitted no later than 14 days after the date of publication of these preliminary results. Rebuttals to written comments, limited to issues raised in such comments, may be filed no later than 21 days after the date of publication. The Department will issue the final results of this changed circumstances review, which will include the results of its analysis raised in any such written comments, no later than 270 days after the date on which this review was initiated, or within 45 days if all parties agree to our preliminary results. *See* 19 CFR 351.216(e).

If final revocation occurs, we will instruct U.S. Customs and Border Protection to end the suspension of liquidation for the merchandise covered by the revocation on the effective date of the notice of revocation and to release any cash deposit or bond. *See* 19 CFR 351.222(g)(4). The current requirement for a cash deposit of estimated AD duties on all subject merchandise will continue unless and until it is modified pursuant to the final results of this changed circumstances review.

This initiation and preliminary results of review and notice are in accordance with sections 751(b) of the Act and 19 CFR 351.216, 351.221, and 351.222.

Dated: April 27, 2006.

David M. Spooner,

Assistant Secretary 6 for Import Administration.

[FR Doc. E6–6938 Filed 5–8–06; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF DEFENSE

Department of the Army

Surplus Properties; Notice

SUMMARY: This notice provides information regarding the properties that have been determined surplus to the United States needs in accordance with the Defense Base Closure and Realignment Act of 1990, Public Law 101–510, as amended, and the 2005 Base Closure and Realignment Commission Report, as approved, and following screening with Federal agencies and Department of Defense components.

DATES: Effective May 9, 2006.

FOR FURTHER INFORMATION CONTACT: Headquarters, Department of the Army, Assistant Chief of Staff for Installation Management, Base Realignment and Closure Division, Attn: DAIM–BD, 600 Army Pentagon, Washington DC 20310–0600, (703) 601–2418. For information regarding a specific property, a contact is provided on the list of properties below.

SUPPLEMENTARY INFORMATION: Under the provisions of the Federal Property and Administrative Services Act of 1949, as amended, the Defense Base Closure and Realignment Act of 1990, as amended, and other public benefit conveyance authorities, this surplus property may be available for conveyance to State and local governments and other eligible entities for public benefit purposes. Notices of interest from representatives of the homeless, and other interested parties located in the vicinity of any listed surplus property should be submitted to both the recognized Local Redevelopment Authority and Army point of contact as listed above, or where no Local Redevelopment Authority has been recognized, the notice of interest shall be submitted to the Army point of contact as listed below. Local Redevelopment Authorities are in the process of being recognized. Where no Local Redevelopment Authority is listed, please contact the Army point contact below for the latest information. Notices of interest from representatives of the homeless shall include the information required by 32 CFR 176.20(c)(2)(ii). Recognized Local Redevelopment Authorities, or the Army where no Local Redevelopment Authority has been recognized, shall assist interested parties in evaluating the surplus properties for the intended use. Deadlines for notices of interest shall be 90 days from the date a corresponding notice is published in a newspaper of general circulation in the vicinity of the installation. The properties are listed by state. Additional information for any listed property may be found at *http://www.hqda.army.mil/acsimweb/brac/braco.htm*.

Surplus Property List

Alabama

Dothan—Harry L. Gary Jr. USARC, 801 Mill Avenue, POC: Commander, 81st Regional Readiness Command, ATTN: Base Transition Coordinator, 225 West Oxmoor Road, Birmingham, AL 35209 Telephone: 205–329–9215

Fort McClellan—Faith Wing USARC, 215 Regimental Avenue, POC: Commander, 81st Regional Readiness Command, ATTN: Base Transition Coordinator, 225 West Oxmoor Road, Birmingham, AL 35209 Telephone: 205–329–9215

Mobile—Wright USARC, 1900 Hurtel Street: Commander, 81st Regional Readiness Command, ATTN: Base Transition Coordinator, 225 West Oxmoor Road, Birmingham, AL 35209 Telephone: 205–329–9215

Montgomery—BG William P. Screws USARC, 4050 Atlanta Highway POC: Commander, 81st Regional Readiness Command, ATTN: Base Transition Coordinator, 225 West Oxmoor Road, Birmingham, AL 35209 Telephone: 205–329–9215

Troy—PFC Grady C. Anderson USARC, 358 Elba Highway, POC: Commander, 81st Regional Readiness Command, ATTN: Base Transition Coordinator, 225 West Oxmoor Road, Birmingham, AL 35209 Telephone: 205–329–9215

Tuscaloosa—AMSA 51, 2627 10th Avenue POC: Commander, 81st Regional Readiness Command, ATTN: Base Transition Coordinator, 225 West Oxmoor Road, Birmingham, AL 35209 Telephone: 205–329–9215

Tuscaloosa—Finnell AFRC, 2627 10th Avenue POC: Commander, 81st Regional Readiness Command, ATTN: Base Transition Coordinator, 225 West Oxmoor Road, Birmingham, AL 35209 Telephone: 205–329–9215

Tuskegee—Cleveland Leight Abbott USARC, 2202 VA Hospital Road, POC: Commander, 81st Regional Readiness Command, ATTN: Base Transition Coordinator, 225 West Oxmoor Road, Birmingham, AL 35209 Telephone: 205–329–9215

Arizona

Tucson—Allen Hall USARC, 1750 E. 29th Street, POC: Commander 63rd Regional Readiness Command, ATTN: Base Transition Coordinator, 4235 Yorktown Avenue, Los Alamitos, CA 90720–5002 Telephone: 520–889–1129

Arkansas

El Dorado—Rufus N. Garrett Jr. USARC, 815 West 8th Street, POC: City of El Dorado Local Redevelopment Authority, P.O. Box 486, El Dorado, AR 71731 Telephone: 870–863–4070

Fayetteville—Leroy R. Pond USARC, 1616 N. Woolsey Street, POC: Public Information and Policy Advisor, City of Fayetteville, 113 W. Mountain, Fayetteville, AR 72701 Telephone: 479–575–8330

Hot Springs—Hot Springs USARC, 200 Reserve Street, POC: Commander, 90th Regional Readiness Command, ATTN: Base Transition Coordinator, 8000 Camp Robinson Road, North Little Rock, AR 72118 Telephone: 501–771–8788

Jonesboro—Jonesboro USARC, 1001 S. Caraway Road, POC: Commander, 90th Regional Readiness Command, ATTN: Base Transition Coordinator, 8000 Camp Robinson Road, North Little Rock, AR 72118 Telephone: 501–771–8788

California

Long Beach—Schroeder Hall USARC, 3800 Willow St, POC: Commander 63rd Regional Readiness Command, ATTN: Base Transition Coordinator, 4235 Yorktown Avenue, Los Alamitos, CA 90720–5002 Telephone: 530–889–1129

Pasadena—Desiderio Hall USARC, 655 Westminster Drive, POC: Planning and Development Department, City of Pasadena, 175 North Garfield Avenue, 3rd Floor, Pasadena, CA 91101 Telephone: 626–744–7143

Riverbank—Riverbank Army Ammunition Plant, POC: City Council of Riverbank and District 1 Board Supervisors of Stanislaus County, City of Riverbank, 6707 Third Street, Riverbank, CA 95367–2396 Telephone: 209–863–7129

San Jose—PVT George L. Richey USARC, 155 W. Hedding Street, POC: Commander 63rd Regional Readiness Command, ATTN: Base Transition Coordinator, 4235 Yorktown Avenue, Los Alamitos, CA 90720–5002 Telephone: 530–889–1129

Connecticut

Fairfield—1LT John S. Turner USARC, 180 High St., POC: Fairfield High Street Redevelopment Authority, First

Selectman's Office, 725 Old Post Road, Fairfield, CT06824 Telephone: 203–256–3032

Middletown—Middletown USARC, 499 Mile Lane POC: Middletown Realignment and Closure Redevelopment Authority, 245 DeKoven Drive, Middletown, CT 06457 Telephone: 860–344–3401

Milford—AMSA 69, 26 Seamans Lane, POC:, POC: Milford Local RevelopmentAuthority, City Hall, 110 River Street, Milford, CT 06460 Telephone: 203–783–3230

Waterbury—Paul J. Sutcovoy USARC, Lydia Street Extension, POC: Commander, 94th Regional Readiness Command, ATTN: Base Transition Coordinator, 11 Saratoga Boulevard, Devens, MA 01432–5216 Telephone: 978–796–2238

Delaware

Wilmington—MAJ Robert Kirkwood Memorial USARC, 3931 Kirkwood Highway, POC: Delaware Economic Development Office, Carvel State Office Bldg. 10th Fl., 820 N. French Street, Wilmington, DE 19801 Telephone: 302–577–8477 Fax: 302–577–8499

Georgia

Atlanta—Fort McPherson, POC: McPherson Planning Local Redevelopment Authority, 86 Pryor Street, Suite 300, Atlanta, Georgia 30303, (404)–614–8298

Columbus—Columbus USARC #1, 3001 Macon Road, POC: Mayor, Columbus Consolidated Government, P.O. Box 1340, Columbus, GA 31902–1340 Telephone: 706–653–4712

Forest Park—Fort Gillem, POC: Forest Park/Fort Gillem Local Redevelopment Authority, 2270 Mt. Zion Road, Jonesboro, GA 30246 Telephone: 678 610–4021

Hawaii

Hilo—SFC Minoru Kunieda USARC, 470 W. Lanikaula Street, POC: Kunieda ARC Local Redevelopment Authority, 25 Aupuni Street, Hilo, HI 96720 Telephone: 808–961–8234

Illinois

Centralia—SFC E.L. Copple USARC, 904 Martin Luther King Drive, POC City of Centralia, 222 South Poplar, Centralia, IL 62801, Telephone: 618–533–7622

Fairfield—SSG R.E. Walton USARC, 1002 Leininger Road, POC: SSG R.E. Walton U.S. Army Reserve Center Local Redevelopment Authority, 108 NW. 7th Street, Fairfield, IL 62837 Telephone: 618–842–2153

Marion—PFC R.G. Wilson USARC, 1001 Deyoung Street, POC: City of Marion, 1102 Tower Square Plaza, Marion, IL 62959 Telephone: 618–997–6281

Waukegan—Waukegan AFRC, 1721 North McAree Road, POC: Waukegan Federal Acquisition Committee, 100 North Martin Luther King Jr. Avenue, Waukegan, IL 60085 Telephone: 847–599–2510

Iowa

Cedar Rapids—Cedar Rapids AFRC, 1599 Wenig Road NE., POC: Commander, 89th Regional Readiness Command, ATTN: Base Transition Coordinator, 3130 George Washington Boulevard, Wichita, KS 67210–1598 Telephone: 316–681–1759 ext. 1223

Middletown—Burlington Memorial USARC, 17879 Highway 79, POC: Commander, 89th Regional Readiness Command, ATTN: Base Transition Coordinator, 3130 George Washington Boulevard, Wichita, KS 67210–1598 Telephone: 316–681–1759 ext. 1223

Kansas

Parsons—Kansas Army Ammunition Plant, POC: Kansas Army Ammunition Plant Local Redevelopment Planning Authority, P.O. Box 387, Oswego, KS 67356 Telephone: 620–795–2138

Kentucky

Louisville—MG Benjamin J. Butler USARC, 3600 Century Division Way, P–3, POC: Louisville/Jefferson Redevelopment Authority, 444 South Fifth Street, Suite 600, Louisville, KY 40202 Telephone: 205–329–9215

Paducah—Paducah Memorial USARC, 2956 Park Avenue, POC: City of Paducah Local Redevelopment Authority, P.O. Box 2267, 300 South 5th Street, Paducah, KY 42002–2267 Telephone: 270–444–8690

Paducah—USARC #2,2001 N. 12th Street, POC: City of Paducah Local Redevelopment Authority, P.O. Box 2267, 300 South 5th Street, Paducah, KY 42002–2267 Telephone: 270–444–8690

Massachusetts

Chicopee—Westover AFRC, Bldg 5550, Westover AFB POC: Commander, 94th Regional Readiness Command, ATTN: Base Transition Coordinator, 11 Saratoga Boulevard, Devens, MA 01432–5216 Telephone: 978–796–2238

Springfield—Arthur MacArthur USARC, 50 East Street, POC: Commander, 94th Regional Readiness Command, ATTN: Base Transition Coordinator, 11 Saratoga Boulevard, Devens, MA 01432–5216 Telephone: 978–796–2238

Michigan

Battle Creek—George Dolliver USARC/AMSA 135, 135 N. Washington Avenue, POC: Commander, 88th Regional Readiness Command, ATTN: Base Transition Coordinator, 506 Roeder Circle, Fort Snelling, MN 55111–4009 Telephone: 612–713–3827

Selfridge—United States Army Garrison Michigan POC: Chesterfield Township Local Redevelopment Authority, 47275 Sugarbush, Chesterfield Township, MI 48047 Telephone: 586–949–0400

Minnesota

Cambridge—Cambridge Memorial USARC, 540 Fifth Avenue, NW., POC: City of Cambridge Local Redevelopment Authority, 300 Third Avenue Northeast, Cambridge, MN 55008 Telephone: 763–552–3201

Faribult—GEN Beebe USARC/AMSA 111, 2118 Highway 60, POC: Faribult Local Redevelopment Authority, 208 First Avenue, NW., Faribult, MN 55021–2884 Telephone: 507–333–0345

Montana

Helena—AMSA #75(G) (Fort William Harrison), 2150 Williams Street, POC: Commander, 96th Regional Readiness Command, ATTN: Base Transition Coordinator, Building 102, Fort Douglas Armed Forces Reserve Center, Salt Lake City, Utah 84113–5007 Telephone: 801–656–4255

Missoula—Ernest Veuve Hall USARC/AMSA 75, T–25, Fort Missoula, POC: Commander, 96th Regional Readiness Command, ATTN: Base Transition Coordinator, Building 102, Fort Douglas Armed Forces Reserve Center, Salt Lake City, Utah 84113–5007 Telephone: 801–656–4255

Nebraska

Hastings—Hastings USARC, 4790 East J Street, POC: Commander, 89th Regional Readiness Command, ATTN: Base Transition Coordinator, 3130 George Washington Boulevard, Wichita, KS 67210–1598 Telephone: 316–681–1759 ext. 1223

New Hampshire

Portsmouth—Paul A. Doble USARC, 125 Cottage Street, POC: City of Portsmouth, 1 Junkins Avenue, Portsmouth, NH 03801 Telephone: 603–610–7202

New Jersey

Edison—SGT J.W. Kilmer/AMSA 21, 91 Truman Drive, POC: Edison Township Council, Township of Edison Municipal Complex, 100

Municipal Boulevard, Edison, NJ 08817 Telephone: 732–248–7371

Fort Monmouth—Fort Monmouth Economic Revitalization Planning Authority, P.O. Box 001, Trenton, NJ 08625–001 Telephone: 609–777–1257

Pennsauken—SFC Nelson V. Brittin USARC/S–S, 3911 Federal Street, POC: Brittin USARC Local Redevelopment Authority, Municipal Building, 5605 N. Crescent Boulevard, Pennsauken, NJ 08110 Telephone: 856–665–1000

New York

Amityville—Amityville AFRC, 600 Albany Avenue, POC: Town Board of Town of Babylon, Downtown Revitalization Task Force, 200 East Sunrise Highway, Lindenhurst, NY 11757–2597 Telephone: 631–957–3013

Fort Tilden—Fort Tilden USARC, 415 State Road and Breezy Point Blvd, POC: Fort Tilden Redevelopment Authority, 120–55 Queens Boulevard—Room 226, Kew Gardens, NY 11424 Telephone: 718–286–3000

New Windsor—Stewart Newburgh USARC, 930 Raz Avenue, POC: Town of New Windsor Local Redevelopment Authority, 555 Union Avenue, New Windsor, NY 12553–6196 Telephone: 845–563–4610

Niagara Falls—Niagara Falls USARC/AMSA 76, 9400 Porter Road, POC: Town of Niagara Local Redevelopment Authority, 7105 Lockport Road, Town of Niagara, NY 14304 Telephone: 716–297–2150 ext. 136

Poughkeepsie—2LT Glen Carpenter USARC, 25 Oakley Street, POC: City of Poughkeepsie Industrial Development Authority, Municipal Building, P.O. Box 300, Poughkeepsie, NY 12602 Telephone: 845–451–4046

Uniondale—BG Theodore Roosevelt Jr. USARC, 101 Oak Street, POC: Commander, 77th Regional Readiness Command, ATTN: Base Transition Coordinator, Building 200, Fort Totten, Flushing, NY 11359–1016 Telephone: 718–352–8717

North Carolina

Albemarle—Jesse F. Niven Jr. USARC, 1816 Main Street, POC: City of Albemarle Local Redevelopment Authority, P.O. Box 190, Albemarle, NC 28002–0190 Telephone: 704–984–9408

Wilmington—Adrian B. Rhodes AFRC, 2144 Lake Shore Drive, POC: City of Wilmington Redevelopment Authority, P.O. Box 1810, Wilmington, NC 28402–1810 Telephone: 910–341–5820

Ohio

Columbus—Ft Hays Memorial USARC, 530 Jack Gibbs Blvd, Bldg 300, POC: Commander, 88th Regional Readiness Command, ATTN: Base Transition Coordinator, 506 Roeder Circle, Fort Snelling, MN 55111–4009 Telephone: 612–713–3827

Kenton—LT Jacob Parrott USARC, 1025 S. Main Street, POC: Hardin County Local Redevelopment Authority, One Courthouse Square, Suite 100, Kenton, OH 43326 Telephone: 419–674–2205

Mansfield—SSG Roy Clifton Scouten USARC, 271 Hodges Street, POC: Commander, 88th Regional Readiness Command, ATTN: Base Transition Coordinator, 506 Roeder Circle, Fort Snelling, MN 55111–4009 Telephone: 612–713–3827

Springfield—SFC M.L. Downs USARC/AMSA 58, 1515 W. High Street, POC: City of Springfield Local Redevelopment Authority, 76 East High Street, Springfield, OH 45502 Telephone: 937–324–7674

Whitehall—Whitehall Memorial USARC, 721 Country Road, POC: Whitehall Local Redevelopment Authority, 360 South Yearling Road, Whitehall, OH 43213 Telephone: 614–338–3103

Oklahoma

Clinton—Donald A. Roush USARC, 1720 Opal Street, POC: Clinton Redevelopment Authority, P.O. Box 1177, 415 Gary Boulevard, Clinton, OK 73601 Telephone: 580–323–0261

Norman—Joe A. Smalley USARC, 1507 W. Lindsey, POC: City of Norman Local Redevelopment Authority, P.O. Box 370, Norman, OK 73070 Telephone: 405–366–5439

Oregon

Portland—2LT Alfred Sharff USARC, 8801 N. Chautauqua Blvd, POC: Commander, 70th Regional Readiness Command, ATTN: Base Transition Coordinator, 4575 36th Avenue West, Seattle, WA 98199–5000 Telephone: 206–510–6793

Portland—SGT Jerome Sears USARC, 2731 SW Multnohah Blvd., POC: Commander, 70th Regional Readiness Command, ATTN: Base Transition Coordinator, 4575 36th Avenue West, Seattle, WA 98199–5000 Telephone: 206–510–6793

Pennsylvania

Bethlehem—Wilson-Kramer USARC, 2940 Airport Road, POC: Bethlehem Local Redevelopment Authority, 10 East Church Street, Bethlehem, PA 18018 Telephone: 610–8654–7085

Bloomsburg—Bloomsburg USARC, 1469 Old Berwick Road, POC: Scott Township Local Redevelopment Authority, Scott Township Municipal Building, 350 Tenny Street, Bloomsburg, PA 17815 Telephone: 570–784–9114

Chester—James W. Reese USARC, 500 W. 245th St. (Upland), POC: Reese Local Redevelopment Authority, 224 Castle Avenue, Upland, PA 19015 Telephone: 610–8734–7317

Horsham—Horsham Memorial USARC, 936 Easton Road, POC: Horsham Township Authority for NASJRB (Naval Air Station Joint Reserve Base), 1025 Horsham Road, Horsham, PA 19044 Telephone: 215–643–3131

Lewisburg—Lewisburg USARC, Hafer and JPM Roads, POC: Commander, 99th Regional Readiness Command, ATTN: Base Transition Coordinator, 99 Soldiers Lane, Corapolis, Pennsylvania 151908–2550 Telephone: 412–604–8159

Norristown—1LT Ray S. Musselman Memorial USARC, 1020 Sandy Hill Road, POD: Commander, 99th Regional Readiness Command, ATTN: Base Transition Coordinator, 99 Soldiers Lane, Corapolis, Pennsylvania 15108–2550 Telephone 412–604–8159

Norristown—North Penn Memorial USARC, 1625 Berks Road, POC: North Penn USARC Redevelopment Authority, 1721 Valley Forge Road, P.O. Box 767, Worcester, PA 19490 610–5484–1410

Oakdale—Charles E. Kelly Support Facility, 6 Lobaugh St., POC: Redevelopment Authority of Allegheny County, 425 Sixth Avenue, Suite 800, Pittsburgh, PA 15219 Telephone: 412–350–1061

Philadelphia—Germantown Veterans Memorial USARC, 5200 Wissahickon Avenue, POC: City of Philadelphia Planning Commission, One Parkway, 13th Floor, 1515 Arch Street, Philadelphia, PA 19102 Telephone: 215–683–4615

Philadelphia—Philadelphia Memorial USARC, 2838–98 Woodhaven Road, POC: City of Philadelphia Planning Commission, One Parkway, 13th Floor, 1515 Arch Street, Philadelphia, PA 19102 Telephone: 215–683–43615

Wilkes Barre—Wilkes-Barre USARC, 1001 Highway 315 South, POC: Commander, 99th Regional Readiness Command, ATTN: Base Transition Coordinator, 99 Soldiers Lane, Corapolis, Pennsylvania 15108–2550 Telephone: 412–604–8159

Williamsport—Lycoming Memorial USARC, 1605 Four Mile Drive, POC: Loyalstock Township Board of Supervisors, 2501 East Third Street,

Williamsport, PA 17701 Telephone: 570–323–6151

Puerto Rico

Bayamón—1LT Paul Lavergné USARC, RD 167, KM 5.0, Hwy 8, POC: Bayamón Lavergné U.S. Army Reserve Center Local Redevelopment Authority, P.O. Box 1588, Bayamón, PR 00961 Telephone: 787–707–4925

Rhode Island

Bristol—Quinta-Gamelin USARC, Asylum Road, POC: Town Council Local Redevelopment Authority, Town Hall, 10 Court Street, Bristol, RI 02809 Telephone: 3401–253–7000 ext. 133

Warwick—PT Lloyd S. Cooper III USARC, 885 Sandy Lane, POC: Warwick Local Redevelopment Authority, City Hall Annex, 3275 Post Road, Warwick, RI 02886 Telephone: 3401–738–2000 ext. 6292

South Carolina

Rock Hill—Rock Hill Memorial USARC, 515 South Cherry Road, POC: Commander, 81st Regional Readiness Command, ATTN: Base Transition Coordinator, 225 West Oxmoor Road, Birmingham, AL 35209 Telephone: 205–329–9215

Tennessee

Chattanooga—Chattanooga (VAAP) USARC (BLDG 228), 6703d Bonny Oaks Drive, Bldg 228, POC: 81st Regional Readiness Command, ATTN: Base Transition Coordinator, 225 West Oxmoor Road, Birmingham, AL 3209 Telephone: 205–329–9215

Texas

Abilene—Grimes Memorial USARC, 4300 S. Treadway, POC: Abilene Local Redevelopment Authority, P.O. Box 60, Abilene, TX 79504 Telephone: 325–676–6206.

Alice—Alice USARC, 100 Stadium Road, POC: Alice Local Redevelopment Authority, P.O. Box 3229, Alice, TX 78333 Telephone: 361–668–7210

Amarillo—Blucher S. Tharp Memorial USARC, 2801 Duniview Circle, POC: Commander, 90th Regional Readiness Command, ATTN: Base Transition Coordinator, 8000 Camp Robinson Road, North Little Rock, AR 72118 Telephone: 501–771–8788

Dallas—Jules E. Muchert USARC, 10031 E. Northwest Highway, POC: City of Dallas, Director of Development Services, 1500 Marilla Street, 5 DN, Dallas, TX 75201, Telephone: 314–670–4127

Houston—Houston USARC #2, 7077 Perimeter Park Drive, POC: City of Houston, Building Services Department, City of Houston, P.O. Box 1652, Houston, TX 77251 Telephone: 713–247–2639

Houston—Houston USARC #3, 6903 Perimeter Park Drive, POC: City of Houston, Building Services Department, City of Houston, P.O. box 1652, Houston, TX 77251 Telephone: 713–247–2639

Marshall—Marshall USARC, 1209 Pinecrest Drive East, POC: Commander, 90th Regional Readiness Command, ATTN: Base Transition Coordinator, 8000 Camp Robinson Road, North Little Rock, AR 72118 Telephone: 501–771–8788

San Antonio—Boswell Street USARC, 432 Boswell Street, POC: San Antonio Local Development Authority, City of San Antonio Economic Development Department, P.O. Box 839966, San Antonio, TX 78283 Telephone: 210–207–8040

San Antonio—Callaghan Road USAC, 600 Callaghan Road, POC: San Antonio Local Redevelopment Authority, City of San Antonio Economic Development Department, P.O. Box 839966, San Antonio, TX 78283 Telephone: 210–207–8040

Texarkana—Watts-Guillot USARC, 2800 W. 15th Street, POC: Red River Redevelopment Authority, 107 Chapel Lane, New Boston, TX 75570 Telephone 903–223–8741

Texarkana—Lone Star Army Ammunition Plant, POC: Red River Redevelopment Authority, 107 Chapel Lane, New Boston, TX 75570 Telephone: 903–223–9841

Texarkana—Red River Army Ammunition Plant, POC: Red River Redevelopment Authority, 107 Chapel Lane, New Boston, TX 75570 Telephone: 903–223–9841

Wichita Falls—Wichita Falls USARC, 3315 9th Street, POC: City of Wichita Falls, Community Development, P.O. Box 1431, Wichita Falls TX 76307, 1300 Seventh Street, Wichita Falls, TX 76301 Telephone: 940–761–7451

Vermont

Chester—Chester Memorial USARC, 978 VT Route 11 West, POC: Chester Local Redevelopment Authority, P.O. Box 370, Chester, VT 05143 Telephone: 802–875–2173

Rutland—Courcelle Brothers USARC, 16 North Street Extension, POC: Rutland Redevelopment Authority, 103 Wales Street, Rutland, VT 05701 Telephone: 802–775–2910

Virginia

Hampton—Fort Monroe POC: Federal Area Development Authority, City of Hampton, 22 Lincoln Street—8th Floor, Hampton, VA 23669, Telephone: 757–727–6884

Washington

Pasco—PFC Daniel L. Wagenaar USARC, 1011 E. Ainsworth Street, POC; Port of Pasco, 904 E. Ainsworth, Pasco, WA 99301 Telephone: 509–547–3378

Seattle—2LT Robert R. Leisy USARC/AMSA 79, 4570 Texas West Way, POC: Commander, 70th Regional Readiness Command, ATTN: Base Transition Coordinator, 4574 36th Avenue West, Seattle, WA 98199–5000 Telephone: 206–510–6793

Seattle—CPT James R. Harvey USARC, 4510 Texas West Way, POC: Commander, 70th Regional Readiness Command, ATTN: Base Transition Coordinator, 4575 36th Avenue West, Seattle, WA 98199–5000

Spokane—1LT Richard H. Walker USARC, n. 3800 Sullivan Road, POC: Commander, 70th Regional Readiness Command, ATTN: Base Transition Coordinator, 4575 36th Avenue West, Seattle, WA 98199–5000, Telephone: 206–510–6793.

Spokane—PFC Joe E. Mann USARC/AMSA 80, N. 4415 Market Street, POC: Commander, 70th Regional Readiness Command, ATTN: Base Transition Coordinator, 4575 36th Avenue West, Seattle, WA 98199–5000, Telephone: 206–510–6793.

West Virginia

Beverly—Elkins USARC, Route 1, Box 255, POC: Elkins-Randolph Local Redevelopment Authority, Elkins City Hall, 401 Davis Avenue, Elkins, WV 26241, Telephone: 302–636–1414.

Fairmont—1LT Harry B. Colborn USARC, Mary Lou Retton Drive, POC: City of Fairmont Planning Commission, 200 Jackson Street, Fairmont, WV 26554, Telephone: 3–4–366–6211, ext. 308.

Huntington—MAJ Leslie Bias USARC, 1550 Spring Valley Drive, POC: Commander, 99th Regional Readiness Command, ATTN: Base Transition Coordinator, 99 Soldiers Lane, Corapolis, Pennsylvania 15108–2550, Telephone: 412–604–8159.

Ripley—SSG Juhl USARC/AMSA 114, 331 Second Avenue, POC: Commander, 99th Regional Readiness Command, ATTN: Base Transition Coordinator, 99 Soldiers Lane, Corapolis, Pennsylvania 15108–2550, Telephone: 206–510–6793.

Authority: This action is authorized by the Defense Base Closure and Realignment Act of 1990, Title XXIX of the National Defense Authorization Act for Fiscal Year 1991, Pub. L. 101–510; the Base Closure Community Redevelopment and Homeless Assistance Act

of 1994, Pub. L. 103–421; the Military Construction Authorization Act for Fiscal Year 1994, Division B of Pub. L. 103–160; and 10 U.S.C. 113.

Dated: May 3, 2006.

Joseph W. Whitaker,

Deputy Assistant Secretary of the Army (Installations and Housing).

[FR Doc. 06–4305 Filed 5–8–06; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF EDUCATION

National Mathematics Advisory Panel

AGENCY: National Mathematics Advisory Panel, DOE.

ACTION: Notice of an open meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of an upcoming meeting of the National Mathematics Advisory Panel. The notice also describes the functions of the Panel. Notice of this meeting is required by section 10(a)(2) of the Federal Advisory Committee act and is intended to notify the public of their opportunity to attend.

DATES: Monday, May 22, 2006.

Time: 10 a.m. to 3 p.m.

ADDRESSES: The Panel will meet in Washington, DC, at the National Academy of Sciences Building, 2100 C Street, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Tyrrell Flawn, Executive Director: National Mathematics Advisory Panel, 400 Maryland Avenue, SW., Washington, DC 20202; telephone (202) 260–8354.

SUPPLEMENTARY INFORMATION: The Panel is established by Executive Order 13398. The purpose of this Panel is to foster greater knowledge of and improved performance in mathematics among American students, in order to keep America competitive, support American talent and creativity, encourage innovation throughout the American economy and help State, local, territorial, and tribal governments give the nation's children and youth the education they need to succeed.

The Panel will submit to the President, through the Secretary, a preliminary report not later than January 31, 2007, and a final report not later than February 28, 2008. Both reports shall, at a minimum, contain recommendations, based on the best available scientific evidence, on the following:

(a) The critical skills and skill progressions for students to acquire competence in algebra and readiness for higher levels of mathematics;

(b) the role and appropriate design of standards and assessment in promoting mathematical competence;

(c) the process by which students of various abilities and backgrounds learn mathematics;

(d) instructional practices, programs, and materials that are effective for improving mathematics learning;

(e) the training, selection, placement, and professional development of teachers of mathematics in order to enhance students' learning of mathematics;

(f) the role and appropriate design of systems for delivering instruction in mathematics that combine the different elements of learning processes, curricula, instruction, teacher training and support, and standards, assessments, and accountability;

(g) needs for research in support of mathematics education;

(h) ideas for strengthening capabilities to teach children and youth basic mathematics, geometry, algebra and calculus and other mathematical disciplines;

(i) such other matters relating to mathematics education as the Panel deems appropriate; and

(j) such other matters relating to mathematics education as the Secretary may require.

The entire Panel will meet for the duration of the first meeting. The meeting agenda will include introduction of all the members and a background briefing on the operation of the Panel. In addition, the Panel will discuss plans for upcoming meetings and the work of the Panel.

Individuals who will need accommodations for a disability in order to attend the meeting (*e.g.*, interpreting services, assistive listening devices, or materials in alternative formats) should notify Tyrrell Flawn at (202) 260–8354 no later than May 12, 2006. We will attempt to meet requests for accommodations after this date but cannot guarantee their availability. The meeting site is accessible to individuals with disabilities.

Individuals interested in attending the meeting must register in advance because of limited space issues. Please contact Tyrrell Flawn at (202) 260–8354 or by e-mail at *Tyrrell.Flawn@ed.gov.*

Opportunities for public comment are available through the National Math Panel Web site at *http://www.ed.gov/about/bdscomm/list/mathpanel/index.html.* Records are kept of all Panel proceedings and are available for public inspection at the staff office for the Panel from the hours of 9 a.m. to 5 p.m.

Dated: May 3, 2006.

Margaret Spellings,

Secretary, U.S. Department of Education.

[FR Doc. 06–4303 Filed 5–8–06; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF EDUCATION

Privacy Act of 1974; Computer Matching Program

AGENCY: Department of Education.

ACTION: Notice of computer matching program between the U.S. Department of Education (ED), and the U.S. Department of Health and Human Services (HHS), Administration for Children and Families (ACF), Office of Child Support Enforcement (OCSE).

SUMMARY: Pursuant to the Computer Matching and Privacy Protection Act of 1988, Pub. L. 100–503, and the Office of Management and Budget (OMB) *Final Guidance Interpreting the Provisions of Public Law 100–503, the Computer Matching and Privacy Protection Act of 1988*, 54 FR 25818 (June 19, 1989), this document gives notice of a computer matching program between ED and HHS/ACF/OCSE.

This computer matching program between the two agencies will become effective, as indicated in paragraph six of this notice. In accordance with the Privacy Act of 1974, as amended (5 U.S.C. 552a), OMB *Final Guidance Interpreting the Provisions of Public Law 100–503, the Computer Matching and Privacy Protection Act of 1988*, 54 FR 25818 (June 19, 1989), and OMB Circular No. A–130, Appendix I (65 FR 77677 (December 12, 2000)), we provide the following information:

1. Names of Participating Agencies

The U.S. Department of Education (ED) is the source agency; and the U.S. Department of Health and Human Services (HHS), Administration for Children and Families (ACF), Office of Child Support Enforcement (OCSE), is the recipient agency.

2. Purpose of Matching Program

The purpose of the matching program is to obtain address and employment information on individuals who owe funds to the Federal government for defaulted student loans or grant overpayments awarded under Title IV of the Higher Education Act of 1965, as amended. ED will use this information to initiate independent collection of these debts under the provisions of the Debt Collection Improvement Act of 1982 when voluntary payment is not forthcoming. For individuals whose

annualized wage level exceeds $16,000, these collection efforts will include orders by ED, the U.S. Department of Justice (DOJ); or a guaranty agency to the employing entity, pursuant to statutory, non-judicial, administrative wage garnishment authority, to withhold a portion of the disposable pay of the debtor until such time as the obligation is paid in full.

3. Authority for Conducting the Matching Program

The legal authority for HHS and ED to conduct this matching program is contained in the Social Security Act (42 U.S.C. 653(j)(6)).

4. Categories of Records and Individuals Covered by the Matching Program

The current systems of records maintained by the respective agencies under the Privacy Act of 1974, as amended, 5 U.S.C. 552a, from which records will be disclosed for the purpose of this computer matching program are as follows:

ED: Student Financial Assistance Collection Files (18–11–07), 64 FR 30166–30169 (June 4, 1999), as amended, 64 FR 72407 (December 27, 1999). (ED has published a notice of a new system of records entitled the Common Services for Borrowers (CSB) system (18–11–16), 71 FR 3503 (January 23, 2006), which, once it is fully phased in, will replace ED's Student Financial Assistance Collection Files system of records.)

OCSE: The National Directory of New Hires database maintained in the Location and Collection System (09–90–0074), 70 FR 21200 (April 25, 2005).

5. Description of Computer Matching Program

ED administers student financial assistance programs under the Higher Education Act of 1965, as amended (HEA). OCSE maintains a database that consists of three separate components. The first component, the new hire or ''W4'' file, contains all newly hired employees as reported from the State Directory of New Hires (SDNH) and directly from Federal agencies. The second component, the quarterly wage or ''QW'' file, contains quarterly wage information on individual employees, as received from Federal agencies and States. The third component, the unemployment insurance or ''UI'' file, contains unemployment insurance information on individuals who have received, or made application for, unemployment benefits, as reported by the State Workforce Agency or other State agencies responsible for the implementation of the Unemployment Insurance Program.

This matching agreement between ED and HHS/ACF/OCSE will assist ED, and other entities with whom ED shares the data, in locating and collecting funds from those individuals who are in default on loans awarded under Title IV of the HEA or owe an obligation to refund an overpayment of a grant awarded under Title IV of the HEA. The primary identifying elements that the two agencies will match are:

ED: First and Last Name, and Social Security Number (SSN) of delinquent debtors. OCSE: First and Last Name, and SSN of all current and newly hired employees and claimants for unemployment insurance benefits. OCSE will verify the Name and SSN combination, and perform the computer match using all nine digits of the SSN of the ED file against the OCSE computer database. OCSE will produce a file containing the name, SSN, address, employer, wage amount, and employer's address for each individual identified, based on the match. The file containing the results of the match will be provided to ED.

ED is responsible for determining whether the data in the NDNH reply file is consistent with ED's source file and for resolving any discrepancies or inconsistencies on an individual basis. ED will also be responsible for ensuring that no adverse action is taken against any individual, as a result of information produced by the matching program, until the information has been independently verified and the individual receives a notice from ED containing a statement of its findings and informing the individual of the opportunity to contest such findings.

6. Effective Dates of the Matching Program

The matching program will become effective on (1) May 16, 2006; (2) 30 days after publication of this notice in the **Federal Register**; or (3) 40 days after the signing of the transmittal letters sending the computer matching program report to Congress and OMB, unless OMB disapproves the agreement within the 40 day review period or grants a waiver of 10 days of the review period, whichever date occurs last. The matching program will continue for 18 months after the effective date, and may be extended for an additional 12 months thereafter, if the conditions specified in 5 U.S.C. 552a(o)(2)(D) have been met.

7. Address for Receipt of Public Comments or Inquiries

If you wish to comment on this matching program or obtain additional information about the program including a copy of the computer matching agreement between ED and HHS/ACF/OCSE, contact Marian E. Currie, Management and Program Analyst, U.S. Department of Education, Federal Student Aid, 400 Maryland Avenue, SW., Union Center Plaza, room 41B4, Washington, DC 20202–5320, Telephone: (202) 377–3212; or, as a secondary contact: Naomi Randolph, Supervisory, Management and Program Analyst, U.S. Department of Education, Federal Student Aid, 400 Maryland Avenue, SW., Union Center Plaza, room 44E3, Washington, DC 20202–5320, Telephone: (202) 377–4367.

If you use a Telecommunications Device for the Deaf (TDD), you may call the Federal Relay Service (FRS) at 1–800–877–8339.

Individuals with disabilities may obtain this document in an alternative format (*e.g.*, Braille, large print, audiotape, or computer diskette) on request to the contact person listed in the preceding paragraph.

Electronic Access to This Document

You may view this document, as well as all other Department of Education documents 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/index.html.*

To use PDF you must have the 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.

You may also view this document in text or PDF at the following site: *http://ifap.ed.gov/IFAPWebApp/currentFRegistersPag.jsp.*

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: May 4, 2006.

Theresa S. Shaw,

Chief Operating Officer, Federal Student Aid.

[FR Doc. E6–7048 Filed 5–8–06; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Office of Science

DOE/NSF Nuclear Science Advisory Committee

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the DOE/NSF Nuclear Science Advisory Committee (NSAC). Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) requires that public notice of these meetings be announced in the **Federal Register**.

DATES: Friday, July 21, 2006 8:30 a.m. to 5:30 p.m.

ADDRESSES: Marriott Bethesda North Hotel and Conference Center, 5701 Marinelli Road, North Bethesda, MD 20852.

FOR FURTHER INFORMATION CONTACT: Brenda L. May, U.S. Department of Energy; SC–26/Germantown Building, 1000 Independence Avenue, SW., Washington, DC 20585–1290; Telephone: 301–903–0536.

SUPPLEMENTARY INFORMATION:

Purpose of Meeting: To provide advice and guidance on a continuing basis to the Department of Energy and the National Science Foundation on scientific priorities within the field of basic nuclear science research.

Tentative Agenda: Agenda will include discussions of the following:

Friday, July 21, 2006:

- Reports from Department of Energy and National Science Foundation.
- Perspectives from Department of Energy and National Science Foundation.
- NSAC Discussion of New Charges.
- Discussion of the Long Range Plan Assignments/Strategies.
- Public Comment (10-minute rule).

Public Participation: The meeting is open to the public. If you would like to file a written statement with the Committee, you may do so either before or after the meeting. If you would like to make oral statements regarding any of these items on the agenda, you should contact Brenda L. May, 301–903–0536 or *Brenda.May@science.doe.gov* (e-mail). You must make your request for an oral statement at least 5 business days before the meeting. Reasonable provision will be made to include the scheduled oral statements on the agenda. The Chairperson of the Committee will conduct the meeting to facilitate the orderly conduct of business. Public comment will follow the 10-minute rule.

Minutes: The minutes of the meeting will be available for public review and copying within 30 days at the Freedom of Information Public Reading Room; Room 1E–190; Forrestal Building; 1000 Independence Avenue, SW.; Washington, DC, between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, DC, on May 3, 2006.

Carol Matthews,

Acting Advisory Committee, Management Officer.

[FR Doc. E6–7039 Filed 5–8–06; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Savannah River

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EMSSAB), Savannah River. The Federal Advisory Committee Act (Pub. L. No. 92–463, 86 Stat. 770) requires that public notice of this meeting be announced in the **Federal Register**.

DATES: Monday, May 22, 2006, 1 p.m.–6:30 p.m.; Tuesday, May 23, 2006, 8:30 a.m.–4 p.m.

ADDRESSES: DoubleTree Hotel, 411 West Bay Street, Savannah, GA 31401.

FOR FURTHER INFORMATION CONTACT: Gerri Flemming, Closure Project Office, Department of Energy Savannah River Operations Office, P.O. Box A, Aiken, SC 29802; Phone: (803) 952–7886.

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to make recommendations to DOE in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda:

Monday, May 22, 2006:

1 p.m.—Combined Committee Session.
5:15 p.m.— Adjourn.
5:30 p.m.—Executive Committee Meeting.
6:30 p.m.— Adjourn.

Tuesday, May 23, 2006:

8:30 a.m.—Approval of Minutes, Agency Updates.
9:15 a.m.—Public Comment Session.
9:30 a.m.—Chair and Facilitator Update.
10:30 a.m.—National Nuclear Security Administration Update.
11:15 a.m.—Waste Management Committee Report.
11:45 a.m.—Public Comment Session.
12 p.m.—Lunch Break.
1 p.m.—Facility Disposition and Site Remediation Committee Report.
2:30 p.m.—Nuclear Materials Committee Report.
3:30 p.m.—Public Comment Session.
3:40 p.m.—Strategic and Legacy Management Committee Report.
3:55 p.m.—Administrative Committee Report.
4 p.m.—Adjourn.

If needed, time will be allotted after public comments for items added to the agenda and administrative details. A final agenda will be available at the meeting, Monday, May 22, 2006.

Public Participation: The meeting is open to the public. Written statements may be filed with the Board either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Gerri Flemming's office at the address or telephone listed above. Requests must be received five days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Deputy Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Individuals wishing to make public comment will be provided a maximum of five minutes to present their comments. This notice is being published less than 15 days prior to the meeting date due to programmatic issues that had to be resolved prior to the meeting date.

Minutes: The minutes of this meeting will be available for public review and copying at the U.S. Department of Energy's Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays. Minutes will also be available by writing to Gerri Flemming, Department of Energy Savannah River Operations Office, P.O. Box A, Aiken, SC 29802, or by calling her at (803) 952–7886.

Issued at Washington, DC, on May 3, 2006.

Carol Matthews,

Acting Advisory Committee Management Officer.

[FR Doc. E6–7038 Filed 5–8–06; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP06–143–000]

Algonquin Gas Transmission, LLC; Notice of Application

May 2, 2006.

Take notice that on April 21, 2006, Algonquin Gas Transmission, LLC (Algonquin), 5400 Westheimer Court, Houston, Texas 77056–5310, filed an application in Docket No. CP06–143–000, pursuant to section 7(c) of the Natural Gas Act (NGA) and part 157 of the Commission's regulations, for authorization to construct 3.5 miles of 18-inch-diameter pipeline, a meter station, and a pig launcher/receiver in Barnstable County, Massachusetts. The facilities, known collectively as the Cape Cod Project, would be capable of providing up to 38,000 dekatherms per day of firm natural gas transportation service to Colonial Gas Company d/b/a KeySpan Energy Delivery New England, all as more fully set forth in the application which is on file with the Commission and open to public inspection. The filing may also be viewed on the web 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.

Any questions regarding this application may be directed to Stephen E. Tillman, General Manager, Regulatory Affairs, at (713) 627–5113, Algonquin Gas Transmission, LLC, 5400 Westheimer Road, Houston, Texas 77056–5310.

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 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. Unless filing electronically, 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.

Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Comment Date: May 23, 2006.

Magalie R. Salas,

Secretary.

[FR Doc. E6–6963 Filed 5–8–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP06–325–000]

Algonquin Gas Transmission, LLC; Notice of Proposed Changes in FERC Gas Tariff

May 2, 2006.

Take notice that on April 26, 2006, Algonquin Gas Transmission, LLC (Algonquin) tendered for filing as part of its FERC Gas Tariff, Fifth Revised Volume No. 1, Second Revised Sheet No. 553 proposed to be effective May 27, 2006.

Algonquin states that copies of its filing have been mailed to all affected customers and interested state commissions.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call

(866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E6–6970 Filed 5–8–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL06–48–000]

Braintree Electric Light Department; Notice of Filing

May 2, 2006.

On January 19, 2006, Braintree Electric Light Department (Braintree) filed a petition for declaratory order requesting that the Commission determine that the rates and changes associated with a reliability must-run agreement between Braintree and ISO–NE for Braintree's 96 MW, dual-fuel, combined cycle Potter 2 generating facility will satisfy the ''just and reasonable'' criteria of section 205 of the Federal Power Act.

On March 23, 2006, the Director, Division of Markets and Tariff Development—East of the Commission's Office of Energy Markets and Reliability issued, in the above-captioned proceeding, a letter asking Braintree to submit additional information. The Director's March 23 letter further noted that ''these questions will require consultation with ISO New England (ISO–NE).''

Take notice that on April 19, 2006 ISO–NE filed a response to the Director's March 23, 2006 letter.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant and all the parties in this proceeding.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on May 12, 2006.

Magalie R. Salas,

Secretary.

[FR Doc. E6–6965 Filed 5–8–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL06–48–000]

Braintree Electric Light Department; Notice of Filing

May 2, 2006.

On January 19, 2006, Braintree Electric Light Department (Braintree) filed a petition for declaratory order requesting that the Commission determine that the rates and changes associated with a reliability must-run agreement between Braintree and ISO–NE for Braintree's 96 MW, dual-fuel, combined cycle Potter 2 generating facility will satisfy the ''just and reasonable'' criteria of section 205 of the Federal Power Act.

On March 23, 2006, the Director, Division of Markets and Tariff Development-East of the Commission's Office of Energy Markets and Reliability issued, in the above-captioned proceeding, a letter asking Braintree to submit additional information. The Director's March 23 letter further noted that ''these questions will require consultation with ISO New England (ISO–NE).''

Take notice that on April 14, 2006 Braintree filed its response to the Director's March 23, 2006 letter.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant and all the parties in this proceeding.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on May 12, 2006.

Magalie R. Salas,

Secretary.

[FR Doc. E6–6983 Filed 5–8–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP06–327–000]

Canyon Creek Compression Company; Notice of Propsoed Changes in FERC Gas Tariff

May 2, 2006.

Take notice that on April 28, 2006, Canyon Creek Compression Company (Canyon) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, the following tariff sheets, to become effective June 1, 2006:

Fifteenth Revised Sheet No. 6.
Eighth Revised Sheet No. 6A.

Canyon states that copies of the filing are being mailed to its customers and interested state commissions.

Any person desiring to intervene or to protest this filing must file in

accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of § 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. E6–6972 Filed 5–8–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP05–618–002]

Colorado Interstate Gas Company; Notice of Compliance Filing

May 2, 2006.

Take notice that on April 26, 2006, Colorado Interstate Gas Company (CIG) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, Original Sheet No. 380K, with an effective date of June 1, 2006.

CIG states that copies of its filing have been sent to all firm customers, interruptible customers, and affected state commissions.

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. E6–6958 Filed 5–8–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP06–335–000]

Discovery Gas Transmission LLC; Notice of Cash-Out Report

May 2, 2006.

Take notice that on April 28, 2006, Discovery Gas Transmission LLC (Discovery) submitted to the Federal Energy Regulatory Commission its annual cash-out report for the calendar year ended December 31, 2005.

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 on or before the date as indicated below. Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time May 10, 2006.

Magalie R. Salas,

Secretary.

[FR Doc. E6–6980 Filed 5–8–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP06–319–000]

Distrigas of Massachusetts LLC; Notice of Tariff Filing

May 2, 2006.

Take notice that on April 27, 2006, Distrigas of Massachusetts LLC (DOMAC) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, Twenty-First Revised Sheet No. 94 and Second Revised Sheet

No. 94A, to become effective as of June 1, 2006.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E6–6962 Filed 5–8–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. RP04–197–006, RP05–213–003 and RP06–232–001]

Dominion Cove Point LNG, LP; Notice of Compliance Filing

May 2, 2006.

Take notice that on April 28, 2006, Dominion Cove Point LNG, LP (Cove Point) submitted a joint compliance filing to the Commission's Order on Rehearing and Compliance issued March 29, 2006 in Docket Nos. RP04–197–000 et al. and the Commission's unpublished letter order issued March 30, 2006 in Docket No. RP06–232–000.

Cove Point states that copies of the filing were served on parties on the official service lists in the above-captioned proceedings.

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. E6–6956 Filed 5–8–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP06–322–000]

East Tennessee Natural Gas, LLC; Notice of Proposed Changes in FERC Gas Tariff

May 2, 2006.

Take notice that on April 26, 2006, East Tennessee Natural Gas, LLC (East Tennessee) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, First Revised Sheet No. 337 proposed to be effective May 27, 2006.

East Tennessee states that copies of its filing have been mailed to all affected customers and interested state commissions.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of § 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call

(866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E6–6967 Filed 5–8–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP06–321–000]

Egan Hub Storage, LLC; Notice of Proposed Changes in FERC Gas Tariff

May 2, 2006.

Take notice that on April 26, 2006, Egan Hub Storage, LLC (Egan Hub) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, Second Revised Sheet No. 143 proposed to be effective May 27, 2006.

Egan Hub states that copies of its filing have been mailed to all affected customers and interested state commissions.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible 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. E6–6966 Filed 5–8–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP05–422–012]

El Paso Natural Gas Company; Notice of Compliance Filing

May 2, 2006.

Take notice that on April 24, 2006, El Paso Natural Gas Company (EPNG) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1–A, the tariff sheets listed on Appendix A to the filing, to become effective April 1, 2006.

EPNG states that copies of the filing were served on parties on the official service list.

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 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. E6–6957 Filed 5–8–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP06–320–000]

Florida Gas Transmission Company; Notice of Proposed Changes in FERC Gas Tariff

May 2, 2006.

Take notice that on April 27, 2006, Florida Gas Transmission Company (FGT) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, the revised tariff sheets listed on Appendix A attached to the filing, to become effective May 27, 2006.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC.

There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E6–6943 Filed 5–8–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP06–278–001]

Gas Transmission Northwest Corporation; Notice of Compliance Filing

May 2, 2006.

Take notice that, on April 27, 2006, Gas Transmission Northwest Corporation (GTN) submitted a compliance filing pursuant to the Commission's April 21, 2006 Order Accepting Tariff Sheets Subject To Conditions issued in this proceeding.

GTN states that copies of the filing were served on parties on the official service list in the above-captioned 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 § 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 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. E6–6960 Filed 5–8–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–518–088]

Gas Transmission Northwest Corporation; Notice of Compliance Filing

May 2, 2006.

Take notice that on April 28, 2006, Gas Transmission Northwest Corporation (GTN) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1–A, Thirty-Third Revised Sheet No. 15, to become effective May 1, 2006.

GTN further states that a copy of this filing has been served on GTN's jurisdictional customers and interested state regulatory agencies.

Any person desiring to protest this filing must file in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). Protests to this filing will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Such protests must be filed in accordance with the provisions of § 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. E6–6964 Filed 5–8–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP06–326–000]

Gas Transmission Northwest Corporation; Notice of Proposed Changes in FERC Gas Tariff

May 2, 2006.

Take notice that on April 26, 2006, Gas Transmission Northwest Corporation (GTN) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1–A, the following tariff sheet, to become effective May 27, 2006:

First Revised Sheet No. 272.
First Revised Sheet No. 281.
First Revised Sheet No. 291.

GTN further states that a copy of this filing has been served on GTN's jurisdictional customers and interested state regulatory agencies.

Any person desiring to 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 § 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. E6–6971 Filed 5–8–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP06–334–000]

Gulfstream Natural Gas System, L.L.C.; Notice of Proposed Changes in FERC Gas Tariff

May 2, 2006.

Take notice that on April 28, 2006, Gulfstream Natural Gas System, L.L.C. (Gulfstream) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, the following tariff sheets reflecting an effective date of June 1, 2006:

Fourth Revised Sheet No. 7.
Second Revised Sheet No. 165.
Original Sheet No. 165A.

Gulfstream states that copies of its filing have been mailed to all affected customers and interested state commissions.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E6–6979 Filed 5–8–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP06–324–000]

Maritimes & Northeast Pipeline, L.L.C.; Notice of Proposed Changes in FERC Gas Tariff

May 2, 2006.

Take notice that on April 26, 2006, Maritimes & Northeast Pipeline, L.L.C. (Maritimes) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, Third Revised Sheet No. 283 proposed to be effective May 27, 2006.

Maritimes states that copies of its filing have been mailed to all affected customers and interested state commissions.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E6–6969 Filed 5–8–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP06–329–000]

National Fuel Gas Supply; Notice of Tariff Filing

May 2, 2006.

Take notice that on April 28, 2006, National Fuel Gas Supply Corporation (National) tendered for filing as part of its FERC Gas Tariff, Fourth Revised Volume No. 1, Eighty-Ninth Revised Sheet No. 9, to become effective May 1, 2006.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will

not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E6–6974 Filed 5–8–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–377–009]

Northern Border Pipeline Company; Notice of Compliance Filing

May 2, 2006.

Take notice that on April 27, 2006, Northern Border Pipeline Company (Northern Border) tendered for filing to become part of Northern Border's FERC Gas Tariff, First Revised Volume No. 1, Twelfth Revised Sheet No. 99A, to become effective April 1, 2006.

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 § 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 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. E6–6954 Filed 5–8–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–377–010]

Northern Border Pipeline Company; Notice of Compliance Filing

May 2, 2006.

Take notice that on April 28, 2006, Northern Border Pipeline Company (Northern Border) tendered for filing to become part of its FERC Gas Tariff, First Revised Volume No. 1, Thirteenth Revised Sheet No. 99A, to become effective May 1, 2006.

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. E6–6955 Filed 5–8–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP06–332–000]

Northern Natural Gas Company; Notice of Proposed Changes in FERC Gas Tariff

May 2, 2006.

Take notice that on April 28, 2006, Northern Natural Gas Company (Northern) tendered for filing to become part of it FERC Gas Tariff, Fifth Revised Volume No. 1 First Revised Sheet No. 26, with an effective date of June 1, 2006.

Northern further states that copies of the filing have been mailed to each of its customers and interested State Commissions.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as

appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of § 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E6–6977 Filed 5–8–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP06–331–000]

Panhandle Eastern Pipe Line Company, LP; Notice of Proposed Changes in FERC Gas Tariff

May 2, 2006.

Take notice that on April 28, 2006, Panhandle Eastern Pipe Line Company, LP (Panhandle) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, Second Revised Sheet No. 3B, to become effective June 1, 2006.

Panhandle states that the purpose of this filing is to revise the tariff map to reflect changes in the pipeline facilities and the points at which service is provided.

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. E6–6976 Filed 5–8–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP06–336–000]

Pine Needle LNG Company, L.L.C.; Notice of Tariff Filing

May 2, 2006.

Take notice that on May 1, 2006, Pine Needle LNG Company, L.L.C. (Pine Needle) tendered for filing as part of its FERC Gas Tariff, Volume No. 1, Eleventh Revised Sheet No. 4, to become effective June 1, 2006.

Pine Needle states that copies of the filing are being mailed to each of its affected customers, interested State Commissions, and other interested parties.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E6–6981 Filed 5–8–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP06–200–004]

Rockies Express Pipeline LLC; Notice of Compliance Filing

May 2, 2006.

Take notice that on April 24, 2006, Rockies Express Pipeline LLC (REX) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, First Revised Sheet No. 22, and First Revised Sheet No. 23, to be effective April 20, 2006.

REX stated that a copy of this filing has been served upon all parties to this

proceeding, REX's customers, the Colorado Public Utilities Commission and the Wyoming Public Service Commission.

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. E6–6959 Filed 5–8–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP06–333–000]

Southern Natural Gas Company; Notice of Proposed Changes to FERC Gas Tariff

May 2, 2006.

Take notice that on April 28, 2006, Southern Natural Gas Company (Southern) tendered for filing as part of its FERC Gas Tariff, Seventh Revised Volume No. 1 (Tariff) the following revised sheets to become effective June 1, 2006:

First Revised Sheet No. 5.
First Revised Sheet No. 5A .
Second Revised Sheet No. 6.
Second Revised Sheet No. 7.
Original Sheet No. 7A.
Original Sheet No. 7B.
Original Sheet No. 7C.
Original Sheet No. 7D.
Original Sheet No. 7E.
Second Revised Sheet No. 8.
Second Revised Sheet No. 9.
Original Sheet No. 9A.
Original Sheet No. 9B.
Second Revised Sheet No. 10.
Second Revised Sheet No. 11.
Original Sheet No. 11A.
Original Sheet No. 11B.
Original Sheet No. 11C.
Original Sheet No. 11D.
Original Sheet No. 11E.
Second Revised Sheet No. 12.
Second Revised Sheet No. 13.
Original Sheet No. 13A.
Original Sheet No. 13B.
Original Sheet No. 13C.
Original Sheet No. 13D.
Original Sheet No. 13E.

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 § 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E6–6978 Filed 5–8–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP06–303–001]

Stingray Pipeline Company, L.L.C.; Notice of Compliance Filing

May 2, 2006.

Take notice that on April 26, 2006, Stingray Pipeline Company, L.L.C. (Stingray) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, the following tariff sheets, to become effective May 10, 2006:

Substitute Second Revised Sheet No. 305.
Substitute Original Sheet No. 321.
Original Sheet No. 321A.

Any person desiring to protest this filing must file in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). Protests to this filing will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Such protests must be filed on or before the date as indicated below. Anyone filing a protest must serve a copy of that document on all the parties to the proceeding.

The Commission encourages electronic submission of protests in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on May 5, 2006.

Magalie R. Salas,

Secretary.

[FR Doc. E6–6961 Filed 5–8–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP96–312–156]

Tennessee Gas Pipeline Company; Notice of Negotiated Rate Filing

May 2, 2006.

Take notice that on April 28, 2006, Tennessee Gas Pipeline Company (Tennessee) tendered for filing Negotiated Rate Arrangement. Tennessee states that the filed Negotiated Rate Arrangement reflects an agreement between Tennessee and Public Service Electric and Gas Company (PSE&G) for transportation under Rate Schedule FT–A pursuant to Tennessee's Northeast ConneXion NY/NJ Project. Tennessee requests that the Commission accept and approve the Negotiated Rate Arrangement to be effective on the commencement date of the FT–A Agreement.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E6–6982 Filed 5–8–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP06–323–000]

Texas Eastern Transmission, LP; Notice of Proposed Changes in FERC Gas Tariff

May 2, 2006.

Take notice that on April 26, 2006, Texas Eastern Transmission, LP (Texas Eastern) tendered for filing as part of its FERC Gas Tariff, Seventh Revised Volume No. 1, Second Revised Sheet No. 583 and Third Revised Sheet No. 602 proposed to be effective May 27, 2006.

Texas Eastern states that copies of its filing have been mailed to all affected customers and interested state commissions.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of § 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E6–6968 Filed 5–8–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP06–328–000]

Vector Pipeline L.P.; Notice of Tariff Filing

May 2, 2006.

Take notice that on April 28, 2006, Vector Pipeline L.P. (Vector), tendered for filing certain negotiated rate agreements and revised tariff sheets to its FERC Gas Tariff, Volume No. 1, for the purpose of deleting sheets summarizing negotiated rate contracts and substituting a sheet listing non-conforming contracts pursuant to an Audit Letter issued April 28, 2006. Vector requests an effective date for the tariff sheets of June 1, 2006.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of section 154.210 of the Commission's regulations (18 CFR

154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E6–6973 Filed 5–8–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP06–330–000]

Williston Basin Interstate Pipeline Company; Notice of Tariff Filing

May 2, 2006.

Take notice that on April 28, 2006, Williston Basin Interstate Pipeline Company (Williston Basin) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following revised tariff sheets to become effective April 28, 2006:

Sixteenth Revised Sheet No. 5.
Twelfth Revised Sheet No. 6.
Twelfth Revised Sheet No. 6A.
Eighth Revised Sheet No. 7.
Twelfth Revised Sheet No. 8.
Fourteenth Revised Sheet No. 9.

Williston Basin states that the revised tariff sheets are being filed to update its system maps.

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 § 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. E6–6975 Filed 5–8–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. EC06–113–000, et al.]

Pacific Gas and Electric Company, et al.; Electric Rate and Corporate Filings

May 2, 2006.

The following filings have been made with the Commission. The filings are listed in ascending order within each docket classification.

1. Pacific Gas and Electric Company, Mirant Delta, LLC, and Mirant Special Procurement, Inc.

[Docket No. EC06–113–000]

Take notice that on April 17, 2006 Pacific Gas and Electric Company, Mirant Delta, LLC and Mirant Special Procurement, Inc. submitted an application seeking approval of the disposition of jurisdictional facilities pursuant to Section 203 of Federal Power Act and Part 33 of the Commission's regulations.

Comment Date: 5 p.m. eastern time on May 12, 2006.

2. Xcel Energy Services Inc.

[Docket No. EC06–114–000]

Take notice that on April 18, 2006 that Xcel Energy Services Inc. on behalf of Xcel Energy Operating Companies submitted an application for authorization to acquire short term debt securities through June 30, 2008, pursuant to Section 203 of the Federal Power Act.

Comment Date: 5 p.m. eastern time on May 12, 2006.

3. Astoria Generating Company, L.P.

[Docket No. EG06–49–000]

Take notice that on April 19, 2006 Astoria Generating Company, L.P. filed a notice of self-recertification of exempt wholesale generator status, pursuant to PUHCA of 2005 and 18 CFR 366.7 of the Commission regulations.

Comment Date: 5 p.m. eastern time on May 10, 2006.

4. Harry J. Pearce

[Docket No. ID–4852–000]

Take notice that on April 12, 2006, Harry J. Pearce submitted an application to hold interlocking positions pursuant to section 305(b) of the Federal Power Act.

Comment Date: 5 p.m. eastern time on May 31, 2006.

Standard Paragraph

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. On or before the comment date, it is not necessary to

serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible 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 email 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. E6–6941 Filed 5–8–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

May 2, 2006.

Take notice that the Commission received the following electric securities filings:

Docket Numbers: ES06–44–000.

Applicants: Upper Peninsula Power Company.

Description: Upper Peninsula Power Co submits an application for authorization to issue securities in an amount not to exceed $15 million at any one time pursuant to section 204.

Filed Date: 04/18/2006.

Accession Number: 20060426–0262.

Comment Date: 5 p.m. eastern time on Tuesday, May 9, 2006.

Docket Numbers: ES06–45–000.

Applicants: Southern Indiana Gas & Electric Company.

Description: Southern Indiana Gas and Electric Co submits an application for authority to issue from the date of the order through June 1, 2008 unsecured promissory notes and other obligations etc.

Filed Date: 04/07/2006.

Accession Number: 20060426–0233.

Comment Date: 5 p.m. eastern time on Friday, May 5, 2006.

Docket Numbers: ES06–46–000.

Applicants: Entergy Services Inc; Entergy Arkansas, Inc.; Entergy Gulf States, Inc.; Entergy Louisiana, LLC; Entergy Mississippi, Inc; System Energy Resources, Inc.

Description: Entergy Services Inc. on behalf of Entergy Arkansas, et al. submits an application under Section 204 for authorization to issue securities.

Filed Date: 04/25/2006.

Accession Number: 20060425–5069.

Comment Date: 5 p.m. eastern time on Tuesday, May 16, 2006.

Any person desiring to intervene or to protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) on or before 5 p.m. eastern time on the specified comment date. It is not necessary to separately intervene again in a subdocket related to a compliance filing if you have previously intervened in the same docket. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. In reference to filings initiating a new proceeding, interventions or protests submitted on or before the comment deadline need not be served on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First St., NE., Washington, DC 20426.

The filings in the above proceedings are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed dockets(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E6–6942 Filed 5–8–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

May 1, 2006.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER03–170–003.

Applicants: Covanta Essex Company.

Description: Covanta Essex Co. submits its triennial market power update.

Filed Date: 04/18/2006.

Accession Number: 20060426–0248.

Comment Date: 5 p.m. eastern time on Tuesday, May 09, 2006.

Docket Numbers: ER03–438–004.

Applicants: ManChief Power Company LLC.

Description: Manchief Power, LLC submits its triennial market-based rate update pursuant to FERC's 4/18/03 Letter Order.

Filed Date: 04/18/2006.

Accession Number: 20060426–0249.

Comment Date: 5 p.m. eastern time on Tuesday, May 09, 2006.

Docket Numbers: ER03–774–002.

Applicants: Eagle Energy Partners I, L.P.

Description: Eagle Energy Partners I, LP submits of a change in status reflecting a departure from the characteristics FERC relied upon in granting Eagle Energy authorization to sell wholesale power at market-based rates.

Filed Date: 04/20/2006.

Accession Number: 20060428–0121.

Comment Date: 5 p.m. eastern time on Thursday, May 11, 2006.

Docket Numbers: ER03–1312–010.

Applicants: Midwest Independent Transmission System Operator, Inc.

Description: Midwest Independent Transmission System Operator Inc. submits its proposed revisions to Schedule 20 of its Open Access Transmission and Energy Market Tariff, FERC Electric Tariff Revised Volume 1.

Filed Date: 04/20/2006.

Accession Number: 20060426–0237.

Comment Date: 5 p.m. eastern time on Thursday, May 11, 2006.

Docket Numbers: ER05–1420–001.
Applicants: Lehman Brothers Commodity Services Inc.
Description: Lehman Brothers Commodity Services Inc. informs FERC of a change in status reflecting a departure from the characteristics that FERC relied upon granting authorization to sell wholesale power.
Filed Date: 04/20/2006.
Accession Number: 20060426–0238.
Comment Date: 5 p.m. eastern time on Thursday, May 11, 2006.

Docket Numbers: ER05–6–054; EL04–135–056; EL02–111–074; EL03–212–070.
Applicants: PJM Interconnection LLC; PJM Transmission Owners.
Description: PJM Interconnection LLC and the PJM Transmission Owners jointly submit proposed revisions to the Joint Operating Agreement with Midwest Independent Transmission System Operator Inc.
Filed Date: 04/20/2006.
Accession Number: 20060426–0236.
Comment Date: 5 p.m. eastern time on Thursday, May 11, 2006.

Docket Numbers: ER05–6–055; EL04–135–057; EL02–111–075; EL03–212–071.
Applicants: Midwest Independent Transmission System Operator, Inc.; Midwest ISO Transmission Owners; Midwest Stand-Alone Transmission Companies.
Description: Midwest Independent Transmission System Operator Inc. et al. jointly submit proposed revisions to the Joint Operating Agreement with PJM Interconnection LLC.
Filed Date: 04/20/2006.
Accession Number: 20060426–0235.
Comment Date: 5 p.m. eastern time on Thursday, May 11, 2006.

Docket Numbers: ER06–291–002; EL06–57–001.
Applicants: New York Independent System Operator, Inc.
Description: New York Independent System Operator, Inc. submits a compliance filing pursuant to the Commission's 4/3/06 Order.
Filed Date: 04/18/2006.
Accession Number: 20060426–0247.
Comment Date: 5 p.m. eastern time on Tuesday, May 09, 2006.

Docket Numbers: ER06–557–002.
Applicants: EL Paso Electric Company.
Description: El Paso Electric Co. submits its responses to FERC's 3/23/06 request for additional information.
Filed Date: 04/21/2006.
Accession Number: 20060426–0261.
Comment Date: 5 p.m. eastern time on Friday, May 12, 2006.

Docket Numbers: ER06–713–001.
Applicants: Weyerhaeuser Company.
Description: Weyerhaeuser Company submits its amended petition for market based rate authority, acceptance of initial rate schedule, waivers and blanket authority, etc.
Filed Date: 04/20/2006.
Accession Number: 20060426–0229.
Comment Date: 5 p.m. eastern time on Thursday, May 11, 2006.

Docket Numbers: ER06–761–001.
Applicants: Rumford Paper Company.
Description: Rumford Paper Company submits an Amended Petition for Market Based Rate Authority Acceptance of Initial Rate Schedule, Waivers and Blanket Authority.
Filed Date: 04/20/2006.
Accession Number: 20060426–0225.
Comment Date: 5 p.m. eastern time on Thursday, May 11, 2006.

Docket Numbers: ER06–873–000.
Applicants: Southern California Edison Company.
Description: Southern California Edison Co submits a Letter Agreement with Riverside Public Utilities.
Filed Date: 04/18/2006.
Accession Number: 20060426–0259.
Comment Date: 5 p.m. eastern time on Tuesday, May 09, 2006.

Docket Numbers: ER06–875–000.
Applicants: Southern California Edison Company.
Description: Southern California Edison Co submits an amended Service Agreement for Wholesale Distribution Service with the City of Banning, CA.
Filed Date: 04/20/2006.
Accession Number: 20060426–0232.
Comment Date: 5 p.m. eastern time on Thursday, May 11, 2006.

Docket Numbers: ER06–876–000.
Applicants: Louisville Gas & Electric Company; Kentucky Utilities Company.
Description: Louisville Gas and Electric Co and Kentucky Utilities Co submit an Assignment and Assumption Agreement with Indiana Municipal Power Agency and Illinois Municipal Electric Agency.
Filed Date: 04/20/2006.
Accession Number: 20060426–0226.
Comment Date: 5 p.m. eastern time on Thursday, May 11, 2006.

Docket Numbers: ER06–878–000.
Applicants: MMC Chula Vista LLC.
Description: MMC Chula Vista LLC submits its application for order accepting initial market-based rate schedule, waiving regulations and granting blanket approvals.
Filed Date: 04/20/2006.
Accession Number: 20060426–0227.
Comment Date: 5 p.m. eastern time on Thursday, May 11, 2006.

Docket Numbers: ER06–879–000.
Applicants: MMC Escondido LLC.
Description: MMC Escondido LLC submits its application for order accepting initial market-based rate schedule, waiving regulations and granting blanket approvals.
Filed Date: 04/20/2006.
Accession Number: 20060426–0228.
Comment Date: 5 p.m. eastern time on Thursday, May 11, 2006.

Docket Numbers: ER06–881–000.
Applicants: Midwest Independent Transmission System.
Description: Midwest Independent Transmission System Operator, Inc submits an unexecuted Large Generator Interconnection Agreement with Power Partners Midwest, LLC et al.
Filed Date: 04/21/2006.
Accession Number: 20060426–0306.
Comment Date: 5 p.m. eastern time on Friday, May 12, 2006.

Docket Numbers: ER06–882–000.
Applicants: Bayside Power L.P.
Description: Bayside Power, LP submits its application for acceptance of FERC Electric Tariff, Original Volume 1 under which Bayside will engage in wholesale electric power & energy transactions in ISO New England.
Filed Date: 04/17/2006.
Accession Number: 20060426–0272.
Comment Date: 5 p.m. eastern time on Monday, May 08, 2006.

Docket Numbers: ER94–24–036.
Applicants: Enron Power Marketing, Inc.
Description: Enron Power Marketing, Inc submits a notice of a change in status pursuant to Order 652.
Filed Date: 04/18/2006.
Accession Number: 20060426–0250.
Comment Date: 5 p.m. eastern time on Tuesday, May 09, 2006.

Docket Numbers: ER96–719–013; ER99–2156–009; ER97–2801–011.
Applicants: MidAmerican Energy Company; Cordova Energy Company, LLC; PacifiCorp.
Description: MidAmerican Energy Co et al. submit their notice of change in status regarding the transfer of ownership of PacifiCorp from PacifiCorp Holdings, Inc etc.
Filed Date: 04/20/2006.
Accession Number: 20060427–0083.
Comment Date: 5 p.m. eastern time on Thursday, May 11, 2006.

Docket Numbers: ER98–13–016.
Applicants: Enron Energy Services, Inc.
Description: Enron Energy Services Inc submits a notice of a change in status, pursuant to Order 652.
Filed Date: 04/18/2006.
Accession Number: 20060426–0258.
Comment Date: 5 p.m. eastern time on Tuesday, May 09, 2006.

Docket Numbers: ER98–511–007; ER97–4345–019; EL05–107–000

Applicants: Oklahoma Gas and Electric Company; OGE Energy Resources, Inc.

Description: Oklahoma Gas and Electric Co. and OGE Energy Resources, Inc. submit revised versions of their respective market-based rate tariffs as well as cost-based power sales tariffs for sales etc pursuant to FERC's 3/21/06 order.

Filed Date: 04/20/2006.

Accession Number: 20060426–0234.

Comment Date: 5 p.m. eastern time on Thursday, May 11, 2006.

Any person desiring to intervene or to protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) on or before 5 p.m. eastern time on the specified comment date. It is not necessary to separately intervene again in a subdocket related to a compliance filing if you have previously intervened in the same docket. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. In reference to filings initiating a new proceeding, interventions or protests submitted on or before the comment deadline need not be served on persons other than the Applicant.

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Magalie R. Salas,

Secretary.

[FR Doc. E6–7004 Filed 5–8–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #2

May 1, 2006.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER06–611–001; ER06–691–001.

Applicants: PJM Interconnection, LLC.

Description: PJM Interconnection, LLC submits a response to FERC's 3/31/06 request for additional information.

Filed Date: 4/24/2006.

Accession Number: 20060426–0271.

Comment Date: 5 p.m. Eastern Time on Monday, May 15, 2006.

Docket Numbers: ER06–743–001.

Applicants: Air Liquide Large Industries U.S., LP.

Description: Air Liquide Large Industries U.S., LP submits an amendment to its application for market based rate authority filed on 3/16/06, in response to FERC's request.

Filed Date: 4/24/2006.

Accession Number: 20060426–0269.

Comment Date: 5 p.m. Eastern Time on Monday, May 15, 2006.

Docket Numbers: ER06–744–001.

Applicants: Sabine Cogen, LP.

Description: Sabine Cogen, LP amends its application for market-based rate authority filed on 3/16/06, in response to FERC's request.

Filed Date: 4/24/2006.

Accession Number: 20060426–0268.

Comment Date: 5 p.m. Eastern Time on Monday, May 15, 2006.

Docket Numbers: ER06–877–000.

Applicants: Pacific Gas & Electric Company.

Description: Pacific Gas and Electric Co. submits an executed Letter Agreement settling a dispute with Transmission Agency of Northern California.

Filed Date: 4/24/2006.

Accession Number: 20060426–0246.

Comment Date: 5 p.m. Eastern Time on Monday, May 15, 2006.

Docket Numbers: ER06–883–000.

Applicants: American Electric Power Service Corporation; Indiana Michigan Power Company.

Description: Indiana Michigan Power Co. submits its second revision to the Interconnection and Local Delivery Service Agreement 1262 with Wabash Valley Power Association.

Filed Date: 4/24/2006.

Accession Number: 20060426–0273.

Comment Date: 5 p.m. Eastern Time on Monday, May 15, 2006.

Docket Numbers: ER06–884–000.

Applicants: PSI Energy, Inc.

Description: PSI Energy Inc. submits a request for FERC to accept its Cost-Based Formula Rate Agreement for Firm Energy and Capacity dated 4/14/06 with Hoosier Energy Rural Electric Cooperative.

Filed Date: 4/24/2006.

Accession Number: 20060426–0264.

Comment Date: 5 p.m. Eastern Time on Monday, May 15, 2006.

Docket Numbers: ER06–885–000.

Applicants: BM2 LLC.

Description: BM2 LLC submits a petition for acceptance of its initial Tariff, Original Volume No. 1, Waivers and Blanket Authority.

Filed Date: 4/24/2006.

Accession Number: 20060426–0263.

Comment Date: 5 p.m. Eastern Time on Monday, May 15, 2006.

Docket Numbers: ER06–886–000.

Applicants: PJM Interconnection, LLC.

Description: PJM Interconnection LLC submits an Interconnection Service Agreement No. 1466 with AMERESCO Delaware Energy, LLC and Delaware Power and Light Co.

Filed Date: 4/24/2006.

Accession Number: 20060426–0307.

Comment Date: 5 p.m. Eastern Time on Monday, May 15, 2006.

Docket Numbers: ER06–887–000.

Applicants: PJM Interconnection, LLC.

Description: PJM Interconnection LLC submits an Interconnection Service Agreement No. 1467 with AMERESCO Delaware Energy, LLC and Delmarva Power & Light Co.

Filed Date: 4/24/2006.

Accession Number: 20060426–0194.

Comment Date: 5 p.m. Eastern Time on Monday, May 15, 2006.

Docket Numbers: ER06–888–000.

Applicants: Allegheny Energy Supply Company, LLC

Description: Allegheny Energy Supply Co, LLC submits a Notice of Succession et al.

Filed Date: 4/25/2006.

Accession Number: 20060428–0120.

Comment Date: 5 p.m. Eastern Time on Tuesday, May 16, 2006.

Any person desiring to intervene or to protest in any of the above proceedings must file in accordance with Rules 211

and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) on or before 5 p.m. Eastern time on the specified comment date. It is not necessary to separately intervene again in a subdocket related to a compliance filing if you have previously intervened in the same docket. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. In reference to filings initiating a new proceeding, interventions or protests submitted on or before the comment deadline need not be served on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First St., NE., Washington, DC 20426.

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Magalie R. Salas,

Secretary.

[FR Doc. E6–7005 Filed 5–8–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 11433–016]

Madison Electric Works; Notice of Availability of Environmental Assessment

May 2, 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 F.R. 47897), the Office of Energy Projects has prepared an Environmental Assessment (EA) for an application requesting Commission approval for surrender of minor project license and dam removal of the 547 kilowatt Sandy River Project (FERC No. 11433). The project is located on the Sandy River in the Towns of Norridgewock and Starks, Somerset County, Maine.

The EA contains the staff's analysis of the potential environmental impacts of the project and concludes that the surrender of license and dam removal would not constitute a major federal action that would significantly affect the quality of the human environment.

A copy of the EA is attached to the May 1, 2006 Commission Order titled ''Order Approving Surrender of License with Dam Removal,'' which 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 docket number (prefaced by P-) in the docket number field to access the document. For assistance, contact FERC On Line Support at *FERCOnlineSupport@ferc.gov* or call toll free at (866) 208–3676, or for TTY contact (202) 502–8659.

For further information, please contact Andrea Shriver at (202) 502–8171.

Magalie R. Salas,

Secretary.

[FR Doc. E6–6944 Filed 5–8–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Motions To Intervene, Protests, and Comments

May 2, 2006.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 12655–000

c. *Date filed:* February 20, 2006.

d. *Applicant:* Fall Line Hydro Company, Incorporated.

e. *Name of Project:* Carters Reregulation Dam Hydroelectric Project.

f. *Location:* The project would be located at the existing U.S. Army Corps of Engineers' Carters Reregulation Dam on the Coosawattee River in Murray County, Georgia.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contacts:* Robert A. Davis, 390 Timber Laurel Lane, Lawrenceville, GA 30043, and Michael P. O'Brien, 302 North Spring Blvd., Tarpon Springs, FL 34689.

i. *FERC Contact:* Chris Yeakel, (202) 502–8132.

j. *Deadline for filing comments, protests, and motions to intervene:* 60 days from the issuance date of this notice.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of Project:* The proposed project would use the existing Army Corps of Engineers' Carters Reregulation Dam and consist of: (1) Three proposed eight-foot-diameter steel penstocks 85 feet in length, (2) a proposed powerhouse containing two generating units with an installed capacity of 4.5 megawatts, (3) a proposed tailrace, (4) a proposed intake structure, (5) a proposed transmission line one-half mile in length of a voltage yet to be determined; and (7) appurtenant facilities. The project would have an annual generation of 16.5 gigawatt-hours, which would be sold to a local utility.

l. *Locations of Applications:* A copy of the application is available for inspection and reproduction at the Commission in the Public Reference Room, located at 888 First Street NE., Room 2A, Washington, DC 20426, or by calling (202) 502–8371. 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 toll-free 1–866–208–3676 or e-mail *FERCOnlineSupport@ferc.gov*. For TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at the address in item h above.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Competing Preliminary Permit:* Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

o. *Competing Development Application:* Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

p. *Notice of Intent:* A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

q. *Proposed Scope of Studies under Permit:* A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

r. *Comments, Protests, or Motions To Intervene:* Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, 385.211, 385.214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

Comments, protests and interventions may be filed electronically via the Internet in lieu of paper; See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under ''e-filing'' link. The Commission strongly encourages electronic filing.

s. *Filing and Service of Responsive Documents:* Any filings must bear in all capital letters the title ''COMMENTS'', ''RECOMMENDATIONS FOR TERMS AND CONDITIONS'', ''PROTEST'', ''COMPETING APPLICATION'' or ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

t. *Agency Comments:* Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Magalie R. Salas,

Secretary.

[FR Doc. E6–6945 Filed 5–8–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Motions To Intervene, Protests, and Comments

May 2, 2006.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 12663–000.

c. *Date filed:* March 31, 2006.

d. *Applicant:* Washington Tidal Energy Company.

e. *Name of Project:* Deception Pass Tidal Energy Hydroelectric Project.

f. *Location:* The project would be located in Deception Pass, between Whidbey Island and Fidalgo Island, in the Puget Sound in Skagit and Island Counties, Washington.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contacts:* Joseph A. Cannon, Pillsbury Winthrop Shaw Pittman LLP, 2300 N Street, NW., Washington, DC 20037, phone: (202)–663–8000, and Charles B. Cooper, TRC Environmental, Boott Mills South, 116 John St., Lowell, MA 01852, phone: (978)–656–3567.

i. *FERC Contact:* Chris Yeakel, (202) 502–8132.

j. *Deadline for filing comments, protests, and motions to intervene:* 60 days from the issuance date of this notice.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of Project:* The proposed project would consist of: (1) 100 to 300 Tidal In Stream Energy Conversion (TISEC) devices consisting of, (2) rotating propeller blades, (3) integrated generators with a capacity of

0.5 to 2.0 MW, (4) anchoring systems, (5) mooring lines, and (6) interconnection transmission lines. The project is estimated to have an annual generation of 8.76 gigawatt-hours per-unit per-year, which would be sold to a local utility.

l. *Locations of Applications:* A copy of the application is available for inspection and reproduction at the Commission in the Public Reference Room, located at 888 First Street NE., Room 2A, Washington DC 20426, or by calling (202) 502–8371. 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 toll-free 1–866–208–3676 or e-mail *FERCOnlineSupport@ferc.gov.* For TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at the address in item h above.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Competing Preliminary Permit:* Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

o. *Competing Development Application:* Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

p. *Notice of Intent:* A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

q. *Proposed Scope of Studies under Permit:* A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

r. *Comments, Protests, or Motions to Intervene:* Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, 385.211, 385.214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

Comments, protests and interventions may be filed electronically via the Internet in lieu of paper; See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under ''e-filing'' link. The Commission strongly encourages electronic filing.

s. *Filing and Service of Responsive Documents:* Any filings must bear in all capital letters the title ''COMMENTS,'' ''RECOMMENDATIONS FOR TERMS AND CONDITIONS,'' ''PROTEST,'' ''COMPETING APPLICATION'' or ''MOTION TO INTERVENE,'' as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

t. *Agency Comments:* Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Magalie R. Salas,

Secretary.

[FR Doc. E6–6946 Filed 5–8–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Motions To Intervene, Protests, and Comments

May 2, 2006.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 12664–000.

c. *Date filed:* March 29, 2006.

d. *Applicant:* New Hampshire Tidal Energy Company.

e. *Name of Project:* Portsmouth Area Tidal Energy Hydroelectric Project.

f. *Location:* The project would be located in the Piscataqua River, in Rockingham and Strafford Counties, New Hampshire, and York County, Maine.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contacts:* Joseph A. Cannon, Pillsbury Winthrop Shaw Pittman LLP, 2300 N Street, NW., Washington, DC 20037, phone: (202) 663–8000, and Charles B. Cooper, TRC Environmental, Boott Mills South, 116 John St., Lowell, MA 01852, phone: (978)-656–3567.

i. *FERC Contact:* Chris Yeakel, (202) 502–8132.

j. *Deadline for filing comments, protests, and motions to intervene:* 60 days from the issuance date of this notice.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of Project:* The proposed project would consist of: (1) 50 to 100 Tidal In Stream Energy Conversion (TISEC) devices consisting of, (2) rotating propeller blades, (3) integrated generators with a capacity of 0.5 to 2.0 MW, (4) anchoring systems, (5) mooring lines, and (6) interconnection transmission lines. The project is estimated to have an annual generation of 8.76 gigawatt-hours per-unit per-year, which would be sold to a local utility.

l. *Locations of Applications:* A copy of the application is available for inspection and reproduction at the Commission in the Public Reference Room, located at 888 First Street, NE., Room 2A, Washington, DC 20426, or by calling (202) 502–8371. 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 toll-free 1–866–208–3676 or e-mail *FERCOnlineSupport@ferc.gov.* For TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at the address in item h above.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Competing Preliminary Permit:* Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

o. *Competing Development Application:* Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

p. *Notice of Intent:* A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

q. *Proposed Scope of Studies under Permit:* A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

r. *Comments, Protests, or Motions to Intervene:* Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, 385.211, 385.214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

Comments, protests and interventions may be filed electronically via the Internet in lieu of paper; See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under ''e-filing'' link. The Commission strongly encourages electronic filing.

s. *Filing and Service of Responsive Documents:* Any filings must bear in all capital letters the title ''COMMENTS,'' ''RECOMMENDATIONS FOR TERMS AND CONDITIONS,'' ''PROTEST,'' ''COMPETING APPLICATION'' or ''MOTION TO INTERVENE,'' as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

t. *Agency Comments:* Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Magalie R. Salas,

Secretary.

[FR Doc. E6–6947 Filed 5–8–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice Of Application Accepted for Filing and Soliciting Motions To Intervene, Protests, and Comments

May 2, 2006.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 12665–000.

c. *Date filed:* March 27, 2006.

d. *Applicant:* New York Tidal Energy Company.

e. *Name of Project:* Astoria Tidal Energy Hydroelectric Project.

f. *Location:* The project would be located in the East River in New York and Queens Counties, New York.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contacts:* Joseph A. Cannon, Pillsbury Winthrop Shaw Pittman LLP, 2300 N Street, NW., Washington, DC 20037, phone: (202)–663–8000, and Charles B. Cooper, TRC Environmental, Boott Mills South, 116 John St., Lowell, MA 01852, phone: (978)-656–3567.

i. *FERC Contact:* Chris Yeakel, (202) 502–8132.

j. *Deadline for filing comments, protests, and motions to intervene:* 60 days from the issuance date of this notice.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an

issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of Project:* The proposed project would consist of: (1) 50 to 150 Tidal In Stream Energy Conversion (TISEC) devices consisting of, (2) rotating propeller blades, (3) integrated generators with a capacity of 0.5 to 2.0 MW, (4) anchoring systems, (5) mooring lines, and (6) interconnection transmission lines. The project is estimated to have an annual generation of 8.76 gigawatt-hours per-unit per-year, which would be sold to a local utility.

l. Locations of Applications: A copy of the application is available for inspection and reproduction at the Commission in the Public Reference Room, located at 888 First Street, NE., Room 2A, Washington, DC 20426, or by calling (202) 502–8371. 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 toll-free 1–866–208–3676 or e-mail *FERCOnlineSupport@ferc.gov.* For TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at the address in item h above.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Competing Preliminary Permit* — Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

o. *Competing Development Application*—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

p. *Notice of Intent*—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

q. *Proposed Scope of Studies under Permit*—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

r. *Comments, Protests, or Motions to Intervene*—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

Comments, protests and interventions may be filed electronically via the Internet in lieu of paper; See 18 C.F.R. 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under ''e-filing'' link. The Commission strongly encourages electronic filing.

s. *Filing and Service of Responsive Documents*—Any filings must bear in all capital letters the title ''COMMENTS'', ''RECOMMENDATIONS FOR TERMS AND CONDITIONS'', ''PROTEST'', ''COMPETING APPLICATION'' or ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

t. *Agency Comments*—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Magalie R. Salas,

Secretary.

[FR Doc. E6–6948 Filed 5–8–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Motions To Intervene, Protests, and Comments

May 2, 2006.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 12666–000.

c. *Date filed:* March 27, 2006.

d. *Applicant:* Maine Tidal Energy Company.

e. *Name of Project:* Kennebec Tidal Energy Hydroelectric Project .

f. *Location:* The project would be located in the Kennebec River between Chops Point and West Chops Point, in Sagadahoc County, Maine.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r)

h. *Applicant Contacts:* Joseph A. Cannon, Pillsbury Winthrop Shaw Pittman LLP, 2300 N Street, NW., Washington, DC 20037, phone: (202)–663–8000, and Charles B. Cooper, TRC Environmental, Boott Mills South, 116 John St., Lowell, MA 01852, phone: (978)-656–3567.

i. *FERC Contact:* Chris Yeakel, (202) 502–8132.

j. *Deadline for filing comments, protests, and motions to intervene:* 60 days from the issuance date of this notice.

The Commission's Rules of Practice and Procedure require all intervenors

filing documents with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of Project:* The proposed project would consist of: (1) 50 Tidal In Stream Energy Conversion (TISEC) devices consisting of, (2) rotating propeller blades, (3) integrated generators with a capacity of 0.5 to 2.0 MW, (4) anchoring systems, (5) mooring lines; and (6) interconnection transmission lines. The project is estimated to have an annual generation of 8.76 gigawatt-hours per-unit per-year, which would be sold to a local utility.

l. *Locations of Applications:* A copy of the application is available for inspection and reproduction at the Commission in the Public Reference Room, located at 888 First Street NE., Room 2A, Washington DC 20426, or by calling (202) 502–8371. This filing may also be viewed on the Commission's website 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 toll-free 1–866–208–3676 or e-mail *FERCOnlineSupport@ferc.gov.* For TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at the address in item h above.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Competing Preliminary Permit*—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

o. *Competing Development Application*—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

p. *Notice of Intent*—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

q. *Proposed Scope of Studies under Permit*—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

r. *Comments, Protests, or Motions to Intervene*—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

Comments, protests and interventions may be filed electronically via the Internet in lieu of paper; See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under ''e-filing'' link. The Commission strongly encourages electronic filing.

s. *Filing and Service of Responsive Documents*—Any filings must bear in all capital letters the title ''COMMENTS'', ''RECOMMENDATIONS FOR TERMS AND CONDITIONS'', ''PROTEST'', ''COMPETING APPLICATION'' or ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

t. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Magalie R. Salas,

Secretary.

[FR Doc. E6–6949 Filed 5–8–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP96–312–156]

Tennessee Gas Pipeline Company; Notice of Negotiated Rate Filing

May 2, 2006.

Take notice that on April 28, 2006, Tennessee Gas Pipeline Company (Tennessee) tendered for filing Negotiated Rate Arrangement. Tennessee states that the filed Negotiated Rate Arrangement reflects an agreement between Tennessee and Public Service Electric and Gas Company (PSE&G) for transportation under Rate Schedule FT–A pursuant to Tennessee's Northeast ConneXion NY/NJ Project. Tennessee requests that the Commission accept and approve the Negotiated Rate Arrangement to be effective on the commencement date of the FT–A Agreement.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as

appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E6–6982 Filed 5–8–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Motions To Intervene, Protests, and Comments

May 2, 2006.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 12668–000.

c. *Date filed:* April 3, 2006.

d. *Applicant:* Maine Tidal Energy Company.

e. *Name of Project:* Penobscot Tidal Energy Hydroelectric Project.

f. *Location:* The project would be located in the Penobscot River, west of Verona Island, in Hancock County, Maine.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contacts:* Joseph A. Cannon, Pillsbury Winthrop Shaw Pittman LLP, 2300 N Street, NW., Washington, DC 20037, phone: (202) 663–8000, and Charles B. Cooper, TRC Environmental, Boott Mills South, 116 John St., Lowell, MA 01852, phone: (978) 656–3567.

i. *FERC Contact:* Chris Yeakel, (202) 502–8132.

j. *Deadline for filing comments, protests, and motions to intervene:* 60 days from the issuance date of this notice.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of Project:* The proposed project would consist of: (1) 100 Tidal In Stream Energy Conversion (TISEC) devices consisting of, (2) rotating propeller blades, (3) integrated generators with a capacity of 0.5 to 2.0 MW, (4) anchoring systems, (5) mooring lines; and (6) interconnection transmission lines. The project is estimated to have an annual generation of 8.76 gigawatt-hours per-unit per-year, which would be sold to a local utility.

l. *Locations of Applications:* A copy of the application is available for inspection and reproduction at the Commission in the Public Reference Room, located at 888 First Street, NE., Room 2A, Washington, DC 20426, or by calling (202) 502–8371. 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 toll-free 1–866–208–3676 or e-mail *FERCOnlineSupport@ferc.gov.* For TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at the address in item h above.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Competing Preliminary Permit:* Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (*see* 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

o. *Competing Development Application:* Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

p. *Notice of Intent:* A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

q. *Proposed Scope of Studies under Permit:* A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

r. *Comments, Protests, or Motions to Intervene:* Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, 385.211, 385.214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must

be received on or before the specified comment date for the particular application.

Comments, protests and interventions may be filed electronically via the Internet in lieu of paper; *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under ''e-filing'' link. The Commission strongly encourages electronic filing.

s. *Filing and Service of Responsive Documents:* Any filings must bear in all capital letters the title ''COMMENTS'', ''RECOMMENDATIONS FOR TERMS AND CONDITIONS'', ''PROTEST'', ''COMPETING APPLICATION'' or ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

t. *Agency Comments:* Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Magalie R. Salas,

Secretary.

[FR Doc. E6–6950 Filed 5–8–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application for Amendment of License and Soliciting Comments, Motions To Intervene, and Protests

May 2, 2006.

Take notice that the following application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Amendment of License.

b. *Project No:* 2004–194.

c. *Date filed:* January 3, 2006.

d. *Applicant:* City of Holyoke Gas & Electric Company.

e. *Name of Project:* Holyoke Hydroelectric Project.

f. *Location:* The project is located on the Connecticut River, in Hampden, Hampshire, and Franklin Counties, Massachusetts.

g. *Filed Pursuant to:* License Article 418; Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Paul Ducheney, 66 Suffolk St., Holyoke, MA 01040, (413) 536–9340.

i. *FERC Contact:* Any questions on this notice should be addressed to Hillary Berlin at 202–502–8915, or e-mail address: *hillary.berlin@frec.gov*.

j. *Deadline for filing comments and or motions:* 45 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: Ms. Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Please include the project number (P–2004–194) on any comments or motions filed. Comments, protests, and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages e-filings.

k. *Description of Application:* The licensee filed a request for Commission approval of a permitting program under its Comprehensive Recreation and Land Management Plan. The permitting program is for various recreational and land uses within the project boundary. The program was developed in consultation with surrounding municipalities and non-governmental organizations.

l. *Location of Application:* The filing is available for review at the Commission in the Public Reference Room, located at 888 First Street, NE., Room 2A, Washington, DC 20426, or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online support at *FERCOnlineSupport@ferc.gov* or toll free (866) 208–3676 or TTY, contact (202) 502–8659.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Comments, Protests, or Motions to Intervene:* Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, 385.211, 385.214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. *Filing and Service of Responsive Documents:* Any filings must bear in all capital letters the title ''COMMENTS'', ''RECOMMENDATIONS FOR TERMS AND CONDITIONS'', ''PROTEST'', or ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

p. *Agency Comments:* Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

q. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site at *http://www.ferc.gov* under the ''e-Filing'' link.

Magalie R. Salas,

Secretary.

[FR Doc. E6–6951 Filed 5–8–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application for Non-Project Use of Project Lands and Waters and Soliciting Comments, Motions To Intervene, and Protests

May 2, 2006

Take notice that the following application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Non-Project Use Of Project Lands and Waters.

b. *Project No:* 2165–025.

c. *Date Filed:* March 6, 2006.

d. *Applicant:* Alabama Power Company.

e. *Name of Project:* The Warrior River Project, which includes the Smith Dam development.

f. *Location:* The proposed action will take place at the Smith Dam development at the former Castle Rock Marina on Ryan Creek, which is a tributary to Smith Lake located in Cullman County, Alabama approximately 11 stream miles above the Smith Dam.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791 (a) 825(r) and 799 and 801.

h. *Applicant Contact:* Mr. Keith E. Bryant, Sr. Engineer; Alabama Power Company Hydro Services; 600 18th Street North, Birmingham, AL 35203; (205) 257–1403.

i. *FERC Contact:* Any questions on this notice should be addressed to Brian Romanek at (202) 502–6175, or by e-mail: *Brian Romanek@ferc.gov.*

j. *Deadline for filing comments and or motions:* June 1, 2006.

All documents (original and eight copies) should be filed with: Ms. Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Please include the project number (P–2165–025) on any comments or motions filed. Comments, protests, and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages e-filings.

k. *Description of Request:* The licensee has requested Commission approval to allow Crane Hill Development, LLC. to install three floating boat dock structures at the former Castle Rock Marina, which is presently closed. The new docks would be for private use by residents of Waterford Condominiums, a residential community adjoining project land. The new dock structure would consist of: (1) Two covered docks, each measuring 58 feet wide by 136 feet long and will accommodate 20 boats, each and; (2) one partially covered dock structure, measuring 58 feet wide by 123 feet long, accommodating 18 boats. The total number of boats accommodated would be 58. The former marina had docks that would accommodate 92 boats. In addition, a one-fourth of an acre parking area would be constructed as well as a 50-foot-long retaining wall around the existing swimming pool.

l. *Location of the Application:* This filing is available for review at the Commission or may be viewed on the Commission's Web site at *http://www.ferc.gov,* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number 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.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Comments, Protests, or Motions to Intervene:* Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, 385.211, 385.214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. *Filing and Service of Responsive Documents:* Any filings must bear in all capital letters the title ''COMMENTS'', ''RECOMMENDATIONS FOR TERMS AND CONDITIONS'', ''PROTEST'', OR ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

p. *Agency Comments:* Federal, state, and local agencies are invited to file comments on the described applications. A copy of the applications may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Magalie R. Salas,

Secretary.

[FR Doc. E6–6952 Filed 5–8–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RM98–1–000]

Records Governing Off-the Record Communications; Public Notice

May 2, 2006.

This constitutes notice, in accordance with 18 CFR 385.2201(b), of the receipt of prohibited and exempt off-the-record communications.

Order No. 607 (64 FR 51222, September 22, 1999) requires Commission decisional employees, who make or receive a prohibited or exempt off-the-record communication relevant to the merits of a contested proceeding, to deliver to the Secretary of the Commission, a copy of the communication, if written, or a summary of the substance of any oral communication.

Prohibited communications are included in a public, non-decisional file associated with, but not a part of, the decisional record of the proceeding. Unless the Commission determines that the prohibited communication and any responses thereto should become a part of the decisional record, the prohibited off-the-record communication will not be considered by the Commission in reaching its decision. Parties to a proceeding may seek the opportunity to respond to any facts or contentions made in a prohibited off-the-record communication, and may request that the Commission place the prohibited communication and responses thereto in the decisional record. The Commission will grant such a request only when it determines that fairness so requires. Any person identified below as having made a prohibited off-the-record communication shall serve the document on all parties listed on the official service list for the applicable proceeding in accordance with Rule 2010, 18 CFR 385.2010.

Exempt off-the-record communications are included in the decisional record of the proceeding, unless the communication was with a cooperating agency as described by 40 CFR 1501.6, made under 18 CFR 385.2201(e)(1)(v).

The following is a list of off-the-record communications recently received by the Secretary of the Commission. The communications listed are grouped by docket numbers in ascending order. These filings are available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the eLibrary

link. Enter the docket number, excluding the last three digits, in the docket number field to access the document. For assistance, please contact FERC, Online Support at *FERCOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or for TTY, contact (202) 502–8659.

Docket Number	Date received	Presenter or requester
Prohibited:		
1. EL05–102–002	4–24–06	Undisclosed.[1]
Exempt:		
1. CP95–35–000	4–24–06	Carlos Reyes.
2. CP95–35–000	4–24–06	Ernesto Cordova.
3. CP05–130–000	4–20–06	J. C. Burton, John S. Kenyon.
4. EL03–180–000	4–10–06	Hon. Maria Cantwell.
5. ER00–2268–011, EL05–10–003, ER99–4124–009, EL05–11–003, ER00–3312–010, EL05–12–003 ER99–4122–012, EL05–13–003.	4–26–06	Stanley H. Ashby.
6. Same docket nos. as (5.) above	4–26–06	William D. Baker.
7. Same as (5.) above	4–26–06	James D. Downing.[2]
8. Same as (5.) above	4–26–06	R.D. Justice.
9. Same as (5.) above	4–26–06	Jackie Meck.
10 Same as (5.) above	4–26–06	Elizabeth Story.
11. Same as (5.) above	4–26–06	James R. Sweeney.
12. Same as (5.) above	4–25–06	Jeffery J. Woner.[3]
13. Project No. 459–128	3–20–06	Terry & Carol Welch.
14. Project No. 459–128	4–19–06	Charles Clark.
15. Project No. 1971–079	4–24–06	Steve R. Brink, James A. Chandler.

[1] E-mail communication sent to FERC staff member, Bryan Lee, from undisclosed source.
[2] Mr. Downing submitted two filings in these dockets on behalf of the Electrical District Number Eight and McMullen Valley Water Conservation & Drainage District.
[3] Mr. Woner submitted two filings in these dockets on behalf of Harquahala Valley Power District and Aquila Irrigation District on 4–25–06 and 4–26–06, respectively.

Magalie R. Salas,

Secretary.

[FR Doc. E6–6953 Filed 5–8–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Western Area Power Administration

Construction and Operation of the Sacramento Area Voltage Support Project, Sacramento, Sutter, and Placer Counties, CA

AGENCY: Western Area Power Administration, DOE.

ACTION: Notice of Intent to prepare a Supplemental Environmental Impact Statement (SEIS), and conduct scoping meetings; Notice of Floodplain and Wetlands Involvement.

SUMMARY: The Western Area Power Administration (Western), Department of Energy (DOE), intends to prepare a Supplemental Environmental Impact Statement (SEIS) to construct and operate a transmission line for the Sacramento Area Voltage Support (SVS) Project (Project) in California. The Sacramento Municipal Utility District (SMUD) and the City of Roseville (Roseville) will participate in a joint SEIS and Environmental Impact Report (EIR) to address the proposed construction and operation of about 38 miles of 230-kilovolt (kV), new double-circuit transmission line in the Sacramento, California, area.

Western prepared a Draft Environmental Impact Statement (EIS) for the SVS in November 2002 and a final EIS in September 2003. A Record of Decision (ROD) was signed on January 12, 2004. In the ROD, Western made commitments to conduct air, biological, and cultural surveys after funding was secured. SMUD and Roseville have since committed to share in conducting more detailed Project studies and are negotiating funding a voltage support project. Additional alternatives will be analyzed in this SVS SEIS and EIR.

DATES: Open-house public scoping meetings will be held June 5 and 7, 2006, from 4 to 7 p.m. Western invites interested agencies, tribes, organizations, and members of the public to submit comments or suggestions to assist in identifying environmental issues and in determining the appropriate scope of the SEIS and EIR. The public scoping period starts with the publication of this notice in the **Federal Register** and will continue until June 16, 2006. To be assured consideration, all comments or suggestions regarding the appropriate scope must be received by the end of the scoping period.

ADDRESSES: Open-house public scoping meetings will be held June 5, 2006 (4 to 7 p.m.), at the South Natomas Library, 2901 Truxel Road, Sacramento, California, and June 7, 2006 (4 to 7 p.m.), at the Pleasant Grove School, 3075 Howsley Road, Pleasant Grove, California. Written comments regarding the scoping process should be addressed to Ms. Loreen McMahon, Project Manager, Western Area Power Administration, 114 Parkshore Drive, Folsom, CA 95630–4710; toll-free telephone (866) 859–5126; fax (916) 985–1935, or e-mail *svs-seis@wapa.gov*.

FOR FURTHER INFORMATION CONTACT: Ms. Loreen McMahon, Project Manager, Western Area Power Administration, telephone (866) 859–5126; fax (916) 985–1935, or e-mail *svs-seis@wapa.gov*. For general information on DOE's NEPA review procedures or status of a NEPA review, contact Ms. Carol M. Borgstrom, Director of NEPA Policy and Compliance, EH–42, U.S. Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585, telephone (202) 586–4600 or (800) 472–2756.

SUPPLEMENTARY INFORMATION: Western is a power marketing agency of DOE that markets Federal electric power to statutorily defined customers, including project use, municipalities, irrigation districts, and Native American tribes. Western prepared a Draft EIS on the SVS in November 2002 and a final EIS in September 2003. The ROD was signed on January 12, 2004, for the proposed project (69 FR 1721). The EIS and ROD are available upon request by contacting Ms. McMahon as described above. The ROD can also be found on the World Wide Web at *http://www.wapa.gov/fedreg/fedreg04.htm*.

The previous EIS analyzed environmental impacts of alternatives to

improve electric system reliability and provide voltage support for the Sacramento area. The ROD was based upon the analysis in the previous SVS EIS. It stated, '' * * * should the SVS project proceed, it should follow the configuration of the preferred alternative described in the SVS Final EIS.'' This alternative is identified as Proposed Action Option B and would consist of (1) reconductoring the double-circuit, 230-kV transmission line from Elverta Substation to Tracy Substation, (2) constructing a new double-circuit, 230-kV transmission line from O'Banion Substation to Elverta Substation, and (3) realigning the transmission line near Pleasant Grove Cemetery between O'Banion and Elverta Substations and Option B of the Cottonwood-Roseville single-circuit, 230-kV transmission line. In the ROD, Western committed to completing more detailed analyses on air, biological, and cultural resources and consultations for Section 7 of the Endangered Species Act and Section 106 of the National Historic Preservation Act.

Since the ROD was issued, SMUD and Roseville have provided funding for environmental studies. Western, SMUD, and Roseville identified additional routing alternatives from O'Banion Substation to Elverta and/or Natomas Substations. The National Environmental Policy Act (NEPA) applies to Western, a Federal agency. The California Environmental Quality Act (CEQA) requirements apply to both SMUD and Roseville. A joint NEPA/CEQA document will be developed, with SMUD as the CEQA lead agency. The SEIS and EIR will analyze the environmental impacts from the construction and operation of a proposed new transmission line between O'Banion Substation and Elverta and/or Natomas Substations for the SVS Project near Sacramento, California. While some of the routing alternatives were already analyzed in the original EIS, Western plans to include them in the SEIS and EIR.

The SEIS and EIR will address the environmental impacts of the construction and operation of about 38 miles of new double-circuit, 230-kV transmission line within portions of Sacramento, Sutter, and Placer Counties. The SVS SEIS and EIR will evaluate alternative transmission line routes between O'Banion Substation and Elverta and/or Natomas Substations, based on scoping results. Western's SEIS process will comply with NEPA (42 U.S.C. 4321–4347, as amended), Council on Environmental Quality regulations for implementing NEPA (40 Code of Federal Regulations [CFR] parts 1500–1508) and DOE NEPA implementing procedures (10 CFR part 1021). SMUD and Roseville's EIR process will comply with § 21000 to § 21006 of the California Public Resources Code, as amended. Because the proposed Project may involve action in floodplains, the SEIS will include a floodplain assessment and floodplain statement of findings following DOE regulations for compliance with floodplain and wetlands environmental review (10 CFR part 1022).

Description

The proposed Project would include (1) building a new transmission line from O'Banion Substation to an area near Cross Canal, (2) building from Cross Canal to the Elverta Substation area, and (3) rebuilding an existing transmission line from the Elverta Substation area to Natomas Substation. Three possible routes have been identified for the second segment. Western will use the scoping process to further explore and refine alternatives. Additional details follow:

Segment 1—O'Banion Substation to Cross Canal

Segment 1 was analyzed and selected as part of the Preferred Alternative in the previous EIS and ROD. Segment 1 would consist of constructing about 17 miles of new 230-kV, double-circuit transmission line adjacent to an existing transmission Right-of-Way (ROW) from O'Banion Substation to an area near Cross Canal. It would parallel the Sutter Bypass and cross the Feather River. Segment 1 would require about 82 new structures and 9 pulling sites resulting in about 28 acres of short-term disturbance and 8 acres of long-term disturbance.

Segment 2A—Cross Canal to Elverta Substation, Western Alignment

Segment 2A would consist of constructing up to about 13 miles of new 230-kV, double-circuit transmission line within a new ROW. This alignment would begin at the termination of Segment 1 and proceed along Cross Canal to Highway 99, then south along Highway 99. At some point between Riego Road and Elkhorn Boulevard the route would go east to a point near East Levee Road then extending south to intercept SMUD's existing Elverta-Natomas Transmission Line south of Elverta Substation. Segment 2A would require about 61 new structures, 7 pulling sites, and 9 miles of access road resulting in about 38 acres of short-term disturbance and 23 acres of long-term disturbance.

Segment 2B—Cross Canal to Elverta Substation, Abandoned Railroad ROW Alignment

Segment 2B would consist of constructing about 10 miles of new 230-kV, double-circuit transmission line along the alignment of an abandoned railroad ROW from the termination of Segment 1 and proceed southeast to an area north of Rio Linda Boulevard. From there, it would continue southwest along the existing ROW and tie into SMUD's existing Elverta-Natomas Transmission Line south of Elverta Substation. Small areas near Rio Linda Boulevard and Elverta Road also would require new transmission line easements. Segment 2B would require about 45 new structures, 5 pulling sites, and 10 miles of access roads resulting in about 35 acres of short-term disturbance and 22 acres of long-term disturbance.

Segment 2C—Cross Canal to Elverta Substation, Eastern Alignment

Segment 2C was analyzed and selected as part of the Preferred Alternative in the previous EIS and ROD. In the previous EIS, this alignment was identified as Option B and was comprised of line segments A/ A1, B, F, G, H, I, and J. The first element of this alignment would reroute the existing Cottonwood-Roseville 230-kV Transmission Line to the east. This reroute would originate at Tower 143/3 and proceed east with construction of new 230-kV transmission line about 4 miles and then south for about 2 miles to rejoin the existing Cottonwood-Roseville Transmission Line between Towers 152/2 and 152/3.

The second element would consist of constructing about 9 miles of new 230-kV, double-circuit transmission line adjacent to an existing transmission ROW from the termination of Segment 1 near Cross Canal, south to approximately Locust Road. It would then continue south, using the vacated Cottonwood-Roseville easement/ROW (from element 1 above) and the other existing ROW to tie into SMUD's existing Elverta-Natomas Transmission Line south of Elverta Substation. Small areas around Elverta Road would require new transmission line easements. Both elements of Segment 2C would include constructing about 15 miles of new transmission line and abandoning 6 miles of existing transmission line. This would require building about 74 new structures, 8 pulling sites, and 7 miles of access road resulting in about 37 acres of short-term disturbance and 19 acres of long-term disturbance.

Segment 3—Elverta Substation to Natomas Substation

Segment 3 would consist of rebuilding about 5 miles of an existing 115/230-kV, double-circuit transmission line within an existing ROW between Elverta and Natomas Substations. This would require about 23 new structures and 3 pulling sites resulting in about 7 acres of short-term disturbance and about 3 acres of long-term disturbance.

No Action

The No Action alternative was analyzed in the previous EIS and is comprised of continued operation and maintenance of existing facilities. If Western determines a need for additional analysis, it will be included in the SEIS.

Agency Responsibilities

Western has determined that an SEIS is required under DOE NEPA Implementing Procedures, 10 CFR 1021.314(a), regarding supplemental EISs. Western will be the lead Federal agency for preparing the SEIS, as defined in 40 CFR 1501.5. In addition, SMUD and Roseville have been designated cooperating agencies. Western will invite other Federal, state, local, and tribal agencies with jurisdiction by law or special expertise, with respect to environmental issues, to be cooperating agencies on the SEIS, as defined in 40 CFR 1501.6. Such agencies also may make a request to Western to be a cooperating agency. Designated cooperating agencies have certain responsibilities to support the NEPA process, as specified in 40 CFR 1501.6(b). As a Federal agency, CEQA does not apply to Western. SMUD is the lead state agency in the CEQA EIR process.

Environmental Issues

This notice is to inform agencies and the public of the proposed Project and solicit comments and suggestions for consideration in preparing the SEIS and EIR. To help the public frame its comments, this notice contains a list of potential environmental issues Western has tentatively identified for analysis. These issues include:

1. Impacts on protected, threatened, endangered, or sensitive species of animals or plants or their critical habitats;
2. Impacts on other biological resources;
3. Impacts on land use, recreation, and transportation;
4. Impacts on floodplains and wetlands;
5. Impacts on cultural or historic resources and tribal values;
6. Impacts on human health and safety;
7. Impacts on air, soil, and water resources (including air quality, surface water impacts, and ground water impacts);
8. Visual impacts; and
9. Socioeconomic impacts and disproportionately high and adverse impacts to minority and low-income populations.

This list is not intended to be all-inclusive or to imply any predetermination of impacts. Western invites interested parties to suggest specific issues within these general categories, or other issues not included above, to be considered in the SEIS.

Public Participation

Opportunities for public participation are planned for the entire SEIS process. Western anticipates the SEIS process will take about 15 months and will include open-house public scoping meetings; consultation and involvement with appropriate Federal, state, local, and tribal governmental agencies; public review and hearings on the published Draft SEIS and EIR; a review and comment period; a published Final SEIS and EIR; and publication of a ROD. Additional informal public meetings may be held in the proposed Project area if public interest and issues indicate a need. Western also will mail newsletters to the proposed Project mailing list to communicate Project status and developments.

Western will hold a scoping period of at least 30 days to ensure that interested members of the public, representatives of groups, and Federal, state, local, and tribal agencies have an opportunity to provide input on the scope of alternatives and issues that will be addressed in the SEIS and EIR. As part of the scoping period, Western will hold public open-house scoping meetings in the Project area. Interested individuals and groups are invited to attend anytime between 4 and 7 p.m., according to the dates and locations noted above. The open-house scoping meetings will be informal, with Western and Project representatives available for one-on-one discussions with attendees. Attendees will have the opportunity to view maps of the transmission line alternative routes, learn about the NEPA process, the proposed schedule, and additional information. Written comments regarding environmental issues, alternatives, and other scoping issues may be turned in at the scoping meetings or may be provided by fax, e-mail, U.S. Postal Service, or other carrier to Western. To be assured consideration, all written comments must be received before the close of the SVS SEIS and EIR scoping period.

Dated: May 1, 2006.

Michael S. Hacskaylo,

Administrator.

[FR Doc. E6–7036 Filed 5–8–06; 8:45 am]

BILLING CODE 6450–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–ORD–2006–0423; FRL–8168–1]

Board of Scientific Counselors, Executive Committee Meeting—June 2006

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act, Public Law 92–463, the Environmental Protection Agency, Office of Research and Development (ORD), gives notice of one meeting of the Board of Scientific Counselors (BOSC) Executive Committee.

DATES: The meeting will be held on Thursday June 1, 2006 from 9 a.m. to 5:30 p.m. The meeting will continue on Friday, June 2, 2006 from 8:30 a.m. to 1:45 p.m. All times noted are eastern time. The meeting may adjourn early if all business is finished. Requests for the draft agenda or for making oral presentations at the meeting will be accepted up to 1 business day before the meeting.

ADDRESSES: The meeting will be held at the Monte Carlo Hotel and Casino, 3770 Las Vegas Boulevard South, Las Vegas, Nevada 89109. Submit your comments, identified by Docket ID No. EPA–HQ–ORD–2006–0423, by one of the following methods:

- *http://www.regulations.gov:* Follow the on-line instructions for submitting comments.
- *E-mail:* Send comments by electronic mail (e-mail) to: *ORD.Docket@epa.gov,* Attention Docket ID No. EPA-HQ-ORD–2006–0423.
- *Fax:* Fax comments to: (202) 566–0224, Attention Docket ID No. EPA-HQ-ORD–2006–0423.
- *Mail:* Send comments by mail to: Board of Scientific Counselors, Executive Committee Meeting—June 2006 Docket, Mailcode: 28221T, 1200 Pennsylvania Ave., NW., Washington, DC 20460, Attention Docket ID No. EPA–HQ–ORD–2006–0423.
- *Hand Delivery or Courier.* Deliver comments to: EPA Docket Center (EPA/DC), Room B102, EPA West Building,

1301 Constitution Avenue, NW., Washington, DC, Attention Docket ID No. EPA–HQ–ORD–2006–0423. Note: this is not a mailing address. 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-ORD–2006–0423. 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.*

Docket: All documents in the docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy at the Board of Scientific Counselors, Executive Committee—June 2006 Docket, EPA/DC, EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the ORD Docket is (202) 566–1752.

FOR FURTHER INFORMATION CONTACT: The Designated Federal Officer via mail at: Lorelei Kowalski, Mail Code 8104–R, Office of Science Policy, Office of Research and Development, Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; via phone/voice mail at: (202) 564–3408; via fax at: (202) 565–2911; or via e-mail at: *kowalski.lorelei@epa.gov.*

SUPPLEMENTARY INFORMATION:

General Information

Any member of the public interested in receiving a draft BOSC agenda or making a presentation at the meeting may contact Lorelei Kowalski, the Designated Federal Officer, via any of the contact methods listed in the **FOR FURTHER INFORMATION CONTACT** section above. In general, each individual making an oral presentation will be limited to a total of three minutes.

Proposed agenda items for the meeting include, but are not limited to: discussion of the draft report from the Science to Achieve Results (STAR)/Greater Research Opportunities (GRO) Fellowship Subcommittee; update on subcommittees for the Technology for Sustainability, Human Health Risk Assessment, Safe Pesticides/Safe Products, and Homeland Security program reviews; update on the Computational Toxicology Subcommittee; a site visit to ORD's National Exposure Research Lab; presentation of ORD responses to three recent BOSC reports; a briefing on Futures; discussion of the draft BOSC Subcommittee Chair Handbook, Implementing Standing BOSC Lab/Center Subcommittees, and status of the Program Review Tool Workgroup; an update on EPA's Science Advisory Board activities; and future issues and plans. The meeting is open to the public.

Information on Services for Individuals with Disabilities: For information on access or services for individuals with disabilities, please contact Lorelei Kowalski at (202) 564–3408 or *kowalski.lorelei@epa.gov.* To request accommodation of a disability, please contact Lorelei Kowalski, preferably at least 10 days prior to the meeting, to give EPA as much time as possible to process your request.

Dated: May 2, 2006.

Jeffery Morris,

Acting Director, Office of Science Policy.

[FR Doc. E6–7027 Filed 5–8–06; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL MEDIATION AND CONCILIATION SERVICE

Labor Management Cooperation Act of 1978 (Pub. L. 95–524)

AGENCY: Federal Mediation and Conciliation Service.

ACTION: Request for Public Comment on Draft Fiscal Year 2006, Program Guidelines/Application Solicitation for Labor-Management Committees.

SUMMARY: The Federal Mediation and Conciliation Service (FMCS) is publishing a *draft* Fiscal Year 2006 Program Guidelines/Application Solicitation for the Labor-Management Cooperation Program for comment. The program is supported by Federal funds authorized by the Labor-Management Cooperation Act of 1978, subject to annual appropriations. This solicitation contains a change in the length of grants and the deadline for accepting applications. FMCS reserves the right under special conditions to award supplemental (continuation) grants and will accept applications beginning August 1, 2006 and continue to do so until July 31, 2007 or until all Fiscal Year 2006 grant funds are obligated.

DATES: Written comments must be submitted to the office listed in the address section below within *30* days from the date of this publication in the **Federal Register**.

ADDRESSES: Submit comments to Maria A. Fried, General Counsel and Federal Register Liaison, Federal Mediation and Conciliation Service, 2100 K Street, NW., Washington, DC 20427. Comments may be submitted by fax at (202) 606–5345 or electronic mail (e-mail) to *mfried@fmcs.gov.* All comments and data in electronic form must be identified by the appropriate agency form number.

FOR FURTHER INFORMATION CONTACT: Linda Stubbs, Grants Management Specialist, FMCS 2100 K Street, NW., Washington, DC 20427. Telephone number 202–606–8181, e-mail to *lstubbs@fmcs.gov* or fax at (202) 606–3434.

Federal Mediation Conciliation Service Labor-Management Cooperation Program Application Solicitation for Labor-Management Committees FY2006

A. Introduction

The following is the draft Solicitation for the Fiscal Year (FY) 2006 cycle of the Labor-Management Cooperation Program as it pertains to the support of labor-management committees. These guidelines represent the continuing efforts of the Federal Mediation and Conciliation Service to implement the provisions of the Labor-Management Cooperation Act of 1978, which was initially implemented in FY1981. The Act authorizes FMCS to provide assistance in the establishment and operation of company/plant, area, public sector, and industry-wide labor-management committees which:

(A) Have been organized jointly by employers and labor organizations representing employees in that company/plant, area, government agency, or industry; and

(B) Are established for the purpose of improving labor-management relationships, job security, and organizational effectiveness; enhancing economic development; or involving workers in decisions affecting their working lives, including improving communication with respect to subjects of mutual interest and concern.

The Program Description and other sections that follow, as well as a separately published FMCS Financial and Administrative Grants Manual, make up the basic guidelines, criteria, and program elements a potential applicant for assistance under this program must know in order to develop an application for funding consideration for either a company/plant, area-wide, industry, or public sector labor-management committee. Directions for obtaining an application kit may be found in Section H. A copy of the Labor-Management Cooperation Act of 1978, included in the application kit, should be reviewed in conjunction with this solicitation.

B. Program Description

Objectives

The Labor-Management Cooperation Act of 1978 identifies the following seven general areas for which financial assistance would be appropriate:

(1) To improve communication between representatives of labor and management;

(2) To provide workers and employers with opportunities to study and explore new and innovative joint approaches to achieving organizational effectiveness;

(3) To assist workers and employers in solving problems of mutual concern not susceptible to resolution within the collective bargaining process;

(4) To study and explore ways of eliminating potential problems which reduce the competitiveness and inhibit the economic development of the company/plant, area, or industry;

(5) To enhance the involvement of workers in making decisions that affect their working lives;

(6) To expand and improve working relationships between workers and managers; and

(7) To encourage free collective bargaining by establishing continuing mechanisms for communication between employers and their employees through Federal assistance in the formation and operation of labor-management committees.

The primary objective of this program is to encourage and support the establishment and operation of joint labor-management committees to carry out specific objectives that meet the aforementioned general criteria. The term ''labor'' refers to employees represented by a labor organization and covered by a formal collective bargaining agreement. These committees may be found at the plant (company), area, industry, or public sector levels.

A plant or company committee is generally characterized as restricted to one or more organizational or productive units operated by a single employer. An area committee is generally composed of multiple employers of diverse industries as well as multiple labor unions operating within and focusing upon a particular city, county, contiguous multicounty, or statewide jurisdiction.

An industry committee generally consists of a collection of agencies or enterprises and related labor union(s) producing a common product or service in the private sector on a local, state, regional, or nationwide level. A public sector committee consists of government employees and managers in one or more units of a local or state government, managers and employees of public institutions of higher education, or of employees and managers of public elementary and secondary schools. Those employees must be covered by a formal collective bargaining agreement or other enforceable labor-management agreement. In deciding whether an application is for an area or industry committee, consideration should be given to the above definitions as well as to the focus of the committee.

In FY2006, competition will be open to company/plant, area, private industry, and public sector committees. Special consideration will be given to committee applications involving innovative or unique efforts. All application budget requests should focus directly on supporting the committee. Applicants should avoid seeking funds for activities that are clearly available under other Federal programs (e.g., job training, mediation of contract disputes, etc.)

Required Program Elements

1. *Problem Statement*—The application should have numbered pages and discuss in detail what specific problem(s) face the company/plant, area, government, or industry and its workforce that will be addressed by the committee. Applicants must document the problem(s) using as much relevant data as possible and discuss the full range of impacts these problem(s) could have or are having on the company/plant, government, area, or industry. An industrial or economic profile of the area and workforce might prove useful in explaining the problem(s). This section basically discusses *WHY* the effort is needed.

2. *Results or Benefits Expected*—By using specific goals and objectives, the application must discuss in detail *WHAT* the labor-management committee will accomplish during the life of the grant. Applications that promise to provide objectives *after* a grant is awarded will receive little or no credit in this area. While a goal of ''improving communication between employers and employees'' may suffice as one over-all goal of a project, the objectives must, whenever possible, be expressed in *specific* and *measurable* terms. Applicants should focus on the outcome, impacts or changes that the committee's efforts will have. Existing committees should focus on *expansion* efforts/results expected from FMCS funding. The goals, objectives, and projected impacts will become the foundation for future monitoring and evaluation efforts of the grantee, as well as the FMCS grants program.

3. *Approach*—This section of the application specifies *HOW* the goals and objectives will be accomplished. At a minimum, the following elements must be included in all grant applications:

(a) A discussion of the strategy the committee will employ to accomplish its goals and objectives;

(b) A listing, by name and title, of all existing or proposed members of the labor-management committee. The application should also offer a rationale for the selection of the committee members (e.g., members represent 70% of the area or company/plant workforce).

(c) A discussion of the number, type, and role of all committee staff persons. Include proposed position descriptions for all staff that will have to be hired as well as resumes for staff already on board; noting, that grant funds may not be used to pay for existing employees; an assurance that grant funds will not be used to pay for existing employees;

(d) In addressing the proposed approach, applicants must also present their justification as to why Federal funds are needed to implement the proposed approach;

(e) A statement of how often the committee will meet (we require meetings at least every other month) as well as any plans to form subordinate committees for particular purposes; and

(f) For applications from existing committees, a discussion of past efforts and accomplishments and how they would integrate with the proposed expanded effort.

4. *Major Milestones*—This section must include an implementation plan that indicates what major steps, operating activities, and objectives will be accomplished as well as a timetable for *WHEN* they will be finished. A milestone chart must be included that indicates what specific accomplishments (process and impact) will be completed by month over the life of the grant using ''month one'' as the start date. The accomplishment of these tasks and objectives, as well as problems and delays therein, will serve as the basis for quarterly progress reports to FMCS.

Applicants must prepare their budget narrative and milestone chart using a start date of ''month one'' and an end date of ''month twelve'' or ''month eighteen'', as appropriate. Thus, if applicant is seeking a twelve month grant, use figures reflecting month one through twelve. If applicant is seeking an eighteen month grant, use figures reflecting month one through eighteen. If the grant application is funded; FMCS will identify the start and end date of the grant on the Application for Federal Assistance (SF–424) form.

5. *Evaluation*—Applicants must provide for either an external evaluation or an internal assessment of the project's success in meeting its goals and objectives. An evaluation plan must be developed which briefly discusses what basic questions or issues the assessment will examine and what baseline data the committee staff already has or will gather for the assessment. This section should be written with the application's own goals and objectives clearly in mind and the impacts or changes that the effort is expected to cause.

6. *Letters of Commitment*—Applications must include current letters of commitment from *all* proposed or existing committee participants and chairpersons. These letters should indicate that the participants support the application and will attend scheduled committee meetings. A blanket letter signed by a committee chairperson or other official on behalf of all members is not acceptable. We encourage the use of individual letters submitted on company or union letterhead represented by the individual. The letters should match the names provided under section 3(b).

7. *Other Requirements*—Applicants are also responsible for the following:

(a) The submission of data indicating approximately how many employees will be covered or represented through the labor-management committee;

(b) From existing committees, a copy of the existing staffing levels, a copy of the by-laws (if any), a breakout of annual operating costs and identification of all sources and levels of current financial support;

(c) A detailed budget narrative that *clearly identifies* each line item and the estimated cost (a complete breakdown of each line item) based on policies and procedures contained in the FMCS Financial and Administrative Grants Manual;

(d) An assurance that the labor-management committee will not interfere with any collective bargaining agreements;

(e) An assurance that committee meetings will be held at least every other month and that written minutes of all committee meetings will be prepared and made available to FMCS; and

(f) An assurance that the maximum rate for an individual consultant paid from grant project can be no more than *$950* for an eight-hour-day. The day includes preparation, evaluation and travel time. Also, time and effort records must be maintained.

Selection Criteria

The following criteria will be used in the scoring and selection of applications for award:

(1) The extent to which the application has clearly identified the problems and justified the needs that the proposed project will address.

(2) The degree to which appropriate and *measurable* goals and objectives have been developed to address the problems/needs of the applicant.

(3) The feasibility of the approach proposed to attain the goals and objectives of the project and the perceived likelihood of accomplishing the intended project results. This section will also address the degree of innovativeness or uniqueness of the proposed effort.

(4) The appropriateness of committee membership and the degree of commitment of these individuals to the goals of the application as indicated in the letters of support.

(5) The feasibility and thoroughness of the implementation plan in specifying major milestones and target dates.

(6) The cost effectiveness and fiscal soundness of the application's budget request, as well as the application's feasibility vis-a-vis its goals and approach.

(7) The overall feasibility of the proposed project in light of all of the information presented for consideration; and

(8) The value to the government of the application in light of the overall objectives of the Labor-Management Cooperation Act of 1978. This includes such factors as innovativeness, site location, cost, and other qualities that impact upon an applicant's value in encouraging the labor-management committee concept.

C. Eligibility

Eligible grantees include state and local units of government, labor-management committees (or a labor union, management association, or company on behalf of a committee that will be created through the grant), and certain third-party private non-profit entities on behalf of one or more committees to be created through the grant. Federal government agencies and their employees are not eligible.

Third-party private, non-profit entities that can document that a major purpose or function of their organization is the improvement of labor relations are eligible to apply. However, all funding must be directed to the functioning of the labor-management committee, and all requirements under Part B must be followed. Applications from third-party entities must document particularly strong support and participation from all labor and management parties with whom the applicant will be working. Applications from third-parties which do not directly support the operation of a new or expanded committee will not be deemed eligible, nor will applications signed by entities such as law firms or other third-parties failing to meet the above criteria.

Successful grantees *will* be bound by OMB Circular 110 i.e. ''contractors that develop or draft specifications, requirements, statements of work, and invitations for bids and/or requests for

proposals shall be *excluded* (emphasis added from competing for such procurements).

Applicants who received funding under this program in the last 6 years for committee operations are not eligible to re-apply. The only exception will be made for grantees that seek funds on behalf of an entirely different committee whose efforts are totally outside of the scope of the original grant.

D. Allocations

The FY2006 appropriation for this program is $396,000. The Grant Review Board will review submissions and make recommendations for awards based on merit without regard to category.

In addition to the competitive process identified in the preceding paragraph, FMCS will, subject to funds availability, set aside a sum not to exceed 30 percent of its non-reserved appropriation to be awarded on a non-competitive basis. These funds will be used only to support applications that have been solicited by the Director of the Service and are not subject to the dollar range noted in Section E. All funds returned to FMCS from a competitive grant award may be awarded on a non-competitive basis in accordance with budgetary requirements.

FMCS reserves the right to retain up to five percent of the FY2006 appropriation to contract for program support purposes (such as evaluation) other than administration.

E. Dollar Range and Length of Grants

Awards to expand existing or establish new labor-management committees will be for a period of up to 18 months. If successful progress is made during this initial budget period and all grant funds are not obligated within the specified period, these grants may be extended for up to six months. The dollar range of awards is as follows:

—Up to $65,000 over a period of up to 18 months for company/plant committees or single department public sector applicants;

—Up to $125,000 per 18-month period for area, industry, and multi-department public sector committee applicants.

Additionally, FMCS reserves the right under special conditions to award supplemental (continuation) grants subject to funds availability. If awarded the additional amount is added to the current grant amount.

Applicants are reminded that these figures *represent maximum Federal funds only.* If total costs to accomplish the objectives of the application exceed the maximum allowable Federal funding level and its required grantee match, applicants may supplement these funds through voluntary contributions from other sources. Applicants are also strongly encouraged to consult with their local or regional FMCS field office to determine what kinds of training may be available at no cost before budgeting for such training in their applications. A list of our field leadership team and their phone numbers may be obtained from the FMCS Web site (*http://www.fmcs.gov*) under ''Who We Are''.

F. Cash Match Requirements and Cost Allowability

All applicants must provide at least 10 percent of the total allowable project costs in cash. Matching funds may come from state or local government sources or private sector contributions, but may generally not include other Federal funds. Funds generated by grant-supported efforts are considered ''project income,'' and may not be used for matching purposes.

It is the policy of this program to reject all requests for *indirect or overhead* costs as well as ''*in-kind*'' match contributions. In addition, grant funds must not be used to supplant private or local/state government funds currently spent for committee purposes. Funding requests from existing committees should focus entirely on the costs associated with the expansion efforts. Also, under no circumstances may business or labor officials participating on a labor-management committee be compensated out of grant funds for *time* spent at committee meetings or *time* spent in committee training sessions. Applicants generally will not be allowed to claim all or a portion of *existing* full-time staff as an expense or match contribution. For a more complete discussion of cost allowability, applicants are encouraged to consult the FY2006 FMCS Financial and Administrative Grants Manual, which will be included in the application kit.

G. Application Submission and Review Process

The Application for Federal Assistance (SF–424) form must be signed by *both* a labor and management representative. In lieu of signing the SF–424 form, representatives may type their name, title, and organization on plain bond paper with a signature line signed and dated, in accordance with block 18 of the SF–424 form. The individual listed as contact person in block 6 on the application form will generally be the only person with whom FMCS will communicate during the application review process. Please be sure that person is available once the application has been submitted. Additionally, it is the applicant's responsibility to notify FMCS in writing of any changes (e.g., if the address or contact person has changed).

We will accept applications beginning August 1, 2006, and continue to do so until July 31, 2007 , or until all FY 2006 grant funds are obligated. Awards will be made by September 30, 2007. Proposals may be accepted at any time between August 1, 2006 and July 31, 2007, but proposals received late in the cycle have a greater risk of not being funded due to unavailability of funds. Once your application has been received and acknowledged by FMCS, no applications or supplementary materials will be accepted thereafter. Applicants are highly advised to contact the grants director prior to committing any resources to the preparation of a proposal.

An original application containing numbered pages, plus *three* copies, should be addressed to the Federal Mediation and Conciliation Service, Labor-Management Grants Program, 2100 K Street, NW., Washington, DC 20427. FMCS will not consider videotaped submissions or video attachments to submissions. FMCS will confirm receipt of all applications within 10 days thereof.

All eligible applications will be reviewed and scored by a Grant Review Board. The Board(s) will recommend selected applications for rejection or further funding consideration. The Director or their designee will finalize the scoring and selection process. All FY 2006 grant applicants will be notified of results and all grant awards will be made by September 30, 2007. Applications that fail to adhere to eligibility or other major requirements will be administratively rejected by the Director or their designee.

H. Contact

Individuals wishing to apply for funding under this program should contact the Federal Mediation and Conciliation Service as soon as possible to obtain an application kit. Please consult the FMCS Web site (*http://www.fmcs.gov*) to download forms and information. These kits and additional information or clarification can be obtained free of charge by contacting the Federal Mediation and Conciliation Service, Labor-Management Grants Program, 2100 K Street, NW., Washington, DC 20427, Linda Stubbs at (202) 606–8181 (*lstubbs@fmcs.gov*).

Additionally, we are currently accepting applications for FY2005 grant cycle and will do so until July 31, 2006 or until all FY2005 funding has been obligated. Please consult the FMCS Web site (*http://www.fmcs.gov*) to download forms and information.

Fran Leonard,

Director, Budget and Finance, Federal Mediation and Conciliation Service.

[FR Doc. E6–7034 Filed 5–8–06; 8:45 am]

BILLING CODE 6732–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisition of Shares of Bank or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the office of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than May 24, 2006.

A. Federal Reserve Bank of Atlanta (Andre Anderson, Vice President) 1000 Peachtree Street, NE., Atlanta, Georgia 30309:

1. Charles H. Roland and Kimberly O. Roland, Andalusia, Alabama; to retain voting shares of Southern National Corporation, Andalusia, Alabama, and thereby indirectly retain voting shares of Covington County Bank, Andalusia, Alabama.

B. Federal Reserve Bank of Chicago (Patrick M. Wilder, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690-1414:

1. Harold Dean Westra, individually and acting in concert with Greg Todd Westra, both of Rock Valley, Iowa; to acquire voting shares of Premier Holdings, Ltd., Rock Valley, Iowa, and thereby indirectly acquire voting shares of Premier Bank, Rock Valley, Iowa.

C. Federal Reserve Bank of St. Louis (Glenda Wilson, Community Affairs Officer) 411 Locust Street, St. Louis, Missouri 63166-2034:

1. J. Chester Porter, Shepherdsville, Kentucky, and the William G. Porter Revocable Trust, Sarasota, Florida; to acquire voting shares of Porter Bancorp, Inc., Shepherdsville, Kentucky, and thereby indirectly acquire voting shares of PBI Bank, Greensburg, Kentucky.

Board of Governors of the Federal Reserve System, May 4, 2006.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. E6–6994 Filed 5–8–06; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center Web site at *http://www.ffiec.gov/nic/*.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than June 2, 2006.

A. Federal Reserve Bank of Atlanta (Andre Anderson, Vice President) 1000 Peachtree Street, N.E., Atlanta, Georgia 30309:

1. Great Financial Corporation, Miami Lakes, Florida; to become a bank holding company by acquiring 100 percent of the voting shares of Great Florida Bank, Miami, Florida.

B. Federal Reserve Bank of Kansas City (Donna J. Ward, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198-0001:

1. BancFirst Corporation, Oklahoma City, Oklahoma; to acquire 100 percent of the voting shares of First Bartlesville Bank, Bartlesville, Oklahoma.

Board of Governors of the Federal Reserve System, May 4, 2006.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. E6–6993 Filed 5–8–06; 8:45 am]

BILLING CODE 6210–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60 Day–06–0600]

Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call 404–639–5960 and send comments to Seleda Perryman, CDC Assistant Reports Clearance Officer, 1600 Clifton Road, MS–D74, Atlanta, GA 30333 or send an e-mail to *omb@cdc.gov*.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Written comments should be received within 60 days of this notice.

Proposed Project

Performance Evaluation Program for Mycobacterium Tuberculosis and Non-

Tuberculous Mycobacterium (NTM) Drug Susceptibility Testing (0920–0600)—Extension—National Center for Health Marketing (NCHM), Coordinating Center for Health Information and Service (CoCHIS), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

As part of the continuing effort to support both domestic and global public health objectives for treatment of tuberculosis (TB), prevention of multi-drug resistance and surveillance programs, the Division of Laboratory Systems seeks to continue to collect information from domestic private clinical and public health laboratories twice per year. Participation and information collections from international laboratories are limited to those which have public health responsibilities for tuberculosis drug susceptibility testing and approval by their national tuberculosis program. While the overall number of cases of TB in the U.S. has decreased, rates still remain high among foreign-born persons, prisoners, homeless populations, and individuals infected with HIV in major metropolitan areas. The rate of TB cases detected in foreign-born persons has been reported to be almost nine times higher than the rate among the U.S. born population.

CDC's goal to eliminate TB will be virtually impossible without considerable effort in assisting countries with heavy disease burden in the reduction of tuberculosis. The M.tuberculosis/NTM program supports this role by monitoring the level of performance and practices among laboratories performing M. tuberculosis susceptibility within the U.S, as well as internationally, to ensure high-quality laboratory testing, resulting in accurate and reliable results.

Information collected in this program includes the susceptibility test results of primary and secondary drugs, concentrations, and test methods performed by laboratories on a set of challenge isolates sent twice yearly. A portion of the response instrument collects demographic data such as laboratory type and the number of tests performed annually. By providing an evaluation program to assess the ability of the laboratories to test for drug resistant M. tuberculosis and selected strains of NTM, laboratories have a self-assessment tool to aid in maximizing their skills in susceptibility testing. Information obtained from laboratories on susceptibility testing practices and procedures assists with determining variables related to good performance, with assessing areas for training and with developing practice standards.

There are no cost to the respondents other than their time.

ESTIMATED ANNUALIZED BURDEN HOURS

Respondents	No. of respondents	Average number of responses per respondent	Average burden per response (in hours)	Total burden hours
Domestic Private/Public Laboratories	165	1	30/60	83
International Laboratories (with public health responsibilities)	165	1	30/60	83
Total				166

Dated: May 1, 2006.

Joan F. Karr,

Acting Reports Clearance Officer, Centers for Disease Control and Prevention.

[FR Doc. E6–7002 Filed 5–8–06; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–06–0469]

Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call 404–639–5960 and send comments to Seleda Perryman, CDC Assistant Reports Clearance Officer, 1600 Clifton Road, MS–D74, Atlanta, GA 30333 or send an e-mail to *omb@cdc.gov.*

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Written comments should be received within 60 days of this notice.

Proposed Project

National Program of Cancer Registries—Cancer Surveillance System—Extension (OMB number 0920–0469)—National Center for Chronic Disease Prevention and Health Promotion (NCCDPHP), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

The American Cancer Society estimated that about 1.37 million Americans were newly diagnosed with cancer in 2005 and that about 570,000 died from cancer in that same year. The National Institutes of Health estimates that in 2005, the cost of cancer was about $209 billion, including $74 billion direct costs to treat cancer, and $136 billion indirect costs in lost productivity due to illness and premature death.

In 2002, CDC implemented the National Program of Cancer Registries (NPCR)—Cancer Surveillance System (CSS) to collect, evaluate and disseminate cancer incidence data collected by population-based cancer registries. In 2002, CDC began annually publishing United States Cancer Statistics (USCS). The latest USCS report published in 2005 provided cancer statistics for 93% of the United States population from all cancer registries whose data met national data standards. Prior to the publication of USCS, at the national level, cancer incidence data were available for only 14% of the population of the United States.

With this expanded coverage of the U.S. population, it will now be possible

to better describe geographic variation in cancer incidence throughout the country and provide incidence data on minority populations and rare cancers to further plan and evaluate state and national cancer control and prevention efforts.

Therefore, CDCs, NCCDPHP, Division of Cancer Prevention and Control proposes to continue to aggregate existing cancer incidence data from states funded by the National Program of Cancer Registries into a national surveillance system.

These data are already collected and aggregated at the state level. Thus the additional burden for the states is small. Funded states are asked to continue to report cancer incidence data to CDC on an annual basis. Each state is requested to report a cumulative file containing incidence data from the first diagnosis year for which the cancer registry collected data with the assistance of NPCR funds (e.g., 1995) through to 12 months past the close of the most recent diagnosis year (e.g., 2004).

NCCPHP is requesting a 3-year clearance for this project. There are no costs to respondents except their time to participate in the survey.

ESTIMATED ANNUALIZED BURDEN HOURS

Respondents	Number of respondents	Number of responses per resondent	Average burden per response (in hours)	Total burden hours
States, Territories, and the District of Columbia (Cancer Registries)	63	1	2	126
Total				126

Dated: May 3, 2006.

Joan F. Karr,

Acting Reports Clearance Officer, Centers for Disease Control and Prevention.

[FR Doc. E6–7019 Filed 5–8–06; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Advisory Committee on Heritable Disorders and Genetic Diseases in Newborns and Children; Notice of Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given of the following meeting:

Name: Advisory Committee on Heritable Disorders and Genetic Diseases in Newborns and Children (ACHDGDNC).

Dates and Times: June 5, 2006, 9 a.m. to 5 p.m. June 6, 2006, 8:30 a.m. to 3 p.m.

Place: Four Points Sheraton Downtown, Franklin AB Room, 1201 K Street, NW., Washington, DC 20005.

Status: The meeting will be open to the public with attendance limited to space availability.

Purpose: The Advisory Committee provides advice and recommendations concerning the grants and projects authorized under the Heritable Disorders Program and technical information to develop policies and priorities for this program. The Heritable Disorders Program was established to enhance the ability of State and local health agencies to provide for newborn and child screening, counseling and health care services for newborns and children having or at risk for heritable disorders. The Committee was established specifically to advise and guide the Secretary regarding the most appropriate application of universal newborn screening tests, technologies, policies, guidelines and programs for effectively reducing morbidity and mortality in newborns and children having or at risk for heritable disorders.

Agenda: The meeting will be devoted to the decision making process for candidate conditions on the Newborn Screening Panel as well as the continued work and reports by the Committee's subcommittees on laboratory standards and procedures, follow-up treatment, education and training.

Proposed agenda items are subject to change.

Time will be provided each day for public comment. Individuals who wish to provide public comment or who plan to attend the meeting and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the ACHDGDNC Executive Secretary, Michele A. Lloyd-Puryear, M.D., Ph.D. (contact information provided below).

Contact Person: Anyone interested in obtaining a roster of members or other relevant information should write or contact Michele A. Lloyd-Puryear, M.D., Ph.D., Maternal and Child Health Bureau, Health Resources and Services Administration, Room 18A–19, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone (301) 443–1080. Information on the Advisory Committee is available at *http://mchb.hrsa.gov/programs/genetics/committee.*

Dated: May 3, 2006.

Tina M. Cheatham,

Director, Division of Policy Review and Coordination.

[FR Doc. E6–7020 Filed 5–8–06; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Indian Health Service

Tribal Management Grant Program

Announcement Type: New Discretionary Funding Cycle for Fiscal Year 2007.

Funding Announcement Number: HHS–2007–IHS–TMP–0001.

Catalog of Federal Domestic Assistance Number: 93.228.

Key Dates: *Training: Application Requirements Session:* May 10–11 and June 14–15, 2006; *Grantwriting Session:* May 22–26, 2006; *Application Deadline Date:* August 4, 2006; *Review Date:* October 2–6, 2006; *Application Notification:* November 13, 2006; *Earliest Anticipated Start Date:* January 1, 2007.

I. Funding Opportunity Description

The Indian Health Service (IHS) announces competitive grant applications for the Tribal Management Grant (TMG) Program. This program is authorized under section 103(b)(2) and section 103(e) of the Indian Self-Determination and Education Assistance Act, Public Law 93–638, as amended. The TMG Program is described at 93.228 in the Catalog of Federal Domestic Assistance.

The TMG program is a national competitive discretionary grant program pursuant to 45 CFR part 75 and 45 CFR part 92 established to assist Federally-recognized Tribes and Tribally-sanctioned Tribal organizations in assuming all or part of existing IHS programs, services, functions, and activities (PSFA) through a Title I contract and to assist established Title I contractors and Title V compactors to

further develop and improve their management capability. In addition, TMGs are available to Tribes/Tribal organizations under the authority of Public Law (Pub. L.) 93–638 section 103(e) for (1) obtaining technical assistance from providers designated by the Tribe/Tribal organization (including Tribes/Tribal organizations that operate mature contracts) for the purposes of program planning and evaluation, including the development of any management systems necessary for contract management and the development of cost allocation plans for indirect cost rates; and (2) planning, designing and evaluating Federal health programs serving the Tribe/Tribal organization, including Federal administrative functions.

Funding Priorities: The IHS has established the following funding priorities for TMG awards.

- *Priority I*—Any Indian Tribe that has received Federal recognition (restored, unterminated, funded, or unfunded) within the past 5 years, specifically received during or after March 2001.
- *Priority II*—All other eligible Federally-recognized Indian Tribes or Tribally-sanctioned Tribal organizations submitting a competing continuation application or a new application for the sole purpose of addressing audit material weaknesses. The audit material weaknesses are identified in Attachment A (Summary of Findings and Recommendations) and other attachments, if any, of the transmittal letter received from the Office of the Inspector General (OIG), National External Audit Review (NEAR) Center, Department of Health and Human Services (HHS). Please identify the weakness to be addressed by underlining the item on the Attachment A. Please refer to section III.3, ''Other Requirements'' for more information regarding Priority II participation.

Federally-recognized Indian Tribes or Tribally-sanctioned Tribal organizations not subject to Single Audit Act requirements must provide a financial statement identifying the Federal dollars received in the footnotes. The financial statement must also identify specific weaknesses/recommendations that will be addressed in the TMG proposal and are related to 25 Code of Federal Regulations (CFR) part 900, ''Indian Self-Determination and Education Assistance Act Amendments'', subpart F—''Standards for Tribes and Tribal Organizations''.

Priority II participation is only applicable to the Health Management Structure project type. For more information see section II Eligible Project Types, Maximum Funding and Project Periods.

- *Priority III*—All other eligible Federally-recognized Indian Tribes or Tribal organizations submitting a competing continuation application or a new application.

The funding of approved Priority I applicants will occur before the funding of approved Priority II applicants. Priority II applicants will be funded before approved Priority III applicants. Funds will be distributed until depleted.

II. Award Information

Type of Award: Grant.

Estimated Funds Available: Subject to the availability of funds, the estimated amount available is $2,388,000 in fiscal year (FY) 2007. There will be only one funding cycle in FY 2007. Awards under this announcement are subject to the availability of funds.

Anticipated Number of Awards: An estimated 20–25 awards will be made under this program.

Project Periods: Varies from 12 months to 36 months.

Please refer to ''Eligible Project Types, Maximum Funding and Project Periods'' under this section for more detailed information.

Estimated Award Amount: $50,000/year–$100,000/year. Please refer to ''Eligible Project Types, Maximum Funding and Project Periods'' below for more detailed information.

Eligible Project Types, Maximum Funding and Project Periods: Applications may only be submitted for one project type. The TMG Program consists of four project types: (1) Feasibility study; (2) planning; (3) evaluation study; and (4) health management structure. Applications that address more than one project type will be considered ineligible and will be returned to the applicant. The maximum funding levels noted include both direct and indirect costs. Application budgets may not exceed the maximum funding level or project period identified for a project type. Applications whose budget or project period exceed the maximum funding level or project period will be considered ineligible and will not be reviewed. Please refer to section IV.5. ''Funding Restrictions'' for further information regarding ineligible activities.

1. Feasibility Study (Maximum Funding/Project Period: $70,000/12 Months)

A study of a specific IHS program or segment of a program to determine if Tribal management of the program is possible. The study shall present the planned approach, training and resources required to assume Tribal management of the program. The study must include the following four components:

- Health needs and health care services assessments that identify existing health care services and delivery system, program divisibility issues, health status indicators, unmet needs, volume projections and demand analysis.
- Management analysis of existing management structures, proposed management structures, implementation plans and requirements, and personnel staffing requirements and recruitment barriers.
- Financial analysis of historical trends data, financial projections and new resource requirements for program management costs and analysis of potential revenues from Federal/non-Federal sources.
- Decision statement/report that incorporates findings, conclusions and recommendations; the presentation of the study and recommendations to the governing body for Tribal determination regarding whether Tribal assumption of program(s) is desirable or warranted.

2. Planning (Maximum Funding/Project Period: $50,000/12 Months)

A collection of data to establish goals and performance measures for the operation of current health programs or anticipated PSFAs under a Title I contract. Planning will specify the design of health programs and the management systems (including appropriate policies and procedures) to accomplish the health priorities of the Tribe/Tribal organization. For example, planning could include the development of a Tribal Specific Health Plan or a Strategic Health Plan, etc. Please note: The Public Health Service urges applicants submitting strategic health plans to address specific objectives of *Healthy People 2010.* Interested applicants may purchase a copy of *Healthy People 2010* (Summary Report in print; Stock No. 017–001–00547–9) or CD–ROM (Stock No. 107–001–00549–5) through the Superintendent of Documents, Government Printing Office, P.O. Box 371954, Pittsburgh, Pennsylvania 15250–7945, or (202) 512–1800. This information is available in electronic form at the following Web site: *http://www.health.gov/healthypeople/publications/.*

3. Evaluation Study (Maximum Funding/Project Period: $50,000/12 Months)

A systematic collection, analysis and interpretation of data for the purpose of determining the value of a program. The extent of the evaluation study could relate to the goals and objectives, policies and procedures or programs regarding targeted groups. The evaluation study could also be used to determine the effectiveness and efficiency of a Tribal program operation (i.e. direct services, financial management, personnel, data collection and analysis, third-party billing, etc.) as well as determine the appropriateness of new components to a Tribal program operation that will assist Tribal efforts to improve the health care delivery systems.

4. Health Management Structure (Average Funding/Project Period

$100,000/12 months; maximum funding/project period: $300,000/36 months) Implementation of systems to manage or organize PSFAs. Management structures include health department organizations, health boards, and financial management systems including systems for accounting, personnel, third-party billing, medical records, management information systems, etc. This includes the design, improvements and correction of management systems that address weaknesses identified through quality control measures, internal control reviews and audit report findings under the Office of Management and Budget (OMB) Circular No. A–133—Revised June 27, 2003, ''Audits of States, Local Governments, and Non-Profit Organizations.'' A copy of this circular and 25 Code of Federal Regulations (CFR) part 900, ''Indian Self-Determination and Education Assistance Act Amendments'', subpart F—''Standards for Tribal or Tribal Organization Management Systems'' is available in the appendix of the TMG application package. Please see section IV ''Application and Submission Information'' for directions about how to request a copy of the TMG application package.

III. Eligibility Information

1. Eligible Applicants

Indian Tribe or Tribal organization as defined by Public Law 93–638, Indian Self-Determination and Education Assistance Act, as amended.

Eligible applicants include Tribal organizations that operate mature contracts that are designated by a Tribe to provide technical assistance and/or training. Only one application per Tribe or Tribal organization is allowed.

2. Cost Sharing or Matching

The TMG Program does not require matching funds or cost sharing. However, in accordance with Public Law 93–638 section 103(c), the TMG funds may be used as matching shares for any other Federal grant programs that develop Tribal capabilities to contract for the administration and operation of health programs.

3. Other Requirements

The following documentation is required:

- *Tribal Resolution*—A resolution of the Indian Tribe served by the project must accompany the application submission. An Indian Tribe that is proposing a project affecting another Indian Tribe must include resolutions from all affected Tribes to be served. Applications by Tribal organizations will not require a specific Tribal resolution if the current Tribal resolution(s) under which they operate would encompass the proposed grant activities. If an official Tribal resolution is not available by the application deadline, a draft resolution should be submitted. However an official signed Tribal resolution must be received by the Division of Grants Operations prior to the beginning of the Objective Review (October 2–6, 2006). If an official signed resolution is not received by the close of business on September 29, 2006, the application will be considered incomplete, ineligible for review and returned to the applicant without consideration. Applicants submitting additional documentation after the initial application submission are required to ensure the information was received by the IHS by obtaining documentation confirming delivery or receipt (i.e. fax transmittal receipt, FedEx tracking, postal return receipt, etc.).
- *Documentation for Priority I Participation*—A copy of the **Federal Register** notice or letter from the Bureau of Indian Affairs verifying establishment of Federal Tribal status within the last 5 years. Date must reflect that Federal recognition was received during or after March 2001.
- *Documentation for Priority II Participation*—A copy of the transmittal letter and Attachment A from the OIG, NEAR Center, HHS. See ''Funding Priorities'' in section I for more information. If an applicant is unable to locate a copy of their most recent transmittal letter or needs assistance with audit issues, information or technical assistance may be obtained by contacting the IHS Division of Audit Resolution at (301) 443–7301, or the National External Audit Review Center help line at (816) 374–6714 ext 108. The auditor may also have the information/documentation required.

Federally-recognized Indian Tribes or Tribally-sanctioned Tribal organizations not subject to Single Audit Act requirements, must provide a financial statement identifying the Federal dollars in the footnotes. The financial statement must also identify specific weaknesses/recommendations that will be addressed in the TMG proposal and are related to 25 CFR part 900, ''Indian Self-Determination and Education Assistance Act Amendments'', subpart F—''Standards for Tribes and Tribal Organizations''.

Documentation of Consortium Participation—If an Indian Tribe submitting an application is a member of a consortium, the Tribe must:

- Identify the consortium.
- Indicate if the consortium intends to submit a TMG application.
- Demonstrate that the Tribe's application does not duplicate or overlap any objectives of the consortium's application.

If a consortium is submitting an application it must:

- Identify all the consortium member Tribes.
- Identify if any of the member Tribes intend to submit a TMG application of their own.
- Demonstrate that the consortium's application does not duplicate or overlap any objectives of the other consortium members who may be submitting their own TMG application.

Please refer to sections IV.5. ''Funding Restrictions'' and V.2. ''Review and Selection Process'' for more information regarding other application submission information and/or requirements.

IV. Application and Submission Information

1. Application package may be found at *http://www.Grants.gov.* Information regarding the electronic application process may be obtained from either of the following persons: Ms. Patricia Spotted Horse, Office of Tribal Programs, Indian Health Service, 801 Thompson Avenue, Suite 220, Rockville, Maryland 20852. (301) 443–1104. Ms. Denise Clark, Division of Grants Operations, Indian Health Service, 801 Thompson Avenue, TMP 360, Rockville, Maryland 20852. (301) 443–5204. Ms. Michelle G. Bulls, Grants Policy Staff, Indian Health Service, 801 Thompson Avenue, TMP 625, Rockville, Maryland 20852. (301) 443–6528.

The entire application package is available at *http://www.ihs.gov/NonMedicalPrograms/tmg.*

2. Content and Form of Application Submission

All applications must:
- Be single-spaced.
- Be typewritten.
- Have consecutively numbered pages.
- Use black type not smaller than 12 characters per one inch.
- Contain a narrative that does not exceed 14 typed pages that includes the other submission requirements below. The 14-page narrative does not include the work plan, standard forms, Tribal resolution(s), table of contents, budget, budget justifications, multi-year narratives, multi-year budget, multi-year budget justifications, and/or other appendix items.
- Introduction and Need for Assistance.
- Project Objective(s), Approach and Results and Benefits.
- Project Evaluation.
- Organizational Capabilities and Qualifications.

Public Policy Requirements: All Federal-wide public policies apply to IHS grants with exception of Lobbying and Discrimination.

3. Submission Dates and Times

Applications must be submitted electronically through Grants.gov by close of business Friday, August 4, 2006. If technical issues arise and the applicant is unable to successfully complete the electronic application process, the applicant must contact Grants Policy Staff *fifteen days* prior to the application deadline. As appropriate, paper applications are due by the date referenced above. Paper applications (original and two (2) copies) shall be considered as meeting the deadline if they are received on or before the deadline date.

late applications not accepted for processing will be returned to the applicant and will not be considered for funding.

4. Intergovernmental Review

Executive Order 12372 requiring intergovernmental review is not applicable to this program.

5. Funding Restrictions

A. Pre-award costs are not allowable.

B. The available funds are inclusive of direct and indirect costs.

C. Only one grant will be awarded per applicant.

D. Ineligible Project Activities.

The TMG may not be used to support recurring operational programs or to replace existing public and private resources. Note: The inclusion of the following projects or activities in an application will render the application ineligible and the application will be returned to the applicant:
- Planning and negotiating activities associated with the intent of a Tribe to enter the IHS Self-Governance Project. A separate grant program is administered by the IHS for this purpose. Prospective applicants interested in this program should contact Ms. Mary Trujillo, Office of Tribal Self-Governance, Indian Health Service, Reyes Building, 801 Thompson Avenue, Suite 240, Rockville, Maryland 20852, (301) 443–7821, and request information concerning the ''Tribal Self-Governance Program Planning Cooperative Agreement Announcement'' or the ''Negotiation Cooperative Agreement Announcement.''
- Projects related to water, sanitation, and waste management.
- Projects that include long-term care or provision of any direct services.
- Projects that include tuition, fees, or stipends for certification or training of staff to provide direct services.
- Projects that include pre-planning, design, and planning of construction for facilities, including activities relating to Program Justification Documents.
- Projects that propose more than one project type. Please see Section II, ''Award Information'', specifically ''Eligible Project Types, Maximum Funding and Project Periods'' for more information. An example of a proposal with more than one project type that would be considered ineligible may include the creation of a strategic health plan (defined by TMG as a planning project type) and improving third-party billing structures (defined by TMG as a health management structure project type).

E. *Other Limitations*—A current TMG recipient cannot be awarded a new, renewal, or competing continuation grant for any of the following reasons:
- A grantee may not administer two TMGs at the same time or have overlapping project/budget periods;
- The current project is not progressing in a satisfactory manner; or
- The current project is not in compliance with program and financial reporting requirements.

Delinquent Federal Debts: No award shall be made to an applicant who has an outstanding delinquent Federal debt until either:
- The delinquent account is paid in full; or
- A negotiated repayment schedule is established and at least one payment is received.

6. Other Submission Requirements

Electronic Transmission—The preferred method for receipt of applications is electronic submission through Grants.gov. However, should any technical problems arise regarding this submission, please contact Grants.gov Customer Support at 1–800–518–4726 or *support@grants.gov.* The Contact Center hours of operation are Monday–Friday from 7 a.m. to 9 p.m. (Eastern Standard Time). If you require additional assistance please contact IHS Grants Policy Staff at (301) 443–6528 at least fifteen days prior to the application deadline. To submit an application electronically, please use the *http://www.Grants.gov* apply site. Download a copy of the application package on the Grants.gov Web site, complete it offline and then upload and submit the application via the Grants.gov site. You may not e-mail an electronic copy of a grant application to us.

Please be reminded:
- Under the new IHS requirements, paper applications are not the preferred method. However if you have technical problems submitting your application on-line, please contac Grants.gov Customer Support at *http://www.Grants.gov/CustomerSupport.* If you are still unable to successfully submit your application on-line, please contact Grants Policy Staff fifteen days prior to the application deadline and advise them of the difficulties you are having submitting your application on-line. At that time, it will be determined whether you may submit a paper application. At that point you have to download the application package from *Grants.gov* and send it directly to the Division of Grants Operations, 801 Thompson Avenue, TMP 360, Rockville, MD 20852. Applications must be received by IHS by 5 p.m. Eastern Time on the due date, Friday, August 4, 2006.
- When you enter the Grants.gov site, you will find information about submitting an application electronically through the site, as well as the hours of operation. We strongly recommend that you do not wait until the deadline date to begin the application process through Grants.gov.
- To use Grants.gov, you, as the applicant, must have a DUNS Number and register in the Central Contractor Registry (CCR). You should allow a minimum of ten (10) days to complete CCR registration. See below on how to apply.
- You must submit all documents electronically, including all information typically included on the SF–424 and all necessary assurances and certifications.

• Please use the attachment feature in Grants.gov to attach additional documentation that may be presented by IHS.

• If tribal resolutions are required, please fax it to the Grants Management Specialist identified in this announcement.

• Your application must comply with my page limitation requirements described in the program announcement.

• After you electronically submit your application, you will receive an automatic acknowledgement from Grants.gov that contains a Grants.gov tracking number. IHS will retrieve your application from Grants.gov.

• You may access the electronic application for this program on *http://www.Grants.gov.*

• You must search for the downloadable application package by CFDA number 93.228.

• To receive an application package, the applicant must provide the Funding Announcement Number: HHS–2007–IHS–TMP–0001.

E-mail applications will not be accepted under this announcement.

DUNS Number

Applications are required to have a Dun and Bradstreet (DUNS) number to apply for a grant or cooperative agreement from the Federal Government. The DUNS number is a nine-digit identification number which uniquely identifies business entities. Obtaining a DUNS number is easy and there is no charge. To obtain a DUNS number, access *http://www.dunandbradstreet.com* or call 1–866–705–5711. Interested parties may wish to obtain their DUNS number by phone to expedite the process.

Applicants submitting applications electronically must also be registered with the Central Contractor Registry (CCR). A DUNS number is required before CCR registration can be completed. Many organizations may already have a DUNS number. Please use the number listed above to investigate whether or not your organization has a DUNS number. Registration with CCR is free of charge. Applicants may register by calling 1–888–227–2423. Please review and complete the CCR ''Registration Worksheet'' located on *http://www.Grants.gov/CCRRegister.*

More detailed information regarding these registration processes can be found at *http://www.Grants.gov.*

V. Application Review Information

The instructions for preparing the application narrative also constitute the evaluation criteria for reviewing and scoring the application. Weights assigned to each section are noted in parentheses. The 14-page narrative should include only the first year of activities; information for multi-year projects should be included as an appendix. See ''Multi-Year Project Requirements'' at the end of this section for more information.

1. Criteria

Introduction and Need for Assistance (20 Points)

A. Describe the Tribe's/Tribal organization's current health operation. Include what programs and services are currently provided (i.e, Federally funded, State funded, etc.), information regarding technologies currently used (i.e., hardware, software, services, etc.), and identify the source(s) of technical support for those technologies (i.e., Tribal staff, Area Office, vendor, etc.). Include information regarding whether the Tribe/Tribal organization has a health department and/or health board and how long it has been operating.

B. Describe the population to be served by the proposed project. Include a description of the number of IHS eligible beneficiaries who currently use services.

C. Describe the geographic location of the proposed project including any geographic barriers to the health care users in the area to be served.

D. Identify all TMGs received since FY 2002, dates of funding and summary of project accomplishments. State how previous TMG funds facilitated the progression of health development relative to the current proposed project. (Copies of reports will not be accepted.)

E. Identify the eligible project type and priority group of the applicant.

F. Explain the reason for your proposed project by identifying specific gaps or weaknesses in services or infrastructure that will be addressed by the proposed project, Explain how these gaps/weaknesses were discovered. If the proposed project includes information technology (i.e., hardware, software, etc.), provide further information regarding measures taken or to be taken that ensure the proposed project will not create other gaps in services or infrastructure (i.e., IHS interface capability, Government Performance and Results Act reporting requirements, contract reporting requirements, Information Technology (IT) compatibility, etc.).

G. Describe the effect of the proposed project on current programs (i.e., Federally funded, State funded, etc.) and, if applicable, on current equipment (i.e., hardware, software, services, etc.). Include the effect of the proposed project on planned/anticipated programs and/or equipment.

H. Address how the proposed project relates to the purpose of the TMG Program by addressing the appropriate description that follows:

• Identify if the Tribe/Tribal organization is an IHS Title I contractor. Address if the self-determination contract is a master contract of several programs or if individual contracts are used for each program. Include information regarding whether or not the Tribe participates in a consortium contract (i.e., more than one Tribe participating in a contract). Address what programs are currently provided through those contracts and how the proposed project will enhance the organization's capacity to manage the contracts currently in place.

• Identify if the Tribe/Tribal organization in an IHS Title V compactor. Address when the Tribe/Tribal organization entered into the compact and how the proposed project will further enhance the organization's management capabilities. Identify if the Tribe/Tribal organization is not a Title I or Title V organization. Address how the proposed project will enhance the organization's management capabilities, what programs and services the organization is currently seeking to contract and an anticipated date for contract.

Project Objective(s), Workplan and Consultants (40 Points)

A. Identify the proposed project objective(s) addressing the following:

• Measurable and (if applicable) quantifiable

• Results oriented

• Time-limited

Example: The Tribe will increase the number of bills processed by 15% by installing new software by the end of 12 months.

B. Address how the proposed project will result in change or improvement in program operations or processes for each proposed project objective. Also address what tangible products are expected from the project (i.e., policies and procedures manual, health plan, etc.).

C. Address the extent to which the proposed project will build the local capacity to provide, improve, or expand services that address the need(s) of the target population.

D. Submit a workplan in the appendix which includes the following information;

• Provide the action steps on a timeline for accomplishing the proposed project objective(s).
• Identify who will perform the action steps.
• Identify who will supervise the action steps taken.
• Identify who will accept and/or approve work products at the end of the proposed project.
• Include any training that will take place during the proposed project and who will be attending the training.
• Include evaluation activities planned.

E. If consultants or contractors will be used during the proposed project, please include the following information in their scope of work (or note if consultants/contractors will not be used):
• Educational requirements.
• Desired qualifications and work experience.
• Expected work products to be delivered on a timeline.

If a potential consultant/contractor has already been identified, please include a resume in the appendix.

F. Describe what updates (i.e., revision of policies/procedures, upgrades, technical support, etc.) will be required for the continued success of the proposed project. Include when these updates are anticipated and where funds will come from to conduct the update and/or maintenance.

Project Evaluation (15 Points)

Each proposed project objective should have an evaluation component and the evaluation activities would appear on the work plan.

A. Please address the following for each of proposed objective:
• What data will be collected to evaluate the success of the objective(s).
• How and when the data will be collected.
• Who will collect the data.

B. Explain how the data demonstrates the change brought about by the proposed project objective.

C. Describe any future evaluation efforts for the proposed project that will be conducted after the expiration of the grant.

Organizational Capabilities and Qualifications (15 Points)

A. Describe the organizational structure of the Tribe/Tribal organization beyond health care activities.

B. Provide information regarding plans to obtain management systems if the Tribe/Tribal organization does not have an established management system current in place that complies with 25 CFR part 900, subpart F, ''Standards for Tribal Management Systems''. If management systems are already in place, simply note it. (A copy of the 25 CFR part 900, subpart F, is available in the TMG application kit.)

C. Describe the ability of the organization to manage the proposed project. Include information regarding similarly sized projects in scope and financial assistance as well as other grants and projects successfully completed.

D. Describe what equipment (i.e., fax machine, phone, computer, etc.) and facility space (i.e., office space) will be available for use during the proposed project. Include information about any equipment not currently available that will be purchased through the grant.

E. List key personnel who will work on the project. Include title used in the workplan. In the appendix, include position descriptions and resumes for all key personnel. Position descriptions should clearly describe each position and duties, indicating desired qualifications and experience requirements related to the proposed project. Resumes must indicate that the proposed staff member is qualified to carry out the proposed project activities. If a position is to be filled, indicate that information on the proposed position description.

F. If the project requires additional personnel (i.e., IT support, etc.), address how the Tribe/Tribal organization will sustain the position(s) after the grant expires. (If there is no need for additional personnel, simply note it.)

Categorical Budget and Budget Justification (10 Points)

A. Provide a categorical budget for each of the 12-month budget periods requested.

B. If indirect costs are claimed, indicate and apply the current negotiated rate to the budget. Include a copy of the rate agreement in the appendix.

C. Provide a narrative justification explaining why each line item is necessary/relevant to the proposed project. Include sufficient costs and other details to facilitate the determination of cost availability (i.e., equipment specifications, etc.).

Multi-Year Project Requirements

Projects requiring a second and/or third year must include a narrative addressing the second and/or third year's project objectives, evaluation components, work plan, categorical budget and budget justification.

Appendix Items

A. Work plan for proposed objectives.
B. Position descriptions for key staff.
C. Resumes of key staff that reflect current duties.
D. Consultant proposed scope of work (if applicable).
E. Indirect Cost Agreement.
F. Organizational chart (optional).
G. Mult-Year Project Requirements (if applicable).

2. Review and Selection Process

In addition to the above criteria/requirements, applications are considered according to the following:

A. Application Submission (Application Deadline: August 4, 2006)

Applications received in advance of or by the deadline and verified by the tracking number will undergo a preliminary review to determine that:
• The applicant and proposed project type is eligible in accordance with this grant announcement;
• The application is not a duplication of a previously funded project; and
• The application narrative, forms, and materials submitted meet the requirements of the announcement allowing the review panel to undertake an in-depth evaluation; otherwise the application may be returned.

B. Competitive Review of Eligible Applications (Objective Review: October 2–6, 2006)

Applications meeting eligibility requirements that are complete, responsive and conform to this program announcement will be reviewed for merit by the Ad Hoc Objective Review Committee (ORC) appointed by the IHS to review and make recommendations on these applications. The review will be conducted in accordance with the IHS Objective Review Guidelines. The technical review process ensures selection of quality projects in a national competition for limited funding. Applications will be evaluated and rated on the basis of the evaluation criteria listed in section V.1. The criteria are used to evaluate the quality of a proposed project, determine the likelihood of success and assign a numerical score to each application. The scoring of approved applications will assist the IHS in determining which proposals will be funded if the amount of TMG funding is not sufficient to support all approved applications. Applications recommended for approval, having a score of 60 or above by the ORC and scored high enough to be considered for funding will be reviewed by the Division of Grant Operations for cost analysis and further

recommendation. The program official accepts the Division of Grant Operations' recommendations for consideration when funding applications. The program official forwards the final approved list to the Director, Office of Tribal Programs, for final review and approval. Applications scoring below 60 points will be disapproved and returned to the applicant. Applications that are approved but not funded will not be carried over into the next cycle for funding consideration.

3. Anticipated Announcement and Award Dates

The IHS anticipates the earliest award start date will be January 1, 2007.

VI. Award Administration Information

1. Award Notices

ORC Results Notification; November 13, 2006.

The Director, Office of Tribal Programs, or program official, will notify the contact person identified on each proposal of the results in writing via postal mail. Applicants whose applications are declared ineligible will receive written notification of the ineligibility determination and their grant application via postal mail. The ineligible notification will include information regarding the rationale for the ineligible decision citing specific information from the original grant application. Applicants who are approved but unfunded and disapproved will receive a copy of the Executive Summary which identifies the weaknesses and strengths of the application submitted. Applicants which are approved and funded will be notified through the official Federal Financial Assistance (FAA) document. The FAA will be signed by the Grants Management Officer and is the authorizing document for notifying grant recipients of funding. The FAA serves as the official notification of a grant award and will state the amount of Federal funds awarded, the purpose of the grant, the terms and conditions of the grant award, the effective date of the award, the project period and the budget period. Any other correspondence announcing to the Applicant's Project Director that an application was recommended for approval is not an authorization to begin performance. Pre-award costs are not allowable charges under this program grant.

2. Administrative Requirements

Grants are administered in accordance with the following documents:

- This grant announcement.
- Health and Human Services regulations governing Public Law 93–638 grants at 42 CFR 36.101 et seq.
- 45 CFR part 92, ''Department of Health and Human Services, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments Including Indian Tribes,'' or 45 CFR part 74, ''Administration of Grants to Non-Profit Recipients''.
- Public Health Service Grants Policy Statement.
- Appropriate Cost Principles: OMB Circular A–87, ''State and Local Governments,'' or OMB Circular A–122, ''Non-profit Organizations''.
- OMB Circular A–133, ''Audits of States, Local Governments and Non-Profit Organizations''.
- Other Applicable OMB circulars.

3. Reporting

A. *Progress Report*—Program progress reports are required semi-annually. These reports will include a brief comparison of actual accomplishments to the goals established for the period, reasons for slippage (if applicable), and other pertinent information as required. A final report must be submitted within 90 days of expiration of the budget/project period.

B. *Financial Status Report*—Semi-annual financial status reports must be submitted within 30 days of the end of the half year. Final financial status reports are due within 90 days of expiration of the budget/project period. The Standard Form 269 (SF–269) (long form) can be downloaded from *http://www.whitehouse.gov/omb/grants/sf269.pdg* for financial reporting.

C. *Reports*—Grantees are responsible and accountable for accurate reporting of the Progress Reports and Financial Status Reports which are generally due semi-annually. Financial Status Reports (SF–269) are due 90 days after each budget period and the final SF–269 must be verified from the grantee records on how the value was derived. Grantees must submit reports in a reasonable period of time.

Failure to submit required reports within the time allowed may result in suspension or termination of an active grant, withholding of payments or converting to the reimbursement method of payment. Continued failure to submit required reports may result in one or both of the following: (1) The imposition of special award provisions; and (2) the non-funding or non-award of other eligible projects or activities. This applies whether the delinquency is attributable to the failure of the grantee organization or the individual responsible for preparation of the reports.

VII. Agency Contact(s)

Interested parties may obtain TMG programmatic information from the TMG Program Coordinator through the information listed under section IV of this program announcement. Grant-related and business management information may be obtained from the Grants Management Specialist through the information listed under section IV of this program announcement. Please note that the telephone numbers provided are not toll-free.

VIII. Other Information

The IHS will have three training sessions to assist applicants in preparing their FY 2007 TMG application. There will be one 5-day training session and two 2-day training sessions. The 5-day training session will provide participants with basic grant writing skills, information regarding where to search for funding opportunities, and the opportunity to begin writing a TMG grant proposal. The 2-day training sessions will focus specifically on the TMG requirements providing participants with information contained in this announcement, clarifying any issues/questions applicants may have and critiquing project ideas. In an effort to make the 2-day training sessions productive, participants are expected to bring draft proposals to these meetings.

Priority will be given to groups eligible to apply for the TMG Program. Participation is limited to two personnel from each Tribe or Tribal organization. All sessions are first come-first serve with the above limitations noted. All participants are responsible for making and paying for their own travel arrangements. Interested parties should register with the TMG staff prior to making travel arrangements to ensure space is available in selected session. There is no registration fee to attend the training session(s). The registration form may be obtained from the TMG Web site at: *http://www.ihs.gov/NonMedicalPrograms/tmg.* The registration form may be faxed to (301) 443–4666. The training dates are listed below in chronological order and the training sessions will take place in the hotel identified:

- May 10–11, 2006—Albuquerque, New Mexico (Limit 25). Training Registration and Hotel Reservation deadline: April 21, 2006. Sheraton Albuquerque Uptown Hotel, 2600 Louisiana Boulevard, NE., Albuquerque, NM 87110. 1–800–252–7772; please

request IHS Tribal Management Grant room block. Hotel rate: $66.00 plus tax.

• May 22–26, 2006—Rapid City, South Dakota (Limit 25). Training Registration and Hotel Reservation deadline: May 1, 2006. Ramada Inn Rapid City, 1721 Lacrosse Street, Rapid City, SD 57701. 1–866–742–1300 or 605–342–1300; please request IHS Tribal Management Grant room block. Hotel rate: $59.00 plus tax.

• June 14–15, 2006—Oklahoma City, Oklahoma (Limit 25). Training Registration and Hotel Reservation deadline: May 30, 2006. Best Western Saddleback Inn, 4300 Southwest Third Street, Oklahoma City, OK 73108. 1–800–228–3903 or 405–947–7000, extension 3123; please request IHS Tribal Management Grant room block. Hotel rate: $67.00 plus tax.

The Public Health Service (PHS) strongly encourages all grant and contract recipients to provide a smoke-free workplace and promote the non-use of all tobacco products. In addition, Public Law 103–227, the Pro-Children Act of 1994, prohibits smoking in certain facilities (or in some cases, any portion of the facility) in which regular or routine education, library, day care, health care or early childhood development services are provided to children. This is consistent with the HHS mission to protect and advance the physical and mental health of the American people.

Dated: May 2, 2006.

Robert G. McSwain,

Deputy Director, Indian Health Service.

[FR Doc. 06–4292 Filed 5–8–06; 8:45 am]

BILLING CODE 4165–16–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Government-Owned Inventions; Availability for Licensing

AGENCY: National Institutes of Health, Public Health Service, HHS.

ACTION: Notice.

SUMMARY: The inventions listed below are owned by an agency of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of Federally-funded research and development. Foreign patent applications are filed on selected inventions to extend market coverage for companies and may also be available for licensing.

ADDRESSES: Licensing information and copies of the U.S. patent applications listed below may be obtained by writing to the indicated licensing contact at the Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, Maryland 20852–3804; telephone: (301) 496–7057; fax: (301) 402–0220. A signed Confidential Disclosure Agreement will be required to receive copies of the patent applications.

New Method for Quantification of Allele-Specific RNA Expression, That Can Be Used for Detection of Various Genetic Disorders

Drs. Marjan Huizing, Enriko Klootwijk, Paul Savelkoul, Carla Ciccone, William Gahl (NHGRI)

U.S. Provisional Application No. 60/718,321 filed 20 Sep 2005 (HHS Reference No. E–146–2005/0–US–01)

Licensing Contact: Cristina Thalhammer-Reyero; 301/435–4507; *thalhamc@mail.nih.gov.*

Available for licensing and commercial development is a new method for quantification of allele-specific RNA expression. This invention describes methods for simultaneously detecting the levels of expression of a plurality of different RNA transcripts expressed from a gene of interest in a subject or a cell. This is a simple assay to validate and quantify allele-specific silencing, by applying a combination of a fluorescent primer/probe set that specifically recognizes the targeted allele where the probe is labeled with one fluorophore, and a primer/probe set that specifically recognizes the normal allele, where the probe is labeled with another fluorophore in the same reaction tube. Furthermore, this method can be run on most real time PCR machines and requires very small amounts of RNA, less than 100 ng. This novel method, by comparing alleles within the same gene, expands on current real time PCR methods which compare one gene with another gene.

The invention also describes methods for validating the effectiveness and specificity of allele-specific siRNAs, kits for performing such assays, as well as methods for diagnosis of autosomal-dominant disorders, in which mutations in one allele result in a disease phenotype, such as Hutchinson-Gilford progeria, incontinentia pigmenti, neurofibromatosis, myotonic dystrophy, sialuria, Machado-Joseph disease, spinocerebellar ataxia, frontotemporal dementia, amyotrophic lateral sclerosis, slow channel congenital myasthenic syndrome, spinobulbar muscular dystrophy, as well as compound heterozygous autosomal recessive disorders. Other diseases that can be diagnosed include diabetes, cystic fibrosis, homocystenuria, Hermansky-Pudlak syndrome, cystinosis, Zellweger syndrome, beta-thalassemia, alkaptonuria, and cancer.

A variety of diseases appear to be mediated or accompanied by aberrant expression of one allele, often a mutant of a gene. Such differences in allelic expression can serve as the basis for diagnostic test for such conditions, and the ability to specifically silence the expression of detrimental alleles could be a therapeutic method for treating the disease, hence this novel method has very wide applications.

Development of Gene Chip Technology for Vascular Risk Assessment

Alison E. Baird (NINDS) *et al.*

U.S. Provisional Application No. 60/687,515 filed 03 Jun 2005 (HHS Reference No. E–030–2005/0–US–01)

U.S. Provisional Application No. 60/691,730 filed 17 Jun 2005 (HHS Reference No. E–030–2005/1–US–01)

Licensing Contact: Fatima Sayyid; 301/435–4521; *sayyidf@mail.nih.gov.*

Prevention of cardiovascular disorders such as myocardial infarction and stroke is an area of major public health importance. Currently, several risk factors for future cardiovascular disorders have been described and are in wide clinical use in the detection of individuals at high risk. However a large number of cardiovascular disorders occur in individuals with apparently low to moderate risk profiles, thereby limiting the ability to identify such patients. Moreover, many of the risk factors require accurate gathering of clinical information. An objective panel of biological markers which allow one to predict an individual's risk of vascular disease is therefore needed.

The present provisional patent application is directed to utilizing blood mononuclear cells to evaluate vascular disease risk and determine a preventive regimen for reduction or minimization of such risk. The method includes screening for differential expression of vascular risk-related molecules, such as DNA binding/transcription factor proteins, lysosomal or protein degradation enzymes, adhesion molecules, metabolism molecules, intracellular signaling molecules, immune response molecules and apoptosis. The technology is available to a collaborator for monitoring stroke treatment protocols, for definition of clinical trial protocol candidates, or for developing an ''assessment chip'' that could be used to predict an individual's risk of developing a stroke in the future.

The NINDS Stroke Neuroscience Unit is seeking statements of capability or interest from parties interested in collaborative research to further develop, evaluate, or commercialize a vascular risk genetic chip technology. We seek a collaborative partner in the development of a chip that could be used to predict an individual's risk of developing a stroke in the future and to monitor the effectiveness of preventive measures once they have been instituted. Please contact Heather Gunas at *gunash@mail.nih.gov* for more information.

Method of Inducing Memory B Cell Development and Terminal Differentiation

Peter E. Lipsky (NIAMS) et al.
U.S. Patent Application No. 11/197,221 filed 03 Aug 2005 (HHS Reference No. E–120–2003/2–US–01)
Licensing Contact: Thomas Clouse; 301/435–4076; *clousetp@mail.nih.gov.*

Cytokines exert their respective biochemical and physiological effects by binding to specific receptor molecules, which then stimulate signal transduction pathways. Interleukin-21 (1L-21) is a type I cytokine whose receptor is expressed on T, B, and NK cells.

This invention specifically relates to the use of IL-21 to induce differentiation of immature B cells into memory B cells and plasma cells. This invention includes claims of methods for inducing differentiation of a B cell progenitor into memory B cells and/or plasma cells. It also includes claims for enhancing an immune response, treating subjects that lack memory B cells and plasma cells and methods for increasing or decreasing the number of B cells. This invention could conceivably be used in treating or preventing inflammatory disorders, autoimmune diseases, allergies, transplant rejection, cancer, and other immune system disorders.

Immunogenic Epitopes for Fibroblast Growth Factor-5 (FGF–5) Presented by HLA-A3 and HLA-A2

James C. Yang et al. (NCI)
U.S. Patent Application No. 11/134,703 filed 19 May 2005 (HHS Reference No. E–031–2003/1–US–01)
Licensing Contact: Michelle Booden; 301/451–7337; *boodenm@mail.nih.gov.*

Approximately 30,000 patients are diagnosed with renal cell carcinoma (RCC) each year in the United States, and an estimated 12,000 patients die of this disease. Most patients are diagnosed with advanced local disease or metastatic disease. Current therapies include removal of the kidney (nephrectomy) or high dose immunotherapy with IL-2, which has been able to achieve success in only part (15–20%) of the patient population. Even with a successful nephrectomy, it is likely that patients with advanced local diseases will develop metastases. Therefore, new methods are needed to improve on IL-2 therapy and expand the curative potential of therapies for patients with RCC.

The present invention discloses peptides for use in immunotherapy of tumors. The peptides, both an HLA-A2 and an HLA-A3 epitope, are derived from the amino acid sequence of an RCC-associated antigen, fibroblast growth factor-5 (FGF–5). Plans are underway to investigate both peptides in clinical trials of peptide vaccination in patients with advanced renal cancer. In addition, FGF–5 also appears to be over-expressed in other common adenocarcinomas such as breast, prostate and bladder cancer and very few antigens suitable for vaccine therapies exist for those cancers.

In addition to licensing, the technology is available for further development through collaborative research opportunities with the inventors.

Dated: May 2, 2005.

David R. Sadowski,

Acting Director, Division of Technology Development and Transfer, Office of Technology Transfer, National Institutes of Health.

[FR Doc. E6–6987 Filed 5–8–06; 8:45 am]

BILLING CODE 4167–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Child Health and Human Development; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel, Data Coordinating Center for Consortium on Safe Labor.

Date: May 22, 2006.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate contact proposals.

Place: Ramada Inn Rockville, 1775 Rockville Pike, Rockville, MD 20852.

Contact Person: Hameed Khan, PhD, Scientific Review Administrator, Division of Scientific Review, National Institute of Child Health and Human Development, NIH, 6100 Executive Blvd., Room 5B01, Bethesda, MD 20892, (301) 435–6902, *khanh@mail.nih.gov.*

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel, Consumers' Report on Prosthetics and Assistive Technology.

Date: May 25, 2006.

Time: 12 p.m. to 2 p.m.

Agenda: To review and evaluate contract proposals.

Place: National Institutes of Health, 6100 Executive Boulevard, Room 5B01, Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Hameed Khan, PhD, Scientific Review Administrator, Division of Scientific Review, National Institute of Child Health and Human Development, NIH, 6100 Executive Blvd., Room 5B01, Bethesda, MD 20892, (301) 435–6902, *khanh@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS)

Dated: April 30, 2006.

Anna Snouffer,

Acting Director, Office of the Federal Advisory Committee Policy.

[FR Doc. 06–4297 Filed 5–8–06; 8:45am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given for the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material,

and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel, Biomarkers of Autoimmunity in Type 1 Diabetes.

Date: June 14, 2006.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Double Tree Rockville, 1750 Rockville Pike, Rockville, MD 20852.

Contact Person: Xiaodu Guo, MD, Ph.D., Scientific Review Administrator, Review Branch, DEA, NIDDK, National Institutes of Health, Room 927, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, (301) 594–4719, *guox@extra.niddk.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.947, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Disease, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: April 30, 2006.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 06–4298 Filed 5–8–06; 8:45am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Prospective Grant of Exclusive License: The Development of C-6 and C-8 Modified cAMP-Derivatives for the Treatment of Cancer

AGENCY: National Institutes of Health, Public Health Service, HHS.

ACTION: Notice.

SUMMARY: This notice, in accordance with 35 U.S.C. 209(c)(1) and 37 CFR Part 404.7(a)(1)(i), that the National Institutes of Health (NIH), Department of Health and Human Services (HHS), is contemplating the grant of an exclusive patent license to practice the inventions embodied in U.S. Patent Application No. 07/198,489 filed May 23, 1988, entitled ''Use of 8-Cl-cAMP as Anticancer Drug'' [HHS Reference No. E–132–1988/0–US–01], PCT Application filed May 19, 1989 [HHS Reference No. E–132–1988/0–PCT–02], U.S. Patent Application No. 07/896,452 filed June 4, 1992, entitled ''Use of 8-Cl-cAMP as Anticancer Drug'' [HHS Reference No. E–132–1988/0–US–04], U.S. Patent 5,792,752 filed October 27, 1994 and issued August 11, 1998, entitled ''Use of 8-Cl-cAMP as Anticancer Drug'' [HHS Reference No. E–132–1988/0–US–05], U.S. Patent 5,902,794 filed September 22, 1997 and issued May 11, 1999, entitled ''Use of 8-Cl-cAMP as Anticancer Drug'' [HHS Reference No. E–132–1988/0–US–06] and Canadian Patent Application No. 133572 filed May 19, 1989, entitled ''Use of 8-Cl-cAMP as Anticancer Drug'' [HHS Reference No. E–132–1988/0–CA–03], to Kuhnil Pharm. Co. Ltd., which has offices in Seoul, Republic of Korea. The patent rights in these inventions have been assigned and/or exclusively licensed to the Government of the United States of America.

The prospective exclusive license territory may be worldwide, and the field of use may be limited to the treatment of cancer with 8-Cl-cAMP.

DATES: Only written comments and/or applications for a license which are received by the NIH Office of Technology Transfer on or before June 10, 2006 will be considered.

ADDRESSES: Requests for copies of the patent application, inquiries, comments, and other materials relating to the contemplated exclusive license should be directed to: David A. Lambertson, Ph.D., Technology Licensing Specialist, Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, MD 20852–3804; Telephone: (301) 435–4632; Facsimile: (301) 402–0220; E-mail: *lambertsond@od.nih.gov.*

SUPPLEMENTARY INFORMATION: Cyclic AMP (cAMP) is a natural biological product with a number of regulatory functions at physiological levels. At higher than physiological concentrations, cAMP has the ability to inhibit the aberrant growth of malignant cells. Because cAMP is a natural product involved in normal biological function, this inhibition occurs without causing significant toxicity. However, this is not a feasible method for treating cancer *in vivo* because of potential interference with the physiological role of cAMP.

C-6 and C-8 modified cAMP derivatives also inhibit the growth of malignant cells. One such derivative, 8-Cl-cAMP, has effectively decreased tumor growth in vitro and in vivo. Specifically, 8-Cl-cAMP showed the ability to decrease tumor growth in leukemia mouse models and xenografts of human tumors. Because of the low toxicity associated with 8-Cl-cAMP, this compound has promise as an anti-cancer agent, particularly with regard to hematological malignancies.

The prospective exclusive license will be royalty bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR part 404.7. The prospective exclusive license may be granted unless within sixty (60) days from the date of this published notice, the NIH receives written evidence and argument that establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

Applications for a license in the field of use filed in response to this notice will be treated as objections to the grant of the contemplated exclusive license. Comments and objections submitted to this notice will not be made available for public inspection and, to the extent permitted by law, will not be released under the Freedom of Information Act, 5 U.S.C. 552.

Dated: May 2, 2006.

David R. Sadowski,

Acting Director, Division of Technology Development and Transfer, Office of Technology Transfer, National Institutes of Health.

[FR Doc. E6–6986 Filed 5–8-06; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

Agency Information Collection Activities: Extension of a Currently Approved Information Collection; Comment Request.

ACTION: 30-Day Notice of Information Collection under Review: Application for Certificate of Citizenship, Form N–600. OMB Control No. 1615–0057.

The Department of Homeland Security, U.S. Citizenship and Immigration Services (USCIS) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection was previously published in the **Federal Register** on February 28, 2006, at 71 FR 10048. The notice allowed for a 60-day public comment period. No comments were received on this information collection.

The purpose of this notice is to allow an additional 30 days for public comments. Comments are encouraged and will be accepted until June 8, 2006. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the

estimated public burden and associated response time, should be directed to the Department of Homeland Security (DHS), USCIS, Director, Regulatory Management Division, Clearance Office, 111 Massachusetts Avenue, 3rd floor, Washington, DC 20529. Comments may also be submitted to DHS via facsimile to 202–272–8352 or via e-mail at *rfs.regs@dhs.gov*. When submitting comments by e-mail please make sure to add OMB Control Number 1615–0057 in the subject box. Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of Information Collection:* Extension of a currently approved collection.

(2) *Title of the Form/Collection:* Application for Certificate of Citizenship.

(3) *Agency form number, if any, and the applicable component of the Department of Homeland Security sponsoring the collection:* Form N–600. U.S. Citizenship and Immigration Services.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals or households. The information collected on the Form N–600 is necessary for U.S. Citizenship and Immigration Services (USCIS) to make a determination that the citizenship eligibility requirements and conditions are met by the applicant.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 88,500 responses at 1 hour and 35 minutes.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 140,095 annual burden hours.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please visit the USCIS Web site at: *http://uscis.gov/graphics/formsfee/forms/pra/index.htm*.

If additional information is required contact: USCIS, Regulatory Management Division, 111 Massachusetts Avenue, 3rd Floor, Washington, DC 20529 (202) 272–8377.

Dated: May 4, 2006.

Richard A. Sloan,

Director, Regulatory Management Division, U.S. Citizenship and Immigration Services.

[FR Doc. E6–7018 Filed 5–8–06; 8:45 am]

BILLING CODE 4410–10–P

INTER-AMERICAN FOUNDATION

Sunshine Act; Meetings

TIME AND DATE: May 22, 2006, 9 a.m.–12:30 p.m.

PLACE: 901 N. Stuart Street, Tenth Floor, Arlington, Virginia 22203.

STATUS: Open session except for the portion specified as closed session as provided in 22 CFR part 1004.4 (f).

MATTERS TO BE CONSIDERED:

- Personnel Issues.
- Approval of the Minutes of the October 14, 2005, Meeting of the Board of Directors.
- President's Report.
- Fellowship Program.
- RedEAmérica Update.
- Congressional Activities and Strategy.
- Advisory Council.

PORTIONS TO BE OPEN TO THE PUBLIC:

- Approval of the Minutes of the October 14, 2005, Meeting of the Board of Directors.
- President's Report.
- Fellowship Program.
- RedEAmérica Update.
- Congressional Activities and Strategy.
- Advisory Council.

PORTIONS TO BE CLOSED TO THE PUBLIC:

- Personnel issues. Closed session as provided in 22 CFR part 1004.4 (f).

FOR FURTHER INFORMATION CONTACT: Jennifer R. Hodges, General Counsel, (703) 306–4320.

Dated: May 4, 2006.

Jennifer R. Hodges,

General Counsel.

[FR Doc. 06–4342 Filed 5–5–06; 10:30 am]

BILLING CODE 7025–01–P

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

California Bay-Delta Public Advisory Committee Public Meeting

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, the California Bay-Delta Public Advisory Committee (Committee) will meet on May 25, 2006. The agenda for the Committee meeting will include discussions with State and Federal agency representatives on the status of the revitalization of the CALFED Bay-Delta Program including the 10-Year Action Plan and Program Plans, priority setting, the changing roles of the CALFED agencies, and the restructuring of the Committee Subcommittees.

DATES: The meeting will be held on Thursday, May 25, 2006, from 9 a.m. to 4 p.m. If reasonable accommodation is needed due to a disability, please contact Colleen Kirtlan at (916) 445–5511 or TDD (800) 735–2929 at least 1 week prior to the meeting.

ADDRESSES: These meetings will be held at the John E. Moss Federal Building located at 650 Capitol Mall, 5th Floor, Sacramento, California.

FOR FURTHER INFORMATION CONTACT: Keith Coolidge, California Bay-Delta Authority, at (916) 445–5551, or Diane Buzzard, U.S. Bureau of Reclamation, at (916) 978–5022.

SUPPLEMENTARY INFORMATION: The Committee was established to provide advice and recommendations to the Secretary of the Interior on implementation of the CALFED Bay-Delta Program. The Committee makes recommendations on annual priorities, integration of the eleven Program elements, and overall balancing of the four Program objectives of ecosystem restoration, water quality, levee system integrity, and water supply reliability. The Program is a consortium of State and Federal agencies with the mission to develop and implement a long-term comprehensive plan that will restore ecological health and improve water management for beneficial uses of the San Francisco/Sacramento and San Joaquin Bay Delta.

Committee agendas and meeting materials will be available prior to all meetings on the California Bay-Delta Authority Web site at *http://calwater.ca.gov* and at the meetings. These meetings are open to the public. Oral comments will be accepted from

members of the public at each meeting and will be limited to 3–5 minutes.

(**Authority:** The Committee was established pursuant to the Department of the Interior's authority to implement the Water Supply, Reliability, and Environmental Improvement Act, Pub. L. 108–361; the Fish and Wildlife Coordination Act, 16 U.S.C. 661 *et seq.;* the Endangered Species Act, 16 U.S.C. 1531 *et seq.*; and the Reclamation Act of 1902, 43 U.S.C. 391 *et seq.,* and the acts amendatory thereof or supplementary thereto, all collectively referred to as the Federal Reclamation laws, and in particular, the Central Valley Project Improvement Act, 34 U.S.C. 3401)

Dated: April 26, 2006.

Allan Oto,

Special Projects Officer, Mid-Pacific Region, U.S. Bureau of Reclamation.

[FR Doc. 06–4306 Filed 5–8–06; 8:45 am]

BILLING CODE 4310–MN–M

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Proposed Information Collection Request Submitted for Public Comment and Recommendations; Fire Protection (Underground Coal Mines)

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden conducts a pre-clearance 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 Mine Safety and Health Administration (MSHA) is soliciting comments concerning the extension of the information collection related to the 30 CFR 75.1100–3, 75.1103–8, 75.1103–11, and 75.1501; Fire Protection (Underground Coal Mines) and Mine Emergency Evacuation.

DATES: Submit comments on or before July 10, 2006.

ADDRESSES: Send comments to U.S. Department of Labor, Mine Safety and Health Administration, John Rowlett, Director, Management Services Division, 1100 Wilson Boulevard, Room 2134, Arlington, VA 22209–3939. Commenters are encouraged to send their comments on a computer disk, or via Internet e-mail to *Rowlett.John@dol.gov*, along with an original printed copy. Mr. Rowlett can be reached at (202) 693–9827 (voice), or (202) 693–9801 (facsimile).

FOR FURTHER INFORMATION CONTACT: Contact the employee listed in the **ADDRESSES** section of this notice.

SUPPLEMENTARY INFORMATION:

I. Background

Under 30 CFR 75.1100–3, chemical fire extinguishers must be examined every 6 months and the date of the examination recorded on a permanent tag attached to the extinguisher. Under § 75.1103–8, a qualified person must examine the automatic fire sensor and warning device systems on a weekly basis, and must conduct a functional test of the complete system at least once a year. Under § 75.1103–11, each fire hydrant and hose must be tested at least once a year, and the records of those tests shall be kept in an appropriate location. Under § 75.1501, mine operators are to train all miners on the requirements and identity of the responsible person designated for emergency evacuation. Under § 75.1502, the program of instruction requires revisions to existing fire-fighting and evacuations plans to address emergencies, and requires training of miners regarding the mine emergency evacuation fire fighting plan for all emergencies created as a result of a fire, an explosion, or a gas or water inundation.

II. Desired Focus of Comments

MSHA is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the 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.

A copy of the proposed information collection request can be obtained by contacting the employee listed in the **FOR FURTHER INFORMATION CONTACT** section of this notice, or viewed on the Internet by accessing the MSHA home page (*http://www.msha.gov*) and then choosing ''Statutory and Regulatory Information'' and ''**Federal Register** Documents.''

III. Current Actions

30 CFR 75.1100–3, 75.1103–8, 75.1103–11, 75.1501 and 75.1502 requires chemical fire extinguishers to be examined every 6 months; requires operators to establish a program for the instruction of all miners in the proper fire fighting and evacuation procedures in the event of an emergency; requires operators to conduct fire drills; requires a qualified person to examine the automatic fire sensor and warning device systems; and requires that each fire hydrant and hose be tested; requires the mine operator to train all miners about the requirements of this section and the identity of the responsible person(s) designated by the operator for the work-shift. The operator also is required to instruct miners of any change in the identity of the responsible person before the start of their work-shift and any change during the shift; includes all mine emergencies created as a result of a fire, an explosion, or a gas or water inundation in the program of instruction. This section required revisions to existing fire-fighting and evacuations plans to address these emergencies, required training of miners regarding the mine emergency evacuation fire-fighting plan, and requires that mine operators train miners in any revisions to the plan after its submission to MSHA for approval.

Type of Review: Extension.

Agency: Mine Safety and Health Administration.

Title: Fire Protection (Underground Coal Mines).

OMB Number: 1219–0054.

Frequency: On Occasion.

Affected Public: Business or other for-profit.

Respondents: 634.

Responses: 324,505.

Total Burden Hours: 51,580 hours.

Total Burden Cost (operating/maintaining): $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 at Arlington, Virginia, this 3rd day of May, 2006.

David L. Meyer,

Director, Office of Administration and Management.

[FR Doc. E6–7001 Filed 5–8–06; 8:45 am]

BILLING CODE 4510–43–P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Section 110(c) of the Federal Mine Safety and Health Act of 1977; Interpretation

AGENCY: Mine Safety and Health Administration (MSHA), Department of Labor.

ACTION: Interpretive bulletin.

SUMMARY: This Interpretive Bulletin sets forth a statement of the Secretary of Labor's interpretation of Section 110(c) of the Federal Mine Safety and Health Act of 1977 (Mine Act), 30 U.S.C. 820(c), as it relates to agents of Limited Liability Companies (LLCs). The Interpretive Bulletin is considered an interpretive rule and provides an explanation of the Secretary's interpretation of Section 110(c) and the rationale supporting that interpretation. For the reasons set forth below, the Secretary's interpretation is that Section 110(c) of the Mine Act is applicable to agents of LLCs. The effect of the Secretary's interpretation is that agents of LLCs may be held personally liable under Section 110(c) of the Mine Act if they knowingly authorize, order, or carry out a violation of any mandatory health or safety standard under the Act or a violation of or failure or refusal to comply with any order issued under the Act or any order incorporated in a final decision issued under certain provisions of the Act.

DATES: Comments on this Interpretive Bulletin are due June 8, 2006. The Interpretive Bulletin is scheduled to be put into effect July 10, 2006.

ADDRESSES: You may use mail, facsimile (fax), or electronic mail to send us your comments regarding this Interpretive Bulletin. Clearly identify your request and send it one of the following ways:

(1) Fax: (202) 693–9441. Include ''Interpretive Bulletin regarding Limited Liability Companies'' in the subject line of the fax.

(2) By electronic mail to *zzMSHA-comments@dol.gov.* Include ''Interpretive Bulletin regarding Limited Liability Companies'' in the subject line of your electronic mail.

(3) Mail/Hand Delivery/Courier: MSHA, Office of Standards, Regulations, and Variances, 1100 Wilson Blvd., Room 2350, Arlington, Virginia 22209–3939. If hand-delivered in person or by courier, you must stop by the 21st floor first to check in with the receptionist.

Docket: To access comments electronically, go to *http://www.msha.gov* and click on ''Comments'' under ''Rules and Regulations.'' All comments received will be posted without change at this Web address, including any personal information provided. Paper copies of the comments may also be reviewed at the Office of Standards, Regulations, and Variances, 1100 Wilson Blvd., Room 2349, Arlington, Virginia.

FOR FURTHER INFORMATION CONTACT: Patricia W. Silvey, Acting Director, Office of Standards, Regulations, and Variances, MSHA, 1100 Wilson Boulevard, Room 2350, Arlington, VA 22209–3939. Ms. Silvey can be reached at *Silvey.Patricia@DOL.GOV.* (Internet E-mail), (202) 693–9440 (voice), or (202) 693–9441 (facsimile).

To subscribe to the MSHA listserve and receive automatic notification of MSHA **Federal Register** publications, visit the site at *http://www.msha.gov/subscriptions/subscribe.aspx.*

SUPPLEMENTARY INFORMATION

Introductory Statement

The Secretary of Labor is responsible for interpreting and applying statutes she is authorized to administer. More specifically, Congress delegated to the Secretary, acting through MSHA, the authority to administer the Mine Act. *See Secretary of Labor* v. *Excel Mining, LLC,* 334 F.3d 1, 5–7 (D.C. Cir. 2003); *Secretary of Labor on behalf of Wamsley* v. *Mutual Mining, Inc.,* 80 F.3d 110, 113–14 (4th Cir. 1996). The interpretation and application of statutory terms to particular factual circumstances is an ongoing process. Publication of all interpretive positions taken by the Secretary is impossible; at times, however, the Secretary has found it useful as a means of notifying the public in general, and interested segments of the public in particular, to publish an Interpretive Bulletin or other documents setting forth the Secretary's interpretive positions with respect to particular provisions of statutes she administers.

The question has arisen whether Section 110(c) of the Mine Act is applicable to agents of LLCs. The LLC is a relatively new business entity which combines the limited liability provided by a corporation with the ''pass-through'' tax treatment accorded to a partnership. LLCs are like corporations in that they shield individuals from personal liability; for that reason, they raise concerns similar to those which led Congress to enact Section 110(c).

The status of LLCs under Section 110(c) has become a significant issue under the Mine Act because, in recent years, the number of mine operators organized as LLCs has steadily increased. According to MSHA records, 782 of the Nation's 7,287 active mine operators—approximately 10 percent—now identify themselves as LLCs. The actual number may be significantly greater because MSHA's mine identification forms do not list ''LLC'' as an option and many LLCs may not identify themselves as LLCs. A number of the Nation's large operators are LLCs.

The purpose of this Interpretive Bulletin is to make the public aware of the Secretary's interpretation of the applicability of Section 110(c) to agents of LLCs—an interpretation the Secretary will apply in administering and enforcing the Mine Act. The Secretary is soliciting comments on the Interpretive Bulletin and will carefully review all comments received. The Secretary believes, however, that the position set forth in the Interpretive Bulletin represents an ''interpretive rule'' as that term is used in the Administrative Procedure Act, and is therefore not required to go through notice-and-comment rulemaking. *See* 5 U.S.C. § 553(b)(3)(A); *AMC* v. *MSHA,* 995 F.2d 1106, 1108–13 (D.C. Cir. 1993). So that the Secretary may carefully consider all comments received, the Interpretive Bulletin is scheduled to be put into effect 60 days after it is published in the **Federal Register**.

Limited Liability Companies

The LLC is a hybrid business entity first recognized in 1977 by the State of Wyoming. LLCs did not attain any significant popularity until 1988; however, when the Internal Revenue Service announced that LLCs could be taxed as partnerships despite their corporation-like liability shield. When the IRS announced in 1997 that LLCs could elect pass-through taxation without regard to the number of corporation-like characteristics they possessed, the number of LLCs grew dramatically.

Text and History of Section 110(c)

Section 110(c) of the Mine Act states as follows:

> Whenever a *corporate operator* violates a mandatory health or safety standard or knowingly violates or fails or refuses to comply with any order issued under this Act or any order incorporated in a final decision

under this Act, except an order incorporated in a decision issued under Subsection (a) or Section 105(c), any director, officer, or agent *of such corporation* who knowingly authorized, ordered, or carried out such violation, failure, or refusal shall be subject to the same civil penalties, fines, and imprisonment that may be imposed upon a person under subsections (a) and (d).

30 U.S.C. 820(c) (emphases added). Section 110(c) of the Mine Act was carried over essentially unchanged from the Federal Coal Mine Health and Safety Act of 1969 (Coal Act). *See* 30 U.S.C. 819(c) (1969). The legislative history of the Mine Act, quoting from the legislative history of the Coal Act, stated:

Civil penalties are not a part of the enforcement scheme of the Metal Act, but they have been part of the enforcement of the Coal Act since its enactment in 1969. The purpose of such civil penalties, of course, is not to raise revenues for the federal treasury, but rather, is a recognition that: '[s]ince the basic business judgments which dictate the method of operation of a coal mine are made directly or indirectly by persons at various levels of corporate structure, [the provision for assessment of civil penalties is] necessary to place the responsibility for compliance with the Act and the regulations, as well as the liability for violations on those who control or supervise the operation of coal mines as well as on those who operate them.' In short, the purpose of a civil penalty is to induce those officials responsible for the operation of a mine to comply with the Act and its standards.

S. Rep. 95–181, Federal Mine Safety and Health Act of 1977, 95th Cong. 1st Session, at 40 (quoting S. Rep. 91–411, Federal Coal Mine Health and Safety Act of 1969, 91st Cong. 1st Session, at 39).

Purpose of Section 110(c)

When a ''corporate operator'' violates a mandatory health or safety standard under the Mine Act, Section 110(c) of the Act imposes personal liability on ''any director, officer, or agent'' of the corporation who knowingly authorized, ordered, or carried out the violation. Because a corporation generally serves as a shield against personal liability, corporate directors, officers, and agents generally are not personally liable for legal violations committed by the corporation.[1] Congress's enactment of Section 110(c) reflected its concern that corporate mine operators would have a reduced incentive to comply with Mine Act standards because a corporation would shield the individuals who control and supervise the mine—the corporation's directors, officers, and agents—from personal liability. Section 110(c) imposes liability for Mine Act violations directly on the individuals responsible for the violations. As the Sixth Circuit Court of Appeals has explained:

In a practical sense, any non-corporate mining operation is going to be relatively small, and the probability is that the decision-maker is going to fit the statutory definition of ''operator.'' In a larger, corporate structure, the decision-maker may have authority over only a part of the mining operation. [Section 110(c)] assures that this makes him no less liable for his actions. In a noncorporate structure, the sole proprietor or partners are personally liable as ''operators'' for violations; they cannot pass off these penalties as a cost of doing business as a corporation can. Therefore, the noncorporate operator has a greater incentive to make certain that his employees do not violate mandatory health or safety standards than does the corporate operator. [Section 110(c)] attempts to correct this imbalance by giving the corporate employee a direct incentive to comply with the Act.

Richardson v. *Secretary of Labor*, 689 F.2d 632, 633–34 (6th Cir. 1982), *cert. denied*, 461 U.S. 928 (1983). *Accord United States* v. *Jones*, 735 F.2d 785, 792–93 (4th Cir.) (''Congress may have believed that in a noncorporate coal mining operation the threat of criminal sanctions against the operator personally would provide a sufficient incentive to comply with the mandatory safety standards. By contrast, in a corporate mining operation, those who are in control might well be insulated from criminal responsibility, the corporation being an impersonal legal entity.''), *cert. denied*, 469 U.S. 918 (1984).

The Interpretive Issue

The threshold issue in this situation is ''whether Congress has spoken to the precise question'' of the applicability of section 110(c) to agents of LLCs. *Chevron U.S.A. Inc.* v. *Natural Resources Defense Council, Inc.*, 467 U.S. 837, 842–43 (1984). If Congress unambiguously expressed an intent that section 110(c) was not to apply to agents of LLCs, that is the end of the matter. *Ibid.* If the Mine Act is silent or ambiguous with respect to the question, however, an agency interpretation that section 110(c) is applicable to agents of LLCs should be accepted as long as it is reasonable. *Ibid.*

By its terms, Section 110(c) applies when a ''corporate operator'' violates a Mine Act standard and a director, officer, or agent ''of such corporation'' knowingly authorized, ordered, or carried out the violation. The threshold issue is thus whether, in enacting section 110(c), Congress unambiguously expressed an intent that section 110(c) was not to apply to agents of LLCs. The Secretary believes that Congress did not express, and could not have expressed, any intent with respect to agents of LLCs because, when Congress enacted Section 110(c), LLCs effectively did not exist.

The courts have recognized that, over time, conditions may come into existence which Congress did not contemplate when it enacted a statute, but which implicate the concerns Congress was addressing when it enacted the statute. As the Supreme Court stated in *Browder* v. *United States*, 312 U.S. 335 (1941):

There is nothing in the legislative history to indicate that Congress considered the question of use by returning citizens. Old crimes, however, may be committed under new conditions. Old laws apply to changed situations. The reach of the act is not sustained or opposed by the fact that it is sought to bring new situations under its terms.

312 U.S. at 339 (footnotes omitted). *Accord Weems* v. *United States*, 217 U.S. 349, 373 (1910) (''Time works changes, brings into existence new conditions and purposes. Therefore a principle, to be vital, must be capable of wider application than the mischief which gave it birth.''). When confronted with a question of statutory application with respect to which Congress did not express or could not have expressed an intent when it enacted the statute, courts have treated the question as one the resolution of which was delegated to the agency Congress authorized to administer the statute. *See NBD Bank, N.A.* v. *Bennett,* 67 F.3d 629, 632–33 (7th Cir. 1995); *Zoelsch* v. *Arthur Andersen & Co.*, 824 F.2d 27, 33 (D.C. Cir. 1987). *See also Kauthar SDN BHD* v. *Sternberg*, 149 F.3d 659, 663–67 (7th Cir. 1998) (where resolution of the question was not delegated to any agency, the court itself filled the void created by Congressional silence by examining the underlying policy concerns), *cert. denied*, 525 U.S. 1114 (1999); *Robinson* v. *TI/US West Communications Inc.*, 117 F.3d 900, 904–07 (5th Cir. 1997) (same).

Because Congress expressed no intent with respect to agents of LLCs, the question becomes whether an interpretation that Section 110(c) is applicable to agents of LLCs is reasonable. *See Chevron*, 467 U.S. at 842–43; *Excel Mining*, 334 F.3d at 6. The Secretary believes that it is. LLCs generally create the same sort of shield against personal liability which led Congress to impose personal liability on the directors, officers, and agents of corporations. Indeed, LLCs fit within the legal definition of a ''corporation.''

[1] In contrast, a partnership generally does not shield individuals from personal liability.

See Black's Law Dictionary (7th ed. 1999) at 341 (a ''corporation'' is ''[a]n entity (usu. a business) having authority under law to act as a single person distinct from the shareholders who own it * * *; a group or succession of persons established in accordance with legal rules into a legal or juristic person that has legal personality distinct from the natural persons who make it up [and] exists indefinitely apart from them * * *''). *See also* Webster's Third New International Dictionary (2002) at 510 (a ''corporation'' is ''a group of persons * * * treated by the law as an individual or unity having rights and liabilities distinct from those of the persons * * * composing it * * *''). Significantly, a number of LLCs in the mining industry are the sort of relatively large and corporately structured entities which Congress had in mind when it enacted Section 110(c). The Secretary believes that the underlying objective Congress identified when it enacted the Coal Act in 1969 and reiterated when it enacted the Mine Act in 1977—to place responsibility for compliance and liability for violations ''on those who control or supervise the operation of * * * mines as well as on those who operate them''—will best be advanced if Section 110(c) is interpreted as being applicable to agents of LLCs.

For all of the foregoing reasons, the Secretary believes that the interpretation set forth in this Interpretive Bulletin is permissible under the Mine Act, and that it will advance the Act's objectives in cases involving LLCs by imposing legal liability on those individuals within the LLC who actually make the decisions with regard to safety and health in the mine.[2]

Dated: May 3, 2006.

David G. Dye,

Acting Assistant Secretary for Mine Safety and Health.

[FR Doc. 06–4317 Filed 5–8–06; 8:45 am]

BILLING CODE 4510–43–P

[2] The Secretary recognizes that Section 110(c) has been held not to apply to agents of partnerships because, by its terms, Section 110(c) applies only to agents of corporations. *Paul Shirel and Donald Guess, employed by Pyro Mining Co.*, 15 FMSHRC 2440 (1993), *aff'd*, 52 F.3d 1123 (D.C. Cir. 1995) (unpublished). That holding has no bearing in this situation, however, because partnerships, unlike LLCs, existed and were a well-known form of business organization when Congress enacted the Mine Act.

The Secretary does not address in this Interpretive Bulletin whether Section 110(c) is applicable to agents of non-traditional business entities other than LLCs. The Secretary will address the applicability of Section 110(c) to the agents of such entities as the question arises.

NATIONAL SCIENCE FOUNDATION

National Science Board; Hearing on International Science Partnerships

Date And Time: May 11, 2006.

Place: George Washington University, Elliott School of International Affairs, 1957 E Street 7th Floor, City View Room, Washington, DC.

Contact Information: Please refer to the National Science Board Web site (*http://www.nsf.gov/nsb*) for updated schedule.

NSB Office: Amanda K Slocum, (703) 292–7000.

Status: This hearing is open to the public.

Agenda:

7:30 a.m.–8 a.m.: Registration

8 a.m.–8:10 a.m.: Opening Comments
- Dr. Jon Strauss, Chair, Task Force on International Science

8:10 a.m.–8:20 a.m.: Welcoming Remarks
- Dr. Stephen Joel Trachtenberg, President, George Washington University

8:20 a.m.–8:30 a.m.: Introductions and Overview of Proceedings
- Dr. Michael Crosby, Executive Officer, NSB

8:30 a.m.–9:30 a.m.: Panel I—The Role of Mission Agencies in International Science Partnerships

9:30 a.m.–10:45 a.m.: Panel II—Funding for International Science Partnerships

10:45 a.m.–11 a.m.: Break

11 p.m.–12:15 p.m.: Panel III—The Role of Non-Governmental Organizations in International Science

1:45 p.m.–3:15 p.m.: Panel IV—Policy Perspectives on International Science Partnerships

3:15 p.m.–3:30 p.m.: Summaries of Discussions and Next Steps for the Task Force

Michael P. Crosby,

Executive Officer and NSB Office Director.

[FR Doc. E6–6940 Filed 5–8–06; 8:45 am]

BILLING CODE 7555–01–P

NUCLEAR REGULATORY COMMISSION

Agency Information Collection Activities: Submission for the Office of Management and Budget (OMB) Review; Comment Request

AGENCY: 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 current valid OMB control number.

1. *Type of submission, new, revision, or extension:* Revision.

2. *The title of the information collection:* ''Generic Customer Satisfaction Surveys and NRC Form 671, Request for Review of a Customer Satisfaction Survey Under Generic Clearance.''

3. *The form number if applicable:* NRC Form 671.

4.*How often the collection is required:* On occasion.

5. *Who will be required or asked to report:* Voluntary reporting by the public and NRC licensees.

6. *An estimate of the number of responses:* 1,770.

7. *The estimated number of annual respondents:* 1,770.

8. *An estimate of the number of hours needed annually to complete the requirement or request:* 393 hours. (.222 hours per response).

9. *An indication of whether Section 3507(d), Pub. L. 104–13 applies:* Not applicable.

10. *Abstract:* Voluntary customer satisfaction surveys will be used to contact users of NRC services and products to determine their needs, and how the Commission can improve its services and products to better meet those needs. In addition, focus groups will be contacted to discuss questions concerning those services and products. Results from the surveys will give insight into how NRC can make its services and products cost effective, efficient, and responsive to its customer needs. Each survey will be submitted to OMB for its review.

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 F23, Rockville, MD 20852. OMB clearance requests are available at the NRC World Wide 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 June 8, 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 Asalone, Office of Information and Regulatory Affairs (3150–0014), 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 3rd day of May, 2006.

For the Nuclear Regulatory Commission.

Brenda Jo. Shelton,

NRC Clearance Officer, Office of Information Services.

[FR Doc. E6–6997 Filed 5–8–06; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–259, 50–260, and 50–296]

Tennessee Valley Authority; Browns Ferry Nuclear Plant, Units 1, 2, and 3 Notice of Issuance of Renewed Facility Operating License Nos. DPR–33, DPR–52, and DPR–68 for an Additional 20-Year Period

Notice is hereby given that the U.S. Nuclear Regulatory Commission (the Commission) has issued Renewed Facility Operating License Nos. DPR–33, DPR–52, and DPR–68 to the Tennessee Valley Authority (the licensee), the operator of the Browns Ferry Nuclear Plant (BFN), Units Nos. 1, 2, and 3 (Unit 1, 2, and 3). Renewed Facility Operating License No. DPR–33 authorizes operation of BFN, Unit 1, by the licensee at reactor core power levels not in excess of 3293 megawatts thermal (1100 megawatts electric), in accordance with the provisions of the BFN renewed license and its Technical Specifications. Renewed Facility Operating License No. DPR–52 authorizes operation of BFN, Unit 2, by the licensee at reactor core power levels not in excess of 3458 megawatts thermal (1155 megawatts electric), in accordance with the provisions of the BFN renewed license and its Technical Specifications. Renewed Facility Operating License No. DPR–68 authorizes operation of BFN, Unit 3, by the licensee at reactor core power levels not in excess of 3458 megawatts thermal (1155 megawatts electric), in accordance with the provisions of the BFN renewed license and its Technical Specifications.

BFN, Units 1, 2, and 3, are located on the north shore of Wheeler Reservoir in Limestone County, Alabama, at Tennessee River Mile 294. The site is approximately 30 miles west of Huntsville, Alabama; it is also 10 miles northwest of Decatur, Alabama, and 10 miles southwest of Athens, Alabama. The licensee's application for the renewed licenses complied with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations. As required by the Act and the Commission's regulations in 10 CFR Chapter I, the Commission has made appropriate findings, which are set forth in each license. Prior public notice of the action involving the proposed issuance of the renewed licenses and of an opportunity for a hearing regarding the proposed issuance of the renewed licenses was published in the **Federal Register** on March 10, 2004 (69 FR 11460).

For further details with respect to this action, see (1) the Tennessee Valley Authority license renewal application for Browns Ferry Nuclear Plant, Units 1, 2, and 3 dated December 31, 2003, as supplemented by letters dated through April 4, 2006; (2) the Commission's safety evaluation report (NUREG–1843 and Supplement 1), published in April 2006; and (3) the Commission's final environmental impact statement (NUREG–1437, Supplement 21), published in June 2005. These documents are available at the NRC Public Document Room, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852, and can be viewed from the NRC Public Electronic Reading Room at (*http://www.nrc.gov/reading-rm/adams.html*).

Copies of Renewed Facility Operating License Nos. DPR–33, DPR–52, and DPR–68 may be obtained by writing to the U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Director, Division of License Renewal. Copies of the BFN, Units 1, 2, and 3, Safety Evaluation Report (NUREG–1843 and Supplement 1) and the Final Environmental Impact Statement (NUREG–1437, Supplement 21) may be purchased from the National Technical Information Service, U.S. Department of Commerce, Springfield, VA 22161–0002 (*http://www.ntis.gov*), 703–605–6000, or the Superintendent of Documents, U.S. Government Printing Office, P.O. Box 371954, Pittsburgh, PA 15250–7954 (*http://www.gpoaccess.gov*), 202–512–1800. All orders should clearly identify the NRC publication number and the requester's Government Printing Office deposit account number or a VISA or MasterCard number and expiration date.

Dated at Rockville, Maryland, this 4th day of May 2006.

For the Nuclear Regulatory Commission.

Pao-Tsin Kuo,

Deputy Director, Division of License Renewal, Office of Nuclear Reactor Regulation.

[FR Doc. E6–6995 Filed 5–8–06; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–334 and 50–412]

FirstEnergy Nuclear Operating Company; FirstEnergy Nuclear Generation Corp.; Ohio Edison Company; The Toledo Edison Company; Beaver Valley Power Station, Unit Nos. 1 and 2; Draft Environmental Assessment and Finding of No Significant Impact Related to the Proposed License Amendment To Increase the Maximum Reactor Power Level

AGENCY: U.S. Nuclear Regulatory Commission (NRC).

ACTION: Notice of opportunity for public comment.

SUMMARY: The NRC has prepared a Draft Environmental Assessment as part of its evaluation of a request by FirstEnergy Nuclear Operating Company (FENOC), *et al.*, for a license amendment to increase the maximum rated thermal power at Beaver Valley Power Station, Unit Nos. 1 and 2 (BVPS–1 and 2) from 2689 megawatts-thermal (MWt) to 2900 MWt. This represents a power increase of approximately 8 percent for BVPS–1 and 2. As stated in the NRC staff's position paper dated February 8, 1996, on the Boiling-Water Reactor Extended Power Uprate (EPU) Program, the NRC staff will prepare an environmental impact statement if it believes a power uprate will have a significant impact on the human environment. The NRC staff did not identify any significant impact from the information provided in the licensee's EPU application for BVPS–1 and 2 or from the NRC staff's independent review; therefore, the NRC staff is documenting its environmental review in an environmental assessment (EA). Also, in accordance with the position paper, this Draft Environmental Assessment and Finding of No Significant Impact is being published in the **Federal Register** with a 30-day public comment period.

Environmental Assessment

Plant Site and Environs

The EPU would apply to the facilities at the BVPS–1 and 2 site, located on the south bank of the Ohio River in

Shippingport Borough, Beaver County, Pennsylvania. The station site consists of 449 acres and it lies approximately 25 miles northwest of Pittsburgh, Pennsylvania, one mile southeast of Midland, Pennsylvania, 5 miles east of Liverpool, Ohio, 8 miles east of Newell, West Virginia, and 6 miles southwest of Beaver, Pennsylvania.

BVPS–1 and 2 are located within the Pittsburgh Low Plateau Section of the Appalachian Plateau Physiographic Province, which is characterized by a smooth, upland surface cut by numerous narrow, relatively shallow river valleys. The site region encompasses portions of Pennsylvania, Ohio, and West Virginia, and the site elevation ranges from 660 to 1,700 feet above sea level.

The major river systems in the region consist of the Monongahela, Allegheny, and Ohio Rivers, and their tributaries. The Ohio River is formed by the juncture of the Monongahela and Allegheny Rivers at Pittsburgh, and extends 981 river miles to Cairo, Illinois, where it joins the Mississippi River. The Ohio River and lower portions of the Allegheny and Monongahela Rivers are maintained and controlled by a series of locks and dams operated by the U.S. Army Corps of Engineers.

BVPS–1 and 2 consist of two light-water cooled, pressurized-water reactors (PWRs) with a current authorized maximum reactor core power level output of 2689 MWt for each unit. The two units employ a closed-loop cooling system that includes a natural draft cooling tower (CT) (one per unit) to dissipate waste heat to the atmosphere. The BVPS–1 and BVPS–2 circulating water systems (CWSs) are non-safety related and provide cooling water for the main condensers of the turbine-generator units. The closed-loop systems consist of CT pumps, pumphouses, CWS piping, main condenser vacuum priming systems, mechanical tube cleaning system (BVPS–2 only), natural draft, hyperbolic CTs for removal of waste heat from the main condensers, and associated hydraulic and electrical equipment.

Identification of the Proposed Action

By letter dated October 4, 2004, FENOC proposed an amendment to the operating licenses for BVPS–1 and 2 to increase the maximum rated thermal power level by approximately 8 percent, from 2689 MWt to 2900 MWt. The change is considered an EPU because it would raise the reactor core power level more than 7 percent above the original licensed maximum power level. This proposed action would allow the heat output of the reactor to increase, which would increase the flow of steam to the turbine. This would allow the turbine-generator to increase the production of power and would increase the amount of waste heat delivered to the condenser, resulting in an increase in the circulating water condenser discharge temperature, evaporation flow rates, and blowdown concentrations. Moreover, the temperature of water discharged from the service water systems (SWSs) to the Ohio River would increase slightly due to the increased heat load, but flow rates would remain unchanged.

In April 2001, the NRC approved a FENOC request to increase the licensing basis core power level of BVPS–1 and 2 by 1.4 percent; no other power uprates have been requested or granted for this site.

The Need for the Proposed Action

The purpose and need for the proposed action (EPU) is to increase the maximum thermal power level of BVPS–1 and 2, thereby increasing the electric power generation. The increase in electric power generation would give FENOC the capability to provide lower cost power to its customers than can be obtained otherwise in the current and anticipated energy market.

Environmental Impacts of the Proposed Action

At the time of issuance of the operating license for BVPS–1 and 2, the NRC staff noted that any activity authorized by the license would be encompassed by the overall action evaluated in the Final Environmental Statements (FESs) for the operation of BVPS–1 and 2, which were issued in July 1973 for BVPS–1 and September 1985 for BVPS–2. This EA summarizes the radiological and non-radiological impacts in the environment that may result from the proposed action.

Non-Radiological Impacts

Land Use Impacts

The potential impacts associated with land use for the proposed action include impacts from construction and plant modifications. FENOC or its subsidiary companies own all land within the BVPS–1 and 2 exclusion area except the Ohio River proper; onsite property owned by Duquesne Light (i.e., the switchyard tract, which is jointly owned by Duquesne Light and FENOC); the eastern portion of Phillis Island, owned by the U.S. Government and administered by the U.S. Fish and Wildlife Service (FWS); and 7.4 acres of the Freeport Development Company (now Laurel Ventures) tract, located along the southern BVPS–1 and 2 site boundary. However, appropriate controls are in place to restrict use of these lands. In case of an emergency that threatens persons or the environment, FENOC has the authority to enter the switchyard (after notifying Duquesne Light) to take action to prevent damage, injury, or loss. Limited hunting is permitted on Phillis Island, but no public assembly is allowed there. Similarly, the Freeport Development Company property restricts use of this land by current and future purchasers or leasers.

The Beaver County Planning Commission estimates that forest land accounts for 49.5 percent (140,840 acres) of all land in Beaver County, while agricultural lands account for 26.2 percent (73,892 acres). Forested lands are prevalent in western Beaver County. Residential lands account for 15.5 percent (44,050 acres), while industrial, commercial, and other non-residential urban land uses account for only 4.1 percent of the County's land area. Included in these industrial lands are brownfield sites of former steel manufacturing operations, including sites along the Ohio River.

Several public lands in the vicinity of the BVPS–1 and 2 site are dedicated to wildlife management and recreation. These public lands include a portion of the Ohio River Islands National Wildlife Refuge, Raccoon Creek State Park, Beaver Creek, State Forest, Brady Run County Park, and several areas of the Pennsylvania Game Lands. Shippingport Community Park, a 7.5-acre public recreation facility, is located along State Route 3016 in Shippingport. The Shippingport Boat Ramp is located approximately 800 feet upstream from the BVPS–1 and 2 site eastern boundary on the Ohio River.

Phillis Island and Georgetown Island are located in the BVPS–1 and 2 site vicinity and have been designated as part of a National Wildlife Refuge. Phillis Island (approximately 39 acres) is situated approximately 400 feet offshore of the downstream portion of the BVPS–1 and 2 site and lies partially within the BVPS–1 and 2 exclusion area. The 16.2-acre Georgetown Island is located approximately three river miles downstream from the BVPS–1 and 2 site.

The Municipality of Shippingport Borough has zoned the BVPS–1 and 2 site as industrial except for the tract on which the Training and Simulator Buildings are located, which is zoned business. Some land adjacent to the site, south of State Route 168, is zoned residential. However, this area is small,

consists of steep, wooded slopes, and has limited potential for growth. The U.S. Coast Guard has established a Restricted Use Zone encompassing all waters extending 200 feet from FENOC's BVPS–1 and 2 property line along the southeastern shoreline of the Ohio River. Entry of persons or vessels into this Restricted Use Zone is prohibited unless authorized by the Coast Guard Captain of the Port of Pittsburgh or his designated representative.

The proposed EPU would not require any land disturbance to the BVPS–1 and 2 site. The EPU would not significantly affect material storage, including chemicals and fuels stored on site. The most significant modifications that would take place to support the EPU include replacement of the high-pressure turbine rotor, changes to the transformer cooler, replacement of the BVPS–1 steam generators (SGs), and replacement of the CT fill. None of these modifications would result in changes in land use.

FENOC does not plan to conduct major refurbishment or significant land-disturbing activities to implement the EPU. FENOC has stated that there would be no refurbishment-related impacts on historic and archaeological resources associated with the EPU. The proposed EPU would not modify the current land use activities at the site beyond that described in the July 1973 or the September 1985 FESs related to the operation of BVPS–1 and 2. Therefore, the staff concludes that the land use impacts of the proposed EPU are bounded by the impacts previously evaluated in the FESs.

Cooling Tower Impacts

The potential impacts associated with increased CT operation for the proposed action include aesthetic impacts due to the increased moisture content of the air. Other impacts include fogging, icing, thermal, suspended solids, and noise. BVPS–1 and 2 employ a closed-loop cooling system including a natural draft CT (one per unit) to dissipate waste heat to the atmosphere. The two CTs are natural draft, hyperbolic, reinforced concrete shells, approximately 500 feet high.

There would be roughly a 10-percent increase in the evaporation rates from the CTs as a result of the EPU. The wide dispersion and elevated CT exhaust plumes of the natural draft CTs at BVPS–1 and 2 would continue to provide an advantage in mitigating any fogging and icing potentials. The fogging potential of the CT plumes would be slightly diminished compared to the existing plume trajectories. The EPU higher heat load would increase the CT exit velocity and temperature. The plumes would be more buoyant and have a slightly higher upward velocity. This reduces the potential for fogging. The icing potential of the plumes during the EPU operation may increase slightly, with a maximum of 8 percent more icing than indicated by the original plume studies in the Updated Final Safety Analysis Reports (UFSARs). This results in an additional thickness of 0.002 inches compared to the original estimates. However, the original icing estimates were based on very high drift rates and depositions that, according to FENOC, have not occurred in the past 28 years. Therefore, no significant fogging or icing would occur as a result of the EPU.

The increased plant load due to the EPU would increase the CT blowdown discharge temperature to the Ohio River by approximately 3 degrees Fahrenheit (°F). The CT evaporation rate would increase by up to an additional 10 percent, which would reduce CT blowdown flow. Concentrate solutions and suspensions in the discharged water are expected to increase, and yield up to 10 percent more solids deposition in the CTs. The National Pollutant Discharge Elimination System (NPDES) permit specifies that the discharge may not change the temperature of the receiving stream by more than 2 °F in any one hour. The data evaluated indicate that the post-EPU discharges would not challenge this NPDES permit parameter. Based on Environmental Protection Agency (EPA) standards, the water temperature at representative locations in the Ohio River shall not exceed the monthly maximum limits by more than 3 °F. The month of January has the most limiting EPA maximum temperature of 50 °F. In addition, the data evaluated indicate that the evaporation related to operation at EPU conditions would not cause the mass or concentration parameters of the CT blowdown to exceed the BVPS–1 and 2 NPDES permit parameter limits. Furthermore, the additional 10-percent increase in suspended solids would not cause significant impacts to the Ohio River, and sedimentation from the CTs would be removed during refueling outages.

The aesthetic impacts associated with increased CT operation would not change significantly from the aesthetic impacts associated with the current CT operation. No significant increase in noise is anticipated for CT operation because there would be no change in flowrate and no new CT construction. The fogging potential of the CT plumes of the natural draft CTs at BVPS–1 and 2 is slightly diminished compared to the existing plume trajectories due to higher heat load, which would increase the CT exit velocity and temperature, making the elevation of the plumes even further from the ground. Therefore, the NRC staff concludes that there are no significant impacts associated with increased CT operation for the proposed action.

Transmission Facility Impacts

The potential impacts associated with transmission facilities for the proposed action include changes in transmission line corridor right-of-way maintenance and electric shock hazards due to increased current. The proposed EPU would not require any physical modifications to the transmission lines. FENOC implements a specific program for ensuring continued safe and reliable operation of these transmission lines, continued compatibility of land uses on the transmission corridors, and environmentally sound maintenance of the corridors.

FENOC conducts transmission line corridor right-of-way maintenance through helicopter inspections of transmission lines to determine the physical condition of towers, conductors and other equipment; status of vegetation communities; land use changes; and any encroachments on the line. On-foot inspections are conducted to manage vegetation growth, and crews are sent to problem areas to make onsite inspections and repairs, as needed. Routine vegetation maintenance of the rural transmission line corridors is managed to promote a diversity of shrubs, grasses, and other groundcover that provides wildlife food and cover. Maintenance efforts prescribed for transmission corridors include the removal, pruning, and chemical control of woody vegetation as necessary to ensure adequate clearance for safe and reliable operation of the line. Management of the corridor edge and beyond involves identification and removal of hazardous trees. These maintenance procedures are not expected to change as a result of the proposed action.

There would be an increase in current passing through the transmission lines associated with the increased power level of the proposed EPU. The increased electrical current passing through the transmission lines would cause an increase in electromagnetic field strength. The National Electric Safety Code (NESC) provides design criteria that limit hazards from steady-state currents induced by transmission line electromagnetic fields. The NESC limits the short-circuit current to ground to less than 5 miliamperes (mA). FENOC

conducted an independent analysis of each of the transmission lines to determine conformance with the current NESC standard. As a result of the EPU, FENOC does not expect changes in operating voltage or other parameters for these lines that would affect conformance status with respect to the NESC 5-mA standard. Currently, all circuits at BVPS–1 and 2 meet NESC requirements for limiting induced shock.

The impacts associated with transmission facilities for the proposed action would not change significantly from the impacts associated with current plant operation. No new transmission lines are expected to be constructed as a result of the EPU. There would be no physical modifications to the transmission lines, transmission line rights-of-way maintenance practices would not change, there would be no changes to transmission line rights-of-way or vertical clearances, and electric current passing through the transmission lines would increase only slightly. Therefore, the NRC staff concludes that there are no significant impacts associated with transmission facilities for the proposed action.

Water Use Impacts

Water used for BVPS–1 and 2 site operations consists of raw water from the Ohio River and potable water from the Midland Borough Municipal Water Authority (MWA). Water withdrawn from the Ohio River is used primarily for cooling, initially as once-through non-contact cooling water for primary and secondary heat exchangers in BVPS–1 and 2. Most of this water is then used as makeup to the CWSs, which provide cooling for the main condensers, to replace water lost from evaporation and drift from the CTs, and to maintain dissolved solids at design equilibrium. A small fraction of water withdrawn from the river is used as feedwater for production of demineralized water (for use in nuclear steam supply system primary and secondary cooling loops) and other purposes. Cooling water not consumed by evaporation and drift losses and other treated wastewater streams is ultimately discharged back to the Ohio River in accordance with the NPDES permit for the BVPS–1 and 2 site issued by the Pennsylvania Department of Environmental Protection.

Municipal water from MWA supplies the station domestic water distribution system. Sanitary wastewater is treated in the BVPS–1 and 2 sewage treatment plants. Though the BVPS–1 and 2 site originally drew water from onsite wells and the Ohio River as supply sources for domestic water, no groundwater is currently used at BVPS–1 and 2, and no future use of groundwater is anticipated.

Potential water use impacts from the proposed action include hydrological alterations to the Ohio River and changes to plant water supply. Water from the BVPS–1 SWS is discharged to the BVPS–1 CWS, and water from the BVPS–2 SWS (excluding up to 8,400 gallons per minute (gpm) discharged to the emergency outfall structure) is discharged to the BVPS–2 CWS. This makeup water replaces consumptive losses due to evaporation and drift from the CTs. The excess makeup overflows at the CT basin and is directed back to the river as CT blowdown. CT blowdown flow also keeps dissolved solids in the CWSs within design limits.

Makeup flows to the CWSs would be essentially unchanged from pre-EPU conditions. Since the consumptive loss would increase (due to increased evaporation), less water would overflow the basin as CT blowdown when operating at the EPU conditions, leading to an increase in the maximum dissolved solids concentration of the blowdown by approximately 7 percent, with an increase in blowdown temperature of less than 3 °F at design conditions noted above, and a decrease in blowdown flow amounts approximately equivalent to the increase in evaporation rates. With respect to these changes, FENOC determined that the combined maximum monthly average blowdown flows for the BVPS–1 and 2 units operating at the EPU maximum power levels of 2,900 MWt would be less than 42,500 gpm. BVPS–1 and 2 operational monitoring data indicate that this is likely a conservative upper-bound estimate; for a recent 2-year period prior to power uprate (2001–2002), actual maximum monthly average blowdown discharge flow from BVPS–1 and 2 was approximately 38,000 gpm.

Predicted monthly average temperature differences between the blowdown and the ambient river water at current authorized maximum power levels range from 2.4 °F in August to 28.6 °F in January. During June through August, when ambient river temperatures under this prediction are highest (75–80 °F), this temperature differential ranges as high as 7.2 °F. BVPS–1 and 2 operational monitoring indicates that this range is appropriate for periods of high ambient water temperature. For example, average temperature differential between BVPS–1 and 2 blowdown and the ambient river was approximately 5.5 °F for August 2002, a month in which both BVPS–1 and 2 units were operated at or near full power and ambient temperature of the Ohio River averaged 82 °F, at or near its highest of the year. Considering the expected maximum increase of less than 3 °F in blowdown temperature at design conditions noted above, FENOC therefore expects that this monthly average temperature differential during summer months when ambient river temperatures are highest (between June and August) would range from approximately 5 °F to 10 °F when both units are operating at maximum power levels of 2,900 MWt. As noted above, temperature effects would not be expected to challenge NPDES permit parameters or EPA standards for the Ohio River.

The annual average flow of the Ohio River at the BVPS–1 and 2 site is 39,503 cubic feet per second (cfs; or 1.25×10^{12} cubic feet per year), which meets NRC's annual flow criterion for classification as a small river. The results of FENOC's analysis indicate that the lowest average flow in the Ohio River at the BVPS site is approximately 5,300 cfs, which occurs once in 10 years for 7-day duration. Based on estimates from the U.S. Army Corps of Engineers, the minimum expected flow under conditions corresponding to the lowest flow of record, which occurred in 1930, is approximately 4,000 cfs. Consumptive water losses resulting from BVPS–1 and 2 operation comprise a very small fraction of flow in the Ohio River, even under low flow conditions. FENOC estimates that the maximum consumptive loss that would occur if both BVPS–1 and 2 were operated at their maximum uprated power level (2,900 MWt per unit) would be approximately 59 cfs or 1.1 percent and 1.5 percent of the once-in-10-year low flow rate and the lowest flow of record of the Ohio River, respectively.

The EPU would not involve any configuration change to the intake structure. The pump capacity would not change; therefore, there would not be an increase in the rate of withdrawal of water from the Ohio River. There would be a slight increase in the amount of Ohio River water consumed as a result of the EPU under all cooling modes of operation due to increased evaporative losses. However, the increased evaporative loss would be insignificant relative to the flow in the Ohio River, even under low flow conditions. Therefore, the NRC staff concludes that there would be no significant impact to the hydrological pattern of the Ohio River, and there would be no significant impact to plant water supply due to the proposed action.

Discharge Impacts

Once cooling water from the BVPS–1 plant river and raw water system has served its plant components, it is discharged to the BVPS–1 CWS to make up operational water losses from that system. Similarly, once cooling water from the BVPS–2 SWS has served its plant components, most of it is discharged to the BVPS–2 CWS downstream from the main condenser to replace operational losses from that system. As much as 8,400 gpm (19 cfs) originating from the BVPS–2 primary (reactor plant) heat exchangers and components is discharged to the Ohio River via the emergency outfall structure to reduce silt accumulation in that system. Under normal plant operations, the temperature of this discharge to the emergency outfall structure is approximately 12 °F above ambient river temperature. FENOC calculations indicate that operation at the EPU power level of 2,900 MWt would increase this temperature by less than 1 °F.

Makeup water is supplied to the BVPS–1 closed-loop CWS by discharging the plant river and raw water (service water for BVPS–2) into the circulating water condenser discharge lines. In these systems, water heated by passage through the main condensers is circulated through the CTs, where waste heat is removed primarily by evaporation. The cooled water, which accumulates in a basin beneath each CT, is recirculated back through the main condensers. CWS system flow would remain essentially unchanged following the EPU. The increased levels of rejected heat resulting from an increase in turbine exhaust flow would increase the CWS condenser outlet temperature by less than 3 °F at bounding design condition.

No additional chemical usage is planned as a result of operation at EPU conditions. No additional pumps to increase water usage would be added. Therefore, total chemical mass and concentration in the service and river water systems would not be changed, and the chemical mass in the CWSs would not be changed. BVPS–1 and 2 site operations have had no known impact on public health from thermophilic microbial pathogens. Risk to human health is low due to poor conditions for supporting populations of such organisms in the Ohio River, including areas affected by the thermal discharge, and low potential for exposure of the public in the thermally affected zone.

The impacts of continued dredging generally were determined to be minor for other resources, including aquatic macroinvertebrates, fish, aquatic vegetation, wetlands, and terrestrial biota (*e.g.*, riparian zone communities). In the Commonwealth of Pennsylvania, these dredging activities require dredging permits issued by the U.S. Army Corps of Engineers and Water Obstruction and Encroachment Permits and Sand and Gravel License Agreements issued by the Pennsylvania Department of Environmental Protection, which act to control these activities to ensure that adverse environmental impacts are minimized. At BVPS–1 and 2, most of the cooling water is recirculated and kept at a relatively high temperature. The once-through cooling water discharged at the emergency outfall structure and the CT blowdown are routinely treated with biocides, including calcium hypochlorite. Some residual chlorine, within limits prescribed in the NPDES permit, may be discharged. These biocide applications significantly reduce the likelihood that microbial pathogens would be discharged into the area of concern or pose occupational health risks. Limited access by members of the public to waters and sediment in the immediate cooling water discharge areas further lowers health risks. Access to the BVPS–1 and 2 site by members of the public is subject to control, and shore-based recreation (*e.g.*, fishing) on the property by the public is not permitted. In addition, the U.S. Coast Guard has established a Restricted Use Zone encompassing all waters extending 200 feet from FENOC's BVPS property line along the southeastern shoreline of the Ohio River. Entry of persons or vessels into this Restricted Use Zone is prohibited unless authorized by the Coast Guard Captain of the Port of Pittsburgh or his designated representative.

FENOC is not aware of any public health concerns or incidents related to the BVPS–1 and 2 site cooling water discharge. In response to FENOC's general request to agencies for information as part of its new and significant information review for the EPU, the Pennsylvania Department of Health indicated that it was not aware of any significant health issues that might result from the EPU. Therefore, the NRC staff concludes that the environmental impacts of the proposed action associated with BVPS–1 and 2 discharge would not be significant.

Impacts on Aquatic Biota

The potential impacts to aquatic biota from the proposed action include impingement, entrainment, thermal discharge effects, and impacts due to transmission line right-of-way maintenance. BVPS–1 and 2 has intake and discharge structures on the Ohio River. The aquatic species evaluated in this EA are those which occur in the vicinity of the intake and discharge structures.

Closed-cycle cooling reduces potential impacts from impingement, entrainment, and thermal discharge. Under normal operating conditions, both BVPS–1 and 2 units are not shut down simultaneously, reducing potential impacts from cold shock. Considered together with the small quantity of river water the BVPS–1 and 2 closed-loop cooling system requires, the potential for fish entrainment and impingement is greatly reduced by the design and operation of the intake structure.

Population increases of some fish species have apparently occurred since BVPS–1 and 2 initiated operation. Annual monitoring of the fish community at BVPS–1 and 2 indicates the presence of special-status fish species at both control and non-control stations. Monitoring conducted at BVPS–1 and 2 from 1976 through 1995 indicated that impacts from entrainment of fish eggs and larvae were not significant, and that impingement losses were small and had little impact on fish populations. Review of BVPS–1 and 2 annual monitoring reports and the BVPS–2 Operating License Stage Environmental Review (ER) indicates that none of these special status species were specifically identified in egg and larvae samples collected during entrainment monitoring. The impacts of impingement of fish and shellfish are negligible, and would not be expected to increase as a result of the proposed action. The BVPS–1 and 2 NPDES permit specifies that the discharge may not change the temperature of the receiving stream by more than 2 °F in any one hour. The data evaluated indicate that the post-EPU discharges would not challenge this NPDES permit parameter.

The EPU would not increase the amount of water withdrawn from the river, and the increased discharge temperature would not compromise the NPDES permit parameters, and therefore, would not result in significant environmental impacts. As discussed in the transmission facility impacts section of this EA, there are no changes in the transmission line right-of-way maintenance practices associated with the proposed action. Therefore, the NRC staff concludes that there are no significant adverse impacts to aquatic biota for the proposed action.

Impacts on Terrestrial Biota

The potential impacts to terrestrial biota from the proposed action include impacts due to transmission line right-of-way maintenance. As discussed in the transmission facility impacts section of this EA, transmission line right-of-way maintenance practices would not change for the proposed action. FENOC does not plan to conduct major refurbishment or significant land-disturbing activities to implement the EPU. Therefore, the NRC staff concludes that there are no significant impacts to terrestrial biota associated with transmission line right-of-way maintenance for the proposed action.

Impacts on Threatened and Endangered Species

Potential impacts to threatened and endangered species from the proposed action include the impacts assessed in the aquatic and terrestrial biota sections of this EA. These impacts include impingement, entrainment, thermal discharge effects, and impacts due to transmission line right-of-way maintenance for aquatic species, and impacts due to transmission line right-of-way maintenance or construction refurbishment activities for terrestrial species.

There are eleven species listed as threatened or endangered under the Federal Endangered Species Act within Beaver County, Pennsylvania. These include the following:

TABLE 1.—THREATENED AND ENDANGERED SPECIES FOR BEAVER COUNTY, PA

Mussels	Northern riffleshell (*Epioblasma torulosa rangiana*), Clubshell (*Pleurobema clava*), Dwarf wedgemussel (*Alasmidonta heterodon*).
Fish	Shortnose sturgeon (*Acipenser brevirostrum*).
Plants	Small-whorted pogonia (*Isotria medeoloides*), Northeastern bulrush (*Scirpus ancistrochaetus*).
Reptiles	Bog turtle (*Clemmys mublenbergii*), Eastern massasauga rattlesnake (*Sistrurus catenatus catenatus*).
Birds	Bald eagle (*Haliaeetus leucocephalus*), Piping plover (*Charadrius melodus*).
Mammals	Indiana bat (*Myotis sodalis*).

Consultations with the FWS have been conducted to verify that this list of threatened or endangered species of potential concern to the BVPS–1 and 2 EPU is accurate. In a letter dated October 2, 2003, the Pennsylvania FWS stated that there are no federally listed or proposed threatened or endangered species under its jurisdiction in the vicinity of BVPS–1 and 2. FWS indicates that no federally listed or proposed threatened and endangered species are known to occur within the project impact area. The NRC staff's review and conclusions for each species is presented in the following paragraphs.

The species of concern consist of three mussels, two plants, two reptiles, two birds, one fish, and one mammal. The three federally listed mussel species were last documented as occurring in the upper Ohio River or lower Allegheny River in early 1900s. The Clubshell mussel (*Pleurobema clava*) and Northern riffleshell mussel (*Epioblasma torulosa rangiana*) have been collected in the French Creek and Allegheny River watersheds in Clarion, Crawford, Erie, Forest, Mercer, Venango, and Warren Counties; no adverse impacts to these mussels are known to occur from the proposed actions.

The two mussel species known to occur in the area are typically found in areas with substrates composed of clean gravel or a mix of sand and gravel, and which have moderate water current. However, the Northern riffleshell mussel has also been collected in quieter waters, such as in the Great Lakes at a depth of greater than 35 feet on suitable substrate. The Northern riffleshell mussel prefers firmly packed gravel or sand. Potential habitats might include islands, nearshore areas, and the head ends of pools. The FWS has not designated critical habitat for this species. Since there has not been extensive dive sampling throughout the study area, it is not known with certainty whether this species occurs in other pools of the Allegheny and Ohio Rivers.

The two federally listed plant species of concern, Small-whorted pogonia (*Isotria medeoloides*) and Northeastern bulrush (*Scirpus ancistrochaetus*), are endangered nationwide and extremely rare. No occurrence records were identified for these species in areas of significance to the BVPS–1 and 2 EPU. Only three populations of Small-whorted pogonia are known to exist in the Commonwealth, none in southwestern Pennsylvania. Information from the Pennsylvania Department of Conservation and Natural Resources indicates that there are no recent historical records of these species in Beaver and Allegheny Counties. Some areas in or near the transmission line corridor may be consistent with the habitat affinities.

The two federally listed reptile species of concern, the Bog turtle (*Clemmys mublenbergii*) and Eastern massasauga rattlesnake, have not been sighted in Beaver or Allegheny Counties. There is little or no suitable wetland habitat on or near the BVPS–1 and 2 site or Beaver Valley-Crescent Line 318 transmission corridor for these species.

The two federally listed bird species, the Bald eagle (*Haliaeetus leucocephalus*) and the Piping plover (*Charadrius melodus*), are endangered, and there are no records of these species on the BVPS–1 and 2 site. According to the FWS, the Bald eagle, a federally listed threatened species, may possibly be found state-wide in Pennsylvania. It is primarily found in riparian areas and is associated with coasts, rivers, and lakes. The Bald eagle usually nests near bodies of water where it feeds. Bald eagles feed primarily on fish, although they may also take a variety of birds, mammals, and turtles when fish are not readily available. Nesting has been known to occur in Butler County, and it is possible that any resident or transient individuals of this species may feed along the Allegheny or Ohio River corridors within the study area.

The Bald eagle species has been observed along the Ohio River portion at the BVPS–1 and 2 site. To date, no known nesting sites of Bald eagles are noted immediately adjacent to areas that may be dredged. In addition, critical habitat has not been identified for the protection of these species within the Ohio River at or near the BVPS–1 and 2 site.

The federally listed fish species, Shortnose sturgeon (*Acipenser brevirostrum*), is an endangered fish species and has never been known to occur in western Pennsylvania; therefore, it is not expected to occur in the impact area.

The federally listed mammal species, the Indiana bat (*Myotis sodalis*), may be found state-wide in suitable habitat in Pennsylvania as part of its summer range. Preferred winter hibernation sites include limestone caves; abandoned coal, limestone, and iron mines; and abandoned tunnels (one colony is currently using an abandoned railroad

tunnel). As many as four winter hibernation sites have been identified in the state to date, including sites in Armstrong County, Blair County, and Somerset County. According to the 1983 USFWS recovery plan for the Indiana bat, there is no critical habitat for the species in Pennsylvania.

Impacts to the eleven threatened and endangered species described above are expected to be small due to one or more of the following: (a) Low potential for occurrence in areas affected by plant and transmission line operation and associated maintenance; (b) protective operation and maintenance practices; and (c) lack of observed impacts as documented by operational monitoring. The FWS has listed several species with ranges that include Pennsylvania as threatened or endangered at the Federal level, but has not designated any areas in the Commonwealth as critical habitat for listed species (50 CFR 17.95, 50 CFR 17.96). There is no federally listed threatened and endangered species critical habitat which has been identified on or near the BVPS–1 and 2 site. Therefore, the species described above would not be significantly affected as a result of the EPU. The NRC staff therefore concludes that there is no effect on threatened and endangered species for the proposed action.

Social and Economic Impacts

Potential social and economic impacts due to the proposed action include changes in tax revenue for Beaver County and changes in the size of the workforce at BVPS–1 and 2.

FENOC is now being assessed annual property taxes by Beaver County, Shippingport Borough, and the South Side Area School District. Revenues received by Beaver County support such programs as engineering, recreation, public safety, public works, and emergency services. Revenues received by the Shippingport Borough support such programs as waste management, public works, and public safety.

FENOC employs a permanent workforce of approximately 1,000 employees and approximately 500 contractors at the BVPS–1 and 2 site. No additional permanent employees would be expected as a result of the EPU. Approximately 55 percent of the permanent workforce live in Beaver County and 27 percent live in Allegheny County. The remaining employees live in various other locations. FENOC refuels BVPS–1 and 2 at intervals of approximately 18 months. During refueling outages, site employment increases by as many as 800 workers for temporary (30 to 40 days) duty, and FENOC expects that similar increases would occur for refueling outages as a result of the EPU. The proposed EPU would not significantly impact the size of the BVPS–1 and 2 labor force and would not have a material effect upon the labor force required for future outages.

FENOC's annual property tax payments for BVPS–1 and 2 averaged less than 1 percent of Beaver County's operating budgets for 2000 to 2002. Given the area's declining populations and sluggish growth pattern, EPU tax-driven land-use changes would generate very little new development and minimal changes in the area's land-use patterns. No tax-driven land-use impacts are anticipated because no additional full-time employees would be expected as a result of the EPU. The amount of future property tax payments for BVPS–1 and 2 post-EPU and the proportion of those payments to the operating budgets of Beaver County, South Side Area School District, and Shippingport Borough are dependent on future market value of the units, future valuations of other properties in these jurisdictions, and other factors.

The NRC staff has reviewed the information provided by the licensee regarding socioeconomic impacts. No significant socioeconomic impacts are anticipated because no permanent additional employees are expected as a result of the EPU.

Summary

The proposed EPU would not result in a significant change in non-radiological impacts in the areas of land use, water use, waste discharges, CT operation, terrestrial and aquatic biota, transmission facility operation, or social and economic factors. No other non-radiological impacts were identified or would be expected. Table 2 summarizes the non-radiological environmental impacts of the proposed EPU at BVPS–1 and 2.

TABLE 2.—SUMMARY OF NON-RADIOLOGICAL ENVIRONMENTAL IMPACTS

Land Use	No significant land use modifications; no refurbishment activities with land impacts on historic and archaeological resources.
Cooling Tower	No significant aesthetic impact, slightly larger plume size; no significant increase in noise; no significant fogging or icing.
Transmission Facilities	No physical modifications to transmission lines; lines meet shock safety requirements; no changes to right-of-ways; small increase in electrical current would cause small increase in electromagnetic field around transmission lines.
Water Use	No configuration change to intake structure; no increased rate of withdrawal; slight increase in water consumption due to increased evaporation; no water-use conflicts. No change in ground water use.
Discharge	Increase in water temperature discharged to Ohio River; will meet thermal discharge limits in current NPDES permit at EPU conditions; no additional chemical usage is planned as a result of operation at EPU conditions. EPU will not change conclusions made in the FES.
Aquatic Biota	No additional impact expected on aquatic biota.
Terrestrial Biota	Pennsylvania FWS found no adverse impact from EPU; no additional impact on terrestrial plant or animal species.
Threatened and Endangered Species.	There are eleven federally listed species in Beaver County; EPU will have no effect on these species.
Social and Economic	No significant change in size of BVPS–1 and 2 labor force required for plant operation or future refueling outages.

Radiological Impacts

Radioactive Waste Stream Impacts

BVPS–1 and 2 uses waste treatment systems designed to collect, process, and dispose of gaseous, liquid, and solid wastes that might contain radioactive material in a safe and controlled manner such that discharges are in accordance with the requirements of Title 10 of the *Code of Federal Regulations*, part 20 (10 CFR part 20), ''STANDARDS FOR PROTECTION AGAINST RADIATION,'' and 10 CFR Part 50, ''DOMESTIC LICENSING OF PRODUCTION AND UTILIZATION FACILITIES,'' Appendix I. These radioactive waste streams are

discussed in the FESs for BVPS–1 and 2.

The proposed EPU would not result in changes in the operation or design of equipment for the gaseous, liquid, or solid waste systems.

Gaseous Radioactive Waste and Offsite Doses

During normal operation, the gaseous effluent treatment systems process and control the release to the environment of gaseous radioactive effluents, including small quantities of noble gases, halogens, tritium, and particulate material. Gaseous radioactive wastes include airborne particulates and gases vented from process equipment and the building ventilation exhaust air. The major sources of gaseous radioactive waste are filtered using charcoal adsorbers, held up for decay using separate pressurized decay tanks, and monitored prior to release to ensure that the dose guidelines of 10 CFR Part 50, Appendix I and the limits of 10 CFR Part 20 are not exceeded.

Gaseous releases of Kr-85 would increase by approximately the percentage of power increase. Isotopes with shorter half-lives would have varying EPU increase percentages up to a maximum of 18 percent. The impact of the EPU on iodine releases would be slightly greater than the percentage increase in power level. The other components of the gaseous release (*i.e.*, particulates via the building ventilation systems and water activation gases) would not be impacted by the EPU, according to analysis using the methodology outlined in NUREG–0017, ''Calculation of Release of Radioactive Materials in Liquid and Gaseous Effluents from Pressurized Water Reactors.'' Tritium releases in the gaseous effluents increase in proportion to their increased production, which is directly related to core power. The impact of the increased activity in the radwaste systems is primarily in the activity shipped offsite as solid waste. Gaseous releases to the environment would not increase beyond the limits of 10 CFR Part 20 and the guidelines of 10 CFR Part 50, Appendix I. Therefore, the increase in offsite dose due to gaseous effluent release following implementation of the EPU would not be significant.

Liquid Radioactive Waste and Offsite Doses

During normal operation, the liquid effluent treatment systems process and control the release of liquid radioactive effluents to the environment, such that the doses to individuals offsite are maintained within the limits of 10 CFR Part 20 and the guidelines of 10 CFR Part 50, Appendix I. The liquid radioactive waste systems are designed to process the waste and then recycle it within the plant as condensate, reprocess it through the radioactive waste system for further purification, or discharge it to the environment as liquid radioactive waste effluent in accordance with State and Federal regulations.

To bound the estimated impact of EPU on the annual offsite releases, the licensee used the highest percentage change in activity levels of isotopes in each chemical grouping found in the primary reactor coolant and secondary fluids that characterize each unit. The licensee then applied the values to the applicable gaseous and liquid effluent pathways. The percentage change was applied to the doses reported in the licensee's radioactive effluent reports for 1997 through 2001 (adjusted to reflect a 100-percent capacity factor) to calculate the offsite doses following the EPU. The licensee concluded that although the doses increased, they remained below the regulatory requirements of 10 CFR Part 20 and the guidelines of Appendix I to 10 CFR Part 50.

The EPU would increase the liquid effluent release concentrations by approximately 14 percent, as this activity is based on the long-term reactor coolant system (RCS) and secondary side activity and on waste volumes. Tritium releases in liquid effluents would increase in proportion to their increased production, which is directly related to core power and is allocated between the gaseous and liquid releases in this analysis in the same proportion as pre-EPU releases. However, doses from liquid releases to the environment would not increase beyond the limits of 10 CFR Part 20 and the guidelines of 10 CFR Part 50, Appendix I. Therefore, there would not be a significant environmental impact from the additional amount of radioactive material generated following implementation of the EPU.

Solid Radioactive Wastes

The solid radioactive waste system collects, processes, packages, and temporarily stores radioactive dry and wet solid wastes prior to shipment offsite and permanent disposal. The volume of solid waste is not expected to increase proportionally with the EPU increment, since the EPU neither would appreciably impact installed equipment performance, nor would it require drastic changes in system operation or maintenance. Only minor, if any, changes in waste generation volume are expected. This would include the small increase in volume of condensate polishing resins in BVPS–2. However, it is expected that the activity inventories for most of the solid waste would increase proportionately to the increase in long half-life coolant activity. While the total long-lived activity contained in the waste is expected to be bounded by the percentage of the EPU, the increase in the overall volume of waste generation resulting from the EPU is expected to be minor. Therefore, no significant additional waste would be generated due to operation at EPU conditions. Since operation at EPU conditions would not increase the SG blowdown, no significant additional solid waste resin would be generated.

Spent fuel from BVPS–1 and 2 is transferred from the reactors and stored in the respective spent fuel storage pools. There is sufficient capacity in the BVPS–1 fuel storage pool to accommodate that unit, including full core discharge, through the end of its current license term. FENOC anticipates that the capacity of the BVPS–2 spent fuel pool would be exhausted by approximately year 2007, although requests for approval of increased capacity may be undertaken. The increased power level of the EPU would require additional energy for each cycle. To accommodate this extra energy, it is expected that additional fresh feed fuel assemblies would be needed in the core designs. The specific number of feed fuel assemblies (or discharge assemblies) for each cycle will be determined during the core design process, and will take into account expected energy carryover from the previous cycle. FENOC has determined that four additional fresh fuel assemblies would be needed for each refueling under EPU conditions to meet the higher energy needs.

Additional storage capacity would be required beyond the current license terms if spent fuel stored in the pools cannot be transferred to a permanent repository. Installation of additional onsite spent fuel storage capacity, if elected, is an action licensed by the NRC separately from EPU. Current ongoing criticality analysis conducted by the licensee may free up presently unavailable storage in the upcoming months. FENOC plans to request an amendment to increase spent fuel pool storage capacity and to seek approval for dry cask storage at BVPS–1 and 2 by 2014. At this time, the NRC staff concludes that there would be no significant environmental impacts resulting from storage of the additional fuel assemblies.

Direct Radiation Doses Offsite

The licensee evaluated the direct radiation dose to the unrestricted area and concluded that it is not a significant exposure pathway. Since the EPU would only slightly increase the core inventory of radionuclides and the amount of radioactive wastes, the NRC staff concludes that direct radiation dose would not be significantly affected by the EPU and would continue to meet the limits in 10 CFR part 20.

In addition to the dose impact to radioactive gaseous and liquid effluents, the licensee evaluated the dose impact of the EPU on the direct radiation from plant systems and components containing radioactive material to members of the public, as required by 40 CFR part 190.

The licensee's evaluation concluded that the direct radiation doses are not expected to increase significantly over current levels and are expected to remain within the limit of 25 mrem (0.25 mSv) annual whole-body dose equivalent as specified in 40 CFR Part 190.

Occupational Dose

Occupational exposures from in-plant radiation primarily occur during routine maintenance, special maintenance, and refueling operations. An increase in power at BVPS–1 and 2 could increase the radiation levels in the RCS. However, plant programs and administrative controls such as shielding, plant chemistry, and the radiation protection program would help compensate for these potential increases.

The licensee's assessment takes into consideration that following EPU, the operation and layout/arrangement of plant radioactive systems would remain consistent with the original design. The EPU assessment takes into account that normal operational dose rates and dose to members of the public and to plant workers must continue to meet the requirements of 10 CFR Part 20 and radioactive effluent release license conditions.

The NRC staff has evaluated the licensee's plan regarding occupational exposure related to the EPU. The licensee has evaluated the impact of the EPU on the radiation source terms in the reactor core, irradiated fuels/objects, RCS and downstream radioactive systems. These source terms are expected to increase by approximately 7.9 percent after a core power uprate from 2689 MWt to 2900 MWt. The radiation exposure received by plant personnel would be expected to increase by approximately the same percentage. The above increase in radiation levels would not affect the radiation zoning or shielding requirements in the various areas of the plant because the increase due to EPU would be offset by the conservatism in the pre-EPU ''design-basis'' source terms used to establish the radiation zones by BVPS–1 and 2 Technical Specifications (TSs) that limit the RCS concentrations to levels well below the design-basis source terms, and by conservative analytical techniques used to establish shielding requirements. Regardless, individual worker exposures would be maintained within acceptable limits by the site Radiation Protection Program, which controls access to radiation areas. In addition, procedural controls and As Low as Reasonably Achievable (ALARA) techniques are used to limit doses in areas having increased radiation levels. Therefore, the annual average collective occupational dose after the EPU is implemented would still be well below the value expected when the FESs were published.

Summary of Dose Impacts

On the basis of the NRC staff's review of the BVPS–1 and 2 license amendment request, the staff concludes that the proposed 8-percent power uprate would not have a significant effect on occupational dose or members of the public from radioactive gaseous and liquid effluent releases. The licensee has programs and procedures in place to ensure that radiation doses are maintained ALARA in accordance with the requirements of 10 CFR 20.1101, Appendix I to 10 CFR Part 50, and 40 CFR Part 190. Therefore, the staff finds the dose impacts from the proposed EPU at the BVPS–1 and 2 to be acceptable from a normal operations perspective.

Postulated Accident Doses

As a result of implementation of the proposed EPU, there would be an increase in the source term used in the evaluation of some of the postulated accidents in the FESs. The inventory of radionuclides in the reactor core is dependent upon power level; therefore, the core inventory of radionuclides could increase by as much as 8 percent. The concentration of radionuclides in the reactor coolant may also increase by as much as 8 percent; however, this concentration is limited by the BVPS–1 and 2 TSs. Therefore, the reactor coolant concentration of radionuclides would not be expected to increase significantly. This coolant concentration is part of the source term considered in some of the postulated accident analyses. Some of the radioactive waste streams and storage systems evaluated for postulated accidents may contain slightly higher quantities of radionuclides. For those postulated accidents where the source term has increased, the calculated potential radiation dose to individuals at the site boundary (the exclusion area) and in the low population zone would be increased over values presented in the FESs. As a result of the proposed EPU, plant radioactive source terms would be anticipated to increase proportionally to the actual power level increase.

The NRC staff has reviewed the licensee's analyses and performed confirmatory calculations to verify the acceptability of the licensee's calculated doses under accident conditions. The NRC staff's independent review of dose calculations under postulated accident conditions determined that dose would be within regulatory limits. Therefore, the NRC staff concludes that the EPU would not significantly increase the consequences of accidents and would not result in a significant increase in the radiological environmental impact of BVPS–1 and 2 from postulated accidents.

Fuel Cycle and Transportation Impacts

The environmental impacts of the fuel cycle and transportation of fuels and wastes are described in Tables S–3 and S–4 of 10 CFR 51.51 and 10 CFR 51.52, respectively. An additional NRC generic EA (53 FR 30355, dated August 11, 1988, as corrected by 53 FR 32322, dated August 24, 1988) evaluated the applicability of Tables S–3 and S–4 to higher burnup cycles and concluded that there is no significant change in environmental impact from the parameters evaluated in Tables S–3 and S–4 for fuel cycles with uranium enrichments up to 5 weight percent Uranium-235 and burnups less than 60,000 megawatt (thermal) days per metric ton (MWd/MTU). Both BVPS–1 and 2 would maintain their nominal 18-month refueling cycles with the EPU. Therefore, the environmental impacts of the EPU would remain bounded by the impacts in Tables S–3 and S–4 and would not be significant.

Summary

The proposed EPU would not significantly increase the potential radiological consequences of design-basis accidents, would not result in a significant increase in occupational or public radiation exposure, and would not result in significant additional fuel cycle environmental impacts. Accordingly, the Commission concludes that there are no significant radiological environmental impacts associated with

the proposed action. Table 3 summarizes the radiological environmental impacts of the proposed EPU at BVPS–1 and 2.

Alternatives to Proposed Action

As an alternative to the proposed action, the NRC staff considered denial of the proposed EPU (*i.e.*, the ''no-action'' alternative). Denial of the application would result in no change in the current environmental impacts. However, if the EPU were not approved, other agencies and electric power organizations may be required to pursue other means of providing electric generation capacity to offset future demand such as fossil fuel power generation. Construction and operation of a fossil-fueled plant would create impacts in air quality, land use, and waste management significantly greater than those identified for the EPU at BVPS–1 and 2.

Implementation of the proposed EPU would have less impact on the environment than the construction and operation of a new fossil-fueled generating facility or the operation of fossil-fueled facilities outside the service area.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered in the FESs.

TABLE 3.—SUMMARY OF RADIOLOGICAL ENVIRONMENTAL IMPACTS

Gaseous Effluents and Doses.	Slight increase in dose due to gaseous effluents; doses to individuals offsite will remain within NRC limits.
Liquid Effluents and Doses ..	14-percent increase in liquid effluent release concentrations; 14-percent increase for doses due to liquid effluent pathway are still well within the 10 CFR Part 50, Appendix I guidelines, so no significant increase in dose to public is expected.
Solid Radioactive Waste	Volume of solid waste is not expected to increase; within FES estimate; increase in amount of spent fuel assemblies; future application for dry cask storage.
In-plant Dose	Occupational dose could increase by 7.9 percent; will remain within FES estimate.
Direct Radiation Dose	Dose expected to increase the same percentage as the EPU for dose rates offsite; expected annual dose continues to meet NRC/EPA limits.
Postulated Accidents	Licensee concluded doses are within NRC limits.
Fuel Cycle and Transportation.	Impacts in Tables S–3 and S–4 in 10 CFR Part 51, ''ENVIRONMENTAL PROTECTION REGULATIONS FOR DOMESTIC LICENSING AND RELATED REGULATORY FUNCTIONS'' are bounding.

Agencies and Persons Consulted

In accordance with its stated policy, on May 3, 2006, the NRC staff consulted with the Pennsylvania State official, Lawrence Ryan, of the Pennsylvania Department of Environmental Protection, regarding the environmental impact of the proposed action. The State official had no comments.

Finding of No Significant Impact

On the basis of the environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to the proposed action, see the licensee's application dated October 4, 2004, as supplemented by letter dated July 28, 2005. Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room (PDR), located at One White Flint North, Public File Area O1F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible electronically from the Agencywide Documents Access and Management System (ADAMS) Public Electronic Reading Room on the NRC Web site, *http://www.nrc.gov/reading-rm/adams.html.* Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS should contact the NRC PDR Reference staff at 1–800–397–4209, or 301–415–4737, or send an e-mail to *pdr@nrc.gov.*

DATES: The comment period expires June 8, 2006. Comments received after this date will be considered if it is practical to do so, but the Commission is only able to assure consideration of comments received on or before June 8, 2006.

ADDRESSES: Submit written comments to Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Mail Stop T–6D59, Washington, DC 20555–0001. Written comments may also be delivered to 11545 Rockville Pike, Room T–6D59, Rockville, Maryland 20852 from 7:30 a.m. to 4:15 p.m. on Federal workdays. Copies of written comments received will be electronically available at the NRC's Public Electronic Reading Room (PERR) link, *http://www.nrc.gov/reading-rm/adams.html,* on the NRC Web site or at the NRC's Public Document Room, located at One White Flint North, Public File Area O1F21, 11555 Rockville Pike (first floor), Rockville, Maryland 20852. 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 at 1–800–397–4209, or 301–415–4737, or by e-mail to *pdr@nrc.gov.*

SUPPLEMENTARY INFORMATION: The NRC is considering issuance of amendments to Facility Operating License Nos. DPR–66 and NPF–73 issued to FENOC for operation of BVPS–1 and 2 located in Beaver County, Pennsylvania.

FOR FURTHER INFORMATION CONTACT: Timothy G. Colburn, Office of Nuclear Reactor Regulation, Mail Stop O8–C4, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, by telephone at 301–415–1402, or by e-mail at *tgc@nrc.gov.*

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

For the Nuclear Regulatory Commission.

Timothy G. Colburn,

Senior Project Manager, Plant Licensing Branch I–1, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. E6–6999 Filed 5–8–06; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on the Medical Uses of Isotopes: Meeting Notice

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Updated notice of meeting.

SUMMARY: The U.S. Nuclear Regulatory Commission will convene a teleconference meeting of the Advisory Committee on the Medical Uses of Isotopes (ACMUI) on May 23, 2006. The topic of the discussions will be: (1) Amendment to the ACMUI's Bylaws; (2) Potential Changes to 10 CFR part 35.

Purpose: Discuss issues related to 10 CFR part 35, Medical Use of Byproduct Material.

Date and Time for Closed Session Meeting: May 23, 2006, from 2:30 p.m. to 3 p.m. Eastern standard Time. This session will be closed so that NRC staff and ACMUI members can discuss information relating solely to internal personnel rules.

Dates and Times for Public Meetings: May 23, 2006, from 3 p.m. to 5 p.m. Eastern Standard Time.

Public Information: Any member of the public who wishes to participate in the teleconference discussion may contact Mohammad S. Saba for contact information.

Conduct of Meeting: Leon S. Malmud, M.D., will chair the meeting. Dr. Malmud will conduct the meeting in a manner that will facilitate the orderly conduct of business. The following procedures apply to public participation in the meeting:

1. Persons who wish to provide a written statement should submit a reproducible copy to Mohammad S. Saba, U.S. Nuclear Regulatory Commission, Mail Stop T8F03, Washington, DC 20555. Alternatively, an e-mail can be submitted to *mss@nrc.gov*. Submittals must be postmarked or e-mailed by May 15, 2006, and must pertain to the topics on the agenda for the meeting.

2. Questions from members of the public will be permitted during the meeting, at the discretion of the Chairman.

3. The transcript and written comments will be available for inspection on NRC's web site (*http://www.nrc.gov*) and at the NRC Public Document Room, 11555 Rockville Pike, Rockville, MD 20852–2738, telephone (800) 397–4209, on or about August 20, 2006.

This meeting will be held in accordance with the Atomic Energy Act of 1954, as amended (primarily section 161a); the Federal Advisory Committee Act (5 U.S.C. App); and the Commission's regulations in Title 10, U.S. Code of Federal Regulations, part 7.

Dated at Rockville, Maryland, ths 3rd day of May 2006.

For the Nuclear Regulatory Commission.

Andrew L. Bates,

Advisory Committee Management Officer.

[FR Doc. E6–6996 Filed 5–8–06; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Sunshine Act; Meetings

DATE: Weeks of May 8, 15, 22, 29, June 5, 12, 2006.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and closed.

MATTERS TO BE CONSIDERED:

Week of May 8, 2006

There are no meetings scheduled for the Week of May 8, 2006.

Week of May 15, 2006—Tentative

Monday, May 15, 2006

12:55 p.m. Affirmation Session (Public Meeting) (Tentative).

a. Pa'ina Hawaii, LLC, LBP–06–4, 63 NRC 99 (Jan. 24, 2006) (admitting three safety contentions and standing); LBP–06–12, 63 NRC— (March 24, 2006) (Tentative).

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*.

3:30 p.m. Discussion of Management Issues (closed—ex. 2).

Tuesday, May 16, 2006

9:30 a.m. Briefing on Results of the Agency Action Review Meeting—Reactors/Materials (Public Meeting) (Contact: March Tonacci, (301) 415–4045.)

This meeting will be webcast live at the Web address, *http://www.nrc.gov*.

Week of May 22, 2006—Tentative

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.

Week of May 29, 2006—Tentative

Wednesday, May 31, 2006

1 p.m. Discussion of Security Issues (closed—ex. 1).

Week of June 5, 2006—Tentative

Wednesday, June 7, 2006

9:30 a.m. Discussion of Security Issues (closed—ex. 1 & 3).

Week of June 12, 2006—Tentative

There are no meetings scheduled for the Week of June 12, 2006.

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* 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.

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The NRC Commission Meeting Schedule can be found on the Internet at: *http://www.nrc.gov/what-we-do/policy-making/schedule.html*.

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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.

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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: May 4, 2006.

R. Michelle Schroll,

Office of the Secretary.

[FR Doc. 06–4364 Filed 5–5–06; 8:45 am]

BILLING CODE 7590–01–M

NUCLEAR REGULATORY COMMISSION

Biweekly Notice; Applications and Amendments to Facility Operating Licenses Involving No Significant Hazards Considerations

I. Background

Pursuant to section 189a.(2) of the Atomic Energy Act of 1954, as amended (the Act), the U.S. Nuclear Regulatory Commission (the Commission or NRC staff) is publishing this regular biweekly notice. The Act requires the Commission publish notice of any amendments issued, or proposed to be issued and grants the Commission the authority to issue and make immediately effective any amendment to an operating license upon a

determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This biweekly notice includes all notices of amendments issued, or proposed to be issued from April 14, 2006 to April 27, 2006. The last biweekly notice was published on April 25, 2006 (71 FR 23952).

Notice of Consideration of Issuance of Amendments to Facility Operating Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. Within 60 days after the date of publication of this notice, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene.

Normally, the Commission will not issue the amendment until the expiration of 60 days after the date of publication of this notice. The Commission may issue the license amendment before expiration of the 60-day period provided that its final determination is that the amendment involves no significant hazards consideration. In addition, the Commission may issue the amendment prior to the expiration of the 30-day comment period should circumstances change during the 30-day comment period such that failure to act in a timely way would result, for example in derating or shutdown of the facility. Should the Commission take action prior to the expiration of either the comment period or the notice period, it will publish in the **Federal Register** a notice of issuance. Should the Commission make a final No Significant Hazards Consideration Determination, any hearing will take place after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D22, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the Commission's Public Document Room (PDR), located at One White Flint North, Public File Area O1F21, 11555 Rockville Pike (first floor), Rockville, Maryland. The filing of requests for a hearing and petitions for leave to intervene is discussed below.

Within 60 days after the date of publication of this notice, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's ''Rules of Practice for Domestic Licensing Proceedings'' in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.309, which is available at the Commission's PDR, located at One White Flint North, Public File Area 01F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible from the Agencywide Documents Access and Management System's (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, *http://www.nrc.gov/reading-rm/doc-collections/cfr/*. If a request for a hearing or petition for leave to intervene is filed within 60 days, the Commission or a presiding officer designated by the Commission or by the Chief Administrative Judge of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the Chief Administrative Judge of the Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order.

As required by 10 CFR 2.309, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following general requirements: (1) The name, address, and telephone number of the requestor or petitioner; (2) the nature of the requestor's/petitioner's right under the Act to be made a party to the proceeding; (3) the nature and extent of the requestor's/petitioner's property, financial, or other interest in the proceeding; and (4) the possible effect of any decision or order which may be entered in the proceeding on the requestor's/petitioner's interest. The petition must also set forth the specific contentions which the petitioner/requestor seeks to have litigated at the proceeding.

Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner/requestor shall provide a brief explanation of the bases for the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner/requestor intends to rely in proving the contention at the hearing. The petitioner/requestor must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner/requestor intends to rely to establish those facts or expert opinion. The petition must include sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner/requestor to relief. A petitioner/requestor who fails to satisfy these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing.

If a hearing is requested, and the Commission has not made a final determination on the issue of no significant hazards consideration, the Commission will make a final

determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held. If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment. If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed by: (1) First class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Staff; (2) courier, express mail, and expedited delivery services: Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852, Attention: Rulemaking and Adjudications Staff; (3) e-mail addressed to the Office of the Secretary, U.S. Nuclear Regulatory Commission, *HearingDocket@nrc.gov*; or (4) facsimile transmission addressed to the Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC, Attention: Rulemakings and Adjudications Staff at (301) 415–1101, verification number is (301) 415–1966. A copy of the request for hearing and petition for leave to intervene should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and it is requested that copies be transmitted either by means of facsimile transmission to (301) 415–3725 or by e-mail to *OGCMailCenter@nrc.gov*. A copy of the request for hearing and petition for leave to intervene should also be sent to the attorney for the licensee.

Nontimely requests and/or petitions and contentions will not be entertained absent a determination by the Commission or the presiding officer of the Atomic Safety and Licensing Board that the petition, request and/or the contentions should be granted based on a balancing of the factors specified in 10 CFR 2.309(a)(1)(i)–(viii).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's PDR, located at One White Flint North, Public File Area 01F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible from the ADAMS Public Electronic Reading Room on the Internet at the NRC Web site, *http://www.nrc.gov/reading-rm/adams.html*. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the PDR Reference staff at 1 (800) 397–4209, (301) 415–4737 or by e-mail to *pdr@nrc.gov*.

Dominion Nuclear Connecticut, Inc., Docket No. 50–336, Millstone Power Station, Unit No. 2 New London County, Connecticut

Date of amendment request: January 26, 2006.

Description of amendment request: The proposed amendment would update the list of Nuclear Regulatory Commission-approved documents specified in the Technical Specifications that describe the analytical methods used to determine the core operating limits.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed amendment adds a new document (No. 16) to TS 6.9.1.8 b to complement the list of documents used to determine the core operating limits. These documents have been previously reviewed and approved by the NRC. It also changes the word ''minimum'' to ''maximum'' in TS 5.3.1 to correctly state the limit on nominal average enrichment of reload fuel. This change restores TS 5.3.1 wording to the wording previously approved by the NRC in Amendment 274. The proposed changes do not modify any plant equipment and do not impact any failure modes that could lead to an accident. Additionally, the proposed changes have no effect on the consequence of any analyzed accident since the changes do not affect the function of any equipment credited for accident mitigation. Based on this discussion, the proposed amendment does not increase the probability or consequences of an accident previously evaluated.

2. Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed changes do not modify any plant equipment and there is no impact on the capability of existing equipment to perform its intended functions. No system setpoints are being modified and no changes are being made to the method in which plant operations are conducted. No new failure modes are introduced by the proposed change. The proposed amendment does not introduce accident initiators or malfunctions that would cause a new or different kind of accident. Therefore, the proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

Response: No.

The proposed amendment adds a new document (No. 16) to TS 6.9.1.8 b to complement the list of documents used to determine the core operating limits. These documents have been previously reviewed and approved by the NRC. It also changes the word ''minimum'' to ''maximum'' in TS 5.3.1 to correctly state the limit on nominal average enrichment of reload fuel. This change restores TS 5.3.1 wording to the wording previously approved by the NRC in Amendment 274. The proposed changes have no impact on plant equipment operation. The proposed changes do not revise any setpoints nor do they change the acceptance criteria used in the accident analyses. Therefore, the proposed changes will not result in a reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Lillian M. Cuoco, Senior Nuclear Counsel, Dominion Nuclear Connecticut, Inc., Rope Ferry Road, Waterford, CT 06385.

NRC Branch Chief: Darrell J. Roberts.

Dominion Nuclear Connecticut, Inc., Docket No. 50–423, Millstone Power Station, Unit No. 3 New London County, Connecticut

Date of amendment request: March 28, 2006.

Description of amendment request: The proposed amendment would delete the license condition, Section 2.F of Facility Operating License No. NPF–49, which requires reporting of violations of the requirements in Section 2.C of Facility Operating License No. NPF–49. The change is consistent with the notice published in the **Federal Register** on November 4, 2005, as part of the consolidated line item improvement process.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), an analysis of the issue of no significant hazards consideration is presented below:

1. Does the change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed change involves the deletion of a reporting requirement. The change does not affect plant equipment or operating practices and therefore does not significantly increase the probability or consequences of an accident previously evaluated.

2. Does the change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed change is administrative in that it deletes a reporting requirement. The change does not add new plant equipment, change existing plant equipment, or affect the operating practices of the facility. Therefore, the change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

Response: No.

The proposed change deletes a reporting requirement. The change does not affect plant equipment or operating practices and therefore does not involve a significant reduction in a margin of safety.

Based on the above, the NRC staff proposes that the change presents no significant hazards consideration under the standards set forth in 10 CFR 50.92(c).

Attorney for licensee: Lillian M. Cuoco, Senior Nuclear Counsel, Dominion Nuclear Connecticut, Inc., Rope Ferry Road, Waterford, CT 06385.

NRC Branch Chief: Darrell J. Roberts.

Duke Energy Corporation, Docket Nos. 50–269, 50–270, and 50–287, Oconee Nuclear Station, Units 1, 2, and 3, Oconee County, South Carolina

Date of amendment request: June 15, 2005.

Description of amendment request: The proposed amendments would revise the Technical Specifications to eliminate the out of date requirements associated with the completion of the Keowee Refurbishment modifications on both Keowee Hydro Units.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Involve a significant increase in the probability or consequences of an accident previously evaluated:

The proposed change to the Oconee Technical Specification (TS) 3.8.1 removes out of date requirements associated with temporary extensions to Required Action (RA) Completion Times (CTs) that are no longer applicable because of the completion of the Keowee Refurbishment modifications on both KHUs. The proposed change also removes a Facility Operating License (FOL) License Condition that is no longer needed since the associated TS change is no longer applicable. As such, the proposed change is administrative. No actual plant equipment, operating practices, or accident analyses are affected by this change. Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Create the possibility of a new or different kind of accident from any kind of accident previously evaluated:

The proposed change to the Oconee TSs and FOLs removes requirements associated with a temporary extension of TS 3.8.1 RA CTs that are no longer applicable because of the completion of the Keowee Refurbishment modifications on both KHUs. As such, the proposed changes are administrative. No actual plant equipment, operating practices, or accident analyses are affected by this change. No new accident causal mechanisms are created as a result of this change. The proposed change does not impact any plant systems that are accident initiators; neither does it adversely impact any accident mitigating systems. Therefore, this change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Involve a significant reduction in a margin of safety.

The proposed change does not adversely affect any plant safety limits, set points, or design parameters. The change also does not adversely affect the fuel, fuel cladding, Reactor Coolant System, or containment integrity. The proposed change eliminates requirements that are no longer applicable and is administrative in nature. Therefore, the proposed change does not involve a reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Ms. Lisa F. Vaughn, Legal Department (PB05E), Duke Energy Corporation, 422 South Church Street, Charlotte, North Carolina 28201–1006.

NRC Branch Chief: Evangelos C. Marinos.

Energy Northwest, Docket No. 50–397, Columbia Generating Station, Benton County, Washington

Date of amendment request: April 17, 2006.

Description of amendment request: The proposed change allows a delay time for entering a supported system technical specification (TS) when the inoperability is due solely to an inoperable snubber, if risk is assessed and managed consistent with the program in place for complying with the requirements of paragraph 50.65(a)(4) of Title 10 of the Code of Federal Regulations (10 CFR). Limiting Condition for Operation (LCO) 3.0.8 is added to the TS to provide this allowance and define the requirements and limitations for its use.

This change was proposed by the industry's Technical Specification Task Force (TSTF) and is designated TSTF–372, Revision 4. The NRC staff issued a notice of opportunity for comment in the **Federal Register** on November 24, 2004 (69 FR 68412), on possible amendments concerning TSTF–372, including a model safety evaluation and model no significant hazards consideration (NSHC) determination, using the consolidated line item improvement process. The NRC staff subsequently issued a notice of availability of the models for referencing in license amendment applications in the **Federal Register** on May 4, 2005 (70 FR 23252). The licensee affirmed the applicability of the following NSHC determination in its application dated April 17, 2006.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), an analysis of the issue of no significant hazards consideration is presented below:

Criterion 1—The Proposed Change Does Not Involve a Significant Increase in the Probability or Consequences of an Accident Previously Evaluated

The proposed change allows a delay time for entering a supported system TS when the inoperability is due solely to an inoperable snubber if risk is assessed and managed. The postulated seismic event requiring snubbers is a low-probability occurrence and the overall TS system safety function would still be available for the vast majority of anticipated challenges. Therefore, the probability of an accident previously evaluated is not significantly increased, if at all. The consequences of an accident while relying on allowance provided by proposed LCO 3.0.8 are no different than the consequences of an accident while relying on the TS required actions in effect without the allowance provided by proposed LCO 3.0.8. Therefore, the consequences of an accident previously evaluated are not significantly affected by this change. The addition of a requirement to assess and manage the risk introduced by this change will further minimize possible concerns. Therefore, this change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

Criterion 2—The Proposed Change Does Not Create the Possibility of a New or Different Kind of Accident From Any Previously Evaluated

The proposed change does not involve a physical alteration of the plant (no new or different type of equipment will be installed). Allowing delay times for entering supported system TS when inoperability is due solely to inoperable snubbers, if risk is assessed and

managed, will not introduce new failure modes or effects and will not, in the absence of other unrelated failures, lead to an accident whose consequences exceed the consequences of accidents previously evaluated. The addition of a requirement to assess and manage the risk introduced by this change will further minimize possible concerns. Thus, this change does not create the possibility of a new or different kind of accident from an accident previously evaluated.

Criterion 3—The Proposed Change Does Not Involve a Significant Reduction in the Margin of Safety

The proposed change allows a delay time for entering a supported system TS when the inoperability is due solely to an inoperable snubber, if risk is assessed and managed. The postulated seismic event requiring snubbers is a low-probability occurrence and the overall TS system safety function would still be available for the vast majority of anticipated challenges. The risk impact of the proposed TS changes was assessed following the three-tiered approach recommended in RG [Regulatory Guide] 1.177. A bounding risk assessment was performed to justify the proposed TS changes. [The proposed LCO 3.0.8 defines limitations on the use of the provision and includes a requirement for the licensee to assess and manage the risk associated with operation with an inoperable snubber.] The net change to the margin of safety is insignificant. Therefore, this change does not involve a significant reduction in a margin of safety.

The NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: William A. Horin, Esq., Winston & Strawn, 1700 K Street, NW., Washington, DC 20006–3817.

NRC Branch Chief: David Terao.

Entergy Operations, Inc., Docket No. 50–368, Arkansas Nuclear One, Unit 2 (ANO–2), Pope County, Arkansas

Date of amendment request: March 20, 2006.

Description of amendment request: The proposed change removes Arkansas Nuclear One, Unit 2 reactor coolant system (RCS) structural integrity requirements contained in Technical Specification (TS) 3.4.10.1. The proposed change is consistent with NUREG–1432, ''Standard Technical Specifications—Combustion Engineering Plants,'' Revision 3.1.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed change to remove the RCS structural integrity controls from the TSs does not impact any mitigation equipment or the ability of the RCS pressure boundary to fulfill any required safety function. Since no accident mitigation or initiators are impacted by this change, no design basis accidents are affected.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of any accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any previously evaluated?

Response: No.

The proposed change will not alter the plant configuration or change the manner in which the plant is operated. No new failure modes are being introduced by the proposed change.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

3. Does the proposed change involve a significant reduction in the margin of safety?

Response: No.

Removal of TS 3.4.10.1 from the TSs does not reduce the controls that are required to maintain the RCS pressure boundary for ASME Code [American Society of Mechanical Engineers' Boiler and Pressure Vessel Code] Class 1, 2, or 3 components. No equipment or RCS safety margins are impacted due to the proposed change.

Therefore, the proposed change does not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Nicholas S. Reynolds, Esquire, Winston and Strawn, 1700 K Street, NW., Washington, DC 20006–3817.

NRC Branch Chief: David Terao.

Florida Power and Light Company, Docket Nos. 50–250 and 50–251, Turkey Point Plant, Units 3 and 4, Miami-Dade County, Florida

Date of amendment request: January 27, 2006.

Description of amendment request: The proposed amendment involves changes to Technical Specifications Section 3/4 9.1, ''Boron Concentration,'' Section 3/4 9.14, ''Spent Fuel Storage,'' and Section 3/4 5.5.1, ''Fuel Storage Criticality.'' The proposed license amendment removes reliance on Boraflex as a neutron absorber in Turkey Point Units 3 and 4 spent fuel pool storage racks. To preclude continued loss of reactivity margin due to the ongoing degradation of Boraflex, the neutron absorbing function currently performed by Boraflex will be replaced by some combination of rod cluster control assemblies, Metamic rack inserts, and administrative controls that require mixing higher reactivity fuel with lower-reactivity fuel.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Would operation of the facility in accordance with the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

No. Operation in accordance with proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated. The proposed amendments do not change or modify the fuel, fuel handling processes, spent fuel storage racks, number of fuel assemblies that may be stored in the spent fuel pool (SFP), decay heat generation rate, or the spent fuel pool cooling and cleanup system. The proposed amendment was evaluated for impact on the following previously evaluated events and accidents:

a. A fuel handling accident (FHA),
b. A cask drop accident,
c. A fuel mispositioning event,
d. A spent fuel pool boron dilution event,
e. A seismic event, and
f. A loss of spent fuel pool cooling event.

The probability of a FHA is not significantly increased because implementation of the proposed amendment will employ the same equipment and process to handle fuel assemblies that is currently used. Also, tests have confirmed that the Metamic inserts can be installed and removed without damaging the host fuel assemblies. The FHA radiological consequences are not increased because the radiological source term of a single fuel assembly will remain unchanged. Therefore, the proposed amendments do not significantly increase the probability or consequences of a FHA.

The proposed amendments do not increase the probability of dropping a fuel transfer cask because they do not introduce any new heavy loads to the SFP and do not affect heavy load handling processes. Also, the insertion of Metamic rack inserts does not increase the consequences of the cask drop accident because the radiological source term of that accident is developed from a non-mechanistically derived quantity of damaged fuel stored in the spent fuel pool. Therefore, the proposed amendments do not significantly increase the probability or consequences of a cask drop accident.

Operation in accordance with the proposed amendment will not change the probability of a fuel mispositioning event because fuel movement will continue to be controlled by approved fuel handling procedures. These procedures continue to require identification

of the initial and target locations for each fuel assembly that is moved. The consequences of a fuel mispositioning event are not changed because the reactivity analysis demonstrates that the same subcriticality criteria and requirements continue to be met for the worst-case fuel mispositioning event.

Operation in accordance with the proposed amendment will not change the probability of a boron dilution event because the systems and events that could affect spent fuel soluble boron are unchanged. The consequences of a boron dilution event are unchanged because the proposed amendment reduces the soluble boron requirement below the currently required value and the maximum possible water volume displaced by the inserts is an insignificant fraction of the total spent fuel pool water volume.

Operation in accordance with the proposed amendment will not change the probability of a seismic event, which is an Act of God. The consequences of a seismic event are not significantly increased because the forcing functions for seismic excitation are not increased and because the mass of storage racks with Metamic inserts is not appreciably increased. Seismic analyses demonstrate adequate stress levels in the storage racks when inserts are installed.

Operation in accordance with the proposed amendment will not change the probability of a loss of SFP cooling event because the systems and events that could affect SFP cooling are unchanged. The consequences are not significantly increased because there are no changes in the SFP heat load or SFP cooling systems, structures or components. Furthermore, conservative analyses indicate that the current design requirements and criteria continue to be met with the Metamic inserts installed.

Based on the above, it is concluded that the proposed amendments do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Would operation of the facility in accordance with the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

No. Operation in accordance with the proposed amendments do not create the possibility of a new or different kind of accident from any accident previously evaluated. The proposed amendments do not change or modify the fuel, fuel handling processes, spent fuel racks, number of fuel assemblies that may be stored in the pool, decay heat generation rate, or the spent fuel pool cooling and cleanup system. The effects of operating with the proposed amendment are listed below. The proposed amendments were evaluated for the potential of each effect to create the possibility of a new or different kind of accident:

a. Addition of inserts to the spent fuel storage racks,
b. New storage patterns,
c. Additional weight from the inserts,
d. Insert movement above spent fuel, and
e. Displacement of fuel pool water by the inserts.

Each insert will be placed between a fuel assembly and the storage cell wall, taking up some of the space available on two sides of the fuel assembly. Tests confirm that the insert can be installed and removed without damaging the fuel assembly. Analyses demonstrate that the presence of the inserts does not adversely affect spent fuel cooling, seismic capability, or subcriticality. The aluminum (alloy 6061) and boron carbide materials of construction have been shown to be compatible with nuclear fuel, storage racks and spent fuel pool environments, and generate no adverse material interactions. Therefore, placing the inserts into the spent fuelpool storage racks can not cause a new or different kind of accident.

Operation with the proposed fuel storage patterns will not create a new or different kind of accident because fuel movement will continue to be controlled by approved fuel handling procedures. These procedures continue to require identification of the initial and target locations for each fuel assembly that is moved. There are no changes in the criteria or design requirements pertaining to spent fuel safety, including subcriticality requirements, and analyses demonstrate that the proposed storage patterns meet these requirements and criteria with adequate margins. Therefore, the proposed storage patterns can not cause a new or different kind of accident.

Operation with the added weight of the Metamic inserts will not create a new or different accident. The net effect of the adding the maximum number of inserts is to add less than one percent to the weight of the loaded racks. Furthermore, the analyses of the racks with Metamic inserts installed demonstrate that the stress levels in the rack modules continue to be considerably less than allowable stress limits. Therefore, the added weight from the inserts can not cause a new or different kind of accident.

Operation with the insert allowed to move above spent fuel will not create a new or different kind of accident. The insert with its handling tool weighs considerably less than the weight of a single fuel assembly. Single fuel assemblies are routinely moved safely over spent fuel assemblies and the same level of safety in design and operation will be maintained when moving the inserts. Furthermore, the effect of a dropped insert to block the top of a storage cell has been evaluated in thermal-hydraulic analyses. Therefore, the movement of inserts can not cause a new or different kind of accident.

Whereas the installed rack inserts will displace a very small fraction of the fuel pool water volume and impose a very small reduction in operator response time to previously-evaluated SFP accidents, the reduction will not promote a new or different kind of accident. Also, displacement of water along two sides of a stored fuel assembly may have some local reduction in the peripheral cooling flow; however, this effect would be small compared to the flow induced through the fuel assembly and would in no way promote a new or different kind of accident.

Based on the above, it is concluded that operation with the proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Would operation of the facility in accordance with the proposed amendment involve a significant reduction in a margin of safety?

No. Operation of the facility in accordance with the proposed amendment does not significantly reduce the margin of safety. The proposed change was evaluated for its effect on current margins of safety related to criticality, structural integrity, and spent fuel heat removal capability. The margin of safety for subcriticality required by 10 CFR 50.68(b)(4) is unchanged. New criticality analysis confirms that operation in accordance with the proposed amendment continues to meet the required subcriticality margins. Also, the margin of safety for SFP soluble boron concentration is actually increased because new analyses require less soluble boron than is currently required, and much less than the value required by Technical Specifications. The structural evaluations for the racks and spent fuel pool with Metamic inserts installed show that the rack and spent fuel pool are unimpaired by loading combinations during seismic motion, and there is no adverse seismic-induced interaction between the rack and Metamic inserts.

The proposed change does not affect spent fuel heat generation or the spent fuel cooling systems. A conservative analysis indicates that the design basis requirements and criteria for spent fuel cooling continue to be met with the Metamic inserts in place, and displacing coolant. Thermal hydraulic analysis of the local effects of an installed rack insert blocking peripheral flow show a small increase in local water and fuel clad temperatures, but will remain within acceptable limits including no departure from nucleate boiling.

Based on these evaluations, operating the facility with the proposed amendment does not involve a significant reduction in any margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: M.S. Ross, Attorney, Florida Power & Light, P.O. Box 14000, Juno Beach, Florida 33408–0420.

NRC Branch Chief: Michael L. Marshall, Jr.

Nuclear Management Company, LLC, Docket No. 50–306, Prairie Island Nuclear Generating Plant, Unit 2, Goodhue County, Minnesota

Date of amendment request: March 13, 2006.

Description of amendment request: The proposed amendment would involve revision of the surveillance test load in Technical Specification (TS) 3.8.1, ''AC Sources—Operating,'' Surveillance Requirement (SR) 3.8.1.3. This license amendment request proposes to revise SR 3.8.1.3 to require

testing D5 and D6 monthly at or above 4000 kW to demonstrate TS operability. In addition to the TS required testing, NMC will continue monthly operation at or above 90 percent of the emergency diesel generator (EDG) rated load to assist in early identification of degraded EDG capabilities which could prevent performance of their safety function.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Do the proposed changes involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

This license amendment request proposes to reduce the Prairie Island Nuclear Generating Plant Unit 2 emergency diesel generator's monthly test loading which demonstrates Technical Specification operability. The proposed test load will continue to assure that both Unit 2 emergency diesel generators have the capacity and the capability to assume the maximum auto-connected loads for Unit 2.

The emergency diesel generators are required to be operable in the event of a design basis accident coincident with a loss of offsite power to mitigate the consequences of the accident. They are also the alternate AC source for a station blackout on the other Prairie Island Nuclear Generating Plant unit. The emergency diesel generators are not accident initiators and therefore this change does not involve a significant increase in the probability of an accident previously evaluated.

The accident analyses assume that at least one safeguards bus is provided with power either from the offsite sources or the emergency diesel generators. The Technical Specification changes proposed in this license amendment request will continue to assure that both Unit 2 emergency diesel generators have the capacity and the capability to assume the maximum auto-connected loads for Unit 2. Thus, the changes proposed in this license amendment request do not involve a significant increase in the consequences of an accident previously evaluated.

The changes proposed in this license amendment do not involve a significant increase the probability or consequences of an accident previously evaluated.

2. Do the proposed changes create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

This license amendment request proposes to reduce the Prairie Island Nuclear Generating Plant Unit 2 emergency diesel generator's monthly test loading which demonstrates Technical Specification operability. The proposed test load will continue to assure that both Unit 2 emergency diesel generators have the capacity and the capability to assume the maximum auto-connected loads for Unit 2.

The proposed Technical Specification changes do not involve a change in the plant design, system operation, or the use of the emergency diesel generators. The proposed changes allow the emergency diesel generator to be tested at a reduced load which envelopes the required safety function loads and continues to demonstrate the capability and capacity of the emergency diesel generators to perform their required functions. There are no new failure modes or mechanisms created due to testing the emergency diesel generators at the proposed test loading. Testing of the emergency diesel generators at the proposed test loading does not involve any modification in the operational limits or physical design of plant systems. There are no new accident precursors generated due to the proposed test loading.

The Technical Specification changes proposed in this license amendment do not create the possibility of a new or different kind of accident from any previously evaluated.

3. Do the proposed changes involve a significant reduction in a margin of safety?

Response: No.

This license amendment request proposes to reduce the Prairie Island Nuclear Generating Plant Unit 2 emergency diesel generator's monthly test loading which demonstrates Technical Specification operability. The proposed test load will continue to assure that both Unit 2 emergency diesel generators have the capacity and the capability to assume the maximum auto-connected loads for Unit 2.

The proposed Technical Specification changes will continue to demonstrate that the emergency diesel generators meet the Technical Specification definition of operability, that is, the proposed testing will demonstrate that the emergency diesel generators will perform their safety function and the necessary emergency diesel generator attendant instrumentation, controls, cooling, lubrication and other auxiliary equipment required for the emergency diesel generators to perform their safety function loads are also tested at this loading. The proposed testing will also continue to demonstrate the capability and capacity of the emergency diesel generators to supply the required Unit 2 loss of offsite power coincident with Unit 1 station blackout loads. Since the proposed surveillance testing will continue to demonstrate operability, and the capability and capacity to supply their required Unit 2 loss of offsite power coincident with Unit 1 station blackout loads, the proposed Technical Specification changes do not involve a significant reduction in a margin of safety.

The Technical Specification changes proposed in this license amendment do not involve a significant reduction in a margin of safety.

Based on the above, the Nuclear Management Company concludes that the proposed amendment presents no significant hazards consideration under the standards set forth in 10 CFR 50.92(c) and, accordingly, a finding of ''no significant hazards consideration'' is justified.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment requests involve no significant hazards consideration.

Attorney for licensee: Jonathan Rogoff, Esquire, Vice President, Counsel & Secretary, Nuclear Management Company, LLC, 700 First Street, Hudson, WI 54016.

NRC Branch Chief: L. Raghavan.

PPL Susquehanna, LLC, Docket Nos. 50–387 and 50–388, Susquehanna Steam Electric Station, Units 1 and 2 (SSES 1 and 2), Luzerne County, Pennsylvania

Date of amendment request: February 1, 2006.

Description of amendment request: The proposed amendment would clarify the Technical Specification (TS) testing frequency for the Surveillance Requirements (SRs) in TS 3.1.4, ''Control Rod Scram Times.''

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The control rod hydraulic scram insertion system is not an initiator to any accident sequence analyzed in the Final Safety Analysis Report (FSAR). The changes do not involve any physical change to structures, systems, or components (SSCs) and do not alter the method of operation or control of SSCs. The current assumptions in the safety analysis regarding accident initiators and mitigation of accidents (including assumed scram insertion times) are unaffected by these changes. No additional failure modes or mechanisms are being introduced and the likelihood of previously analyzed failures remains unchanged.

Operation in accordance with the proposed Technical Specification (TS) ensures that the control rods and associated scram insertion function remain capable of performing the function as described in the FSAR [Final Safety Analysis Report]. Therefore, the mitigative scram functions will continue to provide the protection assumed by the analysis.

Therefore, this change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of

accident from any accident previously evaluated?

Response: No.

The proposed change does not involve a physical alteration of the plant. No new equipment is being introduced, and installed equipment is not being operated in a new or different manner. There are no setpoints affected by this change at which protective or mitigative actions are initiated. This change will not alter the manner in which equipment operation is initiated, nor will the functional demands on credited equipment be changed. No alterations in the procedures that ensure the plant remains within analyzed limits are being proposed, and no changes are being made to the procedures relied upon to respond to an off-normal event as described in the FSAR. As such, no new failure modes are being introduced. The change does not alter assumptions made in the safety analysis and licensing basis.

[Therefore, this change does not create the possibility of a new or different kind of accident from any accident previously evaluated.]

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

The margin of safety is established through equipment design, operating parameters, and the setpoints at which automatic actions are initiated. Operation in accordance with the proposed TS ensures that the control rod scram insertion system remains capable of performing the function as described in the FSAR. Sufficiently rapid insertion of control rods following certain accidents (scram time) will prevent fuel damage, and thereby maintain a margin of safety to fuel damage. No change is being made to the required insertion rate specified in plant Technical Specifications. Clarifying when control rod insertion times must be verified following movement of fuel assemblies, without actually changing the requirement (verification of insertion times will continue to be required whenever work that might impact the rod insertion time is done), does not reduce the margin of safety related to fuel damage.

Therefore, the change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Bryan A. Snapp, Esquire, Assoc. General Counsel, PPL Services Corporation, 2 North Ninth St., GENTW3, Allentown, PA 18101–1179.

NRC Branch Chief: Richard J. Laufer.

PSEG Nuclear LLC, Docket No. 50–354, Hope Creek Generating Station, Salem County, New Jersey

Date of amendment request: October 7, 2005.

Description of amendment request: The proposed amendment would revise the Technical Specifications (TSs) to clarify certain requirements during fuel movement and core alterations. The amendment would make the TSs consistent with the NRC-approved Revision 2 to Technical Specification Task Force (TSTF) Standard Technical Specification Change Traveler, TSTF–51, ''Revise Containment Requirements During Handling Irradiated Fuel and Core Alterations,'' and NUREG–1433, ''Standard Technical Specifications General Electric Plants, BWR [boiling water reactor]/4.''

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the change involve a significant increase in the probability or consequences of an accident previously analyzed?

Response: No.

The proposed changes would revise Technical Specifications (TS) 3.6.5.3.1, FRVS [filtration, recirculation and ventilation system] Ventilation System, and 3.6.5.3.2, FRVS Recirculation System, ACTION b from, ''* * * containment or operations * * *'' to read ''* * * containment and operations * * *'' to be consistent with NUREG–1433, ''Standard Technical Specifications General Electric Plants, BWR/4'' (STS). Technical Specification 3.7.1.2, Service Water, and 3.8.3.2, Distribution—Shutdown, require the addition of ''recently'' to modify irradiated fuel consistent with NRC-approved Revision 2 to Technical Specification Task Force (TSTF) Standard Technical Specification Change Traveler, TSTF–51, ''Revise Containment Requirements During Handling Irradiated Fuel and Core Alterations.'' Technical Specifications 3.8.1.2, A.C. Sources—Shutdown, 3.8.2.2, DC Sources—Shutdown, and 3.8.3.2, Distribution—Shutdown, require that ''CORE ALTERATIONS'' be added to ACTION a.

The proposed changes associated with the fuel handling accident (FHA) do not involve a change to structures, components, or systems that would affect the probability of an accident previously evaluated in the Hope Creek Updated Final Safety Analysis Report (UFSAR). The FHA for Hope Creek is defined as a drop of a fuel assembly over irradiated assemblies in the reactor core 24 hours after reactor shutdown. 10 CFR 50.67, ''Accident Source Term'' (AST), was used to evaluate the dose consequences of a postulated accident. The FHA has been analyzed without credit for Secondary Containment; Filtration, Recirculation and Ventilation System (FRVS); and CREF [control room emergency filtration] system. The resultant radiological consequences are within the acceptance criteria set forth in 10 CFR 50.67 and Regulatory Guide (RG) 1.183. This amendment does not alter the methodology or equipment used in fuel handling operations. The equipment hatch, personnel air locks, other containment penetrations, or any component thereof is not an accident initiator. Actual fuel handling operations are not affected by the proposed changes.

Consequently the probability of a previously analyzed FHA is not affected by the proposed amendment. No other accident initiator is affected by the proposed changes.

Therefore, this proposed amendment does not involve a significant increase in the probability of occurrence or radiological consequences of an accident previously evaluated.

2. Does the change create the possibility of a new or different kind of accident from any accident previously analyzed?

Response: No.

The proposed changes would revise TS 3.6.5.3.1, FRVS Ventilation System and 3.6.5.3.2, FRVS Recirculation System, ACTION b from, ''* * * containment or operations * * *'' to read ''* * * containment and operations * * *'' to be consistent with NUREG–1433, Standard Technical Specifications General Electric Plants, BWR/4'' (STS). TS 3.7.1.2, Service Water, and 3.8.3.2, Distribution—Shutdown, require the addition of ''recently'' to modify irradiated fuel consistent with NRC-approved Revision 2 to Technical Specification Task Force (TSTF) Standard Technical Specification Change Traveler, TSTF–51, ''Revise Containment Requirements During Handling Irradiated Fuel and Core Alterations.'' TS 3.8.1.2 A.C. Sources—Shutdown, 3.8.2.2, D.C. Sources—Shutdown, and 3.8.3.2, Distribution—Shutdown, require that ''CORE ALTERATIONS'' be added to ACTION a.

The proposed amendment will not create the possibility of a new or different type of accident from any accident previously evaluated because changes to the allowable activity in the primary and secondary systems do not result in changes to the design or operation of these systems. The evaluation of the proposed changes indicates that all design standard and applicable safety criteria limits are met. Equipment important to safety will continue to operate as designed. Component integrity is not challenged. The changes do not result in any event previously deemed incredible being made credible. The changes do not result in more adverse conditions or result in any increase in the challenges to safety systems. The systems affected by the changes are used to mitigate the consequences of a potential accident and would not create the possibility of a new or different kind of accident from any previously evaluated.

3. Does the change involve a significant reduction in the margin of safety?

Response: No.

The proposed changes would revise TS 3.6.5.3.1, FRVS Ventilation System and 3.6.5.3.2 FRVS Recirculation System, ACTION b from ''* * * containment or operations * * *'' to read ''* * * containment and operations * * *'' to be consistent with NUREG–1433, ''Standard Technical Specifications General Electric Plants, BWR/4'' (STS). TS 3.7.1.2, Service Water, and 3.8.3.2, Distribution—Shutdown, require the addition of ''recently'' to modify irradiated fuel consistent with NRC approved Revision 2 to Technical Specification Task

Force (TSTF) Standard Technical Specification Change Traveler, TSTF–51, ''Revise Containment Requirements During Handling Irradiated Fuel and Core Alterations.'' TS 3.8.1.2 A.C. Sources—Shutdown, 3.8.2.2 D.C. Sources—Shutdown, and 3.8.3.2 Distribution—Shutdown, require that ''CORE ALTERATIONS'' be added to ACTION a.

The proposed changes revise the TS operational conditions where specific activities represent situations during which significant radioactive releases can be postulated. These operational conditions are consistent with the design basis analysis and are established such that the radiological consequences remain at or below the regulatory guidelines. Safety margins and analytical conservatisms are retained to ensure that the analysis adequately bounds all postulated event scenarios. The proposed TS continue to ensure that the total effective dose equivalent (TEDE) for the control room (CR), the exclusion area boundary (EAB), and low population zone (LPZ) boundaries are below the corresponding acceptance criteria specified in 10 CFR 50.67 and RG 1.183.

Therefore, these changes do not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Jeffrie J. Keenan, Esquire, Nuclear Business Unit—N21, P.O. Box 236, Hancocks Bridge, NJ 08038.

NRC Branch Chief: Darrell J. Roberts.

PSEG Nuclear LLC, Docket No. 50–354, Hope Creek Generating Station, Salem County, New Jersey

Date of amendment request: February 23, 2006.

Description of amendment request: The amendment would revise the Operating License Condition 2.C.(6), ''Fuel Storage and Handling,'' to clarify that the condition does not apply to Nuclear Regulator Commission (NRC)-approved dry spent fuel storage systems. The current condition states no more than a total of three fuel assemblies shall be out of approved shipping containers, fuel assembly storage racks or the reactor at any one time.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed change is a clarification to the Hope Creek operating license to recognize that the dry spent fuel storage system used at the ISFSI [independent spent fuel storage installation] is licensed separately by the NRC under 10 CFR part 72. The change does not affect any SSCs [structure, systems and components] used to operate the reactor or produce electrical power. The change also does not affect SSCs used to shut down the reactor, maintain it in a safe shutdown condition, or mitigate accidents.

The dry storage cask system design is supported by an NRC-approved criticality analysis that demonstrates the system will remain safely subcritical under all normal, off-normal, and credible accident conditions applicable to the dry spent fuel storage system, as defined in the cask CoC holder's 10 CFR part 72 licensing basis. Dry spent fuel storage system loading operations are not addressed in any Part 50 accident as described in Chapter 15 of the HCGS [Hope Creek Generating Station] FSAR [final safety analysis report]. Dry spent fuel storage system loading in the spent fuel pool is governed by procedures that are consistent with the requirements in the HI-STORM 100 System 10 CFR part 72 FSAR. Heavy load handling inside the Part 50 facility associated with cask loading is conducted in accordance with procedures that comply with the site's existing heavy load control program. Because this change does not affect PSEG's [PSEG Nuclear, LLC] heavy load handling procedures and all structures, systems and components used for cask handling will meet the existing commitments to NUREG–0612, a cask drop event remains non-credible as currently described in HCGS FSAR Section 15.7.5.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed change is a clarification to the Hope Creek operating license to recognize that the dry spent fuel storage system is licensed separately by the NRC under 10 CFR part 72. The change does not affect any SSCs used to operate the reactor or produce electrical power. The change also does not affect SSCs used to shut down the reactor, maintain it in a safe shutdown condition, or mitigate accidents.

The dry spent fuel storage system design is supported by an NRC-approved criticality analysis that demonstrates the system will remain safely subcritical under all normal, off-normal, and credible accident conditions, as defined in the cask CoC holder's 10 CFR part 72 licensing basis. Dry spent fuel storage system loading in the spent fuel pool is governed by procedures that are consistent with the requirements in the HI-STORM 100 System 10 CFR 72 FSAR. Heavy load handling inside the Part 50 facility associated with cask loading is conducted in accordance with procedures that comply with the site's existing heavy load control program. Because this change does not affect PSEG's heavy load handling procedures and all structures, systems and components used for cask handling will meet the existing commitments to NUREG–0612, a cask drop event remains non-credible as currently described in HCGS FSAR Section 15.7.5.

Therefore, the proposed change will not create the possibility of a new or different kind of accident from any previously evaluated.

3. Does the proposed change involve a significant reduction in the margin of safety?

Response: No.

The proposed change is a clarification to the Hope Creek operating license to recognize that dry spent fuel storage systems are licensed separately by the NRC under 10 CFR Part 72. The change does not affect any SSCs used to operate the reactor or produce electrical power. The change also does not affect SSCs used to shut down the reactor, maintain it in a safe shutdown condition, or mitigate accidents.

All safety analyses are consistent with the operations described in the dry spent fuel storage system FSAR and have been previously approved by the NRC as having sufficient safety margins. This change does not affect the dry spent fuel storage system operation procedures or change any normal, off-normal, or accident condition for which the dry spent fuel storage system is designed.

Therefore, the proposed change will not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Jeffrie J. Keenan, Esquire, Nuclear Business Unit—N21, P.O. Box 236, Hancocks Bridge, NJ 08038.

NRC Branch Chief: Darrell J. Roberts.

Southern California Edison Company, et al., Docket Nos. 50–361 and 50–362, San Onofre Nuclear Generating Station, Units 2 and 3, San Diego County, California

Date of amendment requests: April 17, 2006.

Description of amendment requests: The proposed amendments would delete Section 2.G of the Facility Operating Licenses, which require reporting of violations of the requirements in Sections 2.C(1), 2.C(3), and 2.F of the Facility Operating Licenses.

The NRC staff issued a notice of opportunity for comment in the **Federal Register** on August 29, 2005 (70 FR 51098), including a model safety evaluation and model no significant hazards consideration (NSHC) determination, using the consolidated

line item improvement process. The licensee affirmed the applicability of the following NSHC determination in its application dated April 17, 2006.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), an analysis of the issue of no significant hazards consideration is presented below:

1. Does the change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed change involves the deletion of a reporting requirement. The change does not affect plant equipment or operating practices and therefore does not significantly increase the probability or consequences of an accident previously evaluated.

2. Does the change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed change is administrative in that it deletes a reporting requirement. The change does not add new plant equipment, change existing plant equipment, or affect the operating practices of the facility. Therefore, the change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

The proposed change deletes a reporting requirement. The change does not affect plant equipment or operating practices and therefore does not involve a significant reduction in a margin of safety.

The NRC staff proposes to determine that the amendment requests involve no significant hazards consideration.

Attorney for licensee: Douglas K. Porter, Esquire, Southern California Edison Company, 2244 Walnut Grove Avenue, Rosemead, California 91770.

NRC Branch Chief: David Terao.

Southern Nuclear Operating Company, Inc., Docket Nos. 50–424 and 50–425, Vogtle Electric Generating Plant, Units 1 and 2, Burke County, Georgia

Date of amendment request: March 29, 2006.

Description of amendment request: The proposed amendment would revise Vogtle Electric Generating Plant (VEGP), Units 1 and 2, Technical Specifications (TSs) 5.5, ''Programs and Manuals,'' TS 5.6, ''Reporting Requirements,'' and TS Bases for LCO [Limiting Condition for Operation] 3.6.1, ''Containment,'' to reflect the latest requirements for tendon surveillance.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed license amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed change replaces the current TS requirement to implement a Containment Tendon Surveillance Program based on Regulatory Guide 1.35, Rev. 2, with a Containment Inspection Program Plan that complies with the current requirements of 10 CFR 50.55a. This regulation requires licensees to implement a Containment Inspection Program Plan in compliance with the 1992 Edition with the 1992 Addenda of Subsection IWE, ''Requirements for Class MC and Metallic Liners of Class CC Components of Light-Water Cooled Plants,'' and with Subsection IWL, ''Requirements for Class CC Concrete Components of Light-Water Cooled Plants,'' of Section XI, Division 1, of the American Society of Mechanical Engineers Boiler and Pressure Vessel Code (ASME Code) with additional modifications and limitations as stated in 10 CFR 50.55a(b)(2)(ix). [Southern Nuclear Operating Company, Inc.] SNC has implemented a Containment Inspection Program Plan that complies with the regulatory requirements. This proposed TS amendment is requested to update the TS to the latest 10 CFR 50.55a regulatory requirements.

In addition, reporting requirements that are redundant to existing regulations are deleted, minor editorial changes are made, and the applicability of SR 3.0.2 to the tendon surveillance program is deleted since surveillance frequencies and associated extensions are specified in ASME Section XI, Subsection IWL.

By complying with the regulatory requirements described in 10 CFR 50.55a, the probability of a loss of containment structural integrity is maintained as low as reasonably achievable. Maintaining containment structural integrity as described in the revised Containment Inspection Program Plan does not impact the operation of the reactor coolant system (RCS), containment spray (CS) system, or emergency core cooling system (ECCS). The Containment Inspection Program ensures that the containment will function as designed to provide an acceptable barrier to release of radioactive materials to the environment. The proposed change does not alter or prevent the ability of structures, systems, and components (SSCs) from performing their intended function to mitigate the consequences of an initiating event within the assumed acceptance limits.

The proposed change does not impact any accident initiators or analyzed events, nor does it impact the types or amounts of radioactive effluent that may be released offsite. Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. The proposed license amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

Maintaining containment structural integrity does not impact the operation of the RCS, CS system, or ECCS. The proposed change does not involve a modification to the physical configuration of the plant or a change in the methods governing normal plant operation. The proposed change does not introduce a new accident initiator, accident precursor, or malfunction mechanism. Therefore, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed license amendment does not involve a significant reduction in a margin of safety.

By complying with the regulatory requirements described in 10 CFR 50.55a, the probability of a loss of containment structural integrity is maintained as low as reasonably achievable. The Containment Inspection Program Plan ensures that the containment will function as designed to provide an acceptable barrier to release of radioactive materials to the environment. The proposed change does not adversely affect plant operation or existing safety analyses. Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Mr. Arthur H. Domby, Troutman Sanders, NationsBank Plaza, Suite 5200, 600 Peachtree Street, NE., Atlanta, Georgia 30308–2216.

NRC Branch Chief: Evangelos C. Marinos.

Union Electric Company, Docket No. 50–483, Callaway Plant, Unit 1, Callaway County, Missouri

Date of amendment request: March 28, 2006.

Description of amendment request: The amendment would delete references to specific isolation valves in the chemical and volume control system (CVCS) and to modify notes to allow (1) an exception for decontamination activities and (2) an exception for CVCS resin vessel operation. These are changes to Technical Specifications (TSs) 3.3.9, ''Boron Dilution Mitigation System (BDMS),'' and 3.9.2, ''Unborated Water Source Isolation Valves.''

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Do the proposed changes involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed changes do not involve a significant increase in the probability or

consequences of an inadvertent boron dilution accident by isolating the CVCS resin vessels in MODE 6 or by isolating the purge line for detector SJRE001 during flushing activities in MODE 6. By recognizing these potential [boron] dilution sources and by making TS 3.3.9 and TS 3.9.2 more generic for consideration of all potential [boron] dilution sources, plant administrative controls are revised such that the plant is put in a safer condition than before. Specific isolation valves are removed from TS 3.3.9 and TS 3.9.2. They are relocated from the [Technical] Specifications to the appropriate TS Bases. This is an administrative only change and is consistent with the [Improved] Standard Technical Specifications, NUREG–1431. [The Wolf Creek Technical Specifications are based on NUREG–1431.] Allowing a [boron] dilution source path to be unisolated under administrative controls, described in TS Bases 3.9.1 during refueling decontamination activities, is acceptable as allowed by Amendment [No.] 97 to the Callaway Operating License and does not involve a significant increase in the probability or consequences of an inadvertent boron dilution accident. Allowing an exception for CVCS resin vessel operation is acceptable because chemistry controls may require some CVCS resin vessels to be configured with resin intended for boron dilution. Plant conditions may warrant their use. As allowed by the LCO [limiting condition for operation] Note, these vessels may be unisolated under administrative controls. The administrative controls ensure that the resin vessels are not [boron] dilution sources [for the reactor coolant system (RCS)]. These changes do not involve a significant increase in the probability or consequences of an inadvertent boron dilution accident.

The proposed changes do not involve a significant increase in the probability or consequences of an inadvertent boron dilution accident by requiring the isolation of all unborated water source isolation valves in higher plant modes when both trains of BDMS are inoperable or when a condition of no reactor coolant loop in operation exists. Proposed TS 3.3.9 Required Actions [B.3.1, B.3.2, C.1 and C.2] are generic and remain consistent with the plant accident analyses. Allowing exceptions for CVCS resin vessel operation is acceptable because chemistry controls may require some CVCS resin vessels to be configured with resin intended for boron dilution. Plant conditions may warrant their use. As allowed by exception Notes, these vessels may be unisolated under administrative controls. The administrative controls ensure that the resin vessels are not [boron] dilution sources.

Therefore, the proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Do the proposed changes create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed changes do not create the possibility of a new or different kind of accident. Although other potential [boron] dilution sources are identified for administrative control[s], the evaluation of a MODE 6 [boron] dilution event remains unchanged. Isolating the CVCS resin vessels or isolating the purge line for detector SJRE001 during flushing activities in MODE 6 and making TS 3.3.9 and TS 3.9.2 more generic does not impact the operability of any safety related equipment required for plant operation. No new equipment will be added and no new limiting single failures are created. The plant will continue to be operated within the envelope of the existing safety analysis. In addition[,] specific isolation valves are removed from TS 3.3.9 and TS 3.9.2. They are relocated from the [Technical] Specifications to the appropriate TS Bases. This is an administrative only change and is consistent with the [Improved] Standard Technical Specifications, NUREG–1431. Allowing a [boron] dilution source path to be unisolated under administrative controls, described in TS Bases 3.9.1 during refueling decontamination activities, is acceptable as allowed by Amendment [No.] 97 to the Callaway Operating License and does not create the possibility of a new or different kind of inadvertent boron dilution accident. Allowing an exception for CVCS resin vessel operation is acceptable because chemistry controls may require some CVCS resin vessels to be reconfigured with resin intended for boron dilution. Plant conditions may warrant their use. As allowed by the LCO Note these vessels may be unisolated under administrative controls. The administrative controls ensure that the resin vessels are not [boron] dilution sources. These changes do not create the possibility of a new or different kind of accident from an inadvertent boron dilution accident previously evaluated.

Requiring the isolation of unborated water source isolation valves in higher plant modes when both trains of BDMS are inoperable or when a condition of no RCS loop in operation exists, does not create the possibility of a new or different kind of inadvertent boron dilution accident. Proposed TS 3.3.9 is generic and remains consistent with the plant accident analyses. Allowing exceptions for CVCS resin vessel operation is acceptable because chemistry controls may require some CVCS resin vessels to be configured with resin intended for boron dilution. Plant conditions may warrant their use. As allowed by exception Notes, these vessels may be unisolated under administrative controls. The administrative controls ensure that the resin vessels are not [boron] dilution sources.

Therefore, the proposed changes do not create a new or different kind of accident from any accident previously evaluated.

3. Do the proposed changes involve a significant reduction in a margin of safety?

Response: No.

The proposed changes do not reduce the margin of safety. Although other potential [boron] dilution sources are identified for administrative control[s] and TS 3.3.9 and TS 3.9.2 are made generic for consideration of all potential [boron] dilution sources, the evaluated margin of safety for a [boron] dilution event in MODE 6 remains the same. Recognition of other potential [boron] dilution sources, isolation of the CVCS resin vessels and the purge line for detector SJRE001 during flushing activities in MODE 6, places the plant in a safer condition than before. In addition[,] specific isolation valves are removed from TS 3.3.9 and TS 3.9.2. They are relocated from the [Technical] Specifications to the appropriate TS Bases. This is an administrative only change and is consistent with the [Improved] Standard Technical Specifications, NUREG–1431. Finally, allowing a [boron] dilution source path to be unisolated under administrative controls, described in TS Bases 3.9.1 during refueling decontamination activities, is acceptable under Amendment [No.] 97 to the Callaway Operating License and does not involve a significant reduction in a margin of safety [* * *]. Allowing an exception for CVCS resin vessel operation is acceptable because chemistry controls may require some CVCS resin vessels to be configured with resin intended for boron dilution. Plant conditions may warrant their use. As allowed by the LCO Note these vessels may be unisolated under administrative controls. The administrative controls ensure that the resin vessels are not [boron] dilution sources. This change does not involve a significant reduction in a margin of safety [* * *].

Requiring the isolation of all unborated water source isolation valves in higher plant modes when both trains of BDMS are inoperable or when no reactor coolant loop is in operation does not involve a significant reduction in the margin of safety. The changes to the [Technical] Specifications make it generic and [remain] consistent with the plant accident analyses. Allowing exceptions for CVCS resin vessel operation is acceptable because chemistry controls may require some CVCS resin vessels to be configured with resin intended for boron dilution. Plant conditions may warrant their use. As allowed by these exception Notes, these vessels may be unisolated under administrative controls. The administrative controls ensure that the resin vessels are not [boron] dilution sources.

Therefore, the proposed changes do not involve a significant reduction in [a] margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: John O'Neill, Esq., Shaw, Pittman, Potts & Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Branch Chief: David Terao.

Union Electric Company, Docket No. 50–483, Callaway Plant, Unit 1, Callaway County, Missouri.

Date of amendment request: March 28, 2006.

Description of amendment request: The amendment would revise Technical Specification 5.0, ''Administrative

Controls,'' by changing position titles and department names. The amendment would not change any specific responsibilities, job functions, organizational commitments, or qualification requirements of plant personnel.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Do the proposed changes involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed changes do not affect accident initiators or assumptions. The radiological consequences of accidents previously evaluated remain unchanged. These changes involve administrative changes concerning designations for position titles and department names. The changes do not affect responsibilities, functions, organizational commitments, or the qualification requirements of plant personnel.

Therefore, the proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Do the proposed changes create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed changes are administrative in nature. The overall operating philosophy of [the] Callaway Plant is unchanged. As such, there are no hardware changes nor are there any changes in the method by which any safety-related plant system performs its safety function. This amendment will not affect the normal method of plant operation or change any operating parameters. No new accident scenarios, transient precursors, failure mechanisms, or limiting single failures are introduced as a result of this amendment. There will be no adverse effects or challenges imposed on any safety-related system as a result of this amendment.

Therefore, the proposed changes do not create a new or different kind of accident from any accident previously evaluated.

3. Do the proposed changes involve a significant reduction in a margin of safety?

Response: No.

There will be no effect on the manner in which safety limits or limiting safety system settings are determined nor will there be any effect on those plant systems necessary to assure the accomplishment of protection functions. The changes do not involve any change in overall organizational commitments. The changes to personnel titles and department designations are administrative and will not reduce any margin of safety.

Therefore, the proposed changes do not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: John O'Neill, Esq., Shaw, Pittman, Potts & Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Branch Chief: David Terao.

Notice of Issuance of Amendments to Facility Operating Licenses

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing in connection with these actions was published in the **Federal Register** as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the applications for amendment, (2) the amendment, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment as indicated. All of these items are available for public inspection at the Commission's Public Document Room (PDR), located at One White Flint North, Public File Area 01F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible from the Agencywide Documents Access and Management Systems (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, *http://www.nrc.gov/reading-rm/adams.html*. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the PDR Reference staff at 1 (800) 397–4209, (301) 415–4737 or by e-mail to *pdr@nrc.gov*.

Duke Energy Corporation, et al., Docket No. 50–414, Catawba Nuclear Station, Unit 2, York County, South Carolina

Date of application for amendments: December 19, 2005, as supplemented on February 2 and 28, 2006.

Brief description of amendments: The amendment made a one-time change to the Technical Specifications regarding the required steam generator (SG) tube repair criteria for Catawba Unit 2 during refueling outage 14 and operating cycle 15. In addition, the proposed amendment added a license condition that requires a reduction in the allowable normal operating primary-to-secondary leakage rate from 150 gallons-per-day to 75 gallons-per-day through any one SG and from 600 gallons-per-day to 300 gallons-per-day through all SGs. The proposed license condition will be applicable only for the duration of Catawba Unit 2 cycle 15 operation.

Date of issuance: March 31, 2006.

Effective date: As of the date of issuance and shall be implemented within 30 days from the date of issuance March 31, 2006.

Amendment No.: 224.

Renewed Facility Operating License No. NPF–52: Amendments revised the Technical Specifications and the license.

Date of initial notice in ***Federal Register:*** February 22, 2006 (71 FR 9169).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated March 31, 2006.

No significant hazards consideration comments received: No.

Duke Energy Corporation, et al., Docket Nos. 50–413 and 50–414, Catawba Nuclear Station, Units 1 and 2, York County, South Carolina

Duke Energy Corporation, Docket Nos. 50–369 and 50–370, McGuire Nuclear Station, Units 1 and 2, Mecklenburg County, North Carolina

Duke Energy Corporation, Docket Nos. 50–269, 50–270, and 50–287, Oconee Nuclear Station, Units 1, 2, and 3, Oconee County, South Carolina

Duke Energy Corporation, Docket No. 72–004, Oconee Independent Spent Fuel Storage Installation, Oconee County, South Carolina

Date of application for amendments: August 5, 2005, as supplemented by letters dated November 28 and December 14, 2005, and February 6, 2006.

Brief description of amendments: The amendments revised the operating licenses approving the indirect transfer of the Renewed Facility Operating Licenses for Catawba Nuclear Station, Units 1 and 2, McGuire Nuclear Station, Units 1 and 2, and Oconee Nuclear Station, Units 1, 2, and 3, and the Materials License for Oconee Independent Spent Fuel Storage Installation from Duke Energy Corporation to a new holding company, to be named Duke Energy Corporation, in connection with a proposed corporate restructuring and merger involving Cinergy Corporation.

Date of issuance: April 1, 2006.

Effective date: As of the date of issuance and shall be implemented within 30 days from the date of issuance.

Amendment Nos.: 229, 225, 232, 214, 349, 351, 349 and 8 respectively.

Renewed Facility Operating License Nos. NPF–35 , NPF–52, NPF–9, NPF–17, DPR–38, DPR–47, DPR–55, and SNM–2503: Amendments revised the Operating Licenses.

Date of initial notice in ***Federal Register:*** December 30, 2005 (70 FR 77428).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated February 7, 2006 (ML060250498).

No significant hazards consideration comments received: No.

Energy Northwest, Docket No. 50–397, Columbia Generating Station, Benton County, Washington

Date of application for amendment: May 19, 2004.

Brief description of amendment: The change revises Technical Specification (TS) 3.8.1, ''AC Sources—Operating,'' to permit a longer completion time for the Division 1 and Division 2 diesel generators (DGs). This is a risk-informed TS change that would extend the DG completion time from 72 hours (the current limit) to 14 days.

Date of issuance: April 14, 2006.

Effective date: As of the date of issuance and shall be implemented within 30 days of the date of issuance.

Amendment No.: 197.

Facility Operating License No. NPF–21: The amendment revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** June 22, 2004 (69 FR 34699).

The September 1, 2005, January 9, February 23, and March 20, 2006, supplemental letters and March 30, 2006, e-mail provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the staff's original no significant hazards considerations determination.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 14, 2006.

No significant hazards consideration comments received: No.

Entergy Nuclear Operations, Inc., Docket No. 50–293, Pilgrim Nuclear Power Station, Plymouth County, Massachusetts

Date of application for amendment: September 2, 2004, as supplemented by letters dated August 9, 2005, December 29, 2005 and March 22, 2006.

Brief description of amendment: The amendment allows continued plant operation with a single recirculation loop operation at Pilgrim.

Date of issuance: April 12, 2006.

Effective date: As of the date of issuance, and shall be implemented within 120 days.

Amendment No.: 219.

Facility Operating License No. DPR–35: The amendment revised the Facility Operating License, Technical Specifications and Surveillance Requirements.

Date of initial notice in ***Federal Register:*** December 21, 2004 (69 FR 76490).

The supplements dated August 9, 2005, December 29, 2005 and March 22, 2006, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the NRC staff's original proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 12, 2006.

No significant hazards consideration comments received: No.

Entergy Nuclear Operations, Inc., Docket No. 50–293, Pilgrim Nuclear Power Station, Plymouth County, Massachusetts

Date of application for amendment: May 24, 2005.

Brief description of amendment: The amendment deletes the main steam isolation valve twice per week partial stroke testing surveillance specified in Technical Specification 4.7.A.2.b.1.c.

Date of issuance: April 13, 2006.

Effective date: As of the date of issuance, and shall be implemented within 60 days.

Amendment No.: 220.

Facility Operating License No. DPR–35: The amendment revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** August 16, 2005 (70 FR 48205).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 13, 2006.

No significant hazards consideration comments received: No.

Entergy Nuclear Operations, Inc., Docket No. 50–293, Pilgrim Nuclear Power Station, Plymouth County, Massachusetts

Date of application for amendment: May 24, 2005, as supplemented by letter dated December 6, 2005.

Brief description of amendment: The amendment revises the Technical Specifications allowances for bypassing the rod worth minimizer.

Date of issuance: April 13, 2006.

Effective date: As of the date of issuance, and shall be implemented within 60 days.

Amendment No.: 221.

Facility Operating License No. DPR–35: The amendment revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** August 30, 2005 (70 FR 51380).

The supplement dated December 6, 2005, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the NRC staff's original proposed no significant hazards consideration determination. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 13, 2006.

No significant hazards consideration comments received: No.

FirstEnergy Nuclear Operating Company, Docket No. 50–346, Davis-Besse Nuclear Power Station, Unit 1, Ottawa County, Ohio

Date of application for amendment: April 20, 2005.

Brief description of amendment: The changes revised the Technical Specifications (TSs) to replace plant-specific position titles with generic position titles. Also, the changes deleted TS 6.7, ''Safety Limit Violations or Protective Limit Violation,'' and included a change to TS 2.1.2, ''Reactor Core,'' associated with the deletion of TS 6.7. Additionally, the changes relocated to the Davis-Besse Nuclear Power Station Updated Safety Analysis Report the Process Control Program requirements from TS 6.8, ''Procedures and Programs,'' and from TS 6.14, ''Process Control Program (PCP).'' Associated with this change, TS Definition 1.30, ''Process Control Program,'' was deleted. Also, TS 6.15, ''Offsite Dose Calculation Manual (ODCM),'' was modified to eliminate the requirement that changes to the ODCM be reviewed and accepted by the Plant Operations Review Committee (PORC). These changes to administrative requirements also eliminated the need to propose additional changes in the future to plant-specific position/organizational titles. The changes are consistent with NUREG–1430, ''Standard Technical Specifications—Babcock and Wilcox Plants,'' Revision 3, dated June 2004. Lastly, the changes revised in the TSs the title ''Industrial Security Plan'' to ''Physical Security Plan.''

Date of issuance: February 7, 2006.

Effective date: As of the date of issuance and shall be implemented within 120 days.

Amendment No.: 272.

Facility Operating License No. NPF–3: Amendment revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** May 24, 2005 (70 FR 29795).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated February 7, 2006.

No significant hazards consideration comments received: No.

Florida Power and Light Company, et al., Docket No. 50–389, St. Lucie Plant, Unit No. 2, St. Lucie County, Florida

Date of application for amendment: January 6, 2005, as supplemented October 14, 2005, and February 13, 2006.

Brief description of amendment: The amendment revises Technical Specification (TS) Section 3/4.4.5, ''Steam Generators,'' to allow repair of steam generator tubes by installing Westinghouse Alloy 800 leak limiting sleeves.

Date of Issuance: April 18, 2006.

Effective Date: As of the date of issuance and shall be implemented within 60 days of issuance.

Amendment No.: 144.

Renewed Facility Operating License No. NPF–16: Amendment revised the TS.

Date of initial notice in ***Federal Register:*** March 1, 2005 (70 FR 9993). The October 14, 2005, and February 13, 2006, supplements did not affect the original proposed no significant hazards determination, or expand the scope of the request as noticed in the **Federal Register**.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 18, 2006.

No significant hazards consideration comments received: No.

Southern Nuclear Operating Company, Inc., Docket Nos. 50–348 and 50–364, Joseph M. Farley Nuclear Plant, Units 1 and 2, Houston County, Alabama

Date of amendments request: June 1, 2005, as supplemented on February 13, 2006.

Brief Description of amendments: The amendments revise Technical Specification (TS) Section 5.5.6, ''Pre-Stressed Concrete Containment Tendon Surveillance Program,'' for consistency with the requirements of 10 CFR 50.55a(g)(4) for components classified as Code Class CC. The amendments also delete the provisions of Surveillance Requirement 3.0.2 from this TS and delete the reporting requirements in TS 5.6.9, ''Tendon Surveillance Report.''

Date of issuance: April 14, 2006.

Effective date: As of the date of issuance and shall be implemented within 90 days from the date of issuance.

Amendment Nos.: 172 and 165.

Renewed Facility Operating License Nos. NPF–2 and NPF–8: Amendments revise the Technical Specifications.

Date of initial notice in ***Federal Register:*** June 21, 2005 (70 FR 35739). The February 13, 2006, supplemental letter provided clarifying information that did not change the June 1, 2005, application and the initial proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated April 14, 2006.

No significant hazards consideration comments received: No.

Tennessee Valley Authority, Docket Nos. 50–260 and 50–296, Browns Ferry Nuclear Plant, Units 2 and 3, Limestone County, Alabama

Date of application for amendments: July 29, 2005.

Brief description of amendments: The proposed amendments revised the technical specification testing frequency for the surveillance requirement 3.1.4.2, control rod scram time testing, from 120 days cumulative operation in MODE 1 to 200 days cumulative operation in MODE 1.

Date of issuance: January 9, 2006.

Effective date: As of the date of issuance and to be implemented within 60 days.

Amendment Nos.: 295 and 253.

Facility Operating License Nos. DPR–52 and DPR–68: Amendments revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** September 27, 2005 (70 FR 56504).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated January 9, 2006.

No significant hazards consideration comments received: No.

TXU Generation Company LP, Docket Nos. 50–445 and 50–446, Comanche Peak Steam Electric Station, Unit Nos. 1 and 2, Somervell County, Texas

Date of amendment request: January 24, 2005.

Brief description of amendments: The requested amendments revise Technical Specification (TS) 3.7.5, ''Auxiliary Feedwater (AFW) System.'' The change would add a Note to surveillance requirements (SRs) 3.7.5.1, 3.7.5.3, and 3.7.5.4 that states, ''AFW train(s) may be considered OPERABLE during alignment and operation for steam generator level control, if it is capable of being manually realigned to the AFW mode of operation.''

Date of issuance: April 24, 2006.

Effective date: As of the date of issuance and shall be implemented within 90 days from the date of issuance.

Amendment Nos.: 126 and 126.

Facility Operating License Nos. NPF–87 and NPF–89: The amendments revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** November 8, 2005 (70 FR 67753).

No significant hazards consideration comments received: No.

Notice of Issuance of Amendments to Facility Operating Licenses and Final Determination of No Significant Hazards Consideration and Opportunity for a Hearing (Exigent Public Announcement or Emergency Circumstances)

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Because of exigent or emergency circumstances associated with the date the amendment was needed, there was not time for the Commission to publish, for public comment before issuance, its usual Notice of Consideration of Issuance of Amendment, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing.

For exigent circumstances, the Commission has either issued a **Federal Register** notice providing opportunity for public comment or has used local media to provide notice to the public in the area surrounding a licensee's facility of the licensee's application and of the Commission's proposed determination of no significant hazards consideration. The Commission has provided a reasonable opportunity for the public to comment, using its best efforts to make available to the public means of communication for the public to respond quickly, and in the case of telephone comments, the comments have been recorded or transcribed as appropriate and the licensee has been informed of the public comments.

In circumstances where failure to act in a timely way would have resulted, for example, in derating or shutdown of a nuclear power plant or in prevention of either resumption of operation or of increase in power output up to the plant's licensed power level, the Commission may not have had an opportunity to provide for public comment on its no significant hazards consideration determination. In such case, the license amendment has been issued without opportunity for comment. If there has been some time for public comment but less than 30 days, the Commission may provide an opportunity for public comment. If comments have been requested, it is so stated. In either event, the State has been consulted by telephone whenever possible.

Under its regulations, the Commission may issue and make an amendment immediately effective, notwithstanding the pendency before it of a request for a hearing from any person, in advance of the holding and completion of any required hearing, where it has determined that no significant hazards consideration is involved.

The Commission has applied the standards of 10 CFR 50.92 and has made a final determination that the amendment involves no significant hazards consideration. The basis for this determination is contained in the documents related to this action. Accordingly, the amendments have been issued and made effective as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22.
Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the application for amendment, (2) the amendment to Facility Operating License, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment, as indicated. All of these items are available for public inspection at the Commission's Public Document Room (PDR), located at One White Flint North, Public File Area 01F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible from the Agencywide Documents Access and Management System's (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, *http://www.nrc.gov/reading-rm/adams.html*. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the PDR Reference staff at 1 (800) 397–4209, (301) 415–4737 or by e-mail to *pdr@nrc.gov*.

The Commission is also offering an opportunity for a hearing with respect to the issuance of the amendment. Within 60 days after the date of publication of this notice, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's ''Rules of Practice for Domestic Licensing Proceedings'' in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.309, which is available at the Commission's PDR, located at One White Flint North, Public File Area 01F21, 11555 Rockville Pike (first floor), Rockville, Maryland, and electronically on the Internet at the NRC Web site, *http://www.nrc.gov/reading-rm/doc-collections/cfr/*. If there are problems in accessing the document, contact the PDR Reference staff at 1 (800) 397–4209, (301) 415–4737, or by e-mail to *pdr@nrc.gov*. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or a presiding officer designated by the Commission or by the Chief Administrative Judge of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the Chief Administrative Judge of the Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order.

As required by 10 CFR 2.309, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following general requirements: (1) The name, address, and telephone number of the requestor or petitioner; (2) the nature of the requestor's/petitioner's right under the Act to be made a party to the proceeding; (3) the nature and extent of the requestor's/petitioner's property, financial, or other interest in the proceeding; and (4) the possible effect of any decision or order which may be entered in the proceeding on the requestor's/petitioner's interest. The petition must also identify the specific contentions which the petitioner/requestor seeks to have litigated at the proceeding.

Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner/requestor shall provide a brief explanation of the bases for the contention and a concise

statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. The petition must include sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact.[1] Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner/requestor who fails to satisfy these requirements with respect to at least one contention will not be permitted to participate as a party.

Each contention shall be given a separate numeric or alpha designation within one of the following groups:

1. Technical—primarily concerns/issues relating to technical and/or health and safety matters discussed or referenced in the applications.

2. Environmental—primarily concerns/issues relating to matters discussed or referenced in the environmental analysis for the applications.

3. Miscellaneous—does not fall into one of the categories outlined above.

As specified in 10 CFR 2.309, if two or more petitioners/requestors seek to co-sponsor a contention, the petitioners/requestors shall jointly designate a representative who shall have the authority to act for the petitioners/requestors with respect to that contention. If a petitioner/requestor seeks to adopt the contention of another sponsoring petitioner/requestor, the petitioner/requestor who seeks to adopt the contention must either agree that the sponsoring petitioner/requestor shall act as the representative with respect to that contention, or jointly designate with the sponsoring petitioner/requestor a representative who shall have the authority to act for the petitioners/requestors with respect to that contention.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing. Since the Commission has made a final determination that the amendment involves no significant hazards consideration, if a hearing is requested, it will not stay the effectiveness of the amendment. Any hearing held would take place while the amendment is in effect.

A request for a hearing or a petition for leave to intervene must be filed by: (1) First class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Staff; (2) courier, express mail, and expedited delivery services: Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852, Attention: Rulemaking and Adjudications Staff; (3) E-mail addressed to the Office of the Secretary, U.S. Nuclear Regulatory Commission, *HearingDocket@nrc.gov;* or (4) facsimile transmission addressed to the Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC, Attention: Rulemakings and Adjudications Staff at (301) 415–1101, verification number is (301) 415–1966. A copy of the request for hearing and petition for leave to intervene should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and it is requested that copies be transmitted either by means of facsimile transmission to (301) 415–3725 or by e-mail to *OGCMailCenter@nrc.gov*. A copy of the request for hearing and petition for leave to intervene should also be sent to the attorney for the licensee.

Nontimely requests and/or petitions and contentions will not be entertained absent a determination by the Commission or the presiding officer or the Atomic Safety and Licensing Board that the petition, request and/or the contentions should be granted based on a balancing of the factors specified in 10 CFR 2.309(a)(1)(i)–(viii).

Indiana Michigan Power Company, Docket No. 50–316, Donald C. Cook Nuclear Plant, Unit 2 (DCCNP–2), Berrien County, Michigan

Date of amendment request: April 10, 2006, as supplemented on April 12, and 13 (two letters), 2006.

Description of amendment request: The amendment revised Surveillance Requirement 3.8.1.11 of the DCCNP–2 Technical Specifications, raising the diesel generator load rejection voltage test limit from 5000 volts to 5350 volts.

Date of issuance: April 13, 2006.

Effective date: April 13, 2006.

Amendment No.: 276.

Facility Operating License No. DPR–74: Amendment revises the Technical Specifications.

Public comments requested as to proposed no significant hazards consideration (NSHC): No. The Commission's related evaluation of the amendment, finding of emergency circumstances, state consultation, and final NSHC determination are contained in a safety evaluation dated April 13, 2006.

Attorney for licensee: James M. Petro, Jr., Esquire, One Cook Place, Bridgman, MI 49106.

NRC Branch Chief: L. Raghavan.

Dated at Rockville, Maryland, this 1st day of May 2006.

For the Nuclear Regulatory Commission.

Catherine Haney,

Director, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 06–4243 Filed 5–8–06; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Proposed License Renewal Interim Staff Guidance LR–ISG–2006–01: Plant-Specific Aging Management Program for Inaccessible Areas of Boiling Water Reactor Mark I Steel Containment Drywell Shell Solicitation of Public Comment

AGENCY: Nuclear Regulatory Commission.

ACTION: Solicitation of public comment.

SUMMARY: The Nuclear Regulatory Commission (NRC) is soliciting public comment on its Proposed License Renewal Interim Staff Guidance LR–ISG–2006–01. This LR–ISG proposes that applicants for license renewal for a plant with a boiling water reactor Mark I steel containment provide a plant-specific aging management program that addresses the potential loss of material due to corrosion in the inaccessible areas of their Mark I steel containment drywell shell for the period of extended operation.

The NRC staff issues LR–ISGs to facilitate timely implementation of the license renewal rule and to review activities associated with a license renewal application (LRA). Upon receiving public comments, the NRC staff will evaluate the comments and make a determination to incorporate the comments, as appropriate. Once the NRC staff completes the LR–ISG, it will issue the LR–ISG for NRC and industry use. The NRC staff will also incorporate the approved LR–ISG into the next

[1] To the extent that the applications contain attachments and supporting documents that are not publicly available because they are asserted to contain safeguards or proprietary information, petitioners desiring access to this information should contact the applicant or applicant's counsel and discuss the need for a protective order.

revision of the license renewal guidance documents.

DATES: Comments may be submitted by June 8, 2006. Comments received after this date will be considered, if it is practical to do so, but the Commission is able to ensure consideration only for comments received on or before this date.

ADDRESSES: Comments may be submitted to: Chief, Rules and Directives Branch, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

Comments should be delivered to: 11545 Rockville Pike, Rockville, Maryland, Room T–6D59, between 7:30 a.m. and 4:15 p.m. on Federal workdays. Persons may also provide comments via e-mail at *LNT@NRC.GOV.* The NRC maintains an Agencywide Documents Access and Management System (ADAMS), which provides text and image files of NRC's public documents. These documents may be accessed through the NRC's Public Electronic Reading Room on the Internet at *http://www.nrc.gov/reading-rm/adams.html.* Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS should contact the NRC Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by e-mail at *pdr@nrc.gov.*

FOR FURTHER INFORMATION CONTACT: Ms. Linh Tran, License Renewal Project Manager, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone 301–415–4103 or e-mail *lnt@nrc.gov.*

SUPPLEMENTARY INFORMATION: Attachment 1 to this **Federal Register** notice, entitled *Staff Position and Rationale for the Proposed License Renewal Interim Staff Guidance LR–ISG–2006–01: Plant-specific Aging Management Program for Inaccessible Areas of Boiling Water Reactor Mark I Steel Containment Drywell Shell* contains the NRC staff's rationale for publishing the proposed LR–ISG–2006–01. Attachment 2 to this **Federal Register** notice, entitled *Proposed License Renewal Interim Staff Guidance LR–ISG–2006–01: Plant-specific Aging Management Program for Inaccessible Areas of Boiling Water Reactor Mark I Steel Containment Drywell Shell,* contains the guidance for developing the plant-specific aging management program. The NRC staff is issuing this notice to solicit public comments on the proposed LR–ISG–2006–01. After the NRC staff considers any public comments, it will make a determination regarding the proposed LR–ISG.

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

For the Nuclear Regulatory Commission.

Pao-Tsin Kuo,

Deputy Director, Division of License Renewal, Office of Nuclear Reactor Regulation.

Attachment 1—Staff Position and Rationale for the Proposed License Renewal Interim Staff Guidance LR–ISG–2006–01: Plant-Specific Aging Management Program for Inaccessible Areas of Boiling Water Reactor Mark I Steel Containment Drywell Shell

Staff Position

The NRC staff determined that applicants for license renewal for a plant with a boiling water reactor Mark I steel containment should provide a plant-specific aging management program (AMP) that addresses the potential loss of material due to corrosion in the inaccessible areas of the Mark I steel containment drywell shell for the period of extended operation.

Rationale

The current license renewal guidance documents (LRGDs) do not provide sufficient guidance to address inaccessible areas of the Mark I steel containment drywell shell. Specifically, additional guidance is needed for inaccessible areas where the distance between the drywell shell and the surrounding concrete structure is too small for the successful performance of visual inspection. Past operating experience with Mark I steel containments indicates that when water is discovered in the bottom outside areas of the drywell (for example in the sand-pocket area), the most likely cause is the seepage through the space between the drywell shell and the shield concrete.

Numerous requests for additional information (RAIs) on previous and current license renewal applications (LRAs) have been needed to obtain the information needed by the staff to perform its review. The purpose of the proposed LR–ISG–2006–01 is to provide guidance on the information that should be provided in the LRA to reduce the number of RAIs issued to the applicants. Specifically, the staff has determined that applicants for license renewal for a plant with a boiling water reactor Mark I steel containment should provide a plant-specific AMP to address the potential loss of material due to corrosion in the inaccessible areas of the Mark I steel containment drywell shell for the period of extended operation.

The drywell shell is a passive, long-lived structure within the scope of license renewal that is subject to aging degradation. Pursuant to 10 CFR 54.21, the applicant must demonstrate that the effects of aging will be adequately managed so that the intended function will be maintained consistent with the current licensing basis for the period of extended operation.

Attachment 2—Proposed License Renewal Interim Staff Guidance LR–ISG–2006–01: Plant-Specific Aging Management Program for Inaccessible Areas of Boiling Water Reactor Mark I Steel Containment Drywell Shell

Introduction

Line Item II.B1.1–2 of NUREG–1801, Volume 2, Revision 1, includes a provision for aging management of the Mark I steel containment drywell shells. However, the line item requires additional detail to address the inaccessible areas of the Mark I steel containment drywell shells. Specifically, the line item does not provide guidance when the distance between the steel drywell shell and the surrounding concrete structure is too small for the successful performance of visual examination.

All Mark I containments are free-standing steel construction, except for Brunswick, Units 1 and 2. The Brunswick Mark I containment is a reinforced concrete drywell with a steel liner. A drywell shell is a free-standing steel structure with no concrete backing, whereas the steel liner of a drywell is a leak-tight membrane in direct contact with the concrete containment.

Historical Background

Information Notice (IN) 86–99, ''Degradation of Steel Containments,'' dated December 8, 1986, described an event related to the degradation of the drywell shell at Oyster Creek Nuclear Generating Station. IN 86–99, Supplement 1, dated February 1991, explained that the most likely cause of corrosion of the drywell shell in sand-pocket areas (near the bottom of the drywell) and in the spherical portion of the drywell at higher elevations, was the water in the gap between the drywell and the concrete shield. The source of water was noted as leakage through the seal between the drywell and the refueling cavity. The IN supplement also noted that ultrasonic testing (UT) discovered minor corrosion in the cylindrical portion of the drywell.

Discussion

Generic Letter (GL) 87–05, ''Request for Additional Information-Assessment

of Licensee Measures to Mitigate And/Or Identify Potential Degradation of Mark I Drywells,'' requested additional information regarding licensee actions to mitigate and/or identify potential degradation of boiling water reactor Mark I drywells. As a result, most licensees performed UT of their carbon steel drywell shells adjacent to the sand pocket region. In addition, many licensees established leakage monitoring programs for drain lines to identify leakage that may have resulted from refueling or spillage of water into the gap between the drywell and the surrounding concrete.

UT performed as a result of GL 87–05 provided a set of data points to determine the drywell shell thickness that could be compared to the nominal/minimum fabrication thickness and the minimum thickness required to withstand the postulated loads. These UT measurements taken during the 1987–1988 time frame fall approximately near the mid-point of the current 40-year operating license period for most plants with Mark I steel containments.

The drywell shell is a passive, long-lived structure within the scope of license renewal that is subject to aging degradation. Pursuant to 10 CFR 54.21, the applicant must demonstrate that the effects of aging will be adequately managed so that the intended function will be maintained consistent with the current licensing basis for the period of extended operation.

On the basis of license renewal application reviews and industry operating experience, the NRC staff determined that a plant-specific aging management program (AMP) is needed to address the potential loss of material due to corrosion in the inaccessible areas of the Mark I steel containment drywell shell for the period of extended operation.

Proposed Action

In addressing Line Item II.B1.1–2 of NUREG–1801, Volume 2, Revision 1, applicants for license renewal for plants with a Mark I steel containment need to provide a plant-specific AMP that addresses the potential loss of material due to corrosion in the inaccessible areas of the Mark I steel containment drywell shell for the period of extended operation.

In conducting the aging management review of the drywell shell, the applicant should consider the following:

(1) Develop a corrosion rate that can be reasonably inferred from past UT examinations or establish a corrosion rate using representative samples in similar operating conditions, materials, and environments. If degradation has occurred, provide a technical basis using the developed or established corrosion rate to demonstrate that the drywell shell will have sufficient wall thickness to perform its intended function through the period of extended operation.

(2) Demonstrate that UT measurements performed in response to GL 87–05 did not show degradation inconsistent with the developed or established corrosion rate.

(3) Where degradation has been identified in the accessible areas of the drywell, provide an evaluation that addresses the condition of the inaccessible areas for similar conditions.

(4) To assure that there are no circumstances that would result in degradation of the drywell, demonstrate that moisture levels associated with accelerated corrosion rates do not exist in the exterior portion of the drywell shell, i.e., (1) the sand pocket area drains and/or the refueling seal drains are monitored periodically; (2) the top of the sand pocket area is sealed to exclude water accumulation in the sand pocket area; and/or alarms are used to monitor regions for moisture/leakage.

(5) If moisture has been detected or suspected in the inaccessible area on the exterior of the drywell shell:

(a) Include in the scope of license renewal any components that are identified as a source of moisture, such as the refueling seal, and perform an aging management review.

(b) Identify surface areas requiring examination by implementing augmented inspections for the period of extended operation in accordance with the American Society of Mechanical Engineers (ASME) Section XI IWE–1240 as identified in Table IWE–2500–1, Examination Category E–C.

(c) Use examination methods that are in accordance with ASME Section XI IWE–2500, which specifies:

(i) Surface areas accessible from both sides shall be visually examined using a VT–1 visual examination method,

(ii) Surface areas accessible from one side only shall be examined for wall thinning using an ultrasonic thickness measurement method,

(iii) When ultrasonic thickness measurements are performed, one-foot square grids shall be used, and

(iv) Ultrasonic measurements shall be used to determine the minimum wall thickness within each grid. The location of the minimum wall thickness shall be marked such that periodic reexamination of that location can be performed.

(d) Demonstrate through use of augmented inspections performed in accordance with ASME Section XI IWE that corrosion is not occurring or that corrosion is progressing so slowly that the age-related degradation will not jeopardize the intended function of the drywell shell through the period of extended operation.

(6) If the intended function of the drywell shell cannot be demonstrated for the period of extended operation (i.e., wall thickness is less than the minimum required thickness), identify actions that will be taken as part of the aging management program to ensure that the integrity of the drywell shell will be maintained through the period of extended operation.

[FR Doc. E6–7000 Filed 5–8–06; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549.

Extension:

Rule 11a–3, SEC File No. 270–321, OMB Control No. 3235–0358.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520), the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget (''OMB'') a request for extension of the previously approved collections of information discussed below.

Section 11(a) of the Investment Company Act of 1940 (''Act'') (15 U.S.C. 80a–11(a)) provides that it is unlawful for a registered open-end investment company (''fund'') or its underwriter to make an offer to the fund's shareholders or the shareholders of any other fund to exchange the fund's securities for securities of the same or another fund on any basis other than the relative net asset values (''NAVs'') of the respective securities to be exchanged, ''unless the terms of the offer have first been submitted to and approved by the Commission or are in accordance with such rules and regulations as the Commission may have prescribed in respect of such offers.'' Section 11(a) was designed to prevent ''switching,'' the practice of inducing shareholders of one fund to exchange their shares for the shares of another fund for the purpose of exacting additional sales charges.

Rule 11a–3 under the Act of 1940 (17 CFR 270.11a–3) is an exemptive rule that permits open-end investment companies (''funds''), other than insurance company separate accounts, and funds'' principal underwriters, to make certain exchange offers to fund shareholders and shareholders of other funds in the same group of investment companies. The rule requires a fund, among other things, (i) to disclose in its prospectus and advertising literature the amount of any administrative or redemption fee imposed on an exchange transaction, (ii) if the fund imposes an administrative fee on exchange transactions, other than a nominal one, to maintain and preserve records with respect to the actual costs incurred in connection with exchanges for at least six years, and (iii) give the fund's shareholders a sixty day notice of a termination of an exchange offer or any material amendment to the terms of an exchange offer (unless the only material effect of an amendment is to reduce or eliminate an administrative fee, sales load or redemption fee payable at the time of an exchange).

The rule's requirements are designed to protect investors against abuses associated with exchange offers, provide fund shareholders with information necessary to evaluate exchange offers and certain material changes in the terms of exchange offers, and enable the Commission staff to monitor funds' use of administrative fees charged in connection with exchange transactions.

There are approximately 2,300 active open-end funds registered with the Commission as of December 31, 2005. The staff estimates that 25 percent of these funds impose a non-nominal administrative fee on exchange transactions. The staff estimates that the recordkeeping requirement of the rule requires approximately 1 hour annually of clerical time (at an estimated $23 per hour) [1] per fund, for a total of 575 hours for all funds (at a total annual cost of $13,225).[2] The staff estimates that 25 percent of the 2300 funds terminate an exchange offer or make a material change to the terms once each year, and that the notice requirement of the rule requires approximately 1 hour of professional time (at an estimated $81 per hour) and 2 hours of clerical time (at an estimated $23 per hour) per fund, for a total of approximately 1725 hours for all funds to comply with the notice requirement (at a total annual cost of $73,025).[3] The recordkeeping and notice requirements impose a total burden of 2300 hours on all funds (at a total annual cost of $86,250).[4] The burdens associated with the disclosure requirement of the rule are accounted for in the burdens associated with the Form N–1A registration statement for funds.

The estimate of average burden hours is made solely for the purposes of the Paperwork Reduction Act, and is not derived from a comprehensive or even a representative survey or study of the costs of Commission rules and forms.

The rule provides that if a fund imposes an administrative fee in connection with exchanges that is reasonably intended to cover the costs incurred in processing the exchanges, the fund must maintain and preserve records of any determination of the costs incurred in connection with exchanges for a period of not less than six years, the first two years in an easily accessible place. Keeping these records is necessary for any fund that wishes to obtain the benefit of relying on the rule. Although these records are subject to inspection by the Commission, they are not made public.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

General comments regarding the above information should be directed to the following persons: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503, or e-mail to: *David_Rostker@omb.eop.gov*; and (ii) R. Corey Booth, Director/Chief Information Officer, Securities and Exchange Commission, C/O Shirley Martinson, 6432 General Green Way, Alexandria, Virginia 22312, or send an e-mail to *PRA_Mailbox@sec.gov.* Comments must be submitted to OMB within 30 days of this notice.

Dated: May 1, 2006.

Nancy M. Morris,

Secretary.

[FR Doc. E6–7008 Filed 5–8–06; 8:45 am]

BILLING CODE 8010–01–P

[1] All hourly rates are derived from the average annual salaries reported for employees outside of New York City in Securities Industry Association, Management and Professional Earnings in the Securities Industry (2003) and Securities Industry Association, Office Salaries in the Securities Industry (2003), include overhead, and are updated to the present through established formulas.

[2] This estimate is based on the following calculations: (2300 funds × 0.25% = 575 funds); (575 × 1 (clerical hour) = 575 clerical hours); (575 × $23 = $13,225 total annual cost for recordkeeping requirement).

[3] This estimate is based on the following calculations: (2300 (funds) × 0.25% = 575 funds); (575 × 1 (professional hour) = 575 total professional hours); (575 (funds) × 2 (clerical hours) = 1150 total clerical hours); (575 (professional hours) + 1150 (clerical hours) = 1725 total hours); (575 (professional hours) × $81 = $46,575 total professional cost); (1150 (clerical hours) × $23 = $26,450 clerical cost); ($46,575 + $26,450 = $73,025 total annual cost).

[4] This estimate is based on the following calculations: (1725 (notice hours) + 575 (recordkeeping hours) = 2300 total hours); ($73,025 (notice costs) + $13,225 (recordkeeping costs) = $86,250 total annual costs).

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549.

Extension:

Form N–6F, SEC File No, 270–185. OMB Control No. 3235–0238.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget requests for extension of the previously approved collections of information entitled:

• Form N–6F under the Investment Company Act of 1940, Notice of Intent to Elect to be Subject to Sections 55 through 65 of the Investment Company Act of 1940.

Certain companies may have to make a filing with the Commission before they are ready to elect to be regulated as a business development company.[1] A company that is excluded from the definition of ''investment company'' by section 3(c)(1) of the Investment Company Act of 1940 because it has fewer than one hundred shareholders and is not making a public offering of its securities may lose such an exclusion solely because it proposes to make a public offering of securities as a business development company. Such a company, under certain conditions, would not lose its exclusion if it notifies the Commission on Form N–6F [17 CFR 274.15] of its intent to make an election to be regulated as a business development company. The company only has to file a Form N–6F once.

It is estimated that approximately 2 respondents per year file with the

[1] A company might not be prepared to elect to be subject to sections 55 through 65 of the Investment Company Act of 1940 because its capital structure or management compensation plan is not yet in compliance with the requirements of those sections.

Commission a Form N–6F. Form N–6F requires approximately 0.5 burden hours per response resulting from creating and filing the information required by the Form. The total burden hours for Form N–6F would be 1 hour per year in the aggregate. The estimated annual burden of 1.0 hour represents no change from the prior estimate of 1.0 hour.

The estimate of average burden hours for Form N–6F is made solely for the purposes of the Paperwork Reduction Act and is not derived from a comprehensive or even representative survey or study of the cost of Commission rules and forms.

The collection of information under Form N–6F is mandatory. The information provided by such Form is not kept confidential. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

General comments regarding the above information should be directed to the following persons: (i) Desk officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503, or e-mail to: *David_Rostker@omb.eop.gov*; and (ii) R. Corey Booth, Director/Chief Information Officer, Securities and Exchange Commission, C/O Shirley Martinson, 6432 General Green Way, Alexandria, Virginia 22312, or send an e-mail to *PRA_Mailbox@sec.gov*. Comments must be submitted to OMB within 30 days of this notice

Dated: May 1, 2006.

Nancy M. Morris,

Secretary.

[FR Doc. E6–7010 Filed 5–8–06; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549.

Extension:

Form N–54C, SEC File No. 270–184, OMB Control No. 3235–0236.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) (the ''Act''), the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget (''OMB'') a request for extension of the previously approved collection of information discussed below.

Form N–54C under the Investment Company Act of 1940 (17 CFR 274.54) is a notification to the Commission that a company withdraws its election to be regulated as a business development company. Such a company only has to file a Form N–54C once.

It is estimated that approximately 18 respondents per year file with the Commission a Form N–54C. Form N–54C requires approximately 1 burden hour per response resulting from creating and filing the information required by the Form. The total burden hours for Form N–54C would be 18 hours per year in the aggregate. The estimated annual burden of 18 hours represents an increase of 10 hours over the prior estimate of 8 hours. The increase in burden hours is attributable to an increase in the number of respondents from 8 to 18.

The estimate of average burden hours for Form N–54C is made solely for the purposes of the Act and is not derived from a comprehensive or even representative survey or study of the cost of Commission rules and forms.

The collection of information under Forms N–54C is mandatory. The information provided by Form 54C is not kept confidential. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

General comments regarding the above information should be directed to the following persons: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503, or e-mail to: *David_Rostker@omb.eop.gov*; and (ii) R. Corey Booth, Director/Chief Information Officer, Securities and Exchange Commission, C/O Shirley Martinson, 6432 General Green Way, Alexandria, Virginia 22312, or send an e-mail to *PRA_Mailbox@sec.gov*. Comments must be submitted to OMB within 30 days of this notice.

Dated: May 1, 2006.

Nancy M. Morris,

Secretary.

[FR Doc. E6–7012 Filed 5–8–06; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act; Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meeting during the week of May 8, 2006:

A Closed Meeting will be held on Thursday, May 11, 2006 at 1 p.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the Closed Meeting. Certain staff members who have an interest in the matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(3), (5), (7), (8), (9)(B), (10) and 17 CFR 200.402(a)(3), (5), (7), (8), (9)(ii), and (10) permit consideration of the scheduled matters at the Closed Meeting.

Commissioner Campos, as duty officer, voted to consider the items listed for the closed meeting in closed session.

The subject matter of the Closed Meeting scheduled for Thursday, May 11, 2006 will be: Formal orders of investigation; Institution and settlement of injunctive actions; Institution and settlement of administrative proceedings of an enforcement nature; and Resolution of litigation claims.

At times, changes in Commission priorities require alterations in the scheduling of meeting items.

For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: The Office of the Secretary at (202) 551–5400.

Dated: May 3, 2006.

Nancy M. Morris,

Secretary.

[FR Doc. 06–4340 Filed 5–4–06; 4:01 pm]

BILLING CODE 8010–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #10462 and #10463]

Hawaii Disaster #HI–00004

AGENCY: Small Business Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for the State of Hawaii (FEMA–1640–DR), dated 05/02/2006.

Incident: Severe Storms, Flooding, Landslides, and Mudslides.

Incident Period: 02/20/2006 through 04/02/2006.

Effective Date: 05/02/2006.

Physical Loan Application Deadline Date: 07/03/2006.

Economic Injury (EIDL) Loan Application Deadline Date: 02/02/2007.

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: Notice is hereby given that as a result of the President's major disaster declaration on 05/02/2006, applications for disaster loans may be filed at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties (Physical Damage and Economic Injury Loans): City and County of Honolulu, Kauai County.

Contiguous Counties (Economic Injury Loans Only): None.

The Interest Rates are:

	Percent
For Physical Damage	
Homeowners With Credit Available Elsewhere	5.750
Homeowners Without Credit Available Elsewhere	2.875
Businesses With Credit Available Elsewhere	7.408
Other (Including Non-Profit Organizations) With Credit Available Elsewhere	5.000
Businesses and Non-Profit Organizations Without Credit Available Elsewhere	4.000

For Economic Injury

Businesses & Small Agricultural Cooperatives Without Credit Available Elsewhere: 4.000.

The number assigned to this disaster for physical damage is 104626 and for economic injury is 104630.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008.)

Cheri L. Cannon,

Acting Associate Administrator for Disaster Assistance.

[FR Doc. E6–7023 Filed 5–8–06; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #10322 and #10323]

Texas Disaster Number TX–00097

AGENCY: Small Business Administration.

ACTION: Amendment 7.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for the State of Texas (FEMA–1624–DR), dated 01/11/2006.

Incident: Extreme Wildfire Threat.

Incident Period: 11/27/2005 and continuing.

Effective Date: 05/01/2006.

Physical Loan Application Deadline Date: 05/30/2006.

EIDL Loan Application Deadline Date: 10/11/2006.

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 Texas, dated 01/11/2006, is hereby amended to extend the deadline for filing applications for physical damages as a result of this disaster to 05/30/2006.

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. E6–6989 Filed 5–8–06; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #10322 and #10323]

Texas Disaster Number TX–00097

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 8.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for the State of Texas (FEMA–1624–DR), dated January 11, 2006.

Incident: Extreme Wildfire Threat.

Incident Period: November 27, 2005 and continuing.

Effective Date: May 1, 2006.

Physical Loan Application Deadline Date: May 30, 2006.

EIDL Loan Application Deadline Date: October 11, 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 Texas, dated January 11, 2006 is hereby amended to include the following areas as adversely affected by the disaster:

Primary Counties:
Kerr

Contiguous Counties:
Texas:
Bandera, Edwards, Gillespie, Kendall, Kimble, Real

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. E6–6990 Filed 5–8–06; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

Small Business Size Standards: Waiver of the Nonmanufacturer Rule

AGENCY: U.S. Small Business Administration.

ACTION: Notice of denial to waive the Nonmanufacturer Rule for Lenses, Ophthalmic, Manufacturing.

SUMMARY: The U. S. Small Business Administration (SBA) is denying a request for a waiver of the Nonmanufacturer Rule for Lenses, Ophthalmic, Manufacturing based on our recent discovery of a small business manufacturer for this class of product. Denying this waiver will require recipients of contracts set aside for small businesses, service-disabled veteran-owned small businesses, or SBA's 8(a) Business Development Program to provide the products of small business manufacturers or processors on such contracts.

DATES: This notice of denial is effective May 24, 2006.

FOR FURTHER INFORMATI0N CONTACT: Edith Butler, Program Analyst, by telephone at (202) 619–0422; by FAX at (202) 481–1788; or by e-mail at *edith.butler@sba.gov.*

SUPPLEMENTARY INFORMATION: Section 8(a)(17) of the Small Business Act (Act), 15 U.S.C. 637(a)(17), requires that recipients of Federal contracts set aside for small businesses, service-disabled veteran-owned small businesses, or SBA's 8(a) Business Development Program provide the product of a small business manufacturer or processor, if the recipient is other than the actual manufacturer or processor of the product. This requirement is commonly referred to as the Nonmanufacturer Rule.

The SBA regulations imposing this requirement are found at 13 CFR 21.406(b). Section 8(a)(17)(b)(iv) of the Act authorizes SBA to waive the Nonmanufacturer Rule for any ''class of products'' for which there are no small business manufacturers or processors available to participate in the Federal market.

As implemented in SBA's regulations at 13 CFR 121.1202(c), in order to be considered available to participate in the Federal market for a class of products, a small business manufacturer must have submitted a proposal for a contract solicitation or received a contract from the Federal government within the last 24 months. The SBA defines ''class of products'' based on a six digit coding system. The coding system is the Office of Management and Budget North American Industry Classification System (NAICS).

The SBA received a request on February 16, 2006 to waive the Nonmanufacturer Rule for Lenses, Ophthalmic, Manufacturing. In response, on March 14, 2006, SBA published in the **Federal Register** a notice of intent to waive the Nonmanufacturer Rule for Lenses, Ophthalmic, Manufacturing. SBA explained in the notice that it was soliciting comments and sources of small business manufacturers of this class of product. In response to that March 14, 2006 notice, SBA received a comment from a small business manufacturer indicating that they have furnished this product to the Federal government. Accordingly, based on the available information, SBA has determined that there is a small business manufacturer of this class of product, and, is therefore denying the class waiver of the Nonmanufacturer Rule for Lenses, Ophthalmic, Manufacturing, NAICS codes 339115.

Dated: May 2, 2006.

Karen C. Hontz,

Associate Administrator for Government Contracting.

[FR Doc. E6–6991 Filed 5–8–06; 8:45 am]

BILLING CODE 8025–01–P

SOCIAL SECURITY ADMINISTRATION

Agency Information Collection Activities: Proposed Request, Comment Request and Correction Request

The Social Security Administration (SSA) publishes a list of information collection packages that will require clearance by the Office of Management and Budget (OMB) in compliance with Public Law 104–13, the Paperwork Reduction Act of 1995, effective October 1, 1995. The information collection packages that may be included in this notice are for new information collections, approval of existing information collections, revisions to OMB-approved information collections, and extensions (no change) of OMB-approved information collections.

SSA is soliciting comments on the accuracy of the agency's burden estimate; the need for the information; its practical utility; ways to enhance its quality, utility, and clarity; and on ways to minimize burden on respondents, including the use of automated collection techniques or other forms of information technology. Written comments and recommendations regarding the information collection(s) should be submitted to the OMB Desk Officer and the SSA Reports Clearance Officer. The information can be mailed and/or faxed to the individuals at the addresses and fax numbers listed below:

(OMB), Office of Management and Budget, Attn: Desk Officer for SSA. Fax: 202–395–6974.

(SSA), Social Security Administration, DCFAM, Attn: Reports Clearance Officer, 1333 Annex Building, 6401 Security Blvd., Baltimore, MD 21235. Fax: 410–965–6400.

I. The information collections listed below are pending at SSA and will be submitted to OMB within 60 days from the date of this notice. Therefore, your comments should be submitted to SSA within 60 days from the date of this publication. You can obtain copies of the collection instruments by calling the SSA Reports Clearance Officer at 410–965–0454 or by writing to the address listed above.

1. *Certification by Religious Group—20 CFR 404.1075—0960–0093.* Form SSA–1458 is used to determine if the religious group meets the qualifications set out in section 1402(g) of the Internal Revenue Code which permits members of certain religious groups and sects to be exempt from payment of Self-Employment Contribution Act taxes. The respondents are spokespersons for religious groups or sects.

Type of Request: Extension of an OMB-approved information collection.

Number of Respondents: 180.

Frequency of Response: 1.

Average Burden Per Response: 15 minutes.

Estimated Annual Burden: 45 hours.

2. *Medical Consultant's Review of Mental Residual Functional Capacity Assessment—20 CFR 404.1520a, 404.1640, 404.1643, 404.1645, 416.920a—0960–0678.* Form SSA–392–SUP is used by SSA's regional review component to facilitate the medical/psychological consultant's review of the Mental Residual Functional Capacity Form, SSA–4734–SUP. The SSA–392–SUP records the reviewing medical/psychological consultant's assessment of the SSA–4734–SUP prepared by the adjudicating component and also records whether the reviewer agrees or disagrees with the manner in which the SSA–4734–SUP was completed. The SSA–392–SUP is required for each SSA–4734–SUP form completed. The respondents are the 256 medical/psychological consultants responsible for reviewing the SSA–4734–SUP.

Type of Request: Extension of an OMB-approved information collection.

Number of Responses: 45,000.

Frequency of Response: 1.

Average Burden Per Response: 12 minutes.

Estimated Annual Burden: 9,000 hours.

3. *Statement of Self-Employment Income—20 CFR 404.101, 404.110, 404.1096(a)–(d)—0960–0046.* SSA uses the information on Form SSA–766 to expedite the payment of benefits to an individual who is self-employed and who is establishing insured status in the current year. Respondents are self-employed individuals who may be eligible for Social Security benefits.

Type of Request: Extension of an OMB-approved information collection.

Number of Respondents: 5,000.

Frequency of Response: 1.

Average Burden Per Response: 5 minutes.

Estimated Annual Burden: 417 hours.

4. *Request for Deceased Individual's Social Security Record—20 CFR 402.130—0960–0665.* The SSA–711 is used to process requests from the public for a microprint of the SS–5, Application for Social Security Card, for a deceased individual. Respondents are members of the public who are requesting deceased individuals' Social Security records.

Type of Request: Extension of an OMB-approved information collection.

Number of Respondents: 50,000.

Frequency of Response: 1.

Average Burden Per Response: 7 minutes.

Estimated Annual Burden: 5,834 hours.

5. *Request for Business Entity Taxpayer Information—0960–NEW.* The SSA–1694 will be used to collect information from law firms or other business entities that have partners or employees to whom SSA pays fees that have been authorized as compensation for the representation of claimants before SSA. SSA will collect the name of the firms and/or business entities, as well as their addresses and Employer Identification Numbers (EIN) to keep a record on file for tax purposes. This information will be used to meet any requirement for issuance of a Form 1099–MISC. The respondents are law firms or other business entities that have partners or employees that are attorneys or other qualified individuals who represent claimants before SSA.

Type of Request: Request for a new information collection.

Number of Respondents: 1,000.

Frequency of Response: 1.

Average Burden Per Response: 10 minutes.

Estimated Annual Burden: 167 hours.

6. *Identifying Information for Possible Direct Payment of Authorized Fees—0960–NEW.* The SSA–1695 will be used to collect information from appointed representatives that will facilitate the direct payment of authorized fees related to the representation of claimants for benefits before SSA and to issue a Form 1099–MISC, as required. The information will also be used to establish a link between each claim for benefits and the data that will be collected on the SSA–1699 and stored on an Appointed Representative Database. Respondents are attorneys and other individuals who represent claimants for benefits before SSA.

Type of Request: Request for a new information collection.

Number of Respondents: 10,000.

Frequency of Response: 25.

Number of Responses: 250,000.

Average Burden Per Response: 10 minutes.

Estimated Annual Burden: 41,667 hours.

7. *Request for Appointed Representative's Direct Payment Information—0960–NEW.* The SSA–1699 will be used to collect information from appointed representatives in order to facilitate the direct payment of authorized fees, including the possible use of direct deposit to a financial institution. SSA will also use the information provided to meet any requirement to issue a Form 1099–MISC when SSA has paid the representative aggregate fees of $600 or more in a taxable year. Business affiliation information will be used to determine if a Form 1099–MISC should be issued to a firm in those situations where the representative is associated with a firm as an employee or partner. Since the SSA–1699 is used as a registration form for the Appointed Representative Database, representatives will only need to fill it out once, unless they need to make a change to any of their information. This form is used in conjunction with the SSA–1695, which links the Appointed Representative Database with the individual claims the representatives handle. Respondents are attorneys or non-attorneys eligible for direct payment (i.e., have met certain prerequisites established by law).

Type of Request: Request for a new information collection.

Number of Respondents: 10,000.

Frequency of Response: 1.

Average Burden Per Response: 20 minutes.

Estimated Annual Burden: 3,333 hours.

8. *Statement for Determining Continuing Eligibility, Supplemental Security Income Payment—20 CFR, Subpart D, 416.204—0960–0145.* SSA uses form SSA–8202–BK to conduct low- and middle-error-profile (LEP-MEP) telephone or face-to-face redetermination (RZ) interviews with Supplemental Security Income (SSI) recipients and representative payees. The information collected during the interview is used to determine whether SSI recipients have met and continue to meet all statutory and regulatory requirements for SSI eligibility and whether they have been, and are still receiving, the correct payment amount. Form SSA–8202–OCR–SM (Optical Character Recognition Self-Mailer) collects information similar to that collected on Form SSA–8202–BK. However, it is used exclusively in LEP RZ cases on a 6-year cycle.

Forms	Respondents	Frequency of response	Average burden per response (minutes)	Estimated annual burden (hours)
SSA–8202–BK	1,000,000	1	21	350,000
SSA–8202–OCR–SM	700,000	1	11	128,333

Total Burden Hours for This Request: 478,333 hours.

9. *Statement for Determining Continuing Eligibility, Supplemental Security Income Payment(s)—20 CFR Subpart B, 416.204—0960–0416.* SSA uses the information collected on form SSA–8203–BK for high-error-profile (HEP) redeterminations of disability to determine whether SSI recipients have met and continue to meet all statutory and regulatory requirements for SSI eligibility and whether they have been, and are still receiving, the correct payment amount. The information is normally completed in field offices by personal contact (face-to-face or telephone interview) using the automated Modernized SSI Claim System (MSSICS). The respondents are recipients of Title XVI benefits.

Type of Request: Revision of an OMB-approved information collection.

Number of Respondents: 171,000.

Frequency of Response: 1.

Average Burden Per Response: 20 minutes.

Estimated Annual Burden: 57,000 hours.

10. *Request for Internet Services—Authentication; Automated Telephone Speech Technology—Knowledge-Based Authentication—20 CFR 401.45—0960–0596.* Individuals and third parties who request personal information from SSA records, or register with SSA in order to participate in SSA's online business services, are asked to provide certain identifying information to verify their identity. As an extra measure of protection, SSA asks requestors who use the Internet and telephone services to provide additional identifying information unique to those services so that SSA can authenticate their identities before releasing personal information. The respondents are current beneficiaries who are requesting personal information from SSA and/or individuals or third parties who are registering for SSA's online business services.

Type of Request: Revision of an OMB-approved information collection.

Forms	Number of respondents	Frequency of response	Average burden per response	Burden hours
Internet Requestors	2,076,138	1	1½ Minutes	51,903
Telephone Requestors	889,488	1	1½ Minutes	22,237
Totals:	2,965,626			74,140

Estimated Annual Burden: 74,140 hours.

11. *Integration Registration Services (IRES) System—20 CFR 401.45—0960–0626.* The IRES System registers and authenticates businesses, employers and third parties with SSA, and issues them Personal Identification Numbers (PIN). These PINs will be used in the place of handwritten signatures on forms, when using SSA's Business Services Online. Respondents are employers and third party submitters of wage data, business entities providing tax payer identification information and other electronic records, and data exchange partners conducting business in support of SSA programs.

Type of Request: Revision of an OMB-approved information collection.

Number of Respondents: 460,000.

Frequency of Response: 1.

Average Burden Per Response: 2 minutes.

Estimated Annual Burden: 15,333 hours.

II. The information collections listed below have been submitted to OMB for clearance. Your comments on the information collections would be most useful if received by OMB and SSA within 30 days from the date of this publication. You can obtain a copy of the OMB clearance packages by calling the SSA Reports Clearance Officer at 410–965–0454, or by writing to the address listed above.

1. *Letter to Employer Requesting Wage Information—20 CFR 404.726—0960–0138.* The information collected on Form SSA–L4201 is used by SSA to collect wage information from employers to establish and/or verify wage information for Supplemental Security Income (SSI) claimants and recipients. Form SSA–L4201 is also used to determine eligibility and proper payment for SSI applicants/recipients. The respondents are employers of applicants for and recipients of SSI payments.

Type of Request: Revision of an OMB-approved information collection.

Number of Respondents: 133,000.

Frequency of Response: 1.

Average Burden Per Response: 30 minutes.

Estimated Annual Burden: 66,500 hours.

2. *The Mental Health Treatment Study (MHTS)—0960–NEW.*

Background

As a result of advances in medical treatment, assistive devices, changes in the way those with disabilities are viewed, and legislation designed to assure access to employment, SSA is taking on an increasingly active role in assisting beneficiaries who want to return to work. As a result, SSA plans to develop the MHTS under section 234 of the Social Security Act (42 U.S.C. 434), which gives the Commissioner of Social Security the authority to carry out experiments and demonstration projects designed to determine the relative advantages and disadvantages of interventions that facilitate a beneficiary's return to work. Part of the Agency's role involves finding ways to promote work and increase independence among disability beneficiaries.

SSA received additional support for this study in February 2001, through President Bush's New Freedom Initiative—a comprehensive program whose primary goal is to promote the full participation of individuals with disabilities in all areas of society. The aim of the Initiative is to help Americans with disabilities by increasing their access to effective technologies, expanding educational opportunities, increasing the ability of Americans with disabilities to integrate into the workforce, and promoting increased access into daily community life. This initiative provided SSA with the support necessary to address the need to expand educational and employment opportunities for beneficiaries in an effort to provide supports and services that will enable them to maximize their self-sufficiency and potentially enter or reenter the workforce.

MHTS Collection

The MHTS is a randomized study designed to test the degree to which eliminating programmatic work disincentives, establishing an accurate diagnosis and delivering appropriate mental health and supported employment will lead to improved functioning and competitive employment among Social Security Disability Insurance (SSDI) beneficiaries with a primary impairment of schizophrenia or affective disorder. Study outcomes will assess the impact and cost-effectiveness of the intervention, including identification of specific factors within the interventions that result in positive employment outcomes. This information will enable SSA to further develop ways to improve services to current and future beneficiaries. The information will also be used to guide any potential changes to program rules to allow for better coordination among other Federal and State programs. Interested beneficiaries will be initially screened to confirm their ability to participate in the study. The actual study is scheduled to be conducted over a 2-year period with initial measurement through a baseline survey, followed by quarterly progress surveys and a final follow-up survey. For study purposes, participants will be divided into two groups: (A) Treatment Group and (B) Control Group. The respondents to the study are SSDI beneficiaries who meet the study criteria and elect to participate.

Type of Request: New information collection.

Collection Burden Estimate

INITIAL SCREENER SURVEYS

Questionnaire	Total number of respondents	Burden per response (minutes)	Frequency of response	Total annual burden hours
Screener	3,050	4	1	203

TREATMENT GROUP SURVEYS

Questionnaire	Total number of respondents	Burden per response (minutes)	Frequency of response	Total annual burden hours
Baseline	1,500	30	1	750
Quarterly	1,500	25	7	4,375
Follow-up	1,500	20	1	500
Total				5,625

CONTROL GROUP SURVEYS

Questionnaire	Total number of respondents	Burden per response (minutes)	Frequency of response	Total annual burden hours
Baseline	1,500	30	1	750
Quarterly	1,500	10	7	1,750
Follow-up	1,500	20	1	500
Total				3,000

TOTAL ESTIMATED BURDEN FOR ALL STUDY ACTIVITIES

Participant	Number of respondents	Number of surveys per respondent	Total annual burden hours
Screener Survey	3,050	1	203
Treatment Group (T)	1,500	9	5,625
Control Group (C)	1,500	9	3,000
Total	6,050		8,828

III. The information collection listed below has been submitted to OMB for clearance. This notice has been previously published, and is being republished because changes have been made to the collection's burden estimate. Your comments on the information collection would be most useful if received by OMB and SSA within 60 days from the date of this publication. You can obtain a copy of the OMB clearance package by calling the SSA Reports Clearance Officer at 410–965–0454, or by writing to the address listed above.

Request for Reconsideration—20 CFR 404.907–404.921, 416.1407–416.1421, 408.1009—0960–0622. The information collected on Form SSA–561–U2 is used by SSA to document and initiate the reconsideration process for determining entitlement to Social Security benefits (Title II), SSI payments (Title XVI), Special Veterans Benefits (Title VIII), Medicare (Title XVIII) and for making initial determinations regarding Medicare Part B income-related premium subsidy reductions. The respondents are individuals filing for reconsideration.

Type of Request: Revision of an OMB-approved information collection.

Number of Respondents: 1,461,700.

Frequency of Response: 1.

Average Burden Per Response: 8 minutes.

Estimated Annual Burden: 194,893 hours.

Dated: May 3, 2006.

Elizabeth A. Davidson,

Reports Clearance Officer, Social Security Administration.

[FR Doc. E6–6992 Filed 5–8–06; 8:45 am]

BILLING CODE 4191–02–P

SOCIAL SECURITY ADMINISTRATION

The Ticket to Work and Work Incentives Advisory Panel Meeting

AGENCY: Social Security Administration (SSA).

ACTION: Notice of Quarterly Meeting.

DATES: June 7, 2006—9 a.m. to 5:30 p.m., June 8, 2006—9 a.m. to 5:30 p.m., June 9, 2006—8 a.m. to 4:30 p.m.

ADDRESSES: Double Tree Hotel Crystal City, 300 Army Navy Drive, Arlington, VA 22202.

Phone: 703–416–4100.

SUPPLEMENTARY INFORMATION:

Type of meeting: On June 7–9, 2006, the Ticket to Work and Work Incentives Advisory Panel (the ''Panel'') will hold a quarterly meeting open to the public.

Purpose: In accordance with section 10(a)(2) of the Federal Advisory Committee Act, the Social Security Administration (SSA) announces a meeting of the Ticket to Work and Work Incentives Advisory Panel. Section 101(f) of Public Law 106–170 establishes the Panel to advise the President, the Congress, and the Commissioner of SSA on issues related to work incentive programs, planning, and assistance for individuals with disabilities as provided under section 101(f)(2)(A) of the TWWIA. The Panel is also to advise the Commissioner on matters specified in section 101(f)(2)(B) of that Act, including certain issues related to the Ticket to Work and Self-Sufficiency Program established under section 101(a) of that Act.

Interested parties are invited to attend the meeting. The Panel will use the meeting time to receive briefings and presentations on matters of interest, conduct full Panel deliberations on the implementation of the Act and receive public testimony.

The Panel will meet in person commencing on Wednesday, June 7, 2006, from 9 a.m. until 5:30 p.m. The quarterly meeting will continue on

Thursday, June 8, 2006, from 9 a.m. until 5:30 p.m. The meeting will continue on Friday, June 9, 2006, from 8 a.m. until 4:30 p.m.

Agenda: Members of the public must schedule a time slot in order to comment. In the event public comments do not take the entire scheduled time period, the Panel may use that time to deliberate or conduct other Panel business. Public testimony will be heard on Thursday, June 8, 2006, from 9 a.m. until 10 a.m. Individuals interested in providing testimony in person should contact the Panel staff as outlined below to schedule a time slot. Each presenter will be acknowledged by the Chair in the order in which they are scheduled to testify and is limited to a maximum five-minute, verbal presentation.

Full written testimony on the Implementation of the Ticket to Work and Work Incentives Program, no longer than five (5) pages, may be submitted in person or by mail, fax or email on an ongoing basis to the Panel for consideration.

Since seating may be limited, persons interested in providing testimony at the meeting should contact the Panel staff by emailing Ms. Tinya White-Taylor, at *Tinya.White-Taylor@ssa.gov* or by calling (202) 358–6420.

The full agenda for the meeting will be posted on the Internet at *http://www.ssa.gov/work/panel/meeting_information/agendas.html* at least one week before the starting date or can be received, in advance, electronically or by fax upon request.

Contact Information: Records are kept of all proceedings and will be available for public inspection by appointment at the Panel office. Anyone requiring information regarding the Panel should contact the staff by:

- Mail addressed to the Social Security Administration, Ticket to Work and Work Incentives Advisory Panel Staff, 400 Virginia Avenue, SW., Suite 700, Washington, DC 20024.
- Telephone contact with Tinya White-Taylor at (202) 358–6420.
- Fax at (202) 358–6440.
- E-mail to *TWWIIAPanel@ssa.gov*.

Dated: May 1, 2006.

Chris Silanskis,

Designated Federal Officer.

[FR Doc. E6–7006 Filed 5–8–06; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF STATE

[Public Notice 5390]

Industry Advisory Panel: Meeting Notice

The Industry Advisory Panel of the Overseas Buildings Operations will meet on Thursday, June 15, 2005 from 9:45 a.m. until 3:30 p.m. Eastern Standard Time. The meeting will be held at the Department of State, 2201 C Street, NW., (entrance on 23rd Street), Room 1105, Washington, DC. The majority of the meeting is devoted to an exchange of ideas between the Department's Bureau of Overseas Buildings Operations' senior management and the panel members, on design, operations and building maintenance. Members of the public are asked to kindly refrain from joining the discussion until Director Williams opens the discussion to the public.

Due to limited seating space for members of the public, we ask that you kindly email your information. To participate in this meeting, simply register by e-mail at *IAPR@STATE.GOV* before June 8, 2006.

To register for the meeting, e-mail *IAPR@STATE.GOV, mailto:IAPR@STATE.GOV*, prior to June 8, 2006. Your response should include your date of birth and social security number, which will be used by Diplomatic Security to issue a temporary pass to enter the building. If you have any questions, please contact *PinzinoLE3@state.gov, mailto:PinzinoLE3@state.gov*, (Gina Pinzino—tel: 703/875–6872 or Andrea Specht at *SpechtAM@state.gov* at 703–516–1544.)

Charles E. Williams,

Director & Chief Operating Officer, Overseas Buildings Operations, Department of State.

[FR Doc. E6–7033 Filed 5–8–06; 8:45 am]

BILLING CODE 4710–24–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Request To Release Airport Property at the City-County Airport, Madras, OR

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of request to release airport property.

SUMMARY: The FAA proposes to rule and invite public comment on the release of land at City-County Airport under the provisions of section 125 of the Wendell H. Ford Aviation Investment Reform Act for the 21st Century (AIR 21), now 49 U.S.C. 47107(h)(2).

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

ADDRESSES: Comments on this application may be mailed or delivered to the FAA at the following address: Mr. J. Wade Bryant, Manager, Federal Aviation Administration, Northwest Mountain Region, Airports Division, Seattle Airports District Office, 1601 Lind Avenue, SW., Suite 250, Renton, Washington 98055–4056.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to The Honorable Frank E. Morton, Mayor of City of Madras, at the following address: The Honorable Frank E. Morton, Mayor, City of Madras, 71 SE. D Street, Madras, OR 97741.

FOR FURTHER INFORMATION CONTACT: Mr. William L. Watson, OR/ID Section Supervisor, Federal Aviation Administration, Northwest Mountain Region, Seattle Airports District Office, 1601 Lind Avenue, SW., Suite 250, Renton, Washington 98055–4056.

The request to release property may be reviewed, by appointment, in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA invites public comment on the request to release property at the City-County Airport under the provisions of the AIR 21 (49 U.S.C. 47107(h)(2)).

On April 26, 2006, the FAA determined that the request to release property at City-County Airport submitted by the airport meets the procedural requirements of the Federal Aviation Administration. The FAA may approve the request, in whole or in part, no later than June 8, 2006.

The following is a brief overview of the request:

City-County Airport is proposing the release of approximately 3.67 acres of airport property so the property can be sold to the business wishing to locate in the airport industrial park. The revenue made from this sale will be used toward Airport Capital Improvement.

Any person may inspect, by appointment, the request in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT**.

In addition, any person may, upon appointment and request, inspect the application, notice and other documents germane to the application in person at City-County Airport.

Issued in Renton, Washington on April 26, 2006.

J. Wade Bryant,

Manager, Seattle Airports District Office.

[FR Doc. 06–4330 Filed 5–08–06; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Public Notice for Waiver of Aeronautical Land-Use Assurance; Rickenbacker International Airport, Columbus, OH

AGENCY: Federal Aviation Administration, DOT

ACTION: Notice of intent of waiver with respect to land.

SUMMARY: The Federal Aviation Administration (FAA) is considering a proposal to change a portion of the airport designated aeronautical use to non-aeronautical use and authorize the release of approximately 70.463 acres of airport property. Approximately 69.903 acres of the property will be used as dedicated road right-of-way associated with Phase 1B of the Alum Creek Drive Extension to Franklin County for public transportation purposes. The remaining 0.56 acres of land will be used for land exchange with South Central Power Company. A small portion of the land is currently developed with existing roadways and four existing structures that formerly supported military base activities. The parcel was acquired by the Rickenbacker Port Authority through three agreements (Quitclaim Deeds) dated March 30, 1984, September 22, 2003 and May 16, 2005 from the United States of America. There are no impacts to the airport by allowing the airport to dispose of the property. The roadways currently support civilian airport activities. The present condition of the existing roadway pavements varies from poor to excellent. The present condition of the four existing structures are: Building 904—Sanitary sewer lift station for military cantonment area is currently in use, is in fair condition and will remain in use; Building 905 (Warehouse/Tank Control)—not in use, to be demolished; Building 906 (Warehouse Tank port)—Not in use, to be demolished; Building 812 (Former Base Exchange)—Not in use, to be demolished. Approval does not constitute a commitment by the FAA to financially assist in the disposal of the subject airport property nor a determination of eligibility for grant-in-aid funding from the FAA. In accordance with section 47107(h) of title 49, United States Code, this notice is required to be published in the **Federal Register** 30 days before modifying the land-use assurance that requires the property to be used for an aeronautical purpose.

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

FOR FURTHER INFORMATION CONTACT: Mary W. Jagiello, Program Manager, Federal Aviation Administration, Great Lakes Region, Detroit Airports District Office, DET ADO–608, 11677 South Wayne Road, Suite 107, Romulus, Michigan 48174. Telephone Number (734–229–2956)/FAX Number (734–229–2950). Documents reflecting this FAA action may be reviewed at this same location or at Rickenbacker International Airport, Columbus, Ohio.

SUPPLEMENTARY INFORMATION: Following is a legal description of the property located in Hamilton Township, Franklin County, Ohio, and described as follows:

Beginning at the northwesterly corner of dedicated right of way of Curtis Lemay Avenue (Port Road) as delineated on the Plat ''Dedication of Curtis Lemay Avenue and Alum Creek Drive'' of record in Plat Book 76, Page 46, being the northeasterly corner of said 0.371 acre tract;

Thence S 03°42′59″ W, along the westerly terminus line of said Curtis Lemay Avenue (Port Road) Dedication, an easterly line of said 0.371 acre tract and said 295.137 acre tract, a distance of 175.31 feet to the southwesterly corner of said Curtis Lemay Avenue (Port Road) Dedication;

Thence N 86°09′45″ W, through said 295.137 acre tract, a distance of 337.62 feet to a point of curvature;

Thence along the arc of a curve to the left continuing through said 295.137 acre tract, having a radius of 1829.31 feet, a central angle of 30°47′44″, an arc distance of 983.22 feet to a point, said arc being subtended by chord bearing S 78°26′23″ W, a chord distance of 971.43 feet;

Thence S 04°16′55″ W, continuing through said 295.137 acre tract, a distance of 10.00 feet to a point;

Thence N 86°06′35″ W, continuing through said 295.137 acre tract, a distance of 16.48 feet to a point of curvature;

Thence along the arc of a non-tangent curve to the left, continuing through said 295.137 acre tract, having a radius of 1829.31 feet, a central angle of 16°50′44″, an arc distance of 537.84 feet to a point, said arc being subtended by chord bearing S 54°00′49″ W, a chord distance of 535.91 feet to a point at a northwesterly corner of that 18.320 acre tract as described in a deed to Rickenbacker Port Authority of record in Instrument Number 200204090089210;

Thence S 45°35′27″ W, along the westerly line of said 18.320 acre tract and the westerly line of that 18.609 acre tract as described to Rickenbacker Port Authority of record in Instrument Number 200204090089210, a distance of 2170.11 feet to a point being the southwesterly corner of said 18.609 acre tract;

Thence S 30°31′30″ E, along the southerly line of said 18.609 acre tract, a distance of 703.25 feet to a point being the southeasterly corner of said 18.609 acre tract;

Thence S 06°04′34″ E, crossing said 295.137 acre tract, a distance of 148.97 feet to a point being the southwesterly corner a survey by HLG Engineering and Survey, Inc., of that 157.779 acre tract dated 01–15–98;

Thence S 30°31′14″ E, along the westerly line of said 157.779 acre tract, a distance of 1185.58 feet to a point of curvature;

Thence along an arc of a curve to the right, continuing along the westerly line of said 157.779 acre tract, having a radius of 330.00 feet, a central angle of 76°05′29″, an arc distance of 438.26 feet to a point, said arc being subtended by a chord bearing S 07°31′35″ W, a chord distance of 406.75 feet;

Thence S 45°34′19″ W, along the northwesterly line of said 157.770 acre tract and the northwesterly line of a survey by HLG Engineering and Survey, Inc., of that 126.485 acre tract dated 05–31–04 to the state of Ohio Adjutant General's Department, a distance of 3521.48 feet to a point of curvature;

Thence along an arc of a curve to the left, continuing along the northwesterly line of said 126.485 acre tract, having a radius of 340.00 feet, a central angle of 90°00′00″, an arc distance of 534.07 feet to a point, said arc being subtended by a chord bearing S 00°34′19″ W, a chord distance of 480.83 feet;

Thence S 44°25′41″ E, along the westerly line of said 126.485 acre tract, a distance of 2.47 feet to a point;

Thence S 45°34′38″ W, crossing said 295.137 acre tract, a distance of 218.04 feet to a point of curvature in the easterly railroad right of way of Norfolk Western Railway Company;

Thence along an arc of a non-tangent curve to the left, along said easterly railroad right of way, having a radius of 1938.85 feet, a central angle of 10°24′52″, an arc distance of 352.42 feet to a point, said point being subtended by a chord bearing N 33°37′05″ W, a chord distance of 351.93 feet;

Thence N 38°49′31″ W, continuing along said easterly right of way, a distance of 192.63 feet to a point;

Thence N 43°33′31″ E, through said 241.695 acre tract and that 41.463 acre tract to Columbus Regional Airport Authority, a distance of 3153.57 feet to a point of curvature;

Thence along an arc of a curve to the left, through said 41.463 acre tract and

said 241.695 acre tract, having a radius of 789.44 feet, a central angle of 74°04′38″, an arc distance of 1020.66 feet to a point, said point being subtended by a chord bearing of N 06°29′51″ E, a chord distance of 951.04 feet;

Thence N 30°31′07″ W, continuing through said 241.695 acre tract, a distance of 864.22 feet to a point of curvature;

Thence along an arc of a curve to the right, through said 241.695 acre tract and said 295.137 acre tract, having a radius of 786.20 feet, a central angle of 76°06′34″, an arc distance of 1044.35 feet to a point, said point being subtended by a chord bearing of N 07°32′10″ E, a chord distance of 969.25 feet;

Thence N 45°35′27″ E, continuing through said 295.137 acre tract, a distance of 2212.72 feet to a point of curvature;

Thence along an arc of a curve to the right, continuing through said 295.137 acre tract, having a radius of 1979.86 feet, a central angle of 11°24′43″, an arc distance of 394.34 feet to a point in the westerly line of that 1.433 acre tract as described to South Central Power Company of record in Official Record 34399, Page E11, said point being subtended by a chord bearing of N 51°17′48″ E, a chord distance of 393.69 feet;

Thence S 04°16′55″ W, along the westerly line of said 1.433 acre tract, a distance of 43.85 feet to a point being the southwesterly corner of said 1.433 acre tract;

Thence S 86°06′35″ E, along the southerly line of said 1.433 acre tract, a distance of 210.16 feet to a point being the southeasterly line of said 1.433 acre tract;

Thence N 04°16′55″ E, along the easterly line of said 1.433 acre tract, a distance of 280.50 feet to a point being the northeasterly corner of said 1.433 tract;

Thence S 86°06′35″ W, along the northerly line of said 1.433 acre tract, a distance of 71.05 feet to a point being a northerly corner of said 1.433 acre tract;

Thence N 04°16′55″ E, along the easterly line of said 1.433 acre tract, a distance of 25.00 feet to a point being the northerly corner of said 1.433 tract;

Thence N 86°06′35″ W, along the northerly line of said 1.433 acre tract, a distance of 139.11 feet to a point being a northwesterly corner of said 1.433 acre tract;

Thence N 03°53′24″ E, leaving said 1.433 acre tract, through said 295.137 acre tract, a distance of 18.20 feet to a point;

Thence S 86°06′35″ E, continuing through said 295.137 acre tract, a distance of 435.21 feet to a point;

Thence S 03°45′18″ W, continuing through said 295.137 acre tract, a distance of 31.60 feet to a point of curvature;

Thence along a non-tangent curve to the right, continuing through said 295.137 acre tract, having a radius of 1979.86 feet, a central angle of 22°14′57″, an arc distance of 768.82 feet to a point in the southerly line of said 4.474 acre tract, said point being subtended by chord bearing N 82°42′47″ E, a chord distance of 764.00 feet;

Thence S 86°09′45″ E, along the southerly line of said 4.474 acre tract and the northerly line of said 0.371 acre tract, a distance of 301.01 feet to the Point of Beginning and containing 70.643 acres, more or less;

The basis of bearings are based on the grid bearing of S 86°13′48″ E, between Franklin County Survey Control Monument Numbers 9958 and 9962.

Issued in Romulus, Michigan on April 24, 2006.

Irene Porter,

Manager, Detroit Airports District Office FAA, Great Lakes Region.

[FR Doc. 06–4329 Filed 5–8–06; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Portland International Jetport, Portland, ME; FAA Approval of Noise Compatibility Program

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces its findings on the noise compatibility program submitted by the City of Portland under the provisions of Title I of the Aviation Safety and Noise Abatement Act of 1979 (Pub. L. 96–193) and 14 CFR part 150. These findings are made in recognition of the description of federal and non-federal responsibilities in Senate Report No. 96–51 (1980). On September 9, 2005, the FAA determined that the noise exposure maps submitted by the City of Portland under part 150 were in compliance with applicable requirements. On March 8, 2006, the Acting Associate Administrator approved the Portland International Jetport noise compatibility program. All 13 of the proposed program elements were approved.

EFFECTIVE DATE: The effective date of the FAA's approval of the Portland International Jetport noise compatibility program is March 8, 2006.

FOR FURTHER INFORMATION CONTACT: John C. Silva, Federal Aviation Administration, New England Region, Airports Division, 12 New England Executive Park, Burlington, Massachusetts 01803. Telephone (617) 238–7602.

Documents reflecting this FAA action may be obtained from the same individual.

SUPPLEMENTARY INFORMATION: This notice announces that the FAA has given its overall approval to the Portland International Jetport noise compatibility program, effective March 8, 2006.

Under section 104(a) of the Aviation Safety and Noise Abatement Act of 1979 (hereinafter the Act), as 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 Regulation (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 measured according to the standards expressed in part 150 and the Act, and is limited to the following determinations:

(a) The noise compatibility program was developed in accordance with the provisions and procedures of FAR part 150;

(b) 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;

(c) 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

agreements, or intrude into areas preempted by the Federal government; and

(d) 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 as 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 a 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 under the Airport and Airway Improvement Act of 1982. Where Federal funding is sought, requests for project grants must be submitted to the FAA Regional Office in Burlington, Massachusetts.

The City of Portland submitted to the FAA, on August 31, 2005, noise exposure maps, descriptions, and other documentation produced during the noise compatibility planning study conducted from December 2001 to August 2005. The Portland International Jetport noise exposure maps were determined by FAA to be in compliance with applicable requirements on September 9, 2005. Notice of this determination was published in the **Federal Register** on September 22, 2005.

The Portland International Airport Jetport study contains a proposed noise compatibility program comprised of actions designed for implementation by airport management and adjacent jurisdictions from the date of study completion to beyond the year 2007. The City of Portland 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 9, 2005, and was required by a provision of the Act to approve or disapprove the program within 180 days (other than the use of new flight procedures for noise control). Failure to approve or disapprove such a program within the 180-day period shall be deemed to be an approval of such a program.

The submitted program contained 13 proposed actions for noise mitigation on and off the airport. 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 therefore approved the overall program effective March 8, 2006.

Of the 13 proposed program elements, all were approved. The 13 program elements include new FMS/RNAV flight procedures, greater use of airspace over the Fore River for departures from Runway 11 and arrivals to Runway 29, a reduction in early left turns for aircraft departing Runway 29, runway use recommendations for Federal Express air cargo operations, increased use of Runway 11–29 over Runway 18–36, coordinated efforts with surrounding communities to reduce incompatible land use development, a new flight track monitoring system, periodic recalculation of noise exposure, establishment of engine run-up procedures, continued work with Federal Express to encourage conformance with noise abatement measures, a request that Brunswick Naval Air Station flight units curtail practice instrument operations at PWM, continued meetings with the Noise Advisory Committee, and attendance at meetings of local homeowner associations.

FAA's determinations are set forth in detail in a Record of Approval endorsed by the Acting Associate Administrator on March 8, 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 Portland International Jetport, Portland, Maine.

Dated: Issued in Burlington, Massachusetts on April 21, 2006.

LaVerne Reid,

Manager, Airports Division, New England Region.

[FR Doc. 06–4327 Filed 5–08–06; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Programmatic Environmental Impact Statement: Launches and Reentries Under an Experimental Permit

AGENCY: Federal Aviation Administration (FAA), Office of Commercial Space Transportation.

ACTION: Notice of extension of scoping for the Programmatic Environmental Impact Statement (PEIS) for Experimental Permits.

SUMMARY: On March 27, 2006, the FAA published a Notice of Intent to prepare a PEIS for Experimental Permits in the **Federal Register** (71 FR 15251). The FAA has decided to extend the scoping period for the preparation of the PEIS to June 2, 2006. All comments received by June 2, 2006 will be considered in the preparation of the Draft PEIS.

FOR FURTHER INFORMATION CONTACT: Questions regarding this notice may be directed to Ms. Stacey M. Zee, FAA Environmental Specialist, c/o ICF Consulting, 9300 Lee Highway, Fairfax, VA 22031; via E-mail *PEIS-Experimental-Permits@icfconsulting.com*; or via fax at 703–934–3951. Envelopes and the subject line of e-mails or faxes should be labeled ''Scoping for the Experimental Permits PEIS.''

Herbert Bachner,

Manager, Space Systems Development Division.

[FR Doc. E6–7049 Filed 5–8–06; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Availability of Record of Decision for the Final Environmental Impact Statement, Phoenix Sky Harbor International Airport, Phoenix, Maricopa County, AZ

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of availability for Record of Decision.

SUMMARY: The Federal Aviation Administration (FAA) is issuing this notice to advise the public that it has published a Record of Decision (ROD) for the Final Environmental Impact Statement (FEIS) that evaluated a proposed Airport Development Program at Phoenix Sky Harbor International Airport (PHX), Phoenix, Maricopa County, Arizona.

FOR FURTHER INFORMATION CONTACT: Jennifer Mendelsohn, Environmental Protection Specialist, AWP–621.6, Airports Division, Federal Aviation Administration, Western-Pacific Region, P.O. Box 92007, Los Angeles, California 90009–2007, Telephone: 301/725–3637.

SUPPLEMENTARY INFORMATION: The Federal Aviation Administration (FAA) has completed and is publishing its Record of Decision for the proposed Airport Development Program at Phoenix Sky Harbor International Airport. FAA had published its FEIS on February 10, 2006. The FEIS was prepared by the FAA pursuant to the National Environmental Policy Act of 1969 and assessed the potential impact of the proposed Airport Development Program, as well as the No Action Alternative where no improvements at the airport would be made. The FAA accepted comments on the FEIS and these comments along with FAA responses are included in an appendix to the ROD.

The FAA selected the Airport Development Program (ADP) as the preferred alternative in meeting the purpose and need for improvements at the airport. The ADP Alternative includes demolition of Terminal 2 and ancillary facilities, construction and operation of a 33-gate West Terminal Complex and related construction of access roads, concourses, aprons, airline areas and structural and surface parking areas, modifications to Terminal 4, Concourse N4 International Gates, construction and operation of two crossfield Taxiways Uniform ''U'' and Victor ''V'', realignment of Sky Harbor Boulevard, construction and operations of the Automated People Mover (APM) Stage 2, including acquisition of approximately sixteen acres of land to accommodate the proposed APM maintenance control and storage facility and APM station to connect with the Valley Metro Light Rail.

Copies of the ROD are available for public review at the following locations during normal business hours: U.S. Department of Transportation, Federal Aviation Administration, Western-Pacific Region, Office of the Airports Division, 15000 Aviation Boulevard, Hawthorne, California 90261.

U.S. Department of Transportation, Federal Aviation Administration, National Headquarters, Community and Environmental Needs Division, 800 Independence Avenue, SW., Washington, DC 20591.

Phoenix Sky Harbor International Airport, 3400 Sky Harbor Boulevard, Terminal 3, Level 3 East Mezzanine, Phoenix, AZ contact person is Ms. Margaret Gonzales (602) 273–3340.

The copies of the ROD are also available at the following libraries: Burton Barr Central Library, 1221 N. Central Avenue, Phoenix, AZ 85004; Ocotillo Branch Library, 102 W. Southern Avenue, Phoenix, AZ 85041; Harmon Branch Library, 411 W. Yavapai Street, Phoenix, AZ 85003; Saguaro Branch Library, 2808 N. 46th Street, Phoenix, AZ 85008; Tempe Public Library, 3500 S. Rural Road, Tempe, AZ 85282; City of Scottsdale Library, 3839 North Drinkwater Boulevard, Scottsdale, AZ 85251.

The ROD may also be viewed at the Airport's Web site at: *http://phoenix.gov/AVIATION/index.html.*

Questions may be directed to the individual above under the heading **FOR FURTHER INFORMATION CONTACT.**

Issued in Hawthorne, California on April 24, 2006.

George E. Aiken,

Acting Manager, Airports Division, Western-Pacific Region, AWP–600.

[FR Doc. 06–4326 Filed 5–8–06; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Passenger Facility Charge (PFC) Approvals and Disapprovals

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Monthly Notice of PFC Approvals and Disapprovals. In April 2006, there were nine applications approved. This notice also includes information on three applications, approved in March 2006, inadvertently left off the March 2006 notice. Additionally, eight approved amendments to previously approved applications are listed.

SUMMARY: The FAA publishes a monthly notice, as appropriate, of PFC approvals and disapprovals under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158). This notice is published pursuant to paragraph (d) of § 158.29.

PFC Applications Approved

Public Agency: Mobile Airport Authority, Mobile, Alabama.

Application Number: 06–05–C–00–MOB.

Application Type: Impose and use a PFC.

PFC Level: $3.00.

Total PFC Revenue Approved in This Decision: $2,619,470.

Earliest Charge Effective Date: June 1, 2006.

Estimated Charge Expiration Date: February 1, 2009.

Class of Air Carriers Not Required to Collect PFC's:

Air taxi/commercial operators filing FAA Form 1800–31.

Determination: Approved. Based on information submitted in the public agency's application, the FAA has determined that the proposed class accounts for less than 1 percent of the total annual enplanements at Mobile Regional Airport.

Brief Description of Projects Approved for Collection and Use:

Security equipment.

Aircraft rescue and firefighting building.

Guidance signs.

Overlay taxiway A.

Overlay portions of runway 14/32.

Security vehicle.

Sweepers.

Land acquisition phase I.

Communication system.

Security vehicle.

Land acquisition phase II.

Land acquisition phase III.

Aircraft rescue and firefighting vehicle.

Security vehicle.

Land acquisition phase IV group A.

Jet Bridge No. 4.

Benefit cost analysis.

Land acquisition phase IV group D.

Airlock doors.

Blast analysis.

Terminal building emergency generator.

Relocate customer service center.

Rehabilitate taxiway A connectors and portions of taxiway C.

Miscellaneous security.

Storm drain repair.

CTX cameras.

T-5 circuit, precision approach path indicators and windcone.

Infield service road phase I.

Snozzle camera.

Terminal renovations.

Install carpet on second floor.

Install handrails on lobby stairs.

Jet bridge No. 2.

Install water fountains.

Security vehicles.

Security system rehabilitation pre-engineering.

Sweepers.

Land acquisition south runway protection zone.

Terminal drive directions/regulatory signs.

Air handlers 5, 6, and 7.

Replace security system—construction.

Jet bridges nos. 1 and 3.

Rehabilitate taxiway A—paving and medium intensity taxiway lighting design.

Airport storm drain study.
Land acquisition south runway protection zone—2.
Passenger seating.
Air handlers 1, 4, and 11 design.
Rehabilitate airport road east design.
Rehabilitate airport road west design.
Rehabilitate terminal drive design.
Medical elevator design.
Hurricane repair.
Rehabilitate airport road east construction.
Rehabilitate terminal drive construction.
Rehabilitate airport road west construction.
Lightening protection upgrades.
Banister handrails—Americans with Disabilities Act compliance.
Check-in conveyors design.
Install boarding canopy and ramp.
Terminal building sprinkler system design.
Air handlers 1, 4, 8, and 11 construction.
Terminal concourse window tinting.
Medical elevator construction.
External fire escape.
Replace heating, air conditioning, and ventilation construction.
Terminal building sprinkler system construction.
Taxiway L rehabilitation.
Infield service road phase 2 design.
Land acquisition south runway protection zone parcel 10–0052 and north runway protection zone parcel 46.
Rehabilitate taxiway A construction.
Infield service road phase 2 construction.
Infield service road phase 3 design.
Land acquisition south runway protection zone—apartment complex.
Improve airfield drainage.
Airfield storm drain repair.
Airport layout plan update.
Infield service road phase 3 construction.
Clear and fence 12-foot culvert.
Quick response aircraft rescue and firefighting vehicle.
Security vehicle.
Aircraft rescue and firefighting building generator.
Airfield sweeper.
Decision Date: March 1, 2006.

FOR FURTHER INFORMATION CONTACT: William Schuler, Jackson Airports District Office, (601) 664–9900.

Public Agency: Cedar Rapids Airport Commission, Cedar Rapids, Iowa.

Application Number: 06–04–C–00–CID.

Application Type: Impose and use a PFC.

PFC Level: $4.50.

Total PFC Revenue Approved in This Decision: $8,554,708.

Earliest Charge Effective Date: June 1, 2006.

Estimated Charge Expiration Date: July 1, 2010.

Class of Air Carriers Not Required to Collect PFC's:

Air taxi/commercial operators.

Determination: Approved. Based on information submitted in the public agency's application, the FAA has determined that the proposed class accounts for less than 1 percent of the total annual enplanements at The Eastern Iowa Airport.

Brief Description of Projects Approved for Collection and Use:

Rehabilitate taxiway lighting.
Improve airport drainage runway 9/27.
Rehabilitate taxiway C north.
Install runway sensors.
Reconstruct east end of runway 9/27.
Upgrade security access system.
Purchase aircraft rescue and firefighting vehicles.
Rehabilitate west end of runway 9/27.

Brief Description of Projects Approved for Collection:

Renovate terminal building—inline bag screening.
Construct aircraft rescue and firefighting building.

Brief Description of Withdrawn Projects:

Reconstruct runway 9/27 intersection with runway 13/31.
Renovate terminal building—B concourse, security check point.
Construct taxiway B.

Determination: These projects were withdrawn by the public agency on December 15, 2005. Therefore, the FAA did not rule on these projects in this decision.

Decision Date: March 23, 2006.

FOR FURTHER INFORMATION CONTACT: Lorna Sandridge, Central Region Airports Division, (816) 329–2641.

Public Agency: Greater Peoria Airport Authority, Peoria, Illinois.

Application Number: 06–03–C–PIA.

Application Type: Impose and use a PFC.

PFC Level: $4.50.

Total PFC Revenue Approved in This Decision: $1,476,770.

Earliest Charge Effective Date: February 1, 2007.

Estimated Charge Expiration Date: August 1, 2008.

Class of Air Carriers Not Required to Collect PFC's:

Nonscheduled/on-demand operators filing FAA Form 1800–31.

Determination: Approved. Based on information submitted in the public agency's application, the FAA has determined that the proposed class accounts for less than 1 percent of the total annual enplanements at Greater Peoria Regional Airport.

Brief Description of Projects Approved for Collection and Use:

Security enhancements.
Land reimbursement.
Security enhancements/security identification display area doors.
Airport layout plan update.
Terminal study.
Parking lot improvements.
Prepare PFC application.
Decision Date: March 24, 2006.

FOR FURTHER INFORMATION CONTACT: Denis Rewerts, Chicago Airports District Office, (847) 294–7195.

Public Agency: State of Alaska, Department of Transportation and Public Facilities, Juneau, Alaska.

Application Number: 06–02–C–00–FAI.

Application Type: Impose and use a PFC.

PFC Level: $4.50.

Total PFC Revenue Approved in This Decision: $33,217,000.

Earliest Charge Effective Date: October 1, 2006.

Estimated Charge Expiration Date: October 1, 2026.

Class of Air Carriers Not Required to Collect PFC's:

None.

Brief Description of Projects Approved for Collection and Use:

Snow removal equipment.
Terminal renovation and expansion.
Decision Date: April 4, 2006.

FOR FURTHER INFORMATION CONTACT: Matthew Freeman, Alaska Region Airports Division, (907) 271–5455.

Public Agency: County of Clark, Las Vegas, Nevada.

Application Number: 06–06–C–00–LAS.

Application Type: Impose and use a PFC.

PFC Level: $4.50.

Total PFC Revenue Approved in This Decision: $631,780,500.

Earliest Charge Effective Date: October 1, 2023.

Estimated Charge Expiration Date: March 1, 2028.

Class of Air Carriers Not Required to Collect PFC's:

Nonscheduled/on-demand air carriers filing FAA Form 1800–31.

Determination: Approved. Based on information submitted in the public agency's application, the FAA has determined that the proposed class accounts for less than 1 percent of the total annual enplanements at McCarran International Airport.

Brief Description of Projects Approved for Collection and Use at a $4.50 PFC Level:

Northeast wing concourse D.
Northwest wing concourse D.
Decision Date: April 12, 2006.

FOR FURTHER INFORMATION CONTACT: Joe Rodriguez, San Francisco Airports District Office, (650) 876–2778, extension 610.

Public Agency: City of Killeen, Texas.
Application Number: 06–01–C–00–GRK.
Application Type: Impose and use a PFC.
PFC Level: $4.50.
Total PFC Revenue Approved in This Decision: $2,713,561.
Earliest Charge Effective Date: June 1, 2006.
Estimated Charge Expiration Date: March 1, 2010.
Class of Air Carriers Not Required to Collect PFC's:
Part 135 charter operators.
Determination: Approved. Based on information submitted in the public agency's application, the FAA has determined that the proposed class accounts for less than 1 percent of the total annual enplanements at Killeen-Fort Hood Regional Airport.
Brief Description of Projects Approved for Collection and Use:
Terminal facility site work and utilities phase II.
Passenger terminal building and apron phase II.
Taxiway and runway safety area improvements.
Apron expansion and safety improvements.
Security system improvements.
Procure and install passenger boarding bridges.
Procure sweeper.
Procure portable air stairs.
Airport signage improvements.
Administrative expenses.
Brief Description of Disapproved Project:
Procure aircraft towing vehicle.
Determination: The FAA determined that this project did not meet the requirements of § 158.15.
Decision Date: April 12, 2006.

FOR FURTHER INFORMATION CONTACT: Paul Blackford, Southwest Region Airports Division, (817) 222–5607.

Public Agency: Government of American Samoa, Pago Pago, American Samoa.
Application Number: 06–03–C–00–PPG.
Application Type: Impose and use a PFC.
PFC Level: $4.50.
Total PFC Revenue Approved in This Decision: $5,848.954.
Earliest Charge Effective Date: June 1, 2006.
Estimated Charge Expiration Date: December 1, 2020.
Class of Air Carriers Not Required to Collect PFC's:
None.
Brief Description of Projects Approved for Collection at PAGO PAGO International Airport (PPG) and Use at PPG:
Extend runway 5/23.
Rehabilitate runway 5/23.
Construct miscellaneous security improvements.
Construct aircraft rescue and firefighting building.
Acquire three aircraft rescue and firefighting vehicles.
Construct aircraft rescue and firefighting training pit.
Terminal improvements.
Install one loading bridge.
Brief Description of Projects Approved for Collection at PPG and Use at Fitiuta Airport:
Extend runway 12/30.
Brief Description of Projects Approved for Collection at PPG and Use at OFU Airport:
Conduct airport master plan study.
Decision Date: April 19, 2006.

FOR FURTHER INFORMATION CONTACT: Gordon Wong, Honolulu Airports District Office, (808) 541–3565.

Public Agency: Massachusetts Port Authority, Boston, Massachusetts.
Application Number: 06–04–C–00–BOS.
Application Type: Impose and use a PFC.
PFC Level: $4.50.
Total PFC Revenue Approved in This Decision: $293,018,000.
Earliest Charge Effective Date: February 1, 2011.
Estimated Charge Expiration Date: February 1, 2016.
Class of Air Carriers Not Required to Collect PFC's:
Nonscheduled/on-demand air carriers.
Determination: Approved. Based on information submitted in the public agency's application, the FAA has determined that the proposed class accounts for less than 1 percent of the total annual enplanements at General Edward Lawrence Logan International Airport.
Brief Description of Projects Approved for Collection and Use at a $4.50 PFC Level:
Residential sound insulation: 1998 65 LDN and 2001 65 LDN contours.
Residential sound insulation—runway 14/32 mitigation contour.
Runway 14/32.
Taxiway improvement.
Runway improvements to 4L/22R and 4R/22L.
Reconstruction of aprons and alleyways at terminal B, C, and D.
Security improvements.
Airfield drainage improvement.
Airfield perimeter road improvements.
Brief Description of Project Approved for Collection at a $3.00 PFC Level:
Elevated walkways.
Brief Description of Project Approved for Collection and Use at a $4.50 PFC Level:
Centerfield taxiway.
Decision Date: April 20, 2006.

FOR FURTHER INFORMATION CONTACT: Priscilla Scott, New England Region Airports Division, (781) 238–7614.

Public Agency: Reno-Tahoe Airport Authority, Reno, Nevada.
Application Number: 06–09–C–00–RNO.
Application Type: Impose and use a PFC.
PFC Level: $3.00.
Total PFC Revenue Approved in This Decision: $3,400,000.
Earliest Charge Effective Date: August 1, 2007.
Estimated Charge Expiration Date: January 1, 2008.
Classes of Air Carriers Not Required to Collect PFC's:
(1) Nonscheduled/on-demand air carriers filing FAA Form 1800–31; and (2) Nonscheduled commuters or small certificated air carriers filing Department of transportation Form T–100.
Determination: Approved. Based on information submitted in the public agency's application, the FAA has determined that each proposed class accounts for less than 1 percent of the total annual enplanements at Reno/Tahoe International Airport.
Brief Description of Project Approved for Collection and Use at a $4.50 PFC Level:
Fire alarm system.
Brief Description of Project Approved for Collection and Use at a $3.00 PFC Level:
Public address system.
Decision Date: April 21, 2006.

FOR FURTHER INFORMATION CONTACT: Joe Rodriguez, San Francisco Airports District Office, (650) 876–2778, extension 610.

Public Agency: Decatur Park District, Decatur, Illinois.
Application Number: 06–01–C–00–DEC.
Application Type: Impose and use a PFC.
PFC Level: $4.50.
Total PFC Revenue Approved in This Decision: $732,628.
Earliest Charge Effective Date: June 1, 2006.

Estimated Charge Expiration Date: March 1, 2019.

Class of Air Carriers Not Required to Collect PFC's:

Nonscheduled/on-demand operators filing FAA Form 1800–31.

Determination: Approved. Based on information submitted in the public agency's application, the FAA has determined that the proposed class accounts for less than 1 percent of the total annual enplanements at Decatur Airport.

Brief Description of Projects Approved for Collection and Use:

Runway 30 extension and overlay runway 6/24 and 12/30 intersection.

Instill airfield signage.

Land acquisition parcel 16A.

Land acquisition parcel 17A.

Land acquisition parcel 18A.

Surveying for land acquisition.

Runway 30 extension.

Widen taxiway F to 75 feet.

Rehabilitate terminal apron, phase 1.

Airport layout plan.

Overlay runway 6/24 (partial).

Overlay/widen aircraft rescue and firefighting building pavements.

Rehabilitate terminal apron, phase 2.

Rehabilitate runway 12/30, phase 1.

Rehabilitate runway 12/30, phase 2.

Rehabilitate runway 12/30, phase 3.

Land acquisition, parcel 15.

Land acquisition, parcel 16.

Land acquisition, parcel 35.

Land acquisition, parcel 36.

Decision Date: April 24, 2006.

FOR FURTHER INFORMATION CONTACT: Richard Pur, Chicago Airports District Office, (847) 294–7527.

Public Agency: County of Orange, Santa Ana, California.

Application Number: 06–01–C–00–SNA.

Application Type: Impose and use a PFC.

PFC Level: $4.50.

Total PFC Revenue Approved in This Decision: $321,351,002.

Earliest Charge Effective Date: July 1, 2006.

Estimated Charge Expiration Date: January 1, 2022.

Class of Air Carriers Not Required to Collect PFC's:

Nonscheduled/on-demand air carriers filing FAA Form 1800–31.

Determination: Approved. Based on information submitted in the public agency's application, the FAA has determined that the proposed class accounts for less than 1 percent of the total annual enplanements at John Wayne Airport—Orange County.

Brief Description of Projects Approved for Collection and Use at a $4.50 PFC Level:

In-line baggage screening.

New south remain overnight apron.

Terminal building expansion.

Brief Description of Projects Approved for Collection and Use at a $3.00 PFC Level:

Common use terminal equipment.

PFC application development.

Decision Date: April 25, 2006.

FOR FURTHER INFORMATION CONTACT: George Buley, Western Pacific Region Airports Division, (310) 725–3771.

Public Agency: County of Beltrami and City of Bemidji, Bemidji, Minnesota.

Application Number: 06–03–C–00–BJI.

Application Type: Impose and use a PFC.

PFC Level: $4.50.

Total PFC Revenue Approved in This Decision: $333,711.

Earliest Charge Effective Date: June 1, 2006.

Estimated Charge Expiration Date: May 1, 2008.

Classes of Air Carriers Not Required to Collect PFC's:

(1) Nonscheduled/on-demand air carriers; and (2) commuter or small certificated air carriers.

Determination: Approved. Based on information submitted in the public agency's application, the FAA has determined that each proposed class accounts for less than 1 percent of the total annual enplanements at Bemidji Regional Airport.

Brief Description of Projects Approved for Collection and Use:

PFC application.

Electrical improvements.

Construct drainage ditch.

Access road bituminous overlay.

Snow removal equipment access road.

Glycol containment system.

Pavement condition report.

Design general aviation area.

Pavement crack sealing.

Purchase boom deicing truck.

Environmental study.

Land purchase.

Airport master plan and airport layout plan.

Land purchase (runway 25 approach).

Runway/taxiway reconstruction (runways 7/25 and 13/31, taxiways A and B).

Decision Date: April 26, 2006.

FOR FURTHER INFORMATION CONTACT: Nancy Nistler, Minneapolis Airports District Office, (612) 713–4353.

AMENDMENTS TO PFC APPROVALS

Amendment No., city, state	Amendment approved date	Original approved net PFC revenue	Amended approved net PFC revenue	Original estimated charge exp. date	Amended estimated charge exp. date
01–01–C–04–PIT Pittsburgh, PA	03/29/06	$99,120,197	$100,098,648	10/01/06	10/01/06
04–03–U–01–PIT Pittsburgh, PA	03/29/06	NA	NA	10/01/06	10/01/06
04–04–C–01–PIT Pittsburgh, PA	03/29/06	250,136,744	251,401,645	10/01/17	11/01/17
*97–01–C–02–TUS Tucson, AZ	04/07/06	101,234,420	100,461,860	05/01/15	04/01/13
96–02–C–02–BOS Boston, MA	04/20/06	163,037,000	0	10/01/22	02/01/11
*03–03–C–01–RAP Rapid City, SD	04/20/06	1,591,925	2,256,111	07/01/06	05/01/07
*00–04–C–01–ATW Appleton, WI	04/27/06	5,891,467	5,891,467	03/01/08	04/01/08
03–03–C–01–RAP Pittsburgh, PA	04/20/06	250,136,744	251,401,645	10/01/17	11/01/17

Note: The amendments denoted by an asterisk (*) include a change to the PFC level charged from $3.00 per enplaned passenger to $4.50 per enplaned passenger. For Rapid City, SD and Appleton, WI, this change is effective on June 1, 2006. For Tucson, AZ, this change is effective on October 1, 2006.

Issued in Washington, DC on May 4, 2006.

Joe Hebert,

Manager, Financial Analysis and Passenger Facility Charge Branch.

[FR Doc. 06–4328 Filed 5–8–06; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Passenger Facility Charge (PFC) Approvals and Disapprovals

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Monthly Notice of PFC Approvals and Disapprovals. In March 2006, there were six applications approved. This notice also includes information on four applications, approved in February 2006, inadvertently left off the February 2006 notice. Additionally, two approved amendments to previously approved applications are listed.

SUMMARY: The FAA publishes a monthly notice, as appropriate, of PFC approvals and disapprovals under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158). This notice is published pursuant to paragraph d of § 158.29.

PFC Applications Approved

Public Agency: County of Onslow, Richlands, North Carolina.

Application Number: 06–03–C–00–OAJ.

Application Type: Impose and use a PFC.

PFC Level: $3.00.

Total PFC Revenue Approved in This Decision: $251,469.

Earliest Charge Effective Date: April 1, 2006.

Estimated Charge Expiration Date: January 1, 2009.

Class of Air Carriers Not Required to Collect PFC'S:

None.

Brief Description of Projects Approved for Collection and Use:

Sanitary sewer improvements—design.

Runway 5/23 overlay—design.

Land acquisition—terminal area.

Master plan update.

Police vehicle.

Ramp lighting.

Emergency communications system.

Terminal area sanitation improvements.

PFC application development.

PFC program administration.

Brief Description of Projects Approved for Collection:

Remove and replace loading bridge.

Rehabilitate runway 5/23 overlay.

Aircraft rescue and firefighting equipment.

Relocate terminal access road.

Land acquisition—avigation easement.

Emergency access road improvements.

Decision Date: February 16, 2006.

FOR FURTHER INFORMATION CONTACT: Tracie Klein, Atlanta Airports District Office, (404) 305–7155.

Public Agency: Monroe County Board of County Commissioners, Key West, Florida.

Application Number: 06–11–C–00–EYW.

Application Type: Impose and use a PFC.

PFC Level: $4.50.

Total PFC Revenue Approved in This Decision: $80,000.

Earliest Charge Effective Date: November 1, 2037.

Estimated Charge Expiration Date: December 1, 2037.

Class of Air Carriers Not Required to Collect PFC's:

Air taxi/commercial operators filing FAA Form 1800–31.

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the approved class accounts for less than 1 percent of the total annual enplanements at Key West International Airport (EYW).

Brief Description of Projects Approved for Collection at EYW and Use at EYW:

Construct supplemental windcones (two).

Acquire disabled passenger ramp.

Brief Description of Project Approved for Collection at EYW and Use at Marathon Airport:

Construct supplemental windcone (one).

Brief Description of Projects Approved for Use at EYW:

New passenger terminal building.

Terminal roadway and ramps.

Brief Description of Disapproved Project:

Terminal ground level parking.

Determination: Revenue producing parking facilities are not PFC-eligible.

Decision Date: February 22, 2006.

FOR FURTHER INFORMATION CONTACT: Susan Moore, Orlando Airports District Office, (407) 812–6331.

Public Agency: County of Crow Wing and City of Brainerd, Brainerd, Minnesota.

Application Number: 06–04–C–00–BRD.

Application Type: Impose and use a PFC.

PFC Level: $4.50.

Total PFC Revenue Approved in This Decision: $1,437,204.

Earliest Charge Effective Date: July 1, 2006.

Estimated Charge Expiration Date: January 1, 2024.

Class of Air Carriers Not Required to Collect PFC's:

Air taxi/commercial operators.

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the approved class accounts for less than 1 percent of the total annual enplanements at Brainerd Lakes Regional Airport.

Brief Description of Projects Approved for Collection and Use:

Audit services for PFC account (2001).

Air carrier terminal security.

Audit services for PFC account (2002).

Install deer fence, phase 1.

Wildlife assessment for runway 16/34.

Preliminary engineering for runway 16/34.

Wetland permits and mitigation.

Rehabilitate portion of terminal parking.

Phase 1 grading, runway 16/34.

Install deer fence, phase 2.

Install emergency generator.

Modify and expand electrical vault building.

Acquire wheel loader.

Audit services for PFC account (2003).

Wildlife hazard management plan.

Land acquisition for runway 16/34.

Construct runway 16/34, phase 2.

Install deer fence, phase 3.

Update airport layout plan.

Construct runway 16/34, phase 3.

Instrument landing system for runway 34.

Runway 34 lighting.

High speed snow plow.

Dedicated sanding truck.

Rehabilitate taxiway 5/23 shoulders.

Runway broom attachment for loader.

Runway vacuum sweeper.

Decision Date: February 23, 2006.

FOR FURTHER INFORMATION CONTACT: Nancy Nistler, Minneapolis Airports District Office, (612) 713–4353.

Public Agency: County of Humbolt, Eureka, California.

Application Number: 06–08–C–00–ACV.

Application Type: Impose and use a PFC.

PFC Level: $4.50.

Total PFC Revenue Approved in This Decision: $1,511,500.

Earliest Charge Effective Date: April 1, 2006.

Estimated Charge Expiration Date: March 1, 2009.

Class of Air Carriers Not Required to Collect PFC's:

Nonscheduled/on-demand air carriers filing FAA Form 1800–31.

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the approved class accounts for less than 1 percent of the total annual enplanements at Arcata/Eureka Airport (ACV).

Brief Description of Projects Approved for Collection at ACV and Use at ACV:

Implement airfield safety enhancements.

Terminal area improvements.

Upgrade airfield lighting.

Expand general aviation apron.

Environmental baseline study for runway safety area improvements.

Runway safety area study.

PFC administrative costs.

Brief Description of Project Approved for Collection at ACV and Use at Murray Field:

Prepare environmental assessment.

Brief Description of Project Approved for Collection at ACV and Use at Rohnerville Airport:

Upgrade/install runway and taxiway edge lighting system.

Brief Description of Disapproved Project:

Update master plan.

Determination: The FAA notes that the current master plan has not been implemented and the County of Humboldt has a public review draft of the current plan under final review. Therefore, the FAA concluded that the proposed project did not meet the requirements of paragraph 401.e.(2) of FAA Order 5100.38C, Airport Improvement Program Handbook (June 28, 2005), which specifies that master plan updates be considered every 10 years.

Decision Date: February 24, 2006.

FOR FURTHER INFORMATION CONTACT: Joe Rodriguez, San Francisco Airports District Office, (650) 876–2778, extension 610.

Public Agency: Northwest Regional Airport Commission, Traverse City, Michigan.

Application Number: 06–04–C–00–TVC.

Application Type: Impose and use a PFC.

PFC Level: $4.50.

Total PFC Revenue Approved in This Decision: $4,428,494.

Earliest Charge Effective Date: April 1, 2019.

Estimated Charge Expiration Date: March 1, 2024.

Class of Air Carriers Not Required to Collect PFC's:

Air taxi/commercial operators filing FAA Form 1800–31.

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the approved class accounts for less than 1 percent of the total annual enplanements at Cherry Capital Airport.

Brief Description of Projects Approved for Collection and Use:

Passenger terminal cost benefit analysis.

Geotechnical services for south terminal.

Entry vestibule reconfiguration for south terminal.

Blast assessment report for south terminal.

Update airport layout plan to extend runway ends 10 and 28.

Way signage and traffic signal (design).

FAA/air traffic control tower coordination (south terminal).

Entry sign and water feature construction.

Traffic signal new entrance road (design).

Runway safety area study for runway 18/36.

General aviation apron (design).

General aviation apron (construction).

Snow removal equipment sweeper/loader/blower procurement.

Snow removal equipment snow sweeper procurement (vehicle #1).

Aircraft rescue and firefighting building (design).

Snow removal equipment front end loader procurement.

Snow removal equipment snow blower procurement.

Traffic signal and airport road modifications.

Animal control fence (design).

Part 150 master plan update.

Snow removal equipment storage/sand storage building (design).

Aircraft rescue and firefighting building (construction inspection).

Aircraft rescue and firefighting building (construction).

Aircraft rescue and firefighting building site preparation.

Snow removal equipment plow truck/material spreader procurement.

Snow removal equipment snow sweeper procurement (vehicle #2).

Animal control fence (construction).

Auxiliary wind cones.

Update runway sensor system.

Snow removal equipment spreader procurement documents.

Runway safety area for runway 18/36 (construction).

Aircraft rescue and firefighting 3,000-gallon vehicle procurement.

Old terminal building demolition.

Snow removal equipment storage building site preparation.

PFC application preparation cost reimbursement.

PFC account audit cost reimbursement.

Snow removal equipment storage building (construction).

Decision Date: March 2, 2006.

FOR FURTHER INFORMATION CONTACT: Jason Watt, Detroit Airports District Office, (734) 229–2906.

Public Agency: Lee County Port Authority, Fort Myers, Florida.

Application Number: 06–06–C–00–RSW.

Application Type: Impose and use a PFC.

PFC Level: $4.50.

Total PFC Revenue Approved in This Decision: $6,932,692.

Earliest Charge Effective Date: April 1, 2017.

Estimated Charge Expiration Date: April 1, 2018.

Class of Air Carriers Not Required to Collect PFC's:

Air taxi/commercial operators.

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the approved class accounts for less than 1 percent of the total annual enplanements at Southwest Florida International Airport.

Brief Description of Project Approved for Collection and Use at a $4.50 PFC Level:

Rehabilitation of runway 6/24 and taxiway A.

Brief Description of Project Approved for Collection and Use at a $3.00 PFC Level:

PFC implementation.

Decision Date: March 6, 2006.

FOR FURTHER INFORMATION CONTACT: Juan Brown, Orlando Airports District Office, (407) 812–6331.

Public Agency: Tweed-New Haven Airport Authority, New Haven, Connecticut.

Application Number: 06–03–C–00–HVN.

Application Type: Impose and use a PFC.

PFC Level: $4.50.

Total PFC Revenue Approved in This Decision: $663,054.

Earliest Charge Effective Date: May 1, 2006.

Estimated Charge Expiration Date: June 1, 2007.

Class of Air Carriers Not Required to Collect PFC's:

Air taxi/commercial operators.

Determination: Approved. Based on information contained in the public agency's application, the FAA has

determined that the approved class accounts for less than 1 percent of the total annual enplanements at Tweed-New Haven Regional Airport.

Brief Description of Projects Approved for Collection and Use:

Runway 14/32 shoulder removal.

Perimeter security.

Pavement crack sealing.

Acquisition of snow plow.

Terminal apron reconstruction.

High intensity runway lights replacement, runway 2/20.

Terminal improvements.

Terminal planning study.

Acquisition of Americans with Disabilities Act ramp/security improvements.

Decision Date: March 9, 2006.

FOR FURTHER INFORMATION CONTACT: Priscilla Scott, New England Region Airports Division, (781) 238–7614.

Public Agency: Monterey Peninsula Airport District, Monterey, California.

Application Number: 06–12–C–00–MRY.

Application Type: Impose and use a PFC.

PFC Level: $4.50.

Total PFC Revenue Approved in This Decision: $1,811,815.

Earliest Charge Effective Date: May 1, 2006.

Estimated Charge Expiration Date: April 1, 2009.

Class of Air Carriers Not Required to Collect PFC's:

Nonscheduled/on-demand air carriers filing FAA Form 1800–31.

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the approved class accounts for less than 1 percent of the total annual enplanements at Monterey Peninsula Airport.

Brief Description of Projects Approved for Collection and Use:

Terminal infrastructure improvements.

Residential sound insulation phase IX.

Residential sound insulation phase X.

FOR FURTHER INFORMATION CONTACT: Joe Rodriguez, San Francisco Airports District Office, (650) 876–2778, extension 610.

Public Agency: City of Grand Junction/County of Mesa/Walker Field Public Airport Authority, Grand Junction, Colorado.

Application Number: 06–07–C–00–GJT.

Application Type: Impose and use a PFC.

PFC Level: $4.50.

Total PFC Revenue Approved in This Decision: $6,355,297.

Earliest Charge Effective Date: September 1, 2006.

Estimated Charge Expiration Date: August 1, 2019.

Class of Air Carriers Not Required to Collect PFC's:

None.

Brief Description of Projects Approved for Collection and Use:

Baggage carousel replacement.

Baggage belt improvements and associated ticketing renovations.

Airport access road reconstruction.

PFC application and administration fees.

Decision Date: March 22, 2006.

FOR FURTHER INFORMATION CONTACT: Chris Schaffer, Denver Airports District Office, (303) 342–1258.

Public Agency: Metropolitan Washington Airports Authority, Washington, District of Columbia.

Application Number: 05–06–C–00–DCA.

Application Type: Impose and use a PFC.

PFC Level: $4.50.

Total PFC Revenue Approved in This Decision: $146,603,508.

Earliest Charge Effective Date: February 1, 2008.

Estimated Charge Expiration Date: November 1, 2011.

Class of Air Carriers Not Required to Collect PFC's:

Nonscheduled/on-demand air carriers filing FAA Form 1800–31.

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the approved class accounts for less than 1 percent of the total annual enplanements at Ronald Reagan Washington National Airport (DCA).

Brief Description of Projects Approved for Collection at DCA and Use Washington Dulles International Airport (IAD) at a $4.50 PFC Level:

Concourse B west expansion.

Wetland mitigation.

Brief Description of Projects Approved for Collection at DCA and Use at IAD at a $3.00 PFC Level:

North area roads.

Wildlife hazard management.

Decision Date: March 23, 2006.

FOR FURTHER INFORMATION CONTACT: Luis Loarte, Washington Airports District Office, (703) 661–1365.

AMENDMENTS TO PFC APPROVALS

Amendment No., city, state	Amendment approved date	Original approved net PFC revenue	Amended approved net PFC revenue	Original estimated charge exp. date	Amended estimated charge exp. date
05–10–C–01–EYW Key West, FL	02/02/06	$48,810,445	$48,730,445	09/01/37	09/01/37
00–02–C–01–RAP Rapid City, SD	03/20/06	1,791,732	1,890,151	09/01/03	11/01/03

Issued in Washington, DC on May 2, 2006.

Joe Hebert,

Manager, Financial Analysis and Passenger Facility Charge Branch.

[FR Doc. 06–4325 Filed 5–8–06; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2006–24264]

Agency Information Collection Activities; Request for Comment; Renewal of Existing Information Collection: Annual and Quarterly Reports of Class I Motor Carriers of Passengers (Formerly OMB 2139–0003)

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice and request for comments; correction.

SUMMARY: On April 10, 2006, FMCSA published a notice and request for comments in the **Federal Register** (71 FR 18136), announcing its plan to submit to the Office of Management and Budget (OMB) a request to renew a currently-approved information collection for Class I Motor Carriers of Passengers, Form MP–1, Annual and Quarterly Reports. This notice corrects the docket number published in the April 10, 2006, notice.

FOR FURTHER INFORMATION CONTACT: Ms. Toni Proctor, Office of Research and Analysis, Federal Motor Carrier Safety Administration, 400 Seventh Street, SW., Washington, DC 20590; phone: (202) 366–2998; fax: (202) 366–3518; e-mail: *toni.proctor@fmcsa.dot.gov*.

SUPPLEMENTARY INFORMATION: FMCSA published a notice and request for comments in the **Federal Register** on April 10, 2006. In that document, FMCSA announced its plan to submit to OMB a request to renew a currently-approved information collection for Class I Motor Carriers of Passengers, Form MP–1, Annual and Quarterly Reports. That notice included an incorrect docket number (FMCSA–2006–24624) in both the heading and the addresses section. This correction notice provides the accurate docket number (FMCSA–2006–24264) for this matter.

Issued on: May 2, 2006.

Warren E. Hoemann,

Acting Administrator.

[FR Doc. E6–7045 Filed 5–8–06; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

Availability of Grant Program Funds for Commercial Driver's License Program Improvements

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice.

SUMMARY: This document announces the availability of Commercial Driver's License Program Improvement (CDLPI) grant funding as authorized by the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA–LU). This act establishes a program for the improvement of the commercial driver's license (CDL) program. The program is a discretionary grant program funded by a single source. It provides funding for improving implementation of the State's CDL program, including expenses for computer hardware and software, publications, testing, personnel, training, and quality control. Grants made under this program may not be used to rent, lease, or buy land or buildings. The Agency in each State designated as the primary driver licensing agency responsible for the development, implementation, and maintenance of the CDL program is eligible to apply for and receive grant funding.

DATES: Applications for grant funding should be sent to the FMCSA Division Office in the State where the applicant is located no later than June 8, 2006. Specific information required with the application is provided below.

FOR FURTHER INFORMATION CONTACT: Mr. Lloyd Goldsmith, Federal Motor Carrier Safety Administration, Office of Safety Programs, Commercial Driver's License Division (MC–ESL), 202–366–2964, 400 Seventh Street, SW., Room 8310, Washington, DC 20590. Office hours are from 8 a.m. to 4:30 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Background

Section 4124 of SAFETEA–LU (Pub. L. 109–59, August 10, 2005, 119 Stat. 1736) established CDLPI grants to implement the requirements of the CDL program created by the Commercial Motor Vehicle Safety Act of 1986 (CMVSA) and its amending legislation. The goal of the act is to improve highway safety by ensuring that drivers of large trucks and buses are qualified to operate those vehicles and to remove unsafe and unqualified drivers from the highways. The act retained the State's right to issue a driver's license but established minimum national standards which States must meet when licensing commercial motor vehicle (CMV) drivers.

Congress found that one of the leading factors operating against CMV safety was the possession of multiple licenses by commercial drivers. Multiple licenses allowed drivers to spread their traffic violations over a number of licenses and maintain a ''good driver'' rating regardless of the number of violations they may have acquired in one or more States. In response to the States' concerns, CMVSA directed DOT to establish Federal minimum standards for licensing, testing, qualification, and classification of commercial drivers. These standards were designed to prohibit commercial drivers from possessing more than one commercial license, require that commercial drivers pass meaningful written and driving tests, include special qualifications for hazardous materials drivers, and establish disqualifications and penalties for drivers convicted of the traffic violations specified in 49 CFR 383.51. States that failed to comply with the requirements imposed by DOT would be subject to withholding of a percentage of their highway funds. To enable the States to fully implement the provisions of the act, Congress required that DOT create a national Commercial Driver's License Information System (CDLIS) that would enable the States to communicate and exchange driver license information.

The Agency has been providing grant funds to States to support CDL program activities since the inception of the program. CMVSA authorized DOT, working in partnership with the States, to assist the States in implementation of the CDL program by expending $60 million in order to meet the goals established by Congress. These funds were to be used to develop the knowledge and skills tests, to create a CDLIS telecommunications network connecting all State Departments of Motor Vehicles (DMVs), to create national computer software to support each State in sharing information between the DMVs, to implement the testing and licensing procedures of each State, and to implement in each State an information system that would support the program. Congress continued to provide funding in subsequent years to continue to improve the program or to implement new program initiatives and systems enhancements mandated by subsequent legislation.

SAFETEA–LU Authorization

The funding being made available in FY2006 through SAFETEA–LU will be used to implement new initiatives as well as to continue to make related program improvements and build on the successes already achieved. SAFETEA–LU authorizes CDLPI through FY2009. The authorized funding for the program is $25 million per year. Consistent with the provisions of SAFETEA–LU [49 U.S.C. 31313(b)(2)], 10 percent is being retained from the amount being made available to support special activities and projects relating to CDL and motor vehicle safety that are of benefit to all jurisdictions or are designed to address national safety concerns and circumstances. An additional 10 percent will be retained to address emerging issues relating to CDL improvements [49 U.S.C. 31313(c)]. Additionally, $200,000 will be withheld in FY2006 and in FY2007 to convene a task force to study and address current impediments and foreseeable challenges to the CDL program's effectiveness and to study and address measures to realize the full safety potential of the CDL program [section 4135(d) of SAFETEA–LU].

Funds are available to any State that complies with or is making a good faith effort toward substantial compliance with the requirements of 49 U.S.C. 31311 and submits a grant proposal that qualifies under the conditions in this notice.

Federal Share

The Federal share of the funds is established by SAFETEA–LU as 100 percent. The grant period is in effect from the date the agreement is executed until September 30, 2008.

Implementation of CDLPI in FY2006

FMCSA is implementing the FY2006 CDLPI with the goal of reducing the number and severity of CMV crashes in the United States by ensuring commercial drivers involved in the transportation of freight and passengers are in compliance with all FMCSA regulatory requirements. To achieve this goal, FMCSA has established the following national priorities for the FY2006 CDLPI, which are designed to bring States into full compliance with Federal requirements and improve the effectiveness of their programs:

- Improve compliance with CMVSA and its amending legislation, including the Motor Carrier Safety Improvement Act (MCSIA) of 1999;
- Update CDL knowledge and skills tests to ensure drivers of large trucks and buses possess the knowledge and skills necessary to operate those vehicles safely;
- Improve the detection and prevention of fraudulent activities through better implementation of CDL program management control and oversight practices, including the covert monitoring and use of automated CDL knowledge testing systems;
- Improve the accuracy, speed, and completeness of driver history information exchanged among the various components of the system—including law enforcement, prosecutors, the courts, employers, and State driver licensing agencies—both within the State and between States;
- Improve the accuracy and timely transfer of conviction information;
- Increase CDL outreach and training on the importance of proper adjudication and sanctioning to the judicial community; and
- Design innovative initiatives to improve the licensing of commercial drivers. Additionally, FMCSA will consider CDLPI funding requests for research, demonstration projects, public education, and other eligible activities and projects relating to commercial driver licensing and motor vehicle safety that the States find necessary to advance their CDL programs.

State Funding Eligibility Requirements

All States and the District of Columbia are eligible to receive CDLPI funds directly from FMCSA. The Secretary of Transportation may make a grant to a State under this section only if it complies with or is making a good faith effort toward substantial compliance with the requirements of 49 U.S.C. 31311. Additionally, the State must agree that the total expenditure of amounts of the State and political subdivisions of the State, exclusive of amounts from the United States, for carrying out the CDL program and related activities and projects will be maintained at a level at least equal to the average level of that expenditure by the State and political subdivisions of the State for the last 2 fiscal years of the State ending before August 10, 2005. Also, the State must meet the following six conditions to qualify for CDL program grant funds:

- Assume responsibility for adopting and administering State safety laws and regulations that are compatible with the Federal CDL requirements (49 CFR parts 383 and 384);
- Designate in its CDL priorities proposal the lead State CDL agency responsible for implementing the plan;
- Attach to the proposal the aggregate expenditure of funds by the State and its political subdivisions, exclusive of Federal funds for CDL activities eligible for funding under this part, for the last two State fiscal years prior to August 10, 2005;
- Prepare and submit to FMCSA quarterly reports on project progress, status, and expenditures as well as a final report at the end of the project;
- Adopt and use the reporting standards and forms required by FMCSA to record work activities performed under the CDLPI grant proposal; and
- Coordinate the CDLPI grant proposal, data collection, and information systems with State Motor Carrier Safety Assistance Program (MCSAP) highway safety and judicial programs.

Application and Selection Process

Applicants must apply for CDLPI funding using the grants.gov electronic application process. To use the process, the applicant must have a DUNS number and be registered with grants.gov. To obtain a DUNS number or to register with grants.gov, go to *http://www.grants.gov/GetStartedRoles?type=aor*.

The applicant must download, complete, and submit the grant application package. This can be done on the Internet at *http://www.grants.gov/Apply?campaignid=tabnavtracking081105*. The Catalog of Federal Domestic Assistance (CFDA) can be found on the Internet at *http://www.cfda.gov*. The CFDA number for CDLPI is 20.232. It is anticipated the grants.gov application process will be available for use by CDLPI by May 9, 2006.

The application package consists of an application form (SF–424 and SF–424B) which must be submitted to the Division Administrator of the FMCSA Division Office in the State in which the applicant is located for approval no later than June 8, 2006. After Division Administrator approval, the application package must be submitted on grants.gov.

If funds remain available after allocations are made for applications submitted by June 8, 2006, additional applications may be submitted and will be considered for funding until all available funds have been allocated.

In addition to the Application for Federal Assistance (SF–424) and Assurances Non-construction Programs (SF–424B), the application package must include a grant proposal containing the following components:

- State's self-assessment of its CDL program,
- State's Maintenance of Effort calculation and certification,
- Project abstract/description,
- Purpose,

- Implementation strategies,
- Timeline,
- Performance measures,
- Monitoring and evaluation plan, and
- Detailed budget (OJP Form 7150/1).

SF–424 and SF–424B can be downloaded from *http://www.grants.gov*. OJP Form 7150/1 can be downloaded from *http://www.ojp.usdoj.gov/Forms/budget_fillable.pdf*. Sample forms that provide a suggested format for the grant proposal and guidance on how to prepare and submit the application package are available on the FMCSA–CDL Workgroups Web site at *http://www.fmcsa.tmlsupport.com*. Once at this Web site, click on your State, then click on Other Workgroups, then click on CDL & MCSAP National Workgroup, then click on File Sharing, then click on CDL, and finally click on Grant Proposal Information—updated for 2006. Each State folder on this Web site includes the amount of funds available to that State. Addresses of the FMCSA Division Offices are available on the Internet at *http://www.fmcsa.dot.gov/about/contact/offices/displayfieldroster.asp*.

Funds will be allocated based on availability and on the State's needs. Calculation of the amount that may be made available to each State will be based on the number of States that apply for the funds, the number of Master Pointer Records the State has on CDLIS, and the number of CDLIS transactions sent by the State within a 6-month period. The grant requests submitted by the States will be reviewed to ensure that the proposed activities are consistent with established national priorities. Those applicants approved for funding will be required to enter into a grant agreement with FMCSA, which will be executed by a Division Administrator on behalf of the agency.

Issued on: May 1, 2006.

Warren E. Hoemann,

Acting Administrator.

[FR Doc. E6–7046 Filed 5–8–06; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket Nos. FMCSA–99–6480; FMCSA–2000–7006; FMCSA–2000–7165; FMCSA–2002–11714; FMCSA–2004–17195]

Qualification of Drivers; Exemption Applications; Vision

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of renewal of exemption; request for comments.

SUMMARY: FMCSA announces its decision to renew the exemptions from the vision requirement in the Federal Motor Carrier Safety Regulations for 31 individuals. FMCSA has statutory authority to exempt individuals from the vision requirement if the exemptions granted will not compromise safety. The Agency has concluded that granting these exemptions will provide a level of safety that will be equivalent to, or greater than, the level of safety maintained without the exemptions for these commercial motor vehicle (CMV) drivers.

DATES: This decision is effective June 3, 2006. Comments must be received on or before June 8, 2006.

ADDRESSES: You may submit comments identified by DOT Docket Management System (DMS) Docket Numbers FMCSA–99–6480; FMCSA–2000–7006; FMCSA–2000–7165; FMCSA–2002–11714; FMCSA–2004–17195, using any of the following methods.

- Web Site: *http://dmses.dot.gov.* Follow the instructions for submitting comments on the DOT electronic docket site.
- Fax: 1–202–493–2251.
- Mail: Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL–401, Washington, DC 20590–0001.
- Hand Delivery: Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- Federal eRulemaking Portal: Go to *http://www.regulations.gov.* Follow the online instructions for submitting comments.

Instructions: All submissions must include the Agency name and docket numbers for this Notice. Note that all comments received will be posted without change to *http://dms.dot.gov*, including any personal information provided. Please see the Privacy Act heading for further information.

Docket: For access to the docket to read background documents or comments received, go to *http://dms.dot.gov* at any time or Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The DMS is available 24 hours each day, 365 days each year. If you want us to notify you that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments on-line.

Privacy Act: Anyone may search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or of the person signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review the DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477; April 11, 2000). This information is also available at *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: Dr. Mary D. Gunnels, Chief, Physical Qualifications Division, (202) 366–4001, *maggi.gunnels@dot.gov*, FMCSA, Department of Transportation, 400 Seventh Street, SW., Room 8301, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Exemption Decision

Under 49 U.S.C. 31315 and 31136(e), FMCSA may renew an exemption from the vision requirements in 49 CFR 391.41(b)(10), which applies to drivers of CMVs in interstate commerce, for a two-year period if it finds ''such exemption would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption.'' The procedures for requesting an exemption (including renewals) are set out in 49 CFR part 381. This Notice addresses 31 individuals who have requested renewal of their exemptions in a timely manner. FMCSA has evaluated these 31 applications for renewal on their merits and decided to extend each exemption for a renewable two-year period. They are:

James C. Askin
Paul J. Bannon
Ernie E. Black
Ronnie F. Bowman
Gary O. Brady
Michael C. Branham
Trixie L. Brown
Thomas L. Corey
Stephen H. Goldcamp
Steven F. Grass
Michael S. Johannsen
Mearl C. Kennedy
Wai F. King
Dennis E. Krone
James F. Laverdure
Christopher P. Lefler
Richard J. McKenzie, Jr.
Christopher J. Meerten

William J. Miller
Bobby G. Minton
James A. Mohr
Robert J. Mohorter
Charles R. Murphy
Roderick F. Peterson
Kenneth R. Piechnik
Donald W. Sidwell
David M. Smith
David E. Steinke
Robert L. Swartz, Jr.
Elmer K. Thomas
Richard G. Wendt

These exemptions are extended subject to the following conditions: (1) That each individual have a physical examination every year (a) by an ophthalmologist or optometrist who attests that the vision in the better eye continues to meet the standard in 49 CFR 391.41(b)(10), and (b) by a medical examiner who attests that the individual is otherwise physically qualified under 49 CFR 391.41; (2) that each individual provide a copy of the ophthalmologist's or optometrist's report to the medical examiner at the time of the annual medical examination; and (3) that each individual provide a copy of the annual medical certification to the employer for retention in the driver's qualification file and retain a copy of the certification on his/her person while driving for presentation to a duly authorized Federal, State, or local enforcement official. Each exemption will be valid for two years unless rescinded earlier by FMCSA. The exemption will be rescinded if: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31315 and 31136(e).

Basis for Renewing Exemptions

Under 49 U.S.C. 31315(b)(1), an exemption may be granted for no longer than two years from its approval date and may be renewed upon application for additional two year periods. In accordance with 49 U.S.C. 31315 and 31136(e), each of the 31 applicants has satisfied the entry conditions for obtaining an exemption from the vision requirements (64 FR 68195; 65 FR 20251; 67 FR 38311; 69 FR 26921; 65 FR 20245; 65 FR 57230; 69 FR 17263; 69 FR 31447; 65 FR 33406; 67 FR 15662; 67 FR 37907; 69 FR 26921). Each of these 31 applicants has requested timely renewal of the exemption and has submitted evidence showing that the vision in the better eye continues to meet the standard specified at 49 CFR 391.41(b)(10) and that the vision impairment is stable. In addition, a review of each record of safety while driving with the respective vision deficiencies over the past two years indicates each applicant continues to meet the vision exemption standards. These factors provide an adequate basis for predicting each driver's ability to continue to drive safely in interstate commerce. Therefore, FMCSA concludes that extending the exemption for each renewal applicant for a period of two years is likely to achieve a level of safety equal to that existing without the exemption.

Request for Comments

FMCSA will review comments received at any time concerning a particular driver's safety record and determine if the continuation of the exemption is consistent with the requirements at 49 U.S.C. 31315 and 31136(e). However, FMCSA requests that interested parties with specific data concerning the safety records of these drivers submit comments by June 8, 2006.

FMCSA believes that the requirements for a renewal of an exemption under 49 U.S.C. 31315 and 31136(e) can be satisfied by initially granting the renewal and then requesting and evaluating, if needed, subsequently comments submitted by interested parties. As indicated above, the Agency previously published Notices of final disposition announcing its decision to exempt these 31 individuals from the vision requirement in 49 CFR 391.41(b)(10). That final decision to grant the exemption to each of these individuals was based on the merits of each case and only after careful consideration of the comments received to its Notices of applications. Those Notices of applications stated in detail the qualifications, experience, and medical condition of each applicant for an exemption from the vision requirements. That information is available by consulting the above cited **Federal Register** publications.

Interested parties or organizations possessing information that would otherwise show that any, or all of these drivers, are not currently achieving the statutory level of safety should immediately notify FMCSA. The Agency will evaluate any evidence submitted and, if safety is being compromised or if continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31315 and 31136(e), FMCSA will take immediate steps to revoke the exemption of a driver.

Rose A. McMurray,

Associate Administrator for Policy and Program Development.

[FR Doc. E6–7052 Filed 5–8–06; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Petition for Waiver of Compliance

In accordance with part 211 of Title 49 Code of Federal Regulations (CFR), notice is hereby given that the Federal Railroad Administration (FRA) received a request for a waiver of compliance with certain requirements of its safety standards. The individual petition is described below, including the party seeking relief, the regulatory provisions involved, the nature of the relief being requested, and the petitioner's arguments in favor of relief.

Lackawanna County Railroad Authority (''LCRA'') (Supplement and Extension to Waiver Docket Number FRA–2000–7275)

As a supplement to Lackawanna County Railroad Authority's (LCRA) Petition for Approval of Shared Use and Waiver of Certain FRA Regulations (the original shared use waiver was granted by the FRA Railroad Safety Board on November 24, 2000, and a six month extension was granted by the FRA Railroad Safety Board on April 7, 2006). LCRA seeks a permanent waiver of compliance from an additional section of Title 49 of the CFR, specifically part 240, *Qualification and Certification of Locomotive Engineers*, part 229.129 *FRA Horn Rule: Audible Warning Devices*. LCRA also seeks a five year extension of this amended shared use waiver for continued safe operation of its historic light rail trolley operations on shared trackage with the general railroad system of transportation (Delaware-Lackawanna Railroad).

LCRA is including in this modified waiver request four route miles added to the historic trolley excursion since 2002, and is informing the FRA of the upcoming 1870 feet trolley route extension from its current terminus at VC Station (VC Stub Switch MP 4.78) to the newly constructed Historic Trolley Maintenance Building (this portion will be used exclusively by trolleys). LCRA submits that this request is consistent with the waiver process for Shared Use. *See Statement of Agency Policy Concerning Jurisdiction Over the Safety of Railroad Passenger Operations and*

Waivers Related to Shared Use of the Tracks of the General Railroad System by Light Rail and Conventional Equipment, 65 FR 42529 (July 10, 2000); see also Joint Statement of Agency Policy Concerning Shared Use of the Tracks of the General Railroad System by Conventional Railroads and Light Rail Transit Systems, 65 FR 42626 (July 10, 2000).

LCRA operates the historic ''Lackawanna County Electric Trolley Station and Museum'' light rail operation that is connected to the general railroad system of transportation. The original waiver was granted for the initial 1.2 mile operation over the Brady Line and Scranton Yard in Scranton, PA. Freight and light rail operations are temporally separated on this portion of track. In 2002 and in 2004, a total of four additional route miles were added to this excursion operation, terminating at SS VC MP 4.81. LCRA is requesting a waiver from CFR part 240 because qualification for trolley Motormen is governed by the Delaware-Lackawanna's ''Trolley Motorman Certification Program.'' As per the new FRA Horn Rule, LCRA seeks relief from CFR 229.129 due to the historically accurate nature of the equipment and its inability to reach the minimum decibel level required by this rule. (Section 229.129(d) clearly excepts locomotives of rapid transit operations, notwithstanding preamble discussion in the final rule to the contrary; accordingly this portion of the request for relief will be dismissed and comment is not requested on this aspect of the request for relief.).

LCRA states that all trolley movements over the three public highway-rail grade crossings on the route of the Historic Trolley will comply with the requirements of the FRA Horn Rule, CFR part 222. Although the new 1870 feet extension will not feature shared use operation and will be used exclusively by trolleys, LCRA voluntarily entered agreement to have the Delaware-Lackawanna Railroad provide all railroad related maintenance services on this extension (track, signal, highway-grade crossing appurtenances, etc), in accordance with FRA standards.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communication concerning these proceedings should identify the appropriate docket number (e.g., Waiver Petition Docket Number FRA–2000–7275) and must be submitted to the Docket Clerk, DOT Docket Management Facility, Room PL–401 (Plaza Level), 400 7th Street, SW., Washington, DC 20590. Communications received within 30 days of the date of this notice will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9 a.m.–5 p.m.) at the above facility. All documents in the public docket are also available for inspection and copying on the Internet at the docket facility's Web site at *http://dms.dot.gov*.

Issued in Washington, DC on May 3, 2006

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

[FR Doc. E6–7050 Filed 5–8–06; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Petition for Waiver of Compliance

In accordance with part 211 of Title 49 Code of Federal Regulations (CFR), notice is hereby given that the Federal Railroad Administration (FRA) received a request for a waiver of compliance with certain requirements of its safety standards. The individual petition is described below, including the party seeking relief, the regulatory provisions involved, the nature of the relief being requested, and the petitioner's arguments in favour of relief.

TTX Company

[Docket Number FRA–2005–21832]

The TTX Company (TTX), seeks a waiver of compliance from the requirements of Title 49 Code of Federal Regulations (CFR) 215. 203(a)(1) *Restricted Cars*, for two series of sixty-foot long, seventy-ton capacity general service flat cars. These cars were built by two manufacturers, Pullman-Standard, car numbers 90000–94217 and Thrall car numbers 97100–98225. The subject cars were originally built as wood deck, general service cars, but some were modified by TTX for intermodal service. The modified cars had no changes made to their underframe structure, but they did have the required transverse crossmembers applied to permit loading of twenty-foot and forty-foot intermodal containers.

None of the cars covered by this petition have reached an age of fifty years, measured from the date of original construction, as of this date. However, TTX requests that these two series of cars be permitted to operate in revenue service, up to a maximum of sixty-five years as measured from the date of original construction.

To ensure the safety of these cars, for their extended service life, TTX is conducting a rigorous analysis and testing program to validate that the carbody structure of these sixty-foot cars is capable of a maximum sixty-five year life. Typical cars from the subject series were placed in service with on-board instrumentation to record the service environment over various routes. This data will be used by the Transportation Technology Center, Incorporated (TTCI) to develop the test protocol for the Simuloader (hydraulic test apparatus) to simulate the additional years of service. At the end of testing, TTCI will prepare a final report, and submit the results to FRA for evaluation; therefore, TTX requests a waiver from the requirements of 49 CFR 215. 203(a)(1) to allow for the submission of the design analysis and test data to support an increased service life of the subject cars from fifty to sixty-five years, prior to obtaining an age of fifty years from the date of original construction.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number (e.g., Waiver Petition Docket Number FRA–2005–21832) and must be submitted in triplicate to the Docket Clerk, DOT Central Docket Management Facility, Room Pl-401, Washington, DC. 20590–0001. Communications received within 45 days of the date of this notice will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9 a.m.–5 p.m.) at DOT Central Docket Management Facility, Room Pl-401 (Plaza Level), 400 Seventh Street SW., Washington. All documents

in the public docket are also available for inspection and copying on the Internet at the docket facility's Web site at *http://dms.dot.gov*.

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19377–78). The statement may also be found at *http://dms.dot.gov*.

Issued in Washington, DC on May 3, 2006

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

[FR Doc. E6–7051 Filed 5–8–06; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Saint Lawrence Seaway Development Corporation Advisory Board; Notice of Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. I), notice is hereby given of a meeting of the Advisory Board of the Saint Lawrence Seaway Development Corporation (SLSDC), to be held at 4 p.m. on Wednesday, May 24, 2006, at the White Oaks Conference Center, 253 Taylor Road SS4, Niagara on the Lake, Ontario. The agenda for this meeting will be as follows: Opening Remarks; Consideration of Minutes of Past Meeting; Quarterly Report; Old and New Business; Closing Discussion; Adjournment.

Attendance at the meeting is open to the interested public but limited to the space available. With the approval of the Administrator, members of the public may present oral statements at the meeting. Persons wishing further information should contact, not later than May 22, 2006, Anita K. Blackman, Chief of Staff, Saint Lawrence Seaway Development Corporation, 400 Seventh Street, SW., Washington, DC 20590; 202–366–0091.

Any member of the public may present a written statement to the Advisory Board at any time.

Issued at Washington, DC, on May 3, 2006.

Albert S. Jacquez,

Administrator.

[FR Doc. E6–7035 Filed 5–8–06; 8:45 am]

BILLING CODE 4910–61–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

May 3, 2006.

The Department of the Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 11000, 1750 Pennsylvania Avenue, NW., Washington, DC 20220.

Dates: Written comments should be received on or before June 8, 2006 to be assured of consideration.

Financial Crimes Enforcement Network (FinCEN)

OMB Number: 1506–0020.

Type of Review: Extension.

Title: Anti-Money laundering programs for money services business, mutual funds, and operators of credit card systems.

Description: Money services businesses, mutual funds, and operators of credit card systems are required to develop and implement written anti-money laundering programs. A copy of the program must be maintained for five years.

Respondents: Business or other for-profit.

Estimated Total Reporting Burden: 203,006 hours.

OMB Number: 1506–0028.

Type of Review: Extension.

Title: Anti-Money Laundering Program for Unregistered Investment Companies.

Description: This proposed rule would require unregistered investment companies to establish and maintain anti-money laundering programs. A copy of the written program would have to be maintained for five years. These companies would also be required to file notices with FinCEN, identifying themselves and providing related basic information.

Respondents: Business or other for-profit.

Estimated Total Reporting Burden: 2 hours.

OMB Number: 1506–0030.

Type of Review: Extension.

Title: Anti-Money Laundering Programs for Dealers in precious metals, precious stones, or jewels.

Description: Dealers in precious metals, stones, or jewels are required to establish and maintain a written anti-money laundering program. A copy of the written program must be maintained for five years.

Respondents: Business or other for-profit.

Estimated Total Reporting Burden: 20,000 hours.

OMB Number: 1506–0034.

Type of Review: Extension.

Title: Customer Identification Programs for Broker-Dealers.

Description: Broker-dealers are required to establish and maintain a customer identification program. A copy of the program must be maintained for five years.

Respondents: Business or other for-profit.

Estimated Total Reporting Burden: 630,896 hours.

Clearance Officer: Russell Stephenson, (202) 354–6012, Department of the Treasury, Financial Crimes Enforcement Network, P.O. Box 39, Vienna, VA 22183.

OMB Reviewer: Alexander T. Hunt, (202) 395–7316, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

Michael A. Robinson,

Treasury PRA Clearance Officer.

[FR Doc. E6–7028 Filed 5–8–06; 8:45 am]

BILLING CODE 4810–02–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

May 3, 2006.

The Department of the Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 11000, 1750 Pennsylvania Avenue, NW., Washington, DC 20220.

Dates: Written comments should be received on or before June 8, 2006 to be assured of consideration.

Financial Management Service

OMB Number: 1510–0008.

Type of Review: Extension.

Title: Pools and Associations—Annual Letter.

Description: Information collected determines acceptable percent for each pool and association Treasury Certified companies are given credit for a Treasury Schedule F for authorized ceded reinsurance in arriving at each insurance company's underwriting limit.

Respondents: Business or other for-profit.

Estimated Total Burden Hours: 126 hours.

OMB Number: 1510–0013.

Type of Review: Extension.

Title: State where Licensed for Surety.

Description: Information collected from insurance companies provides Federal bond approving officers with a listing of states, by company in which they are licensed to write Federal bonds. This information appears in Treasury's Circular 570.

Respondents: Business or other for-profit.

Estimated Total Burden Hours: 254 hours.

Clearance Officer: Jiovannah Diggs, (202) 874–7662, Financial Management Service, Room 144, 3700 East West Highway, Hyattsville, MD 20782.

OMB Reviewer: Alexander T. Hunt, (202) 395–7316, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

Michael A. Robinson,

Treasury PRA Clearance Officer.

[FR Doc. E6–7029 Filed 5–8–06; 8:45 am]

BILLING CODE 4810–35–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

May 3, 2006.

The Department of the Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 11000, 1750 Pennsylvania Avenue, NW., Washington, DC 20220.

Dates: Written comments should be received on or before June 8, 2006 to be assured of consideration.

Financial Crimes Enforcement Network (FinCEN)

OMB Number: 1506–0026.

Type of Review: Extension.

Title: Customer Identification Program for banks, savings associations, credit unions, and certain non-federally regulated banks.

Description: Banks, savings associations, credit unions, and certain non-federally regulated banks are required to develop and maintain customer identification programs.

Respondents: Business or other for-profit; and Not-for-profit institutions.

Estimated Total Reporting Burden: 242,660 hours.

OMB Number: 1506–0033.

Type of Review: Extension.

Title: Customer Identification Programs for Mutual Funds.

Description: Mutual Funds are required to establish and maintain customer identification programs. A copy of the written program must be maintained for five years.

Respondents: Business or other for-profit.

Estimated Total Reporting Burden: 266,700 hours.

OMB Number: 1506–0035.

Type of Review: Extension.

Title: Anti-Money Laundering Program for Insurance Companies.

Description: Insurance companies are required to establish and maintain a written anti-money laundering program. A copy of the written program must be maintained for five years.

Respondents: Business or other for-profit.

Estimated Total Reporting Burden: 1,200 hours.

OMB Number: 1506–0022.

Type of Review: Extension.

Title: Customer Identification Programs for Futures Commission Merchants and Introducing Brokers.

Description: Futures commission merchants and introducing brokers are required to develop and maintain a customer identification program. A copy of the program must be maintained for five years.

Respondents: Business or other for-profit.

Estimated Total Reporting Burden: 20,471 hours.

Clearance Officer: Russell Stephenson, (202) 354–6012, Department of the Treasury, Financial Crimes Enforcement Network, P.O. Box 39, Vienna, VA 22183.

OMB Reviewer: Alexander T. Hunt, (202) 395–7316, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

Michael A. Robinson,

Treasury PRA Clearance Officer.

[FR Doc. E6–7030 Filed 5–8–06; 8:45 am]

BILLING CODE 4810–02–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

April 27, 2006.

The Department of the Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 11000, 1750 Pennsylvania Avenue, NW., Washington, DC 20220.

Dates: Written comments should be received on or before June 8, 2006 to be assured of consideration.

Internal Revenue Service (IRS)

OMB Number: 1545–1978.

Type of Review: Extension.

Title: Credits for Employers Affected by Hurricane Katrina, or Wilma.

Form: IRS 5884–A.

Description: Qualified employers will file Form 5884–A to claim a credit for wages paid to an employee kept on the payroll for the period the business is rendered inoperable as a result of damages inflicted by Hurricane Katrina.

Respondents: Business or other for-profit.

Estimated Total Burden Hours: 992,500 hours.

OMB Number: 1545–0805.

Type of Review: Extension.

Title: Information Return of a 25% Foreign-Owned U.S. Corporation or a Foreign Corporation Engaged in a U.S. Trade or Business.

Description: Form 5472 is used to report information about transactions between a U.S. corporation that is 25% foreign owned or a foreign corporation that is engaged in a U.S. trade or business and related to foreign parties. The IRS uses Form 5472 to determine if inventory or other costs deducted by the U.S. or foreign corporation are correct.

Respondents: Business or other for-profit.

Estimated Total Burden Hours: 2,569,692 hours.

Clearance Officer: Glenn P. Kirkland, (202) 622–3428, Internal Revenue Service, Room 6516 , 1111 Constitution Avenue, NW., Washington, DC 20224.

OMB Reviewer: Alexander T. Hunt, (202) 395–7316, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

Robert Dahl,

Treasury PRA Clearance Officer.

[FR Doc. E6–7031 Filed 5–8–06; 8:45 am]

BILLING CODE 4810–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Credit for Renewable Electricity Production and Refined Coal Production, Publication of Inflation Adjustment Factor and Reference Prices for Calendar Year 2006; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correction to notice of publication of inflation adjustment factor and reference prices for calendar year 2006.

SUMMARY: This document contains a correction to a notice which was published in the **Federal Register** on Friday, March 31, 2006 (71 FR 16420). This notice relates to the 2006 inflation adjustment factor and reference prices used in determining the availability of the credit for renewable electricity production and refined coal production under section 45.

DATES: This correction is effective March 31, 2006.

FOR FURTHER INFORMATION CONTACT: David Selig, (202) 622–3040 (not a toll-free call).

SUPPLEMENTARY INFORMATION:

Background

The notice of publication of inflation adjustment factor and reference prices for calendar year 2006 that is the subject of this correction is under section 45 of the Internal Revenue Code.

Need for Correction

As published, the notice of publication of inflation adjustment factor and reference prices for calendar year 2006 contains an error that may prove to be misleading and is need of clarification.

Correction of Publication

Accordingly, the publication of inflation adjustment factor and reference prices for calendar year 2006, which was the subject of FR Doc. E6–4668, is corrected as follows:

On page 16421, column 2, line 6, the language ''and solar energy, and 0.9 cent per'' is corrected to read ''and solar energy, and 1.0 cent per''.

Guy R. Traynor,

Chief, Publications and Regulations Branch, Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel, (Procedure and Administration).

[FR Doc. E6–6985 Filed 5–8–06; 8:45 am]

BILLING CODE 4830–01–P

Federal Register

Tuesday,
May 9, 2006

Part II

Department of Health and Human Services

Centers for Medicare & Medicaid Services

42 CFR Parts 412 and 424

Medicare Program; Inpatient Psychiatric Facilities Prospective Payment System Payment Update for Rate Year Beginning July 1, 2006 (RY 2007); Final Rule

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

42 CFR Parts 412 and 424

[CMS–1306–F]

RIN 0938–AN82

Medicare Program; Inpatient Psychiatric Facilities Prospective Payment System Payment Update for Rate Year Beginning July 1, 2006 (RY 2007)

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Final rule.

SUMMARY: This final rule updates the prospective payment rates for Medicare inpatient hospital services provided by inpatient psychiatric facilities (IPFs). These changes are applicable to IPF discharges occurring during the rate year beginning July 1, 2006 through June 30, 2007. In addition, we are adopting the new Office of Management and Budget (OMB) labor market area definitions for the purpose of geographic classification and the wage index. We are also making revisions to existing policies and implementing new polices.

DATES: *Effective Date:* These regulations are effective on July 1, 2006.

FOR FURTHER INFORMATION CONTACT: Dorothy Colbert, (410) 786–4533 for general information. Mary Lee Seifert, (410) 786–0030 for information regarding the market basket and labor-related share. Theresa Bean, (410) 786–2287 for information regarding the regulatory impact analysis. Matthew Quarrick, (410) 786–9867 for information on the wage index.

SUPPLEMENTARY INFORMATION:

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Acronyms

Because of the many terms to which we refer by acronym in this final rule, we are listing the acronyms used and their corresponding terms in alphabetical order below:

BBA Balanced Budget Act of 1997, (Pub. L. 105–33)
BBRA Medicare, Medicaid and SCHIP [State Children's Health Insurance Program] Balanced Budget Refinement Act of 1999, (Pub. L. 106–113)
BIPA Medicare, Medicaid, and SCHIP [State Children's Health Insurance Program] Benefits Improvement and Protection Act of 2000, (Pub. L. 106–554)
CBSA Core-Based Statistical Area
CCR Cost-to-charge ratio
CMS Centers for Medicare & Medicaid Services
CMSA Consolidated Metropolitan Statistical Area
DSM–IV–TR Diagnostic and Statistical Manual of Mental Disorders Fourth Edition—Text Revision
DRGs Diagnosis-related groups
FY Federal fiscal year
HCRIS Hospital Cost Report Information System
ICD–9–CM International Classification of Diseases, 9th Revision, Clinical Modification
IPFs Inpatient psychiatric facilities
IRFs Inpatient rehabilitation facilities
LTCHs Long-term care hospitals
MedPAR Medicare provider analysis and review file
MMA Medicare Prescription Drug, Improvement and Modernization Act of 2003, (Pub. L. 108–173)
MSA Metropolitan Statistical Area
NECMA New England County Metropolitan Area
OMB Office of Management and Budget
PIP Periodic Interim Payments
RY Rate Year (July 1 through June 30)
TEFRA Tax Equity and Fiscal Responsibility Act of 1982, (Pub. L. 97–248)

I. Background

A. General and Legislative History

The Congress directed implementation of a prospective payment system (PPS) for acute care hospitals with the enactment of Pub. L. 98–21. Section 601 of the Social Security Amendments of 1983 (Pub. L. 98–21) added a new section 1886(d) to the Social Security Act (the Act) that replaced the reasonable cost-based payment system for most hospital inpatient services with a PPS.

Although most hospital inpatient services became subject to the PPS, certain hospitals, including IPFs, inpatient rehabilitation facilities (IRFs), long term care hospitals (LTCHs), and children's hospitals were excluded from the PPS for acute care hospitals. These hospitals and units were paid their reasonable costs for inpatient services,

subject to a per discharge limitation or target amount under the authority of the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA), Pub. L. 97–248. The regulations implementing the TEFRA (reasonable cost-based) payment provisions are located at 42 CFR part 413. Cancer hospitals were added to the list of excluded hospitals by section 6004(a) of the Omnibus Budget Reconciliation Act of 1989, (Pub. L. 101–239).

The Congress enacted various provisions in the Balanced Budget Act of 1997 (BBA) (Pub. L. 105–33), the Medicare, Medicaid, and SCHIP (State Children's Health Insurance Program) Balanced Budget Refinement Act of 1999 (BBRA) (Pub. L. 106–113), and the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000 (BIPA) (Pub. L. 106–554) to replace the reasonable cost-based method of reimbursement with a PPS for IRFs, LTCHs, and IPFs. Section 124 of the BBRA required implementation of the IPF PPS.

Section 124 of the BBRA mandated that the Secretary—(1) Develop a per diem PPS for inpatient hospital services furnished in psychiatric hospitals and psychiatric units; (2) include in the PPS an adequate patient classification system that reflects the differences in patient resource use and costs among psychiatric hospitals and psychiatric units; (3) maintain budget neutrality; (4) permit the Secretary to require psychiatric hospitals and psychiatric units to submit information necessary for the development of the PPS; and (5) submit a report to the Congress describing the development of the PPS. Section 124 of the BBRA also required that the IPF PPS be implemented for cost reporting periods beginning on or after October 1, 2002.

Section 405(g)(2) of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (MMA) (Pub. L. 108–173) extended the IPF PPS to distinct part psychiatric units of critical access hospitals (CAHs).

To implement these provisions, the following were published: a proposed rule in the **Federal Register** on November 28, 2003 (68 FR 66920); a final rule on November 15, 2004 (69 FR 66922); and a correction notice to the final rule on April 1, 2005 (70 FR 16724). For more detail, see the program memorandum Web site, *http://www.cms.hhs.gov/transmittals/01_overview.asp.*

B. Overview of the Establishment of the IPF PPS

The November 2004 IPF PPS final rule established regulations for the IPF PPS under 42 CFR 412, subpart N.

The IPF PPS established the Federal per diem base rate for each patient day in an IPF derived from the national average daily routine operating, ancillary, and capital costs in IPFs in FY 2002. The average per diem cost was updated to the midpoint of the first year under the IPF PPS, standardized to account for the overall positive effects of the IPF PPS payment adjustments, and adjusted for budget neutrality. The Federal per diem payment under the IPF PPS is comprised of the Federal per diem base rate described above and certain patient and facility payment adjustments that were found in the regression analysis to be associated with statistically significant per diem cost differences (see 69 FR 66933 through 66936 for a description of the regression analysis). The patient-level adjustments include age, DRG assignment, comorbidities, and variable per diem adjustments to reflect the higher cost incurred in the early days of a psychiatric stay. Facility-level adjustments include adjustments for the IPF's wage index, rural location, teaching status, a cost of living adjustment for IPFs located in Alaska and Hawaii, and presence of a qualifying emergency department (ED). The IPF PPS provides additional payments for outlier cases, stop-loss protection which is applicable only during the IPF PPS transition period, includes special payment provisions for interrupted stays, and a per treatment adjustment for patients who undergo electroconvulsive therapy (ECT). We refer readers to the November 2004 IPF PPS final rule for a comprehensive discussion of the research and data that supported the establishment of the IPF PPS.

We established a CMS Web site that contains useful information regarding the IPF PPS including the proposed rules, final rules, and the correction notices. The Web site URL is *http://www.cms.hhs.gov/InpatientPsychFacilPPS/* and may be accessed to download or view publications and other information pertinent to the IPF PPS.

C. Applicability of the IPF PPS

The IPF PPS is applicable to freestanding psychiatric hospitals, including government-operated psychiatric hospitals, and distinct part psychiatric units of acute care hospitals and CAHs.

The regulations at § 412.402 define an IPF as a hospital that meets the requirements specified in § 412.22, § 412.23(a), § 482.60, § 482.61, and § 482.62, and units that meet the requirements specified in § 412.22, § 412.25, and § 412.27.

However, the following hospitals are paid under a special payment provision, as described in § 412.22(c) and, therefore, are not subject to the IPF PPS rules:

- Veterans Administration hospitals.
- Hospitals that are reimbursed under State cost control systems approved under 42 CFR part 403.
- Hospitals that are reimbursed in accordance with demonstration projects specified in section 402(a) of Pub. L. 90–248 (42 U.S.C. 1395b–1) or section 222(a) of Pub. L. 92–603 (42 U.S.C. 1395b–1(note)).
- Non-participating hospitals furnishing emergency services to Medicare beneficiaries.

II. Overview for Updating the IPF PPS

A. Requirements for Updating the IPF PPS

Section 124 of the BBRA does not specify an update strategy for the IPF PPS and is broadly written to give the Secretary discretion in establishing an update methodology. Therefore, we reviewed the update approach used in other hospital PPSs (specifically, the IRF and LTCH PPS update methodologies). As a result of this analysis, we stated in the November 2004 IPF PPS final rule (69 FR 66966) that we would implement the IPF PPS using the following update strategy—(1) Calculate the final Federal per diem base rate to be budget neutral for the 18-month period (that is, January 1, 2005 through June 30, 2006); (2) use a July 1 through June 30 annual update cycle; and (3) allow the IPF PPS first update to be effective for discharges July 1, 2006 through June 30, 2007.

As explained in the November 2004 IPF PPS final rule, we believe it is important to delay updating the adjustment factors derived from the regression analysis until we have IPF PPS data that include as much information as possible regarding the patient-level characteristics of the population that each IPF serves. For this reason, we do not intend to update the regression analysis and recalculate the Federal per diem base rate until we analyze IPF PPS data (that is, no earlier than FY 2008). Until that analysis is complete, we stated our intention to publish a notice in the **Federal Register** each spring to update the IPF PPS as specified in § 412.428.

However, since the implementation of the IPF PPS, a new market basket index was announced in the August 2005 IPPS final rule. We believe that this new market basket should be implemented in the IPF PPS as well in order to update the system using the best data available. Therefore, rather than publish a notice to update the IPF PPS in 2006, we published a proposed rule in the **Federal Register** on January 23, 2006 (71 FR 3616) to allow interested parties an opportunity to comment on the proposed changes.

Updates to the IPF PPS as specified in § 412.428 include:

- A description of the methodology and data used to calculate the updated Federal per diem base payment amount.
- The rate of increase factor as described in § 412.424(a)(2)(iii), which is based on the excluded hospital with capital market basket under the update methodology of 1886(b)(3)(B)(ii) of the Act for each year.
- The best available hospital wage index and information regarding whether an adjustment to the Federal per diem base rate is needed to maintain budget neutrality.
- Updates to the fixed dollar loss amount in order to maintain the appropriate outlier percentage.
- Describe the ICD–9–CM coding and DRG classification changes discussed in the annual update to the hospital IPPS regulations.
- Update the ECT adjustment by a factor specified by CMS.

B. Transition Period for Implementation of the IPF PPS

In the November 2004 IPF PPS final rule, we established § 412.426 to provide for a 3-year transition period from reasonable cost-based reimbursement to full prospective payment for IPFs. New IPFs, as defined in § 412.426(c), are paid 100 percent of the Federal per diem rate. However, for those IPFs that are transitioning to the new system, during the 3-year period as specified in the November 2004 IPF PPS final rule, payment is based on an increasing percentage of the PPS payment and a decreasing percentage of each IPF's facility-specific TEFRA reimbursement rate. The blend percentages are as follows:

TABLE 1.—IPF PPS FINAL RULE TRANSITION BLEND FACTORS

Transition year	Cost reporting periods beginning on or after	TEFRA rate percentage	IPF PPS Federal rate percentage
1	January 1, 2005	75	25
2	January 1, 2006	50	50
3	January 1, 2007	25	75
	January 1, 2008	0	100

Changes to the blend percentages occur at the beginning of an IPF's cost reporting period. We note that we are currently in year two of the transition period. As a result, for discharges occurring during IPF cost reporting periods beginning in calendar year (CY) 2006, IPFs would receive a blended payment consisting of 50 percent of the facility-specific TEFRA payment and 50 percent of the IPF PPS payment amount. However, regardless of when an IPF's cost reporting year begins, the payment update will be effective for discharges occurring on or after July 1, 2006 through June 30, 2007. We note that we are not making any changes to the transition approach established in the November 2004 IPF PPS final rule.

III. Provisions of the Proposed Regulation

In January 2006, we published a proposed rule that appeared in the **Federal Register** at (71 FR 3616), and on February 24, 2006, a correction notice appeared in the **Federal Register** (71 FR 9505) to correct technical errors in the proposed rule and to extend the comment period for our policy concerning Electroconvulsive Therapy (ECT). The January 2006 proposed rule (hereinafter referred to as the Rate Year (RY) 2007 proposed rule) set forth the proposed annual update to the proposed prospective payment for IPFs for discharges occurring during the RY beginning July 1, 2006. As part of the update, we proposed to incorporate OMB's revised definitions for MSAs and its new definitions of Micropolitan Statistical Areas and Core-Based Statistical Areas (CBSAs). In addition, we proposed the following——

- Update payments for IPFs using a market basket reflecting the operating and capital cost structures of IRFs, IPFs, and LTCHs.
- Develop cost weights for benefits, contract labor, and blood and blood products using the FY 2002-based IPPS market basket.
- Provide weights and proxies for the FY 2002-based RPL market basket.
- Indicate the methodology for the capital portion of the FY 2002-based RPL market basket.
- Update the outlier threshold amount to maintain total estimated outlier payments at 2 percent of total estimated payments.
- Use source code ''D'' to identify IPF patients who have been transferred to the IPF from the same hospital or CAH.
- Retain the 17 percent adjustment for IPFs located in rural areas, the 1.31 adjustment for IPFs with a qualifying ED, the 0.5150 teaching adjustment to the Federal per diem base rate, and the DRG adjustment factors currently being paid to IPFs for discharges occurring during RY 2007.
- Update the payment rate for ECT.
- Update the DRG listing and comorbidity categories to reflect the ICD–9–CM revisions effective October 1, 2005.

In addition to addressing these issues in the proposed rule for RY 2007, we also proposed making the following specific revisions to the existing text of the regulations. We proposed to make conforming changes in 42 CFR parts 412 and 424, as discussed throughout this preamble.

In § 412.27, we proposed to revise paragraph (b) to remove the reference to recreational therapy.

In § 412.402, we proposed to revise the heading of ''Fixed dollar loss-threshold'' to ''Fixed dollar loss threshold amount'' and revise the definitions of ''Fixed dollar loss threshold amount'', ''Qualifying emergency department'', ''Rural area'' and ''Urban area.'' For consistency, we proposed to make conforming changes to these terminologies wherever they appear in the regulations text.

In § 412.424, we proposed to add paragraph (d)(1)(iii)(E) to clarify that the teaching adjustment is made on a claim basis as an interim payment and the final payment in full is made during the final settlement of the cost report. For clarity, we also proposed to revise paragraph (d)(2) introductory text. The current language in (d)(2)(iii) would become the introductory text for paragraph (d)(2) and paragraph

(d)(2)(iii) would be removed. In addition, we proposed to revise § 412.424(d)(3)(i)(A) to clarify that an outlier payment is made if an IPF's estimated total cost for a case exceeds a fixed dollar loss threshold amount plus the Federal payment amount for the case.

In § 412.426(a), we proposed to correct the cross reference to the Federal per diem payment amount. We incorrectly referenced the Federal per diem base rate as § 412.424(c). The correct cross reference to the Federal per diem payment amount is § 412.424(d).

In § 412.428, we proposed to revise paragraph (b) to specify that for discharges occurring on or after January 1, 2005 but before July 1, 2006 the rate of increase factor for the Federal portion of the payment is based on the FY 1997-based excluded hospital with capital market basket and for discharges occurring on or after July 1, 2006, the rate of increase factor for the Federal portion of the payment is based on the FY 2002-based Rehabilitation, Psychiatric, and Long-Term Care (RPL) market basket.

In addition, we proposed to add a new paragraph (g) to state that we would update the national urban and rural cost to charge ratio medians and ceilings. Paragraph (1) through (3) would specify the types of IPFs in which to apply the national cost to charge ratio. Furthermore, we proposed to add a new paragraph (h) to update the cost of living adjustment factors, if appropriate.

In § 424.14, we proposed to revise the title to read, ''Requirements for inpatient services of inpatient psychiatric facilities,'' to ensure consistency in compliance with the requirements among all IPFs. We also proposed to add a new paragraph (c)(3) to clarify for purposes of payment under the IPF PPS, that the physician would also recertify that the patient continues to need, on a daily basis, active inpatient psychiatric care (furnished directly by or requiring the supervision of inpatient psychiatric facility personnel) or other professional services that can only be provided on an inpatient basis.

In addition, we proposed to revise paragraph (d)(2) to state that the first recertification is required as of the 12th day of hospitalization. Subsequent recertifications would be required at intervals established by the hospital's utilization review committee (on a case-by-case basis if it so chooses), but no less frequently than every 30 days.

IV. Analysis of and Responses to Public Comments

We provided for a 60 day comment period on the RY 2007 proposed rule. The correction notice to correct technical errors that appeared in the RY 2007 proposed rule appeared in the **Federal Register** on February 24, 2006. The correction notice extended the public comment period on the ECT policy, to allow the public an opportunity to comment on the corrected policy.

We received approximately 32 public comments from hospital associations, psychiatric hospitals and units, and acute care hospitals. In general, commenters expressed some concern about a few of our proposals and suggested that we wait to implement specific updates to the IPF PPS until we can analyze 2005 claims data. A few commenters requested that we provide the provider impact files that are comparable to the files prepared for the Inpatient Prospective Payment System (IPPS). In addition, several commenters requested that we retain the rural adjustment or provide a 3-year hold harmless provision for IPFs that would lose their rural adjustment if we adopted the proposed CBSA definitions. Several commenters supported the proposed changes to the IPF PPS.

Summaries of the public comments received and our responses to those comments are provided in the appropriate sections in the preamble of this final rule.

V. Updates to the IPF PPS for RY Beginning July 1, 2006

The IPF PPS is based on a standardized Federal per diem base rate calculated from IPF average per diem costs and adjusted for budget-neutrality in the implementation year. The Federal per diem base rate is used as the standard payment per day under the IPF PPS and is adjusted by the applicable wage index factor and the patient-level and facility-level adjustments that are applicable to the IPF stay.

The following is an explanation of how we calculated the Federal per diem base rate and the standardization and budget neutrality factors as described in the November 2004 IPF PPS final rule.

A. Calculation of the Average Per Diem Cost

As indicated in the November 2004 IPF PPS final rule, to calculate the Federal per diem base rate, we estimated the average cost per day for—(1) routine services from FY 2002 cost reports (supplemented with FY 2001 cost reports if the FY 2002 cost report was missing); and (2) ancillary services using data from the FY 2002 Medicare claims and corresponding data from facility cost reports.

For routine services, the per diem operating and capital costs were used to develop the average per diem cost amount. The per diem routine costs were obtained from each facility's Medicare cost report. To estimate the costs for routine services included in the Federal per diem base rate calculation, we added the total routine costs (including costs for capital) submitted on the cost report for each provider and divided it by the total Medicare days.

Some average routine costs per day were determined to be aberrant, that is, the costs were extraordinarily high or low and most likely contained data errors. We provided a detailed discussion in the November 2004 IPF PPS final rule (69 FR 66926 through 66927) of the method used to trim extraordinarily high or low cost values from the per diem rate development file in order to improve the accuracy of our results. For ancillary services, we calculated the costs by converting charges from the FY 2002 Medicare claims into costs using facility-specific, cost-center specific cost-to-charge ratios obtained from each provider's applicable cost reports. We matched each provider's departmental cost-to-charge ratios from their Medicare cost report to each charge on their claims reported in the MedPAR file. Multiplying the total charges for each type of ancillary service by the corresponding cost-to-charge ratio provided an estimate of the costs for all ancillary services received by the patient during the stay. We determined the average ancillary amount per day by dividing the total ancillary costs for all stays by the total number of covered Medicare days.

Adding the average ancillary costs per day and the average routine costs per day including capital costs provided the estimated average per diem cost for each patient day of inpatient psychiatric care in FY 2002.

B. Determining the Standardized Budget-Neutral Federal Per Diem Base Rate

Section 124(a)(1) of the BBRA requires that the implementing IPF PPS be budget neutral. In other words, the amount of total payments under the IPF PPS, including any payment adjustments, must be projected to be equal to the amount of total payments that would have been made if the IPF PPS were not implemented. Therefore, in the November 2004 IPF PPS final

rule, we calculated the budget neutrality factor by setting the total estimated IPF PPS payments to be equal to the total estimated payments that would have been made under the TEFRA methodology had the IPF PPS not been implemented.

The November 2004 IPF PPS final rule includes a step-by-step description of the methodology we used to estimate payments under the TEFRA payment system (69 FR 66930). For the IPF PPS methodology, we calculated the final Federal per diem base rate to be budget neutral during the implementation period under the IPF PPS using a July 1 update cycle. Thus, the implementation period for the IPF PPS is the 18-month period January 1, 2005 through June 30, 2006.

We updated the average cost per day to the midpoint of the IPF PPS implementation period (that is, October 1, 2005). We used the most recent projection of the full percentage increase in the 1997-based excluded hospital with capital market basket index for FY 2003 and later in accordance with § 413.40(c)(3)(viii). The updated average cost per day was used in the payment model to establish the budget neutrality adjustment.

Public comments and our responses on changes for determining the standardized budget neutral federal per diem base rate are summarized below.

Comment: We received several comments regarding the determination of the target amount and the temporary caps on the facility-specific TEFRA payments which expired in FY 2002. Specifically, the commenters stated that even though the temporary caps on the facility-specific (TEFRA) payments expired in FY 2002, the capped payment amounts which were used to establish the baseline for budget neutrality purposes, were inflated by the market basket rate for each year until the PPS began in 2005.

The commenters believe that CMS should have used what would have been spent, absent the expired temporary caps inflated using the market basket rate, to establish the baseline rather than capped payments. The commenters stated that using the capped payments could have inappropriately reduced the allowed aggregate spending under the PPS each year.

Response: We are aware that there have been concerns over the method we used for calculating the target amount for cost reporting periods beginning after FY 2002 for those hospitals and units that were subject to the ''payment caps'' in accordance with section 1886(b)(3)(H) of the Act and regulations at § 413.40(c)(4)(iii). We have addressed this issue several times, but most recently in the FY 2006 IPPS final rule (70 FR 47278 and 70 FR 47464). Specifically, we addressed the issue of whether § 413.40(c)(4)(iii) (specifically paragraph (c)(4)(iii)(A)) continues to apply beyond FY 2002. In that rule, we stated that § 413.40(c)(4)(iii) applies only to cost reporting periods beginning on or after October 1, 1997 through September 30, 2002, for IPFs, IRFs, and LTCHs. In addition, we clarify that once the 75th percentile cap provision in paragraph (c)(4)(iii) of § 413.40 expired, the target amount is then determined based on § 413.40(c)(4)(ii) which states that, ''Subject to the provisions of [§ 413.40] paragraph (c)(4)(iii) of this section, for subsequent cost reporting periods, the target amount equals the hospital's target amount for the previous cost reporting period increased by the update factor for the subject cost reporting period'' unless the provisions of paragraph (c)(5)(ii) of this section apply. Thus, under the requirements of § 413.40 (c)(4)(ii), in this instance, the previous cost reporting period's target amount would be increased by the applicable update factor to arrive at the target amount for FY 2003. Similarly, for cost reporting periods beginning in years subsequent to FY 2003, we calculate a hospital's target amount by taking its previous year's target amount and updating it by the updated factor for the subject cost reporting period unless the provision of paragraph (c)(5)(ii) of this section apply. We followed the methodology in § 413.40(c)(4)(ii) and therefore our projections of what would have been spent under TEFRA and the budget neutrality adjustment are correct.

Final Rule Action: To clarify, in order to calculate the target amounts for cost reporting periods beginning in FY 2003, our policy is that the target amounts for cost reporting periods beginning in FY 2002 are updated as described in § 413.40(c)(4)(ii). Similarly, for cost reporting periods beginning in years subsequent to FY 2003, we calculate target amounts by taking the previous year's target amount and updating it, consistent with § 413.40(c)(4)(ii).

1. Standardization of the Federal Per Diem Base Rate

In the November 2004 IPF PPS final rule, we standardized the IPF PPS Federal per diem base rate in order to account for the overall positive effects of the IPF PPS payment adjustment factors. To standardize the IPF PPS payments, we compared the IPF PPS payment amounts calculated from the FY 2002 MedPAR file to the projected TEFRA payments from the FY 2002 cost report file updated to the midpoint of the IPF PPS implementation period (that is, October 2005). The standardization factor was calculated by dividing total estimated payments under the TEFRA payment system by estimated payments under the IPF PPS. The standardization factor was calculated to be 0.8367. As a result, in the November 2004 IPF PPS final rule, the $724.43 average cost per day was reduced by 16.33 percent (100 percent minus 83.67 percent).

2. Calculation of the Budget Neutrality Adjustment

To compute the budget neutrality adjustment for the IPF PPS, we separately identified each component of the adjustment, that is, the outlier adjustment, stop-loss adjustment, and behavioral offset.

a. Outlier Adjustment

Since the IPF PPS payment amount for each IPF includes applicable outlier amounts, we reduced the standardized Federal per diem base rate to account for aggregate IPF PPS payments estimated to be made as outlier payments. The appropriate outlier amount was determined by comparing the adjusted prospective payment for the entire stay to the computed cost per case. If costs were above the prospective payment plus the adjusted fixed dollar loss threshold amount, an outlier payment was computed using the applicable risk-sharing percentages (see section VI.D.1 of this final rule). The outlier amount was computed for all stays, and the total outlier amount was added to the final IPF PPS payment. The outlier adjustment was calculated to be 2 percent. As a result, the standardized Federal per diem base rate was reduced by 2 percent to account for projected outlier payments.

b. Stop-Loss Provision Adjustment

As explained in the November 2004 IPF PPS final rule, we provide a stop-loss payment to ensure that an IPF's total PPS payments are no less than a minimum percentage of their TEFRA payment, had the IPF PPS not been implemented. We reduced the standardized Federal per diem base rate by the percentage of aggregate IPF PPS payments estimated to be made for stop-loss payments.

The stop-loss payment amount was determined by comparing aggregate prospective payments that the provider would receive under the IPF PPS to aggregate TEFRA payments that the provider would have otherwise received without implementation of the IPF PPS. If an IPF's aggregate IPF PPS payments are less than 70 percent of its aggregate

payments under TEFRA, a stop-loss payment was computed for that IPF. The stop-loss payment amounts were computed for those IPFs that were projected to receive the payments, and the total amount was added to the final IPF PPS payment amount. As a result, the standardized Federal per diem base rate was reduced by 0.39 percent to account for stop-loss payments.

c. Behavioral Offset

As explained in the November 2004 IPF PPS final rule, implementation of the IPF PPS may result in certain changes in IPF practices especially with respect to coding for comorbid medical conditions. As a result, Medicare may incur higher payments than assumed in our calculations. Accounting for these effects through an adjustment is commonly known as a behavioral offset.

Based on accepted actuarial practices and consistent with the assumptions made in other prospective payment systems, we assumed in determining the behavioral offset that IPFs would regain 15 percent of potential ''losses'' and augment payment increases by 5 percent. We applied this actuarial assumption, which is based on our historical experience with new payment systems, to the estimated ''losses'' and ''gains'' among the IPFs. The behavioral offset for the IPF PPS was calculated to be 2.66 percent. As a result, we reduced the standardized Federal per diem base rate by 2.66 percent to account for behavioral changes.

To summarize, the $724.43 updated average per diem cost was reduced by 16.33 percent to account for standardization to projected TEFRA payments for the implementation period, by 2 percent to account for outlier payments, by 0.39 percent to account for stop-loss payments, and by 2.66 percent reduction to account for the behavioral offset. The final standardized budget-neutral Federal per diem base rate for the IPF PPS implementation year was calculated to be $575.95. We discuss the Federal per diem base rate for RY 2007 below.

Public comments and our responses on the behavioral offset are summarized below.

Comment: Several commenters expressed concern that CMS continues to maintain the behavioral offset which is intended to account for changes in provider practice patterns as a result of movement to prospective payment which could result in higher Medicare payments. A few commenters stated that accurate coding is already a high priority in distinct part units and freestanding facilities. Therefore, coding practices in these facilities should not undergo major changes. The commenters suggested that because the PPS is being phased in, and only 50 percent of the payment in the second year would be based on the IPF PPS, the incentive for behavior change is diminished.

Several commenters recommended that CMS analyze the preliminary 2005 claims data and adjust the calculations for the behavioral offset to maintain IPF spending at appropriate levels. A few commenters expressed concern that CMS did not indicate whether an analysis was conducted to determine if continuing the adjustment for behavioral offset is warranted. They believe the assumptions made for both the proposed RY and the implementation year of the IPF PPS overestimated the likely impact of changes in hospital behavior.

Response: We explained in the November 2004 IPF PPS final rule and the RY 2007 proposed rule that we believe it is reasonable to expect changes in IPFs' practices especially with respect to coding for comorbid medical conditions and changes in length of stay (LOS), as a result of the implementation of the IPF PPS.

In addition, based on accepted actuarial practices and consistent with the assumptions made in implementing other prospective payment systems, we assumed in determining the behavioral offset, that IPFs would regain 15 percent of potential ''losses'' and augment payment increases by 5 percent. We applied this actuarial assumption, which is based on our historical experience with new payment systems, to the estimated ''losses'' and ''gains'' among the IPFs.

As indicated in the RY 2007 proposed rule, we do not plan to change adjustment factors or projections, including the behavioral offset, until we analyze IPF PPS data. At that time, we will re-assess the accuracy of the behavioral offset along with the other factors impacting budget neutrality. We anticipate analyzing 2005 IPF PPS claims and cost report data in the future.

Comment: Several commenters inquired why CMS is continuing to include budget neutrality factors in the Federal per diem base rate (behavioral offset, stop-loss adjustment, and outlier adjustment), effectively lowering the base rate. Since the PPS is only budget neutral for the implementation year, the commenters believe the base rate should not reflect budget neutrality factors that effectively lower the amount.

Response: We acknowledge that the PPS is only budget neutral for the implementation year. The standardization factor, behavioral offset, stop-loss adjustment, and outlier adjustment were included in the 2005 Federal per diem base rate of $575.95. In implementing the RY 2007 final rule, we adjust the standardization factor (see section V.B.3 of this final rule), and apply the market basket update and the wage index budget neutrality factor to the base rate. As indicated above, we do not plan to change any adjustment factors or projections, including the budget neutrality factors (behavioral offset, stop-loss adjustment, and outlier adjustment), until we analyze IPF PPS data. We will revisit all assumptions used to calculate the budget neutrality adjustment and make any necessary prospective changes to the Federal per diem base rate. In section VI.D.3 of this final rule, we address these comments with respect to the calculation of the ECT rate.

Final Rule Action: In summary, for future RYs, we will reassess the appropriateness of the behavior offset along with the other factors impacting budget neutrality. For the RY 2007 IPF PPS, we will continue to adjust the standardization factor and apply the market basket updates and the wage index budget neutrality factors.

3. Revision of the Standardization Factor

In reviewing the methodology used to simulate the IPF PPS payments used for the November 2004 IPF PPS final rule, we discovered that the computer code incorrectly assigned non-teaching status to most teaching facilities. As a result, total IPF PPS payments were underestimated by about 1.36 percent. The underestimated IPF PPS payment total was used in calculating the IPF PPS standardization factor. The standardization factor represents the amount by which the IPF PPS per diem payment rate and the ECT rate must be reduced in order to make total IPF PPS payments equal to estimated total TEFRA payments assuming IPFs continued to be paid solely under TEFRA for the first PPS payment year.

The standardization factor is calculated as the ratio of estimated total TEFRA payments to estimated total IPF PPS payments assuming no reduction to the per diem and ECT payment rates. Since the IPF PPS payment total should have been larger than the estimated figure, the standardization factor should have been smaller (0.8254 vs. 0.8367). In turn, the Federal per diem base rate and the ECT rate should have been reduced by 0.8254 instead of 0.8367.

To resolve this issue, we proposed to amend the Federal per diem base rate and the ECT payment rate prospectively. Using the standardization

factor of 0.8254, the base rate should have been $568.17 for the implementation year of the IPF PPS. It is this base rate that we proposed to update using the market basket rate of increase of 4.3 percent and the budget-neutral wage index factor of 1.0042 (see section VI.C.1.f of this final rule). Applying these factors yields a proposed Federal per diem base rate of $595.09 for the RY beginning July 1, 2006 through June 30, 2007.

Public comments and our responses on the revision of the standardization factor are summarized below.

Comment: One commenter asked whether the overall increase in the base rate is appropriately calculated and sufficient.

Response: As explained above and in the RY 2007 proposed rule, the correction of the standardization factor reveals that last year's per diem rate should have been $568.17, and not $575.95. To correct this error prospectively, we apply the market basket increase of 4.3 percent to $568.17, and then apply the wage index budget neutrality factor to compute the Federal per diem base rate.

Final Rule Action: In summary, we are finalizing our decision to revise the standardization factor prospectively, and the Federal per diem base rate for RY 2007 is $595.09.

C. Update of the Federal Per Diem Base Rate

1. Market Basket for IPFs Reimbursed Under the IPF PPS

a. Market Basket Index for IPF PPS

The market basket index used to develop the IPF PPS is the excluded hospital with capital market basket. This market basket was based on 1997 Medicare cost report data and includes data for Medicare participating IPFs, IRFs, LTCHs, cancer, and children's hospitals.

We are presently unable to create a separate market basket specifically for psychiatric hospitals due to the small number of facilities and the limited data that are provided (for instance, approximately 4 percent of psychiatric facilities reported contract labor cost data for FY 2002). However, since all IRFs, LTCHs, and IPFs are now paid under a PPS, we are updating PPS payments made under the IRF PPS, the LTCH PPS, and the IPF PPS using a market basket reflecting the operating and capital cost structures for IRFs, IPFs, and LTCHs (hereafter referred to as the rehabilitation, psychiatric, long-term care (RPL) market basket). We have excluded children's and cancer hospitals from the RPL market basket because their payments are based entirely on reasonable costs subject to rate-of-increase limits established under the authority of section 1886(b) of the Act, which is implemented in regulations at § 413.40. They are not reimbursed under a PPS. Also, the FY 2002 cost structures for children's and cancer hospitals are noticeably different than the cost structures of the IRFs, IPFs, and LTCHs.

The services offered in IRFs, IPFs, and LTCHs are typically more labor-intensive than those offered in cancer and children's hospitals. Therefore, the compensation cost weights for IRFs, IPFs, and LTCHs are larger than those in cancer and children's hospitals. In addition, the depreciation cost weights for IRFs, IPFs, and LTCHs are noticeably smaller than those for children's and cancer hospitals.

In the following discussion, we provide an overview on the market basket and describe the methodologies we are using for purposes of determining the operating and capital portions of the FY 2002-based RPL market basket.

b. Overview of the RPL Market Basket

The RPL market basket is a fixed weight, Laspeyres-type price index that was constructed in three steps. First, a base period was selected (in this case, FY 2002) and total base period expenditures were estimated for a set of mutually exclusive and exhaustive spending categories based upon type of expenditure. Then the proportion of total costs that each category represents was determined. These proportions are called cost or expenditure weights. Second, each expenditure category was matched to an appropriate price or wage variable, referred to as a price proxy. In nearly every instance, these price proxies are price levels derived from publicly available statistical series that are published on a consistent schedule, preferably at least on a quarterly basis.

Finally, the expenditure weight for each cost category was multiplied by the level of its respective price proxy for a given period. The sum of these products (that is, the expenditure weights multiplied by their price levels) for all cost categories yields the composite index level of the market basket in a given period. Repeating this step for other periods produces a series of market basket levels over time. Dividing an index level for a given period by an index level for an earlier period produces a rate of growth in the input price index over that time period.

A market basket is described as a fixed-weight index because it answers the question of how much it would cost, at another time, to purchase the same mix of goods and services purchased to provide hospital services in a base period. The effects on total expenditures resulting from changes in the quantity or mix of goods and services (intensity) purchased subsequent to the base period are not measured. In this manner, the market basket measures only pure price change. Only when the index is rebased would the quantity and intensity effects be captured in the cost weights. Therefore, we rebase the market basket periodically so that cost weights reflect changes in the mix of goods and services that hospitals purchase (hospital inputs) to furnish patient care between base periods.

The terms rebasing and revising, while often used interchangeably, actually denote different activities. Rebasing means moving the base year for the structure of costs of an input price index (for example, shifting the base year cost structure from FY 1997 to FY 2002). Revising means changing data sources, methodology, or price proxies used in the input price index. We have rebased and revised the market basket used to update the IPF PPS.

2. Methodology for Operating Portion of the RPL Market Basket

The operating portion of the FY 2002-based RPL market basket consists of several major cost categories derived from the FY 2002 Medicare cost reports for IRFs, IPFs, and LTCHs: wages, drugs, professional liability insurance, and a residual. We chose to use FY 2002 as the base year because we believe this is the most recent, complete year of Medicare cost reports. Due to insufficient Medicare cost report data for IRFs, IPFs, and LTCHs, we have developed cost weights for benefits, contract labor, and blood and blood products using the FY 2002-based IPPS market basket (70 FR 23384), which we explain in more detail later in this section. For example, less than 30 percent of IRFs, IPFs, and LTCHs reported benefit cost data in FY 2002. We have noticed an increase in cost data for these expense categories over the last 4 years. The next time we rebase the RPL market basket there may be sufficient IRF, IPF, and LTCH cost report data to develop the weights for these expenditure categories.

Since the cost weights for the RPL market basket are based on facility costs, as proposed and for this final rule, we are limiting our sample to hospitals with a Medicare average LOS within a comparable range of the total facility average LOS. We believe this provides a more accurate reflection of the structure of costs for Medicare covered

days. Our goal is to measure cost shares that are reflective of case mix and practice patterns associated with providing services to Medicare beneficiaries.

As proposed and for this final rule, we are using those cost reports for IRFs and LTCHs whose Medicare average LOS is within 15 percent (that is, 15 percent higher or lower) of the total facility average LOS for the hospital. This is the same edit applied to the FY 1992-based and FY 1997-based excluded hospital with capital market basket. We are using 15 percent because it includes those LTCHs and IRFs whose Medicare LOS is within approximately 5 days of the facility LOS.

As proposed and for this final rule, we use a less stringent measure of Medicare LOS for IPFs whose average LOS is within 30 or 50 percent (depending on the total facility average LOS) of the total facility average LOS. Using this less stringent edit allows us to increase our sample size by over 150 cost reports and produce a cost weight more consistent with the overall facility. The edit we applied to IPFs when developing the FY 1997-based excluded hospital with capital market basket was based on the best available data at the time.

Public comments and our responses on the proposed changes for implementing the methodology for the operating portion of the RPL market basket are summarized below.

Comment: One commenter disagreed with our proposed LOS methodology, which included those cost reports for IRFs and LTCHs whose Medicare average LOS is within 15 percent (that is, 15 percent higher or lower) of the total facility average LOS and those cost reports for IPFs whose average LOS is within 30 or 50 percent (depending on the total facility average LOS) of the total facility average LOS.

A commenter stated that the LOS methodology appears to factor into the calculation a disproportionate share of psychiatric facilities with a longer LOS. In addition, the commenter indicated that the RY 2007 proposed rule stated that costs decrease further into a patient's stay and that CMS assumes that IPFs have an incompatible cost per discharge when grouped with the lower LOS in the IRFs and LTCHs.

Response: As stated previously, since the cost weights for the RPL market basket are based on facility costs, we limited our sample to hospitals with a Medicare average LOS within a comparable range of the total facility average LOS. We believe this provides a more accurate reflection of the structure of costs for Medicare treatments.

We disagree with the commenter that the IPF LOS edit includes a disproportionate share of IPFs with a longer LOS. For clarity, we are providing below a table that compares the distribution of the Medicare and facility LOSs for IPFs using no edit and the proposed 30/50 edit.

TABLE 2.—IPFS FY 2002 MEDICARE AND FACILITY LOS DISTRIBUTIONS

	Medicare length of stay		Facility length of stay	
	No trim	30/50 trim	No trim	30/50 trim
100% Max	93	70	5334	75
99%	86	54	822	63
95%	59	36	333	39
90%	49	23	227	26
75% Q3	28	15	57	15
50% Median	13	11	13	10
25% Q1	10	9	8	8
10%	8	7	6	6
5%	7	7	6	5
1%	4	5	5	5
0% Min	1	3	1	3

The Medicare and facility LOS distributions are consistent when the proposed edit is applied. However, not applying the edit would include in the market basket those IPFs whose facility LOS are dramatically different from their Medicare LOS. In addition, the Medicare LOS distribution with the 30/50 edit is similar to the Medicare LOS distribution with no edit. Therefore, we believe that the proposed edit does not include a disproportionate share of IPFs with a longer LOS in the market basket.

Applying these LOS edits left us with a sample of hospitals whose average Medicare utilization was approximately 50 percent, while those excluded from the market basket had a Medicare utilization of approximately 10 percent. Given this, we firmly believe that these LOS edits help us meet our goal to measure cost shares that are reflective of case mix and practice patterns associated with providing services to Medicare beneficiaries.

The detailed cost categories under the residual (that is, the remaining portion of the market basket after excluding wages and salaries, drugs, and professional liability cost weights) are derived from the FY 2002-based IPPS market basket and the 1997 Benchmark Input-Output (I-O) Tables published by the Bureau of Economic Analysis, U.S. Department of Commerce. The FY 2002-based IPPS market basket was developed using FY 2002 Medicare hospital cost reports with the most recent and detailed cost data (see the August 12, 2005 IPPS final rule (70 FR 47388)). The 1997 Benchmark I-O is the most recent, comprehensive source of cost data for all hospitals. The RPL cost weights for benefits, contract labor, and blood and blood products were derived using the FY 2002-based IPPS market basket. For example, the ratio of the benefit cost weight to the wages and salaries cost weight in the FY 2002-based IPPS market basket was applied to the RPL wages and salaries cost weight to derive a benefit cost weight for the RPL market basket. As proposed and for this final rule, the remaining RPL operating cost categories were derived using the 1997 Benchmark I-O Tables, aged to 2002 using relative price changes. (The methodology we used to age the data involves applying the annual price changes from the price proxies to the appropriate cost categories. We repeated this practice for each year.) Therefore, using this methodology, roughly 59 percent of the RPL market basket was accounted for by wages, drugs, and professional liability insurance data from FY 2002 Medicare cost report data for IRFs, LTCHs, and IPFs.

Additional comments and our responses on the methodology for

operating portion of the RPL market basket are summarized below.

Comment: Several commenters proposed that CMS regularly re-analyze the RPL cost report data, which are the basis of the RPL market basket. The commenters indicated that the methodology used for the RPL market basket includes data from the IPPS hospital market basket rather than relying solely on IPF, IRF, and LTCH data.

The commenters recommended that CMS work with providers to improve the cost reports from rehabilitation, psychiatric, and LTCHs in order to ensure that the data used for the market basket represent only the types of excluded hospitals for which the RPL market basket was developed. The commenters believe that improving the data reported on the RPL cost reports would not only refine the RPL market basket but also improve the accuracy of the labor-related share to which the wage index is applied.

Response: We rely on the IPPS cost report data to supplement the IRF, IPF, and LTCH Medicare cost report data for benefits, contract labor, and blood and blood products. For example, the ratio of the benefit cost weight to the wages and salaries cost weight in the FY 2002-based IPPS market basket was applied to the RPL wages and salaries cost weight to derive a benefit cost weight for the RPL market basket. We did not use expenditure levels from the IPPS data directly but, as explained, we developed and used the ratios from IPPS data to determine these RPL cost weights.

The wages and salaries cost weight was derived using the IRF, IPF, and LTCH Medicare cost reports and accounts for 50 percent of the RPL market basket. Due to data limitations, this was the best methodology for developing the latter cost weights.

We agree with the commenters that improving the data reported on the RPL cost reports could improve the RPL market basket and labor-related share. We have noticed this data improvement on other provider-type cost reports and encourage IRF, IPF, and LTCH providers to fully complete their cost reports. We believe that this would help us develop the most complete and accurate market basket possible. We will analyze RPL cost report data on a regular basis and continue to consider the possibility of provider-specific market basket indices.

Comment: One commenter requested that CMS explain how it computes cost category weights based on Medicare cost report data. The commenter stated that if they understood which data elements were used and how they were used, CMS could develop educational programs to improve their member hospitals' reporting.

Response: The RPL market basket cost weights are based on freestanding Medicare cost report data for IRFs, IPFs, and LTCHs. We mainly rely on data from worksheets A through G to derive the cost weights. Worksheet S–3, part II is the only worksheet which allows for the reporting of benefits and contract labor data; however, it is not a required worksheet for IRFs, IPFs, and LTCHs. As stated previously, we relied on the IPPS Medicare cost report worksheet S–3, part II data to derive the relationships for benefits and contract labor to wages and salaries.

Additionally, capital cost weights are derived using worksheet A–7. The estimates generated using this worksheet, as well as worksheet G, could be enhanced with higher reporting rates. Again, we encourage IRF, IPF, and LTCH providers to fully complete their cost reports to help us in developing the most complete and accurate market basket.

Table 3 below sets forth the complete 2002-based RPL market basket including cost categories, weights, and price proxies. For comparison purposes, the corresponding FY 1997-based excluded hospital with capital market basket is listed as well.

As proposed and for this final rule, wages and salaries are 52.895 percent of total costs in the FY 2002-based RPL market basket compared to 47.335 percent for the FY 1997-based excluded hospital with capital market basket. Employee benefits are 12.982 percent in the FY 2002-based RPL market basket compared to 10.244 percent for the FY 1997-based excluded hospital with capital market basket. As a result, compensation costs (wages and salaries plus employee benefits) for the FY 2002-based RPL market basket are 65.877 percent of costs compared to 57.579 percent for the FY 1997-based excluded hospital with capital market basket. Of the 8 percentage-point difference between the compensation shares, approximately 3 percentage points were due to the new base year (FY 2002 instead of FY 1997), 3 percentage points were due to the revised LOS edit, and the remaining 2 percentage points were due to the exclusion of other hospitals (that is, only including IPFs, IRFs, and LTCHs in the market basket).

Following the table is a summary outlining the choice of the proxies we chose to use for the operating portion of the market basket. The price proxies for the capital portion are described in more detail in the capital methodology section (see section V.C.3 of this final rule).

TABLE 3.—FY 2002-BASED RPL MARKET BASKET COST CATEGORIES, WEIGHTS, AND PROXIES WITH FY 1997-BASED EXCLUDED HOSPITAL WITH CAPITAL MARKET BASKET USED FOR COMPARISON

Expense categories	FY 1997-based excluded hospital with capital market basket	FY 2002-based RPL market basket	FY 2002 market basket price proxies
Total	100.000	100.000	
Compensation	57.579	65.877	
Wages and Salaries *	47.335	52.895	ECI—Wages and Salaries, Civilian Hospital Workers.
Employee Benefits *	10.244	12.982	ECI—Benefits, Civilian Hospital Workers.
Professional Fees, Non-Medical	4.423	2.892	ECI—Compensation for Professional, Specialty & Technical Workers.
Utilities	1.180	0.656	
Electricity	0.726	0.351	PPI—Commercial Electric Power.
Fuel Oil, Coal, etc	0.248	0.108	PPI—Commercial Natural Gas.
Water and Sewage	0.206	0.197	CPI–U—Water & Sewage Maintenance.
Professional Liability Insurance	0.733	1.161	CMS Professional Liability Premium Index.
All Other Products and Services	27.117	19.265	
All Other Products	17.914	13.323	
Pharmaceuticals	6.318	5.103	PPI Prescription Drugs.
Food: Direct Purchase	1.122	0.873	PPI Processed Foods & Feeds.
Food: Contract Service	1.043	0.620	CPI U Food Away From Home.

TABLE 3.—FY 2002-BASED RPL MARKET BASKET COST CATEGORIES, WEIGHTS, AND PROXIES WITH FY 1997-BASED EXCLUDED HOSPITAL WITH CAPITAL MARKET BASKET USED FOR COMPARISON—Continued

Expense categories	FY 1997-based excluded hospital with capital market basket	FY 2002-based RPL market basket	FY 2002 market basket price proxies
Chemicals	2.133	1.100	PPI Industrial Chemicals.
Blood and Blood Products**	0.748		
Medical Instruments	1.795	1.014	PPI Medical Instruments & Equipment.
Photographic Supplies	0.167	0.096	PPI Photographic Supplies.
Rubber and Plastics	1.366	1.052	PPI Rubber & Plastic Products.
Paper Products	1.110	1.000	PPI Converted Paper & Paperboard Products.
Apparel	0.478	0.207	PPI Apparel.
Machinery and Equipment	0.852	0.297	PPI Machinery & Equipment.
Miscellaneous Products	0.783	1.963	PPI Finished Goods less Food & Energy.
All Other Services	9.203	5.942	
Telephone	0.348	0.240	CPI–U Telephone Services.
Postage	0.702	0.682	CPI–U Postage.
All Other: Labor Intensive	4.453	2.219	ECI-Compensation for Private Service Occupations.
All Other: Non-labor Intensive	3.700	2.800	CPI–U All Items.
Capital-Related Costs	8.968	10.149	
Depreciation	5.586	6.186	
Fixed Assets	3.503	4.250	Boeckh Institutional Construction 23-year useful life.
Movable Equipment	2.083	1.937	WPI Machinery & Equipment 11-year useful life.
Interest Costs	2.682	2.775	
Nonprofit	2.280	2.081	Average yield on domestic municipal bonds (Bond Buyer 20 bonds) vintage-weighted (23 years).
For Profit	0.402	0.694	Average yield on Moody's Aaa bonds vintage weighted (23 years).
Other Capital-Related Costs	0.699	1.187	CPI–U Residential Rent.

*Labor-related
**Blood and blood-related products is included in miscellaneous products
Note: Due to rounding, weights may not sum to total.

Below we provide the proxies that we are using for the FY 2002-based RPL market basket. With the exception of the Professional Liability proxy, all the price proxies for the operating portion of the RPL market basket are based on Bureau of Labor Statistics (BLS) data and are grouped into one of the following BLS categories:

• Producer Price Indexes—Producer Price Indexes (PPIs) measure price changes for goods sold in other than retail markets. PPIs are preferable price proxies for goods that hospitals purchase as inputs in producing their outputs because the PPIs would better reflect the prices faced by hospitals. For example, we use a special PPI for prescription drugs, rather than the Consumer Price Index (CPI) for prescription drugs because hospitals generally purchase drugs directly from the wholesaler. The PPIs that we use measure price change at the final stage of production.

• Consumer Price Indexes—Consumer Price Indexes (CPIs) measure change in the prices of final goods and services bought by the typical consumer. Because they may not represent the price faced by a producer, we use CPIs only if an appropriate PPI were not available, or if the expenditures were more similar to those of retail consumers in general rather than purchases at the wholesale level. For example, the CPI for food purchases away from home is used as a proxy for contracted food services.

• Employment Cost Indexes—Employment Cost Indexes (ECIs) measure the rate of change in employee wage rates and employer costs for employee benefits per hour worked. These indexes are fixed-weight indexes and strictly measure the change in wage rates and employee benefits per hour. Appropriately, they are not affected by shifts in employment mix.

We evaluated the price proxies using the criteria of reliability, timeliness, availability, and relevance. Reliability indicates that the index is based on valid statistical methods and has low sampling variability. Timeliness implies that the proxy is published regularly, preferably at least once a quarter. Availability means that the proxy is publicly available. Finally, relevance means that the proxy is applicable and representative of the cost category weight to which it is applied. The CPIs, PPIs, and ECIs in this regulation meet these criteria.

We note that the proxies are the same as those used for the FY 1997-based excluded hospital with capital market basket. Because these proxies meet our criteria of reliability, timeliness, availability, and relevance, we believe they continue to be the best measure of price changes for the cost categories. For further discussion on the FY 1997-based excluded hospital with capital market basket, see the August 1, 2002 IPPS final rule (67 FR at 50042).

Wages and Salaries

For measuring the price growth of wages in the FY 2002-based RPL market basket, we are using the ECI for wages and salaries for civilian hospital workers as the proxy for wages in the RPL market basket.

The rehabilitation, psychiatric, and long-term care hospital (RPL) market basket uses the Bureau of Labor Statistics' Employment Cost Indexes (ECIs) as proxies for wages and salaries, and benefits for civilian industry workers classified in the Standard Industrial Code (SIC) 806, Hospitals. However, beginning April 28, 2006 with the publication of March 2006 data, the ECIs will be converted from the SIC system to the North American Industrial Classification System (NAICS). The NAICS-based ECI for hospitals (NAICS 622) is similar (at least 90 percent identical) to the SIC-based ECI for hospitals. Therefore, when they are available, we will use the NAICS-based ECIs for hospitals as proxies to reflect the rate-of-price change for the wages

and salaries and employee benefits cost categories in the 2002-based RPL market basket.

The RPL market basket and labor-related share in this final rule will use the most recent data available from the Bureau of Labor Statistics. We do not expect the RPL market basket and labor-related share to change significantly when the conversion from the SIC system to the NAICS system takes place.

Employee Benefits

The FY 2002-based RPL market basket uses the ECI for employee benefits for civilian hospital workers.

Nonmedical Professional Fees

The ECI for compensation for professional and technical workers in private industry is applied to this category since it includes occupations such as management and consulting, legal, accounting, and engineering services.

Fuel, Oil, and Gasoline

The percentage change in the price of gas fuels as measured by the PPI (Commodity Code #0552) is applied to this component.

Electricity

The percentage change in the price of commercial electric power as measured by the PPI (Commodity Code #0542) is applied to this component.

Water and Sewerage

The percentage change in the price of water and sewage maintenance as measured by the Consumer Price Index (CPI) for all urban consumers (CPI Code #CUUR0000SEHG01) is applied to this component.

Professional Liability Insurance

The FY 2002-based RPL market basket uses the percentage change in hospital professional liability insurance (PLI) premiums as estimated by the CMS Hospital Professional Liability Index for the proxy of this category. In the FY 1997-based excluded hospital with capital market basket, the same proxy was used.

We continue to research options for improving our proxy for professional liability insurance. This research includes exploring various options for expanding our current survey, including the identification of another entity that would be willing to work with us to collect more complete and comprehensive data. We are also exploring other options such as third party or industry data that might assist us in creating a more precise measure of PLI premiums. At this time we have not identified a preferred option, therefore no change is made for the proxy in this final rule.

Pharmaceuticals

The percentage change in the price of prescription drugs as measured by the PPI (PPI Code #PPI32541DRX) is used as a proxy for this cost category. This is a special index produced by BLS as a proxy in the 1997-based excluded hospital with capital market basket.

Food, Direct Purchases

The percentage change in the price of processed foods and feeds as measured by the PPI (Commodity Code #02) is applied to this component.

Food, Contract Service

The percentage change in the price of food purchased away from home as measured by the CPI for all urban consumers (CPI Code #CUUR0000SEFV) is applied to this component.

Chemicals

The percentage change in the price of industrial chemical products as measured by the PPI (Commodity Code #061) is applied to this component. While the chemicals hospitals purchase include industrial as well as other types of chemicals, the industrial chemicals component constitutes the largest proportion by far. Thus we believe that Commodity Code #061 is the appropriate proxy.

Medical Instruments

The percentage change in the price of medical and surgical instruments as measured by the PPI (Commodity Code #1562) is applied to this component.

Photographic Supplies

The percentage change in the price of photographic supplies as measured by the PPI Commodity Code #1542) is applied to this component.

Rubber and Plastics

The percentage change in the price of rubber and plastic products as measured by the PPI (Commodity Code #07) is applied to this component.

Paper Products

The percentage change in the price of converted paper and paperboard products as measured by the PPI (Commodity Code #0915) is applied to this component.

Apparel

The percentage change in the price of apparel as measured by the PPI (Commodity Code #381) is applied to this component.

Machinery and Equipment

The percentage change in the price of machinery and equipment as measured by the PPI (Commodity Code #11) is applied to this component.

Miscellaneous Products

The percentage change in the price of all finished goods less food and energy as measured by the PPI (Commodity Code #SOP3500) is applied to this component. Using this index removes the double-counting of food and energy prices, which are captured elsewhere in the market basket. The weight for this cost category is higher, in part, than in the 1997-based index because the weight for blood and blood products (1.188) is added to it. In the 1997-based excluded hospital with capital market basket, we included a separate cost category for blood and blood products, using the BLS PPI for blood and derivatives as a price proxy. A review of recent trends in the PPI for blood and derivatives suggests that its movements may not be consistent with the trends in blood costs faced by hospitals. While this proxy did not match exactly with the product hospitals are buying, its trend over time appears to be reflective of the historical price changes of blood purchased by hospitals. However, an apparent divergence over recent years led us to reevaluate whether the PPI for blood and derivatives was an appropriate measure of the changing price of blood. We ran test market baskets classifying blood in three separate cost categories: Blood and blood products, contained within chemicals as was done for the 1992-based excluded hospital with capital market basket, and within miscellaneous products. These categories use as proxies the following PPIs: The PPI for blood and blood products, the PPI for chemicals, and the PPI for finished goods less food and energy, respectively. Of these three proxies, the PPI for finished goods less food and energy moved most like the recent blood cost and price trends. In addition, the impact on the overall market basket by using different proxies for blood was negligible, mostly due to the relatively small weight for blood in the market basket.

Therefore, as proposed and for this final rule, we are using the PPI for finished goods less food and energy for the blood proxy because we believe it more appropriately proxies the price changes (not quantities or required tests) associated with blood purchased by hospitals. We will continue to evaluate this proxy for its appropriateness and will explore the development of

alternative price indexes to proxy the price changes associated with this cost.

Telephone

The percentage change in the price of telephone services as measured by the CPI for all urban consumers (CPI Code #CUUR0000SEED) is applied to this component.

Postage

The percentage change in the price of postage as measured by the CPI for all urban consumers (CPI Code # CUUR0000SEEC01) is applied to this component.

All Other Services, Labor Intensive

The percentage change in the ECI for compensation paid to service workers employed in private industry is applied to this component.

All Other Services, Nonlabor Intensive

The percentage change in the all items component of the CPI for all urban consumers (CPI Code # CUUR0000SA0) is applied to this component.

3. Methodology for Capital Portion of the RPL Market Basket

Unlike for the operating costs of the FY 2002-based RPL market basket, we did not have IRF, IPF, and LTCH FY 2002 Medicare cost report data for the capital cost weights, due to a change in the FY 2002 reporting requirements. Rather, as proposed and for this final rule, we are using these hospitals' expenditure data for the capital cost categories of depreciation, interest, and other capital expenses for FY 2001, and aged the data to a FY 2002 base year using relevant price proxies.

We calculated weights for the RPL market basket capital costs using the same set of Medicare cost reports used to develop the operating share for IRFs, IPFS, and LTCHs. The resulting capital weight for the FY 2002 base year is 10.149 percent. This is based on FY 2001 Medicare cost report data for IRFs, IPFs, and LTCHs, aged to FY 2002 using relevant price proxies.

Lease expenses are not a separate cost category in the market basket, but are distributed among the cost categories of depreciation, interest, and other, reflecting the assumption that the underlying cost structure of leases is similar to capital costs in general. We assumed 10 percent of lease expenses were overhead and assigned them to the other capital expenses cost category as overhead. We base this assignment of 10 percent of lease expenses to overhead on the common assumption that overhead is 10 percent of costs. The remaining lease expenses were distributed to the three cost categories based on the weights of depreciation, interest, and other capital expenses not including lease expenses.

Depreciation contains two subcategories: Building and fixed equipment and movable equipment. As proposed and for this final rule, the split between building and fixed equipment and movable equipment was determined using the FY 2001 Medicare cost reports for IRFs, IPFs, and LTCHs. This methodology was also used to compute the 1997-based index (67 FR at 50044).

As proposed and for this final rule, the total interest expense cost category is split between the government/nonprofit and for-profit hospitals. The 1997-based excluded hospital with capital market basket allocated 85 percent of the total interest cost weight to the government nonprofit interest, proxies by average yield on domestic municipal bonds, and 15 percent to for-profit interest, proxies by average yield on Moody's Aaa bonds.

We derived the split using the relative FY 2001 Medicare cost report data for PPS hospitals on interest expenses for the government/nonprofit and for-profit hospitals. Due to insufficient Medicare cost report data for IPFs, IRFs, and LTCHs, as proposed and for this final rule, we use the same split used in the IPPS capital input price index. We believe it is important that this split reflect the latest relative cost structure of interest expenses for hospitals and, therefore, we have used a 75–25 split to allocate interest expenses to government/nonprofit and for-profit (70 FR at 47408).

Since capital is acquired and paid for over time, capital expenses in any given year are determined by both past and present purchases of physical and financial capital. The vintage-weighted capital index is intended to capture the long-term consumption of capital, using vintage weights for depreciation (physical capital) and interest (financial capital). These vintage weights reflect the purchase patterns of building and fixed equipment and movable equipment over time. Depreciation and interest expenses were determined by the amount of past and current capital purchases. Therefore, as proposed and for this final rule, we are using the vintage weights to compute vintage-weighted price changes associated with depreciation and interest expense.

Vintage weights are an integral part of the FY 2002-based RPL market basket. Capital costs are inherently complicated and are determined by complex capital purchasing decisions, over time, based on such factors as interest rates and debt financing. In addition, capital is depreciated over time instead of being consumed in the same period it is purchased. The capital portion of the FY 2002-based RPL market basket reflects the annual price changes associated with capital costs, and is a useful simplification of the actual capital investment process. By accounting for the vintage nature of capital, we have provided an accurate, stable annual measure of price changes. Annual non-vintage price changes for capital are unstable due to the volatility of interest rate changes and, therefore, do not reflect the actual annual price changes for Medicare capital-related costs. The capital component of the FY 2002-based RPL market basket reflects the underlying stability of the capital acquisition process and provides hospitals with the ability to plan for changes in capital payments.

To calculate the vintage weights for depreciation and interest expenses, we needed a time series of capital purchases for building and fixed equipment and movable equipment. We found no single source that provides the best time series of capital purchases by hospitals for all of the above components of capital purchases. The early Medicare Cost Reports did not have sufficient capital data to meet this need. While the American Hospital Association (AHA) Panel Survey provided a consistent database back to 1963, it did not provide annual capital purchases. However, the AHA Panel Survey provided a time series of depreciation expenses through 1997 which could be used to infer capital purchases over time. From 1998 to 2001, hospital depreciation expenses were calculated by multiplying the AHA Annual Survey total hospital expenses by the ratio of depreciation to total hospital expenses from the Medicare cost reports. Beginning in 2001, the AHA Annual Survey began collecting depreciation expenses. We hope to be able to use these data in future rebasings.

In order to estimate capital purchases from AHA data on depreciation and interest expenses, the expected life for each cost category (building and fixed equipment, movable equipment, and debt instruments) is needed. Due to insufficient Medicare cost report data for IPFs, IRFs, and LTCHs, as proposed and for this final rule, we are using FY 2001 Medicare Cost Reports for IPPS hospitals to determine the expected life of building and fixed equipment and movable equipment. We believe this data source reflects the latest relative cost structure of depreciation expenses for hospitals and is analogous to IPFs,

IRFs, and LTCHs. The expected life of any piece of equipment was determined by dividing the value of the asset (excluding fully depreciated assets) by its current year depreciation amount. This calculation yields the estimated useful life of an asset if depreciation were to continue at current year levels, assuming straight-line depreciation. From the FY 2001 Medicare cost reports for IPPS hospitals the expected life of building and fixed equipment was determined to be 23 years, and the expected life of movable equipment was determined to be 11 years.

As proposed and for this final rule, we are also using the fixed and movable weights derived from FY 2001 Medicare cost reports for IPFs, IRFs, and LTCHs to separate the depreciation expenses into annual amounts of building and fixed equipment depreciation and movable equipment depreciation. By multiplying the annual depreciation amounts by the expected life calculations from the FY 2001 Medicare cost reports, year-end asset costs for building and fixed equipment and movable equipment were determined. We then calculated a time series back to 1963 of annual capital purchases by subtracting the previous year asset costs from the current year asset costs. From this capital purchase time series we were able to calculate the vintage weights for building and fixed equipment, movable equipment, and debt instruments. An explanation of each of these sets of vintage weights follows.

As proposed and for this final rule, for building and fixed equipment vintage weights, the real annual capital purchase amounts for building and fixed equipment derived from the AHA Panel Survey were used. The real annual purchase amount was used to capture the actual amount of the physical acquisition, net of the effect of price inflation. This real annual purchase amount for building and fixed equipment was produced by deflating the nominal annual purchase amount by the building and fixed equipment price proxy, the Boeckh Institutional Construction Index. This is the same proxy used for the FY 1997-based excluded hospital with capital market basket. We believe this proxy continues to meet our criteria of reliability, timeliness, availability, and relevance. Since building and fixed equipment has an expected life of 23 years, the vintage weights for building and fixed equipment are deemed to represent the average purchase pattern of building and fixed equipment over 23-year periods. With real building and fixed equipment purchase estimates back to 1963, sixteen 23-year periods were averaged to determine the average vintage weights for building and fixed equipment that are representative of average building and fixed equipment purchase patterns over time. Vintage weights for each 23-year period were calculated by dividing the real building and fixed capital purchase amount in any given year by the total amount of purchases in the 23-year period. This calculation was done for each year in the 23-year period, and for each of the sixteen 23-year periods. The average of each year across the sixteen 23-year periods was used to determine the 2002 average building and fixed equipment vintage weights.

As proposed and for this final rule, for movable equipment vintage weights, the real annual capital purchase amounts for movable equipment derived from the AHA Panel Survey were used to capture the actual amount of the physical acquisition, net of price inflation. This real annual purchase amount for movable equipment was calculated by deflating the nominal annual purchase amount by the movable equipment price proxy, the PPI for Machinery and Equipment. This was the same proxy used for the FY 1997-based excluded hospital with capital market basket. We believe this proxy, which meets our criteria, is the best measure of price changes for this cost category. Since movable equipment has an expected life of 11 years, the vintage weights for movable equipment were deemed to represent the average purchase pattern of movable equipment over an 11-year period. With real movable equipment purchase estimates available back to 1963, twenty-eight 11-year periods could be averaged to determine the average vintage weights for movable equipment that are representative of average movable equipment purchase patterns over time. Vintage weights for each 11-year period were calculated by dividing the real movable capital purchase amount for any given year by the total amount of purchases in the 11-year period. This calculation was done for each year in the 11-year period, and for each of the twenty-eight 11-year periods. The average of the twenty-eight 11-year periods were used to determine the FY 2002 average movable equipment vintage weights.

As proposed and for this final rule, for interest vintage weights, the nominal annual capital purchase amounts for total equipment (building and fixed and movable) derived from the AHA Panel and Annual Surveys were used. Nominal annual purchase amounts were used to capture the value of the debt instrument. Since hospital debt instruments have an expected life of 23 years, the vintage weights for interest were deemed to represent the average purchase pattern of total equipment over 23-year periods. With nominal total equipment purchase estimates available back to 1963, sixteen 23-year periods were averaged to determine the average vintage weights for interest that are representative of average capital purchase patterns over time. Vintage weights for each 23-year period were calculated by dividing the nominal total capital purchase amount for any given year by the total amount of purchases in the 23-year period. This calculation was done for each year in the 23-year period and for each of the sixteen 23-year periods. The average of the sixteen 23-year periods were used to determine the FY 2002 average interest vintage weights. The vintage weights for the index are presented in Table 4 below.

In addition to the price proxies for depreciation and interest costs described above in the vintage weighted capital section, as proposed and for this final rule, we used the CPI–U for Residential Rent as a price proxy for other capital-related costs. The price proxies for each of the capital cost categories are the same as those used for the IPPS final rule (67 FR at 50044) capital input price index.

TABLE 4.—CMS FY 2002-BASED RPL MARKET BASKET CAPITAL VINTAGE WEIGHTS

Year	Fixed assets (23 year weights)	Movable assets (11 year weights)	Interest: capital-related (23 year weights)
1	0.021	0.065	0.010
2	0.022	0.071	0.012
3	0.025	0.077	0.014
4	0.027	0.082	0.016

TABLE 4.—CMS FY 2002-BASED RPL MARKET BASKET CAPITAL VINTAGE WEIGHTS—Continued

Year	Fixed assets (23 year weights)	Movable assets (11 year weights)	Interest: capital-related (23 year weights)
5	0.029	0.086	0.019
6	0.031	0.091	0.023
7	0.033	0.095	0.026
8	0.035	0.100	0.029
9	0.038	0.106	0.033
10	0.040	0.112	0.036
11	0.042	0.117	0.039
12	0.045	.....	0.043
13	0.047	.....	0.048
14	0.049	.....	0.053
15	0.051	.....	0.056
16	0.053	.....	0.059
17	0.056	.....	0.062
18	0.057	.....	0.064
19	0.058	.....	0.066
20	0.060	.....	0.070
21	0.060	.....	0.071
22	0.061	.....	0.074
23	0.061	.....	0.076
Total	1.000	1.000	1.000

The RY (that is, beginning July 1, 2006) update for the IPF PPS using the FY 2002-based RPL market basket and Global Insight's 1st quarter 2006 forecast is 4.3 percent. This includes increases in both the operating section and the capital section for the 18-month period (that is, January 1, 2005 through June 30, 2006). Global Insight, Inc. is a nationally recognized economic and financial forecasting firm that contracts with CMS to forecast the components of the market baskets. Using the current FY 1997-based excluded hospital with capital market basket (66 FR 41427), Global Insight's 1st quarter 2006 forecast for the RY beginning July 1, 2006 is 3.4 percent. Table 5 below compares the RY 2002-based RPL market basket and the FY 1997-based excluded hospital with capital market basket percent changes. For both the historical and forecasted periods between RY 2000 and RY 2008, the difference between the two market baskets is minor with the exception of RY 2002, where the FY–2002-based RPL market basket increased three tenths of a percentage point higher than the FY 1997-based excluded hospital with capital market basket. This is primarily due to the FY 2002-based RPL having a larger compensation (that is, the sum of wages and salaries and benefits) cost weight than the FY 1997-based index and the price changes associated with compensation costs increasing much faster than the prices of other market basket components. Also contributing is the ''all other nonlabor intensive'' cost weight, which is smaller in the FY 2002-based RPL market basket than in the FY 1997-based index, as well as the slower price changes associated with these costs.

TABLE 5.—FY 2002-BASED RPL MARKET BASKET AND FY 1997-BASED EXCLUDED HOSPITAL WITH CAPITAL MARKET BASKET, PERCENT CHANGES

Rate year (RY)	FY 2002-based RPL market basket	FY 1997-based excluded hospital market basket with capital
Historical data:		
RY 2000	2.8	2.7
RY 2001	3.8	3.9
RY 2002	4.1	3.8
RY 2003	3.8	3.7
RY 2004	3.6	3.6
RY 2005	3.8	4.0
Average RY 2000–2005	3.7	3.5
Forecast:		
RY 2006	3.6	3.8
RY 2007	3.4	3.4
RY 2008	3.2	3.1
Average RY 2006–2008	3.4	3.4

Source: Global Insight, Inc. 1stQtr 2006, @USMACRO/CONTROL0306 @CISSIM/CNTL08R3.SIM.

Note: The RY forecasts are based on the standard 12-month period of July 1 to June 30. For this rule, we are moving from an 18-month period to a 12-month period.

4. Labor-Related Share

As described below in this file rule, due to the variations in costs and geographic wage levels, we believe that payment rates under the IPF PPS should continue to be adjusted by a geographic wage index. This wage index applies to the labor-related portion of the proposed Federal per diem base rate, hereafter referred to as the labor-related share.

The labor-related share is determined by identifying the national average proportion of operating costs that are related to, influenced by, or vary with the local labor market. Using our current definition of labor-related, the labor-related share is the sum of the relative importance of wages and salaries, fringe benefits, professional fees, labor-intensive services, and a portion of the capital share from an appropriate market basket. We used the FY 2002-based RPL market basket costs to determine the labor-related share for the IPF PPS. The labor-related share for RY 2007 is the sum of the RY 2007 relative importance of each labor-related cost category, and reflects the different rates of price change for these cost categories between the base year (FY 2002) and RY 2007. The sum of the relative importance for RY 2007 for operating costs (wages and salaries, employee benefits, professional fees, and labor-intensive services) is 71.586, as shown in Table 6 below. The portion of capital that is influenced by the local labor market is estimated to be 46 percent, which is the same percentage used in the FY 1997-based IRF and IPF payment systems. Since the relative importance for capital is 8.867 percent of the FY 2002-based RPL market basket in RY 2007, we are taking 46 percent of 8.867 percent to determine the labor-related share of capital for RY 2007. The result is 4.079 percent, which we added to 71.586 percent for the operating cost amount to determine the total labor-related share for RY 2007. Thus, the labor-related share that we are using for IPF PPS in RY 2007 is 75.665 percent. This labor-related share is determined using the same methodology as employed in calculating all previous IPF labor-related shares (69 FR 66952).

Comment: One commenter noted that the proposed labor-related share based on the RPL market basket would benefit hospitals with a wage index greater than or equal to 1.000. The commenter also recommended that CMS ensure that the labor-related share is calculated appropriately, based on recent and comprehensive data for the facilities in the market basket.

Response: We recognize that the labor-related share would benefit hospitals with a wage index greater than 1.000. However, the wage index is estimated independently from the labor-related share. We do not take into consideration which hospitals would benefit from the revised and rebased labor-related share. We calculated the labor-related share using the same methodology used for the IPF implementation year and reflected the most recent and comprehensive data available. The labor-related share represents the national average while the wage index reflects geographical cost differences.

The proposed change in the labor-related share is primarily attributable to the exclusion of children's and cancer hospitals (which are less labor intensive than IRFs, IPFs, and LTCHs) and the update of the base year to reflect FY 2002 data. The FY 2002 data, the most recent and comprehensive data available, reflects that labor-related costs are increasing faster than aggregate non-labor-related costs. We will continue to analyze RPL cost report data on a regular basis to ensure it accurately reflects the cost structures facing IRFs, IPFs, and LTCHs serving Medicare beneficiaries.

Table 6 below shows the RY 2007 relative importance of labor-related shares using the FY 2002-based RPL market basket and the FY 1997-based excluded hospital with capital market basket.

TABLE 6.—TOTAL LABOR-RELATED SHARE—RELATIVE IMPORTANCE FOR RY 2007

Cost category	FY 2002-based RPL market basket relative importance (percent) RY 2007	FY 1997 excluded hospital with capital market basket relative importance (percent) RY 2007
Wages and salaries	52.506	48.021
Employee benefits	14.042	11.534
Professional fees	2.886	4.495
All other labor-intensive services	2.152	4.411
Subtotal	71.586	68.461
Labor-related share of capital costs	4.079	3.222
Total	75.665	71.683

IPFs Paid Based on a Blend of the Reasonable Cost-Based Payments

Under the broad authority of sections 1886(b)(3)(A) and (b)(3)(B) of the Act and as stated in the FY 2006 IPPS final rule (70 FR 47399), for IPFs that are transitioning to the fully Federal prospective payment rate, we are now using the rebased and revised FY 2002-based excluded hospital market basket to update the reasonable cost-based portion of their payments. We rebase the market basket periodically so that the cost weights reflect changes in the mix of goods and services that hospitals purchase to furnish inpatient care between base periods. We chose FY 2002 as the base year for the excluded hospital market basket because we believe this is the most recent, complete year of Medicare cost report data.

The reasonable cost-based payments, subject to TEFRA limits, are determined on a FY basis. The FY 2007 update factor for the portion of the IPF PPS transitional blend payment based on reasonable costs will be published in the FY 2007 IPPS proposed and final rules.

VI. Update of the IPF PPS Adjustment Factors

A. Overview of the IPF PPS Adjustment Factors

In developing the IPF PPS, in order to ensure that the IPF PPS would be able to account adequately for each IPF's case-mix, we performed an extensive regression analysis of the relationship between the per diem costs and certain patient and facility characteristics to determine those characteristics associated with statistically significant cost differences on a per diem basis. For

characteristics with statistically significant cost differences, we used the regression coefficients of those variables to determine the size of the corresponding payment adjustments.

The IPF PPS payment adjustments were derived from a regression analysis of 100 percent of the FY 2002 MedPAR data file which contained 483,038 cases. We are using the same results of this regression analysis to implement the RY 2007 IPF PPS final rule (See 69 FR 66935 through 66936 for a more detailed description of the data file used for the regression analysis.)

We computed a per diem cost for each Medicare inpatient psychiatric stay, including routine operating, ancillary, and capital components using information from the FY 2002 MedPAR file and data from the FY 2002 Medicare cost reports. To calculate the cost per day for each inpatient psychiatric stay, routine costs were estimated by multiplying the routine cost per day from the IPF's FY 2002 Medicare cost report by the number of Medicare covered days on the FY 2002 MedPAR stay record. Ancillary costs were estimated by multiplying each departmental cost-to-charge ratio by the corresponding ancillary charges on the MedPAR stay record. The total cost per day was calculated by summing routine and ancillary costs for the stay and dividing it by the number of Medicare covered days for each day of the stay.

The IPF PPS includes a payment adjustment for IPFs with qualifying Emergency Departments (EDs), and IPFs that are part of acute care hospitals and CAHs with qualifying EDs. As a result, ED costs were excluded from the dependent variable used in the cost regression in order to remove the effects of ED costs from other payment adjustment factors with which ED costs may be correlated and thus avoid overpaying ED costs.

The log of per diem cost, like most health care cost measures, appeared to be normally distributed. Therefore, the natural logarithm of the per diem cost was the dependent variable in the regression analysis. We included variables in the regression to control for psychiatric hospitals that do not bill ancillary costs and for ECT costs that we pay separately. The per diem cost was adjusted for differences in labor cost across geographic areas using the FY 2005 hospital wage index unadjusted for geographic reclassifications, in order to be consistent with our use of the market basket labor share in applying the wage index adjustment.

As discussed in the November 2004 IPF PPS final rule (69 FR 66936), we computed a wage adjustment factor for each case by multiplying the Medicare 2005 hospital wage index based on MSA definitions defined by OMB in 1993 for each facility by the labor-related share and adding the non-labor share. We used the 1997-based excluded hospital with capital market basket to determine the labor-related share. The per diem cost for each case was divided by this factor before taking the natural logarithm. The payment adjustment for the wage index was computed consistently with the wage adjustment factor, which is equivalent to separating the per diem cost into a labor portion and a non-labor portion and adjusting the labor portion by the wage index.

With the exception of the teaching adjustment, the independent variables were specified as one or more categorical variables. Once the regression model was finalized based on the log normal variables, the regression coefficients for these variables were converted to payment adjustment factors by treating each coefficient as an exponent of the base ''e'' for natural logarithms, which is approximately equal to 2.718. The payment adjustment factors represent the proportional effect of each variable relative to a reference variable. As a result of the regression analysis, we established patient-level payment adjustments for age, DRG assignment based on patients' principal diagnoses, selected comorbidities, and a day of stay adjustment (the variable per diem adjustments) to reflect higher resource use in the early days of an IPF stay. We also established facility-level payment adjustments for wage area, rural location, teaching status, cost of living adjustment for IPFs located in Alaska and Hawaii, and an adjustment for IPFs with a qualifying ED. We do not plan to update the regression analysis until we analyze IPF PPS data (that is, no earlier than RY 2008). CMS plans to monitor claims and payment data independently from cost report data to assess issues, or whether changes in case-mix or payment shifts have occurred between free standing governmental, non-profit, and private psychiatric hospitals, and/or psychiatric units of general hospital, and other impact issues of importance to psychiatric facilities.

B. Patient-Level Adjustments

In the November 2004 IPF PPS final rule, we provided payment adjustments for the following payment-level characteristics: DRG assignment of the patient's principal diagnosis, selected comorbidities, patient age, and the variable per diem adjustments.

1. Adjustment for DRG Assignment

The IPF PPS includes payment adjustments for the psychiatric DRG assigned to the claim based on each patient's principal diagnosis. In the November 2004 IPF PPS final rule, we explained that the IPF PPS includes 15 diagnosis-related group (DRG) adjustment factors (69 FR 66936). The adjustment factors were expressed relative to the most frequently reported DRG in FY 2002, that is, DRG 430. The coefficient values and adjustment factors were derived from the regression analysis.

In accordance with § 412.27, payment under the IPF PPS is made for claims with a principal diagnosis included in the Diagnostic and Statistical Manual of Mental Disorder—Fourth Edition—Text Revision (DSM–IV–TR) or Chapter Five of the International Classification of Diseases—9th Revision—Clinical Modifications (ICD–9–CM). The Standards for Electronic Transaction final rule published in the **Federal Register** on August 17, 2000 (65 FR 50312), adopted the ICD–9–CM as the designated code set for reporting diseases, injuries, impairments, other health related problems, their manifestations, and causes of injury, disease, impairment, or other health-related problems. As a result, the DSM–IV–TR, while essential for the diagnosis and treatment of mentally ill patients, may not be reported on Medicare claims. However, in order to recognize the importance of the DSM–IV–TR in mental health treatment, we updated the reference to the DSM in § 412.27 from DSM–III–TR to DSM–IV–TR in the November 2004 IPF PPS final rule. As a result, under the revised § 412.27, IPFs that are distinct part psychiatric units of acute care hospitals and CAHs may only admit patients who have a principal diagnosis in the DSM–IV–TR or Chapter Five of the ICD–9–CM although DSM codes may not be reported on medical claims.

IPF claims with a principal diagnosis included in Chapter Five of the ICD–9–CM or the DSM–IV–TR will be paid the Federal per diem base rate under the IPF PPS. Psychiatric principal diagnoses that do not group to one of the 15 designated DRGs receive the Federal per diem base rate and all other applicable adjustments, but the payment would not include a DRG adjustment. Only those claims with diagnoses that group to one of these psychiatric DRGs would receive a DRG adjustment.

We believe it is vital to maintain the same diagnostic coding and DRG classification for IPFs that is used under the IPPS for providing the same

psychiatric care. As we explained in the IPF PPS proposed rule (68 FR 66924), all changes to the ICD–9–CM coding system that would impact the IPF PPS are addressed annually in the IPPS proposed and final rules published each year. The updated codes are effective October 1 of each year and must be used to report diagnostic or procedure information. The official version of the ICD–9–CM is available on CD–ROM from the U.S. Government Printing Office. The FY 2006 version can be ordered by contacting the Superintendent of Documents, U.S. Government Printing Office, Department 50, Washington, DC 20402–9329, telephone number (202) 512–1800. The stock number is 017–022–01544–7, and the price is $25.00. In addition, private vendors publish the ICD–9–CM. Questions concerning the ICD–9–CM should be directed to Patricia E. Brooks, Co-Chairperson, ICD–9–CM Coordination and Maintenance Committee, CMS, Center for Medicare Management, Hospital and Ambulatory Policy Group, Division of Acute Care, Mailstop C4–08–06, 7500 Security Boulevard, Baltimore, Maryland 21244–1850. Questions and comments may be sent via e-mail to: *Patricia.Brooks1@cms.hhs.gov.*

Further information concerning the Official Version of the ICD–9–CM can be found in the IPPS final regulation, ''Changes to the Hospital Inpatient Prospective Payment Systems and Fiscal Year 2006 Rates; Final Rule,'' in the August 12, 2005 **Federal Register** (70 FR 47278) and at *http://www.cms.hhs.gov/QuarterlyProviderUpdates/downloads/cms1500f.pdf.*

The following two tables below list the FY 2006 new ICD diagnosis codes and FY 2006 revised diagnosis code titles, respectively. These tables are only a listing of FY 2006 changes and do not reflect all of the currently valid and applicable ICD codes classified in the DRGs. Table 7 below lists the new FY 2006 ICD diagnosis codes that are classified to one of the 15 DRGs that are provided a DRG adjustment in the IPF PPS. When coded as a principal code or diagnosis, these codes receive the correlating DRG adjustment.

TABLE 7.—FY 2006 NEW DIAGNOSIS CODES

Diagnosis code	Description	DRG
291.82	Alcohol induced sleep disorders	521, 522, 523
292.85	Drug induced sleep disorders	521, 522, 523
327.00	Organic insomnia, unspecified	432
327.01	Insomnia due to medical condition classified elsewhere	432
327.02	Insomnia due to mental disorder	432
327.09	Other organic insomnia	432
327.10	Organic hypersomnia, unspecified	432
327.11	Idiopathic hypersomnia with long sleep time	432
327.12	Idiopathic hypersomnia without long sleep time	432
327.13	Recurrent hypersomnia	432
327.14	Hypersomnia due to medical condition classified elsewhere	432
327.15	Hypersomnia due to mental disorder	432
327.19	Other organic hypersomnia	432

Table 8 below lists ICD diagnosis codes whose titles have been modified in FY 2006. Title changes do not impact the DRG adjustment. When used as a principal diagnosis, these codes still receive the correlating DRG adjustment.

TABLE 8.—REVISED DIAGNOSIS CODE TITLES

Diagnosis code	Description	DRG
307.45	Circadian rhythm sleep disorder of nonorganic origin	432
780.52	Insomnia, unspecified	432
780.54	Hypersomnia, unspecified	432
780.55	Disruption of 24 hour sleep wake cycle, unspecified	432
780.58	Sleep related movement disorder, unspecified	432

In addition to the aforementioned, in the August 2005 IPPS final rule, we finalized ICD code 305.1, Tobacco Use Disorder, in order to designate this code as a noncovered Medicare service when reported as the principal diagnosis. Below we have republished the explanation that was included in the IPPS final rule (70 FR 47312) and published on the CMS Web site at *http://www.cms.hhs.gov/QuarterlyProviderUpdates/downloads/cms1500f.pdf.*

''We have become aware of the possible need to add code 305.1 (Tobacco use disorder) to the MCE in order to make admissions for tobacco use disorder a noncovered Medicare service when code 305.1 is reported as the principal diagnosis. On March 22, 2005, CMS published a final decision memorandum and related national coverage determination (NCD) on smoking cessation counseling services on its Web site: (*http://www.cms.hhs.gov/coverage/*). Among other things, this NCD provides that: 'Inpatient hospital stays with the principal diagnosis of 305.1, Tobacco Use Disorder, are not reasonable and necessary for the effective delivery of tobacco cessation counseling services. Therefore, we will not cover tobacco cessation services if tobacco cessation is the primary reason for the patient's hospital stay.' Therefore, in order to maintain internal consistency with CMS programs and decisions, we proposed to add code 305.1 to the MCE edit 'Questionable Admission—Principal Diagnosis Only' in order to make tobacco use disorder a noncovered admission.'' (70 FR 47312).

In order to maintain consistency with the IPPS, for discharges on or after October 1, 2005, ICD code 305.1, Tobacco Use Disorder, will not be a covered principal diagnosis under the IPF PPS.

Although we are updating the IPF PPS to reflect ICD–9–CM coding changes and DRG classification changes discussed in the annual update to the IPPS, in the RY 2007 IPF PPS final rule, the DRG adjustment factors currently being paid to IPFs will remain the same (that is, for discharges occurring during the RY July

1, 2006 through June 30, 2007). As indicated in the November 2004 IPF PPS final rule, we do not plan to update the regression analysis until we analyze IPF PPS data.

As a result, we are adopting the DRG adjustments factors, the ICD–9–CM coding changes and the DRG classification changes that are currently being paid as indicated in Table 9 below.

TABLE 9.—FY 2006 DRGS AND ADJUSTMENT FACTOR

DRG	DRG definition	Adjustment factor
DRG 424	O.R. Procedure with Principal Diagnosis of Mental Illness	1.22
DRG 425	Acute Adjustment Reaction & Psychosocial Dysfunction	1.05
DRG 426	Depressive Neurosis	0.99
DRG 427	Neurosis, Except Depressive	1.02
DRG 428	Disorders of Personality & Impulse Control	1.02
DRG 429	Organic Disturbances & Mental Retardation	1.03
DRG 430	Psychoses	1.00
DRG 431	Childhood Mental Disorders	0.99
DRG 432	Other Mental Disorder Diagnoses	0.92
DRG 433	Alcohol/Drug Abuse or Dependence, Leave Against Medical Advice (LAMA)	0.97
DRG 521	Alcohol/Drug Abuse or Dependence with CC	1.02
DRG 522	Alcohol/Drug Abuse or Dependence with RehabilitationTherapy without CC	0.98
DRG 523	Alcohol/Drug Abuse or Dependence without Rehabilitation Therapy without CC	0.88
DRG 12	Degenerative Nervous System Disorders	1.05
DRG 23	Non-traumatic Stupor & Coma	1.07

Section 412.424(d) separately identifies both ''Diagnosis-related group assignment'' and ''Principal diagnosis'' as patient level adjustments. Since publication of the November 2004 IPF PPS final rule, we have received inquiries related to whether the IPF PPS includes two patient-level payment adjustments for principal diagnosis, an adjustment for the diagnosis-related group assignment, and a separate adjustment for providing a principal diagnosis in general. We intended that the IPF PPS provide one patient-level adjustment for principal diagnosis, which is ''Diagnosis-related group assignment.''

In order to clarify our policy, we proposed to modify the language in section 412.424(d) by deleting sub-paragraph § 412.424(d)(2)(iii). We received no public comments on the proposed amendment. We are adopting this change in our final rule.

Public comments and our responses on the proposed changes on the adjustment for DRG assignment are summarized below.

Comment: We received several comments concerning the update to the DRG adjustment factors. Overall, the commenters supported our decision to delay updating the patient-level adjustment factors, stating that a delay in running the regression analysis would allow CMS to use more comprehensive and accurate patient-level coding data.

However, one commenter recommended that CMS update the DRGs and adjustment factors on an on-going basis.

Response: We do not plan to update the regression analysis until we analyze IPF PPS data. We believe that this will provide the best indication of current IPF practices. Therefore, the DRG adjustment factors currently being paid to IPFs will remain the same for the RY 2007 (that is, for discharges occurring during the RY July 1, 2006 through June 30, 2007).

Comment: Several commenters requested clarification on the ''code first'' instructions, believing them to be contrary to regulations at § 412.27. The commenters stated that § 412.27 requires that psychiatric units only admit those patients who have a psychiatric principal diagnosis listed in the DSM or the Chapter Five of the ICD.

Response: Section 412.27 and the ''code first'' instructions are not contrary to each other. As explained in the November 2004 final rule (69 FR 66922) and in three subsequent Change Requests (CR) (that is, CR 3541, published December 1, 2004; CR 3678, published January 21, 2005; and CR 3752, published March 4, 2005), correct coding conventions should always be followed, including ''code first'' situations. According to the ICD–9–CM Official Guidelines for Coding and Reporting, when a primary diagnosis code has a code first notation, the provider follows the applicable ICD–9–CM coding convention which requires the underlying condition (etiology) to be sequenced first, followed by the manifestation due to the underlying condition. Therefore, we consider ''code first'' diagnoses to be the primary diagnosis. The submitted claim goes through the IPF PPS claims processing system which identifies the primary diagnosis code as non-psychiatric and searches the secondary codes for a psychiatric code to assign the DRG in order to pay ''code first'' claims properly.

For more coding guidance, please refer to the ICD–9–CM Official Guidelines for Coding and Reporting which can be located on the CMS Web site at *http://new.cms.hhs.gov/ICD9ProviderDiagnosticCodes/*.

Comment: Commenters requested that CMS include the ICD–9–CM obstetrical series of codes 648.30 to 648.34 and 648.40 to 648.44, since they are subject to sequencing priority guidelines, in our code first logic.

Response: At this point in time, we do not intend to update the regression analysis until we have analyzed one year of IPF PPS claims and cost report data. However, when we update the regression analysis, we will review the obstetric codes noted above and consider the appropriateness of including them in our code first logic. For RY 2007, no DRG Adjustment will be made to these codes.

Final Rule Action: In summary, we received no public comments concerning the proposal to amend § 412.424(d). In order to clarify our policy that the IPF PPS provides one patient level adjustment for principal diagnoses, we are modifying the language in section § 412.424(d) by deleting sub-paragraph § 412.424(d)(2)(iii). In addition, we are adopting the DRG adjustment currently in effect and as shown in Table 9.

2. Payment for Comorbid Conditions

In the November 2004 IPF PPS final rule, we established 17 comorbidity categories and identified the ICD–9–CM diagnosis codes that generate a payment adjustment under the IPF PPS.

Comorbidities are specific patient conditions that are secondary to the patient's primary diagnosis, and that require treatment during the stay. Diagnoses that relate to an earlier episode of care and have no bearing on the current hospital stay are excluded and not reported on IPF claims. Comorbid conditions must co-exist at the time of admission, develop subsequently, affect the treatment received, affect the length of stay or affect both treatment and LOS.

The intent of the comorbidity adjustment was to recognize the increased cost associated with comorbid conditions by providing additional payments for certain concurrent medical or psychiatric conditions that are expensive to treat. For each claim, an IPF may receive only one comorbidity adjustment per comorbidity category, but it may receive an adjustment for more than one comorbidity category. Billing instructions require that IPFs must enter the full ICD–9–CM codes for up to 8 additional diagnoses if they co-exist at the time of admission or developed subsequently.

The comorbidity adjustments were determined based on regression analysis using the diagnoses reported by hospitals in FY 2002. The principal diagnoses were used to establish the DRG adjustment and were not accounted for in establishing the comorbidity category adjustments, except where ICD–9–CM ''code first'' instructions apply. As we explained in the November 2004 IPF PPS final rule (69 FR 66922), the code first rule applies when a condition has both an underlying etiology and a manifestation due to the underlying etiology. For these conditions, the ICD–9–CM has a coding convention that requires the underlying conditions to be sequenced first followed by the manifestation. Whenever a combination exists, there is a ''use additional code'' note at the etiology code and a ''code first'' note at the manifestation code.

Although we are updating the IPF PPS to reflect updates to the ICD–9–CM codes, the comorbidity adjustment factors currently in effect will remain in effect for the RY beginning July 1, 2006. As we indicated in the November 2004 IPF PPS final rule, we do not plan to update the regression analysis until we analyze IPF PPS data. The comorbidity adjustments are shown in Table 12 below.

As previously discussed in the DRG section, we believe it is essential to maintain the same diagnostic coding set for IPFs that is used under the IPPS for providing the same psychiatric care. Therefore, as proposed and in this final rule, we are using the most current FY 2006 ICD codes. They are reflected in the FY 2006 GROUPER, version 23.0 and are effective for discharges occurring on or after October 1, 2005.

Table 10 lists the updated FY 2006 new ICD diagnosis codes that impact the comorbidity adjustment under the IPF PPS and Table 11 lists the invalid ICD codes no longer applicable for the comorbidity adjustment. Table 10 only lists the FY 2006 new codes and does not reflect all of the currently valid ICD codes applicable for the IPF PPS comorbidity adjustment.

We note that ICD diagnosis code 585 Chronic Renal Failure was modified in two ways—(1) By expanding the level of specificity to include seven new codes; and (2) by changing the original code of 585 to invalid, thereby leaving the remaining more specific codes reportable. Since diagnosis code 585 is no longer valid, we are eliminating this code from the comorbidity category ''Renal Failure, Chronic.''

ICD diagnosis code 585 ''Chronic Renal Failure'' is defined in the ICD–9–CM as ''Progressive, persistent inadequate kidney function characterized by anuria, accumulation of urea and other nitrogenous bodies in the blood, nausea, vomiting, gastrointestinal bleeding, and yellowish-brown discoloration of the skin.'' This code included the various stages of chronic kidney disease, but it is no longer valid. The new codes listed below reflect the various stages of chronic kidney failure.

In this final rule, we are adopting as proposed comorbidity adjustments for 585.3, ''Chronic kidney disease, Stage III (moderate),'' 585.4, ''Chronic kidney disease, Stage IV (severe),'' 585.5, ''Chronic kidney disease, Stage V,'' 585.6, ''End Stage renal disease,'' and 585.9, ''Chronic kidney disease, unspecified.'' However, since the purpose of the comorbidity adjustment is to account for the higher resource costs associated with comorbid conditions that are expensive to treat on a per diem basis, we are not providing a comorbidity adjustment for 585.1, ''Chronic kidney disease, Stage I'' and 585.2, ''Chronic kidney disease, Stage II (mild).''

We believe that these conditions (585.1 and 585.2) are less costly to treat on a per diem basis because patients with these conditions are either asymptomatic or may have only mild symptoms. These conditions represent a minimal to mild decrease in kidney function that is almost completely compensated such that the only finding is typically an abnormal laboratory test. Unlike patients with more significant kidney dysfunction, these patients do not usually require more costly patient care interventions such as additional laboratory tests to monitor renal function, special pharmacy attention to reduced dosages or kidney-sparing medications, or fluid and electrolyte precautions with special diets, frequent weights, input/output balance, and fluid restriction. The resources and costs that these patients require for staff time, medications and supplies, and administrative services are expected to be similar to other patients without these conditions.

TABLE 10.—FY 2006 NEW ICD CODES APPLICABLE FOR THE COMORBIDITY ADJUSTMENT

Diagnosis code	Description	DRG	Comorbidity category
585.3	Chronic kidney disease, Stage III (moderate)	315–316	Renal Failure, Chronic.
585.4	Chronic kidney disease, Stage IV(severe)	315–316	Renal Failure, Chronic.
585.5	Chronic kidney disease, Stage V	315–316	Renal Failure,Chronic.
585.6	End stage renal disease	315–316	Renal Failure,Chronic.
585.9	Chronic kidney disease, unspecified	315–316	Renal Failure, Chronic.
V46.13	Encounter for weaning from respirator [ventilator]	467	Chronic Obstructive Pulmonary Disease.
V46.14	Mechanical complication of respirator [ventilator]	467	Chronic Obstructive Pulmonary Disease.

In Table 11 below, we list the FY 2006 invalid ICD diagnosis code 585 that we will be removing from the comorbidity adjustment under the IPF PPS. This table does not reflect all of the currently valid ICD codes applicable for the IPF PPS comorbidity adjustment.

TABLE 11.—FY 2006 INVALID ICD CODES NO LONGER APPLICABLE FOR THE COMORBIDITY ADJUSTMENT

Diagnosis code	Description	DR	Comorbidity category
585	Chronic renal failure	315–36	Renal Failure, Chronic.

The seventeen comorbidity categories for which we are providing an adjustment, their respective codes, including the new FY 2006 ICD codes, and their respective adjustment factors, are listed below in Table 12.

TABLE 12.—FY 2006 DIAGNOSIS CODES AND ADJUSTMENT FACTORS FOR COMORBIDITY CATEGORIES

Description of comorbidity	ICD–9CM code	Adjustment factor
Developmental Disabilities	317, 3180, 3181, 3182, and 319	1.04
Coagulation Factor Deficits	2860 through 2864	1.13
Tracheostomy	51900—through 51909 and V440	1.06
Renal Failure, Acute	5845 through 5849, 63630, 63631, 63632, 63730, 63731, 63732, 6383, 6393, 66932, 66934, 9585.	1.11
Renal Failure, Chronic	40301, 40311, 40391, 40402, 40412, 40413, 40492, 40493, 5853, 5854, 5855, 5856, 5859, 586, V451, V560, V561, and V562.	1.11
Oncology Treatment	1400 through 2390 with a radiation therapy code 92.21–92.29 or chemotherapy code 99.25.	1.07
Uncontrolled Diabetes-Mellitus with or without complications	25002, 25003, 25012, 25013, 25022, 25023, 25032, 25033, 25042, 25043, 25052, 25053, 25062, 25063, 25072, 25073, 25082, 25083, 25092, and 25093.	1.05
Severe Protein Calorie Malnutrition	260 through 262	1.13
Eating and Conduct Disorders	3071, 30750, 31203, 31233, and 31234	1.12
Infectious Disease	01000 through 04110, 042, 04500 through 05319, 05440 through 05449, 0550 through 0770, 0782 through 07889, and 07950 through 07959.	1.07
Drug and/or Alcohol Induced Mental Disorders	2910, 2920, 29212, 2922, 30300, and 30400	1.03
Cardiac Conditions	3910, 3911, 3912, 40201, 40403, 4160, 4210, 4211, and 4219 ...	1.11
Gangrene	44024 and 7854	1.10
Chronic Obstructive Pulmonary Disease	49121, 4941, 5100, 51883, 51884, V4611 and V4612, V4613 and V4614.	1.12
Artificial Openings—Digestive and Urinary	56960 through 56969, 9975, and V441 through V446	1.08
Severe Musculoskeletal and Connective Tissue Diseases	6960, 7100, 73000 through 73009, 73010 through 73019, and 73020 through 73029.	1.09
Poisoning	96500 through 96509, 9654, 9670 through 9699, 9770, 9800 through 9809,9830 through 9839, 986, 9890 through 9897.	1.11

We received several comments offering suggestions on how we could improve the comorbidity adjustment category list. The suggestions ranged from requests for the addition of a single ICD–9–CM code to a request for expanding the comorbidity categories to account for every ICD–9–CM code.

Public comments and our responses to the proposed changes to payment for comorbid conditions are summarized below.

Comment: We received a comment expressing concern that the comorbidity adjustment list does not include the more common conditions seen in psychiatric patients. This commenter indicated that most psychiatric patients are treated for multiple common conditions and illnesses (for example, heart conditions, and stroke), none of which would trigger a payment adjustment under the IPF PPS.

Response: We explained in the November 2004 IPF PPS final rule (69 FR 66922), that the data used in calculating the Federal per diem base rate included all the costs for comorbid diagnoses submitted in the FY 2002 claims. Therefore, the cost for providing patient care (for example, medications, routine nursing care) required for common conditions seen in the psychiatric population, and recommended for comorbidity adjustment by commenters (that is, heart conditions or strokes) are already included in the Federal per diem base rate and a comorbidity adjustment for their presence was duplicative and unnecessary.

Further, the design of the IPF PPS with its Federal per diem base rate, provides numerous adjustments for complex cases and the availability of outlier payments, and stop loss payments during the 3-year transition.

Comment: A few commenters stated that the range of diagnostic codes proposed for adjustment did not include all the ICD–9–CM codes within a diagnostic category. A particular commenter indicated that the list of codes under diabetes did not include all the diabetes codes. In addition, other commenters provided a list of ICD–9–CM codes and comorbidity adjustments that they believe should be included in the comorbidity adjustment category list.

Response: The intent of the comorbidity adjustment is to provide

additional payments for concurrent medical or psychiatric conditions that are expensive to treat and require comparatively more costly treatment during an IPF stay than other comorbid conditions.

Although we are updating the IPF PPS to reflect updates to the ICD–9–CM codes, the comorbidity adjustment categories and factors currently in effect will remain in effect for the RY beginning July 1, 2006. As indicated in the November 2004 IPF PPS final rule, we do not plan to update the regression analysis until we analyze IPF PPS data.

Comment: A commenter recommended that code 404.03 hypertensive heart and renal disease, malignant, with heart failure and renal failure continue to qualify for both Cardiac Conditions and Chronic Renal Failure comorbidity adjustments.

Response: We are aware that ICD code 404.03, hypertensive heart and renal disease, malignant, with heart failure and renal failure, has caused confusion since this ICD code is currently used to code an adjustment in two separate IPF comorbidity categories, (that is, both ''Renal Failure, Chronic'' and ''Cardiac Conditions''). We believe that it more appropriately corresponds to the ''Cardiac Conditions'' comorbidity than to the ''Renal Failure, Chronic'' comorbidity. Therefore, to be more clinically cohesive and to eliminate confusion, we are removing ICD code 404.03 from the comorbidity adjustment category ''Renal Failure, Chronic,'' but retaining it in the ''Cardiac Conditions'' comorbidity category. Since both comorbidity categories have the same adjustment factor of 1.11, we believe no negative payment consequence will result from this change.

Final Rule Action: We are adopting the comorbidity adjustments currently in effect and as shown in Table 12 above for RY 2007 beginning July 1, 2006.

3. Patient Age Adjustments

As explained in the November 2004 IPF PPS final rule, we analyzed the impact of age on per diem cost by examining the age variable (that is, the range of ages) for payment adjustments.

In general, we found that the cost per day increases with increasing age. The older age groups are more costly than the under 45 years of age group; the differences in per diem cost increase for each successive age group, and the differences are statistically significant.

Based on the results of the regression analysis, we established 8 adjustment factors for age beginning with age groupings 45 and under 50, 50 and under 55, 55 and under 60, 60 and under 65, 65 and under 70, 70 and under 75, 75 and under 80, and 80 years of age and over. Patients under 45 years of age are assigned an age adjustment factor of 1.00. As we indicated in the November 2004 IPF PPS final rule, we do not plan to update the regression analysis until we analyze IPF PPS data. As a result, we are adopting the patient age adjustments currently in effect and shown in Table 13 below.

TABLE 13.—AGE GROUPINGS AND ADJUSTMENT FACTORS

Age	Adjustment factor
Under 45	1.00
45 and under 50	1.01
50 and under 55	1.02
55 and under 60	1.04
60 and under 65	1.07
65 and under 70	1.10
70 and under 75	1.13
75 and under 80	1.15
80 and over	1.17

Final Rule Action: In response to the RY 2007 proposed rule, we received no comments concerning the age adjustment. We are adopting the age adjustments currently in effect and as shown in Table 13 above, for RY 2007.

4. Variable Per Diem Adjustments

We explained in the November 2004 IPF PPS final rule that cost regressions indicated that per diem cost declines as the LOS increases (69 FR 66947). The variable per diem adjustments to the Federal per diem base rate account for ancillary and administrative costs that occur disproportionately in the first days after admission to an IPF.

We used regression analysis to estimate the average differences in per diem cost among stays of different length. Regression analysis simultaneously controls for cost differences associated with the other variables (for example, age, DRG, and presence of specific comorbidities). The regression coefficients measure the relative average cost per day for stays of differing lengths compared to a reference group's LOS. We analyzed through cost regression the relative cost per day for day 1 through day 30. We determined that the average per diem cost declined smoothly until the 22nd day. As a result of this analysis, we established variable per diem adjustments that begin on day 1 and decline gradually until day 21 of a patient's stay. For day 22 and thereafter, the variable per diem adjustment remains the same each day for the remainder of the stay. However, the adjustment applied to day 1 depends upon whether the IPF has a qualifying emergency department (ED). If an IPF has a qualifying ED, it receives a 1.31 adjustment for day 1 of each patient stay. If an IPF does not have a qualifying ED, it receives a 1.19 adjustment for day 1 of the stay. The ED adjustment is explained in more detail in section VI.C.5 of this final rule.

As we indicated in the November 2004 IPF PPS final rule, we do not plan to make changes to the regression analysis until we analyze IPF PPS data. As a result, for the RY beginning July 1, 2006, we are adopting the variable per diem adjustment factors currently in effect. Table 14 below shows the variable per diem adjustments that we will be using for updating the IPF PPS.

TABLE 14.—VARIABLE PER DIEM ADJUSTMENTS

Day-of-stay	Adjustment factor
Day 1—IPF Without a Qualified ED	1.19
Day 1—IPF With a Qualified ED	1.31
Day 2	1.12
Day 3	1.08
Day 4	1.05
Day 5	1.04
Day 6	1.02
Day 7	1.01
Day 8	1.01
Day 9	1.00
Day 10	1.00
Day 11	0.99
Day 12	0.99
Day 13	0.99
Day 14	0.99
Day 15	0.98
Day 16	0.97
Day 17	0.97
Day 18	0.96
Day 19	0.95
Day 20	0.95
Day 21	0.95
After Day 21	0.92

Final Rule Action: In response to the RY 2007 proposed rule, we received no comments concerning the proposed variable per diem adjustments. We are adopting the variable per diem adjustment factors currently in effect, and as shown in Table 14 above for RY 2007.

C. Facility-Level Adjustments

The IPF PPS includes facility-level adjustments for the wage index, IPFs located in rural areas, teaching IPFs, cost of living adjustments for IPFs located in Alaska and Hawaii, and IPFs with a qualifying ED.

1. Wage Index Adjustment

a. Revisions of IPF PPS Geographic Classifications

In the November 2004 IPF PPS final rule, we explained that in establishing an adjustment for area wage levels, the labor-related portion of an IPF's Federal prospective payment is adjusted by using an appropriate wage index. We also explained that an IPF's wage index is determined based on the location of the IPF in an urban or rural area as defined in § 412.62(f)(1)(ii) and (f)(1)(iii), respectively.

An urban area under the IPF PPS is defined at § 412.62(f)(1)(ii)(A) and (B). In general, an urban area is defined as a Metropolitan Statistical Area (MSA) or New England County Metropolitan Area (NECMA) as defined by the Office of Management and Budget (OMB). In addition, a few counties located outside of MSAs are considered urban as specified at § 412.62(f)(1)(ii)(B). Under § 412.62(f)(1)(iii), a rural area is defined as any area outside of an urban area. The geographic classifications defined in § 412.62(f)(1)(ii) and (f)(1)(iii), were used under the IPPS from FYs 1984 through 2004 (§ 412.62(f) and § 412.63(b)), and have been used under the IPF PPS since it was implemented for cost reporting periods beginning on or after January 1, 2005.

Under the IPPS, the wage index is calculated and assigned to hospitals on the basis of the labor market area in which the hospital is located or geographically reclassified to in accordance with sections 1886(d)(8) and (d)(10) of the Act. Under the IPF PPS, the wage index is calculated using IPPS wage index data (as discussed below in section VI.C.1.d of this preamble) on the basis of the labor market area in which the IPF is located, without taking into account geographic reclassification under sections 1886(d)(8) and (d)(10) of the Act and without applying the ''rural floor'' established under section 4410 of the BBA. (Section 4410 of the BBA provides that for the purposes of section 1886(d)(3)(E) of the Act, the area wage index applicable to hospitals located in an urban area of a State may not be less than the area wage index applicable to hospitals located in rural areas in the State. This provision is commonly referred to as the ''rural floor'' under the IPPS.) However, when we established the IPF PPS, we did not apply the rural floor to IPFs. For this reason, the hospital wage index used for IPFs is commonly referred to as the ''pre-floor'' hospital wage index indicating that the ''rural floor'' provision of the BBA is not applied. As a result, the applicable IPF wage index value is assigned to the IPF on the basis of the labor market area in which the IPF is geographically located.

As noted above, the current IPF PPS labor market areas are defined based on the definitions of MSAs, Primary MSAs (PMSAs), and NECMAs issued by the OMB (commonly referred to collectively as ''MSAs''). The MSA definitions, which are discussed in greater detail below, are currently used under the IPF PPS and other PPSs (that is, the IRF PPS, the LTCH PPS, and the PPSs for home health agencies (HHA PPS) and skilled nursing facilities (SNF PPS)). In the FY 2005 IPPS final rule (69 FR 49026 through 49034), revised labor market area definitions were adopted under the IPPS (§ 412.64(b)), which were effective October 1, 2004. These new standards, called Core-Based Statistical Areas (CBSAs), were announced by the OMB late in CY 2000 and are discussed in greater detail below.

b. Current IPF PPS Labor Market Areas Based on MSAs

When we published the November 2004 IPF PPS final rule, we explained that we were not adopting the new statistical area definitions defined by OMB for the following reasons. First, the change in labor market areas under the IPPS had not changed at the time we published the IPF PPS proposed rule on November 28, 2003. As a result, IPFs and other interested parties were not afforded an opportunity to comment on the use of the new labor market area definitions under the IPF PPS. Second, we wanted to conduct a thorough analysis of the impact of the new labor market area definitions on payments under the IPF PPS. Finally, in the November 2004 IPF PPS final rule, we indicated our intent to publish in a proposed rule any changes we were considering for new labor market definitions.

The analysis of the impact of the new labor market definitions has been completed. In the RY 2007 proposed rule, we proposed to adopt the new CBSA-based labor market area definitions. In this final rule, we are adopting these labor market area definitions for the IPF PPS. We believe it is helpful to provide a detailed description of the current IPF PPS labor market areas to help explain the changes to the IPF PPS labor market areas.

As mentioned earlier, since the implementation of the IPF PPS, we have used labor market areas to further characterize urban and rural areas as determined under § 412.62(f)(1)(ii) and (iii). To this end, we have defined labor market areas under the IPF PPS based on the definitions of MSAs, PMSAs, and NECMAs issued by the OMB in 1993, which is consistent with the IPPS approach prior to FY 2005. We note that OMB also defines Consolidated MSAs (CMSAs). A CMSA is a metropolitan area with a population of 1 million or more, comprising two or more PMSAs (identified by their separate economic and social character). However, for purposes of the wage index, we use the PMSAs rather than CMSAs because they allow a more precise breakdown of labor costs. If a metropolitan area is not designated as part of a PMSA, we use the applicable MSA.

These different designations use counties as the building blocks upon which they are based. Therefore, under the IPF PPS, hospitals are assigned to either an MSA, PMSA, or NECMA based on whether the county in which the IPF is located is part of that area. All of the counties in a State outside a designated MSA, PMSA, or NECMA are designated as rural.

c. Core-Based Statistical Areas

The OMB reviews its Metropolitan Area definitions preceding each decennial census. As discussed in the FY 2005 IPPS final rule (69 FR 49026), in the fall of 1998, OMB chartered the Metropolitan Area Standards Review Committee to examine the Metropolitan Area standards and develop recommendations for possible changes to those standards. Three notices related to the review of the standards, providing an opportunity for public comment on the recommendations of the Committee, were published in the **Federal Register** on the following dates: December 21, 1998 (63 FR 70526); October 20, 1999 (64 FR 56628); and August 22, 2000 (65 FR 51060).

In the December 27, 2000 **Federal Register** (65 FR 82228 through 82238), OMB announced its new standards. In that notice, OMB defines a Core-Based Statistical Area (CBSA), beginning in 2003, as ''a geographic entity associated with at least one core of 10,000 or more population, plus adjacent territory that has a high degree of social and economic integration with the core as measured by commuting ties. The standards designate and define two categories of CBSAs: Metropolitan Statistical Areas and Micropolitan Statistical Areas.'' (65 FR 82236 through 82238).

According to the OMB, MSAs are based on urbanized areas of 50,000 or more population, and Micropolitan Statistical Areas (referred to in this discussion as Micropolitan Areas) are based on urban clusters of at least 10,000 population, but less than 50,000 population. Counties that do not fall

within CBSAs (either MSAs or Micropolitan Areas) are deemed ''Outside CBSAs.'' In the past, OMB defined MSAs around areas with a minimum core population of 50,000, and smaller areas were ''Outside MSAs.'' On June 6, 2003, the OMB announced the new CBSAs, comprised of MSAs and the new Micropolitan Areas based on Census 2000 data. (A copy of the announcement may be obtained at the following Internet address: *http://www.whitehouse.gov/omb/bulletins/fy04/b04-03.html*.)

The new CBSA designations recognize 49 new MSAs and 565 new Micropolitan Areas, and extensively revise the composition of many of the existing MSAs. There are 1,090 counties in MSAs under the new CBSA designations (previously, there were 848 counties in MSAs). Of these 1,090 counties, 737 are in the same MSA as they were prior to the change in designations, 65 are in a different MSA, and 288 were not previously designated to any MSA. There are 674 counties in Micropolitan Areas. Of these, 41 were previously in an MSA, while 633 were not previously designated to an MSA. There are five counties that previously were designated to an MSA but are no longer designated to either an MSA or a new Micropolitan Area: Carter County, KY; St. James Parish, LA; Kane County, UT; Culpepper County, VA; and King George County, VA. For a more detailed discussion of the conceptual basis of the new CBSAs, refer to the FY 2005 IPPS final rule (67 FR 49026 through 49034).

d. Revision of the IPF PPS Labor Market Areas

In its June 6, 2003 announcement, OMB cautioned that these new definitions ''should not be used to develop and implement Federal, State, and local nonstatistical programs and policies without full consideration of the effects of using these definitions for such purposes. These areas should not serve as a general-purpose geographic framework for nonstatistical activities, and they may or may not be suitable for use in program funding formulas.''

We currently use MSAs to define labor market areas for purposes of Medicare wage indices in the IPF PPS since its implementation for cost reporting periods beginning on or after January 1, 2005. Until recently, MSAs were used to define labor market areas for purposes of the wage index for many of the other Medicare payment systems (for example, IRF PPS, SNF PPS, HHA PPS, and Outpatient PPS). While we recognize MSAs are not designed specifically to define labor market areas, we believe they represent a useful proxy for this purpose, because they are based upon characteristics we believe also generally reflect the characteristics of unified labor market areas. For example, CBSAs consist of a core population plus an adjacent territory that reflects a high degree of social and economic integration. This integration is measured by commuting ties, thus demonstrating that these areas may draw workers from the same general areas. In addition, the most recent CBSAs reflect the most up-to-date information. Our analysis and discussion here are focused on issues related to adopting the new CBSA designations to define labor market areas for the purposes of the IPF PPS.

Historically, Medicare PPSs have utilized Metropolitan Area definitions developed by the OMB. As noted above, the labor market areas currently used under the IPF PPS are based on the Metropolitan Area definitions issued by the OMB and the OMB reviews its Metropolitan Area definitions preceding each decennial census to reflect more recent population changes. The CBSAs are OMB's latest Metropolitan Area definitions based on the Census 2000 data. Because we believe that the OMB's latest Metropolitan Area designations more accurately reflect the local economies and wage levels of the areas in which hospitals are currently located, we adopted the revised labor market area designations based on the OMB's CBSA designations under the IPPS effective October 1, 2004. When we implemented the wage index adjustment at § 412.424(d)(1)(i) under the November 2004 IPF PPS final rule (69 FR 66952 through 66954), we explained that the IPF PPS wage index adjustment was intended to reflect the relative hospital wage levels in the geographic area of the hospital as compared to the national average hospital wage level. The OMB's CBSA designations based on Census 2000 data reflect the most recent available geographic classifications (Metropolitan Area definitions). Therefore, we are revising the labor market area definitions used under the IPF PPS based on the OMB's CBSA designations. This change ensures that the IPF PPS wage index adjustment most appropriately accounts for and reflects the relative hospital wage levels in the geographic area of the hospital as compared to the national average hospital wage level.

Specifically, we are revising the IPF PPS labor market definitions based on the OMB's new CBSA designations (as discussed in greater detail below) effective for IPF PPS discharges occurring on or after July 1, 2006. Accordingly, we are revising § 412.402, definitions for rural and urban areas. Effective for discharges occurring on or after July 1, 2006, ''rural'' and ''urban'' areas will be defined in § 412.64(b)(1)(ii)(A) through (C). These definitions are the labor market definitions based on OMB's CBSA designations. For clarity, we are also revising the regulation text to include the urban and rural definitions applicable to discharges occurring during cost reporting periods beginning on or after January 1, 2005, but before July 1, 2006, under § 412.62(f)(1)(ii) and § 412.62(f)(1)(iii).

We note that these are the same labor market area definitions (based on the OMB's new CBSA designations) implemented for acute care hospitals under the IPPS at § 412.64(b), which were effective for those hospitals beginning October 1, 2004 as discussed in the FY 2005 IPPS final rule (69 FR 49026–49034). The IPF PPS uses the acute care inpatient hospitals' wage data in calculating the IPF PPS wage index. However, unlike the IPPS, and similar to other Medicare payment systems (for example, SNF PPS and IRF PPS), the IPF PPS uses the pre-floor, pre-reclassified hospital wage index.

Below, we discuss the composition of the RY 2007 IPF PPS labor market areas based on OMB's new CBSA designations. It should be noted that OMB's new CBSA designations are comprised of several county-based area definitions as explained above, which include Metropolitan Areas, Micropolitan Areas, and areas ''outside CBSAs.'' We implemented the IPF PPS using two types of labor market areas, that is, urban and rural. In this final rule, we are adopting the revised labor market areas based on OMB's new CBSA-based designations. As proposed in the RY 2007 proposed rule, we will continue to have 2 types of labor market areas (urban and rural). In the discussion that follows, we explain how we are recognizing Metropolitan Areas, which include New England MSAs and Metropolitan Divisions, as urban. We also explain how we are recognizing Micropolitan Areas and areas ''outside CBSAs'' as rural. As discussed below in this final rule and as described in the RY 2007 proposed rule, we describe the methodology for mapping OMB's CBSA-based designations into the IPF PPS (urban area or rural area) format.

i. New England MSAs

As stated above, we currently use NECMAs to define labor market areas in New England, because these are county-based designations, rather than the 1990 MSA definitions for New England, which used minor civil divisions such

as cities and towns. Under the current MSA definitions, NECMAs provided more consistency in labor market definitions for New England compared with the rest of the country, where MSAs are county-based. Under the new CBSAs, the OMB has now defined the MSAs and Micropolitan Areas in New England on the basis of counties. The OMB also established New England City and Town Areas, which are similar to the previous New England MSAs.

In order to create consistency across all IPF labor market areas, as proposed and in this final rule, we are using the county-based areas for all MSAs in the nation, including those in New England. The OMB has now defined the New England area based on counties, creating a city- and town-based system as an alternative. We believe that adopting county-based labor market areas for the entire country except those in New England will lead to inconsistencies in our designations. Adopting county-based labor market areas for the entire country provides consistency and stability in Medicare program payment because all of the labor market areas throughout the country, including New England, will be defined using the same system (that is, counties) rather than different systems in different areas of the county, and minimizes programmatic complexity.

In addition, we have consistently employed a county-based system for New England for precisely that reason: To maintain consistency with the labor market definitions used throughout the country. Since we have never used cities and towns for defining IPF labor market areas, employing a county-based system in New England maintains that consistent practice. We note that this is consistent with the implementation of the CBSA-based designations under the IPPS for New England (69 FR 49028). Accordingly, for the IPF PPS, we are using the New England MSAs as determined under the new CBSA-based labor market area definitions in defining the revised IPF PPS labor market areas.

ii. Metropolitan Divisions

Under OMB's new CBSA designations, a Metropolitan Division is a county or group of counties within a CBSA that contains a core population of at least 2.5 million, representing an employment center, plus adjacent counties associated with the main county or counties through commuting ties. A county qualifies as a main county if 65 percent or more of its employed residents work within the county and the ratio of the number of jobs located in the county to the number of employed residents is at least 0.75. A county qualifies as a secondary county if 50 percent or more, but less than 65 percent, of its employed residents work within the county and the ratio of the number of jobs located in the county to the number of employed residents is at least 0.75. After all the main and secondary counties are identified and grouped, each additional county that already has qualified for inclusion in the MSA falls within the Metropolitan Division associated with the main/secondary county or counties with which the county at issue has the highest employment interchange measure. Counties in a Metropolitan Division must be contiguous (65 FR 82236).

The construct of relatively large MSAs being comprised of Metropolitan Divisions is similar to the current construct of CMSAs comprised of PMSAs. As noted above, in the past, the OMB designated CMSAs as Metropolitan Areas with a population of 1 million or more and comprised of two or more PMSAs. Under the IPF PPS, we currently use the PMSAs rather than CMSAs to define labor market areas because they comprise a smaller geographic area with potentially varying labor costs due to different local economies. We believe that CMSAs may be too large of an area with a relatively large number of hospitals, to accurately reflect the local labor costs of all of the individual hospitals included in that relatively ''large'' area. A large market area designation increases the likelihood of including many hospitals located in areas with very different labor market conditions within the same market area designation. This variation could increase the difficulty in calculating a single wage index that will be relevant for all hospitals within the market area designation. Similarly, we believe that MSAs with a population of 2.5 million or greater may be too large of an area to accurately reflect the local labor costs of all of the individual hospitals included in that relatively ''large'' area. Furthermore, as indicated above, Metropolitan Divisions represent the closest approximation to PMSAs, the building block of the current IPF PPS labor market area definitions, and therefore, will most accurately maintain our current structuring of the IPF PPS labor market areas. As implemented under the IPPS (69 FR 49029), we proposed and for this final rule, we are using the Metropolitan Divisions where applicable (as described below) under the new CBSA-based labor market area definitions.

In addition to being comparable to the organization of the labor market areas under current MSA designations (that is, the use of PMSAs rather than CMSAs), we believe that using Metropolitan Divisions where applicable (as described below) under the IPF PPS will result in a more accurate adjustment for the variation in local labor market areas for IPFs. Specifically, if we recognize the relatively ''larger'' CBSA that comprises two or more Metropolitan Divisions as an independent labor market area for purposes of the wage index, it will be too large and include data from too many hospitals to compute a wage index that will accurately reflect the various local labor costs of all of the individual hospitals included in that relatively ''large'' CBSA. As mentioned earlier, a large market area designation increases the likelihood of including many hospitals located in areas with very different labor market conditions within the same market area designation. This variation could increase the difficulty in calculating a single wage index that will be relevant for all hospitals within the market area designation. Rather, by recognizing the Metropolitan Divisions where applicable (as described below) under the proposed new CBSA-based labor market area definitions under the IPF PPS, we believe that in addition to more accurately maintaining the current structuring of the IPF PPS labor market areas, the local labor costs will be more accurately reflected, thereby resulting in a wage index adjustment that better reflects the variation in the local labor costs of the local economies of the IPFs located in these relatively ''smaller'' areas.

Below we describe where Metropolitan Divisions will be applicable under the new CBSA-based labor market area definitions under the IPF PPS.

Under OMB's new CBSA-based designations, there are 11 MSAs containing Metropolitan Divisions: Boston; Chicago; Dallas; Detroit; Los Angeles; Miami; New York; Philadelphia; San Francisco; Seattle; and Washington, D.C. Although these MSAs were also CMSAs under the prior definitions, in some cases these areas have been significantly altered. Under the current IPF PPS MSA designations, Boston is a single NECMA. Under the CBSA-based labor market area designations, it is comprised of four Metropolitan Divisions. Los Angeles will go from four PMSAs under the current IPF PPS MSA designations to two Metropolitan Divisions under the CBSA-based labor market area designations because two MSAs became separate MSAs. The New York CMSA will go from 15 PMSAs under the

current IPF PPS MSA designations to only four Metropolitan Divisions under the CBSA-based labor market area designations. The five PMSAs in Connecticut under the current IPF PPS MSA designations will become separate MSAs under the CBSA-based labor market area designations, and the number of PMSAs in New Jersey under the current IPF PPS MSA designations will go from five to two, with the consolidation of two New Jersey PMSAs (Bergen-Passaic and Jersey City) into the New York-Wayne-White Plains, NY–NJ Division, under the CBSA-based labor market area designations. In San Francisco, under the CBSA-based labor market area designations, there are only two Metropolitan Divisions. Currently, there are six PMSAs, some of which are now separate MSAs under the current IPF PPS labor market area designations.

Under the current IPF PPS labor market area designations, Cincinnati, Cleveland, Denver, Houston, Milwaukee, Portland, Sacramento, and San Juan are all designated as CMSAs, but will no longer be designated as CMSAs under the CBSA-based labor market area designations. As noted previously, the population threshold to be designated as a CMSA under the current IPF PPS labor market area designations is 1 million. In most of these cases, counties currently in a PMSA under the current IPF PPS labor market area designations will become separate, independent MSAs under the CBSA-based labor market area designations.

We note that subsequent to the publication of the RY 2007 IPF PPS proposed rule, titles to certain CBSAs were changed based on OMB Bulletin No. 06–01 (December 2005). The title changes listed below are nomenclatures that do not result in substantive changes to the CBSA-based designations. Thus, these changes are listed below and will be incorporated into the FY 2007 CBSA-based urban wage index tables.

- CBSA 26900: Indianapolis-Carmel, IN
- CBSA 42680: Sebastian-Vero Beach, FL
- CBSA 19780: Des Moines-West Des Moines, IA
- CBSA 47644: Warren-Troy-Farmington Hills, MI
- CBSA 31140: Louisville-Jefferson County, KY–IN

iii. Micropolitan Areas

Under OMB's new CBSA-based designations, Micropolitan Areas are essentially a third area definition consisting primarily of currently rural areas, but also include some or all of areas that are currently designated as an urban MSA. As discussed in greater detail in the FY 2005 IPPS final rule (69 FR 49029 through 49032), how these areas are treated will have significant impacts on the calculation and application of the wage index. Specifically, whether or not Micropolitan Areas are included as part of the respective statewide rural wage indices will impact the value of statewide rural wage index of any State that contains a Micropolitan Area because a hospital's classification as urban or rural affects which hospitals' wage data are included in the statewide rural wage index. We combine all of the counties in a State outside a designated urban area together to calculate the statewide rural wage index for each State.

Including Micropolitan Areas as part of the statewide rural labor market area would result in an increase to the statewide rural wage index because hospitals located in those Micropolitan Areas typically have higher labor costs than other rural hospitals in the State. Alternatively, if Micropolitan Areas were to be recognized as independent labor market areas, because there would be so few hospitals in each labor market area, the wage indices for IPFs in those areas could become relatively unstable as they might change considerably from year to year.

We currently use MSAs to define urban labor market areas and group all the hospitals in counties within each State that are not assigned to an MSA together into a statewide rural labor market area. We have used the terms ''urban'' and ''rural'' wage indexes in the past for ease of reference. However, the introduction of Micropolitan Areas by the OMB potentially complicates this terminology because these areas include many hospitals that are currently included in the statewide rural labor market areas.

We proposed to treat Micropolitan Areas as rural labor market areas under the IPF PPS for the reasons outlined below. That is, counties that are assigned to a Micropolitan Area under the CBSA-based designations would be treated the same as other ''rural'' counties that are not assigned to either an MSA (Metropolitan Statistical Area) or a Micropolitan Area. Therefore, in determining an IPF's applicable wage index (based on IPPS hospital wage index data), an IPF in a Micropolitan Area under OMB's CBSA-based designations would be classified as ''rural'' and would be assigned the statewide rural wage index for the State in which it resides.

In the FY 2005 IPPS final rule (69 FR 49029 through 49032), we discuss our evaluation of the impact of treating Micropolitan Areas as part of the statewide rural labor market area instead of treating Micropolitan Areas as independent labor market areas for hospitals paid under the IPPS. As discussed in that same final rule, one of the reasons Micropolitan Areas have such a dramatic impact on the wage index is because Micropolitan Areas encompass smaller populations than MSAs. In addition, they tend to include fewer hospitals per Micropolitan Area. Currently, there are only 25 MSAs with one hospital in the MSA. However, under the new CBSA-based definitions, there are 373 Micropolitan Areas with one hospital, and 49 MSAs with only one hospital.

Since Micropolitan Areas encompass smaller populations than MSAs, they tend to include fewer hospitals per Micropolitan Area, recognizing Micropolitan Areas as independent labor market areas will generally increase the potential for dramatic shifts in those areas' wage indices from 1 year to the next because a single hospital (or group of hospitals) could have a disproportionate effect on the wage index of the area. The large number of labor market areas with only one hospital and the increased potential for dramatic shifts in the wage indexes from 1 year to the next is a problem for several reasons. First, it creates instability in the wage index from year to year for a large number of hospitals. Second, it reduces the averaging effect (averaging effect allows for more data points to be used to calculate a representative standard of measured labor costs within a market area.) lessening some of the incentive for hospitals to operate efficiently. This incentive is inherent in a system based on the average hourly wages for a large number of hospitals, as hospitals could profit more by operating below that average. In labor market areas with a single hospital, high wage costs are passed directly into the wage index with no counterbalancing averaging with lower wages paid at nearby competing hospitals. Third, it creates an arguably inequitable system when so many hospitals have wage indexes based solely on their own wages, while other hospitals' wage indexes are based on an average hourly wage across many hospitals.

For the reasons noted above, and consistent with the treatment of these areas under the IPPS, as proposed and consist with this final rule, we are not adopting Micropolitan Areas as independent labor market areas under the IPF PPS. Under the CBSA-based labor market area definitions,

Micropolitan Areas are considered a part of the statewide rural labor market area. Accordingly, we will determine an IPF PPS statewide rural wage index using the acute-care IPPS hospital wage data from hospitals located in non-MSA areas (for example, rural areas, including Micropolitan Areas) and that statewide rural wage index will be assigned to IPFs located in those non-MSA areas.

e. Implementation of the Revised Labor Market Areas Under the IPF PPS

Section 124 of the BBRA is broadly written and gives the Secretary discretion in developing and making adjustments to the IPF PPS.

When the revised labor market areas based on the OMB's new CBSA-based designations were adopted under the acute care hospital IPPS beginning on October 1, 2004, a transition to the new labor market area designations was established due to the scope and substantial implications of these new boundaries and to buffer the subsequent significant impacts it may have on payments to numerous hospitals. As discussed in the FY 2005 IPPS final rule (69 FR 49032), during FY 2005, a blend of wage indexes is calculated for those acute care IPPS hospitals experiencing a drop in their wage indexes because of the adoption of the new labor market areas.

While we recognize that, just like IPPS hospitals, some IPFs may experience decreases in their wage index as a result of the labor market area changes, our analysis shows that a majority of IPFs either expect no change in wage index or an increase in wage index based on CBSA definitions. In addition, a very small number of IPFs (fewer than 3 percent) will experience a decline of 5 percent or more in the wage index based on CBSA designations. We also found that a very small number of IPFs (approximately 5 percent) will experience a change in either rural or urban designation under the CBSA-based definitions. Since a majority of IPFs will not be significantly impacted by the labor market areas, we believe it is not necessary for a transition to the new CBSA-based labor market area for the purposes of the IPF PPS wage index.

We received several comments on our proposed changes for implementing the area wage adjustments. Public comments and our responses on the proposed changes for implementing the area wage adjustments are summarized below:

Comment: Several commenters requested that CMS provide a transition period to phase in the CBSA-based labor market definitions. One commenter requested that IPFs should be allowed to choose whether or not they wanted a phase-in of the CBSA wage indices.

Response: For cost reporting periods beginning in 2006, IPFs are paid based on a blend of 50 percent reasonable cost payments and 50 percent PPS payments. The wage index adjustment is being phased in on the PPS portion of the payment. Since we are already in the middle of a transition to a full wage-index adjustment under the IPF PPS, we believe that the effects on the IPF PPS wage index from the changes to the IPF PPS labor market areas definitions will be mitigated. Specifically, most IPFs will be in their FY 2006 cost reporting period and therefore will be in the second year of the 3-year phase-in of the IPF PPS wage index adjustment when the revised labor market area designations will be applied. During the second year of the transition to the IPF PPS, the applicable wage index value is one-half (50 percent) of the applicable full IPF PPS wage index adjustment. Since most IPFs will be in the second year of the 3-year phase-in of the wage index adjustment, for most IPFs, the labor-related portion of the Federal rate is only adjusted by 50 percent of the applicable full wage index (that is, one-half wage index value). As noted above, the IPF PPS wage index adjustment is made by multiplying the labor-related share of the IPF PPS Federal per diem base rate (75.66 percent) by the applicable wage index value.

Consequently, for most IPFs, only approximately 38 percent of the Federal per diem base rate is affected by the wage index adjustment (75.665 percent $\times$ 0.50 = 37.8325 percent), and the revision to the labor market area definitions based on OMB's new CBSA-based designations will only have a minimal impact on IPF PPS payments.

For the reasons discussed above, and also addressed in the RY 2007 proposed rule (71 FR 3633), we are not providing a transition under the IPF PPS from the current MSA-based labor market areas designations to the new CBSA-based labor market area designations. Rather, we are adopting the current CBSA-based labor market area definitions beginning July 1, 2006 without a transition period.

Comment: Several commenters do not believe that because the IPF PPS is in the second year of the transition blend, the effects of the wage index changes would be mitigated. The commenters stated that similar wage transitions have been applied in HHA and IRF, and therefore inconsistencies exist between payment systems.

Response: We do not believe a need exists to implement a separate transition for the wage index changes. We acknowledge that similar wage transitions exist in other PPSs. However, unlike the IPF PPS, in those instances, the payment systems were not already in a transition period (as described above).

Comment: Several commenters agreed with CMS's approach to wait 1 full year until IPF PPS claims and cost report data could be analyzed before changing the wage index definitions. Other commenters indicated that if CMS were to implement this change now, it would be inconsistent with the approach to wait a year before analyzing IPF PPS data.

The same commenters expressed concern that if CMS changes urban and rural classifications without any recourse (such as the Medicare Geographic Classification Review Board (MGCRB)) when CMS analyzes the PPS data and compares urban and rural IPFs, rural IPF data under MSA definitions would not be comparable to rural IPF data under CBSA definitions.

Response: In the November 2004 IPF PPS rule, we stated that we would use the best available hospital wage index data, and that we would propose any changes to the wage index in a proposed rule. We note that all of the other PPSs have adopted, or begun to adopt, the CBSA definitions. Consistent with other Medicare PPSs, and in order to utilize the best available data, as we indicated we would do, the IPF PPS will adopt the CBSA definitions. We want to ensure that the IPF PPS wage index adjustment most appropriately accounts for and reflects the relative hospital wage levels in the geographic area of the hospital as compared to the national average hospital wage level, and we believe that OMB's CBSA designations based on Census 2000 data reflect the most recent available geographic classifications.

With respect to the last comment, the meaning is not completely clear. If the commenters are concerned that changes to the area wage definitions will limit our ability to analyze the impact of the IPF PPS, CMS does not believe this is an issue. When we analyze the first year of IPF PPS claims and cost report data, the urban and rural designations will be under MSA definitions. We are now adopting the latest OMB definitions of urban and rural under CBSAs and we will view rural IPFs under these definitions. Finally, we want to note that, since the IPF PPS Provider Specific File is cumulative, CMS will have a record of which IPFs changed designations.

Comment: One commenter expressed support for the proposed change to the CBSA-based labor market definitions. The commenter believes that the CBSAs

provide an accurate measure of the labor market areas in the United States.

Response: We agree with the commenter that the CBSAs represent the best available wage data.

Comment: The IPPS adopted a hold-harmless policy and an ''out-commuting adjustment.'' Several commenters believe that since the majority of IPFs are distinct part units, there is an inconsistency when the acute care hospitals are paid the out-commuting or out-migration adjustment and the IPFs are not paid the adjustment. The commenters stated that CMS should assume that IPF employees follow the same commuting patterns as those who work in the acute care hospital.

In addition, the commenters indicated that distinct part units would be at a disadvantage in recruiting and retaining workers for the IPF unless CMS adopted an out-commuting or out-migration adjustment.

Response: We are not providing a hold harmless policy or an ''out-commuting'' adjustment under the IPF PPS from the current MSA-based labor market areas designations to the new CBSA-based labor market area designations. Nor do we believe that we are required to provide an out-commuting adjustment. We note that section 505 of the MMA established new section 1886(d)(13) of the Act. Section 1886(d)(13) of the Act requires that the Secretary establish a process to make adjustments to the hospital wage index based on commuting patterns of hospital employees. We believe that this requirement for an ''out-commuting'' or ''out-migration'' adjustment applies specifically to the IPPS and not to other PPS. Therefore, consistent with other PPS (for example, IRF and LTCH PPS), we did not propose out-commuting or out-migration adjustment under the IPF PPS, nor are we establishing such an adjustment under the IPF PPS in this final rule.

We believe that our decisions not to adopt a transition or an out-commuting adjustment are appropriate for IPFs because, despite some similarities between the IPF PPS and the IPPS, there are clear distinctions between the payment systems, particularly regarding wage index issues.

For example, a wage index adjustment has been a stable feature of the acute care hospital IPPS since its 1983 implementation and the IPPS had utilized the prior MSA-based labor market area designation for over 10 years. The IPF PPS has only been implemented since January 1, 2005.

The most significant distinction between acute care hospitals under the IPPS and IPFs is that acute care hospitals have been paid using full wage index adjusted payments since 1983 and had used the previous IPPS MSA-based labor market area designations for over 10 years, whereas under the IPF PPS, a wage index adjustment is being phased-in over a 3-year period. As previously explained, the impact that the wage index can have on IPF PPS payments is limited at this point, since only a small percentage of the IPF PPS Federal per diem base rate is affected by the wage index (approximately 38 percent in most cases) because of the 3-year phase-in of the wage index adjustment.

In contrast, a transition policy to the revised IPPS labor market area definitions under the IPPS was appropriate because there is no phase-in of a wage index adjustment under the IPPS and the full labor-related share of the IPPS standardized amount (that is, Federal rate) is affected by the IPPS wage index adjustment, which resulted in a more significant projected impact for acute care hospitals under the IPPS.

Comment: Several commenters indicated that IPFs that are distinct part units should be allowed to be reclassified to the same geographic area as the acute care hospital. The commenters also stated that wage issues between acute care hospitals and IPFs are similar, and that it is not logical for IPFs that are distinct part units to receive a different area wage index value than the acute care hospital. Commenters requested that CMS implement a rural floor like that of IPPS.

Response: As stated above, the IPF PPS wage index is calculated using IPPS wage index data on the basis of the labor market area in which the IPF is located, without taking into account geographic reclassification under sections 1886(d)(8) and (d)(10) of the Act and without applying the ''rural floor'' established under section 4410 of the BBA. We believe that the actual location of an IPF (as opposed to the location of affiliated providers) is most appropriate for determining the wage adjustment because the prevailing wages in the area in which the IPF is located influence the cost of a case. In addition, we are using the latest OMB labor market area definitions based on 2000 Census data. Since these data are more recent than the data used for the wage index in the IPF PPS implementation year (2000 versus 1993 data), we do not see a need for a reclassification policy. Finally, as discussed above, by recognizing the Metropolitan Divisions where applicable under the new CBSA-based labor market area definitions under the IPF PPS, we believe that the local labor costs will be more accurately reflected, thereby resulting in a wage index adjustment that better reflects the variation in the local labor costs of the local economies of the IPFs located in these relatively ''smaller'' areas when compared with CMSAs.

Although some commenters request CMS to develop a ''rural floor'' like the IPPS, we believe the ''rural floor'' is required only for the acute care hospital payment system because, as stated in section VI.B.2, section 4410 of the Balanced Budget Act of 1997 (Pub. L. 105–33) applies specifically to acute care hospitals and not excluded hospitals and excluded units. We believe that the ''pre-reclassification and pre-floor'' wage data is the best proxy and most appropriate wage index for IPFs.

Comment: Many commenters expressed concern regarding those IPFs who would lose the rural adjustment if they are redefined as urban under the CBSA-based labor market definitions. Specifically, the commenters stated that IPFs' reimbursement would decrease over the next several years due to the wage index changes. The commenters also indicated that the loss of the rural adjustment would increase the financial vulnerability of IPFs that are necessary to provide continued access to care in previously rural areas. As a result, the commenters requested that CMS provide a grandfathering provision to allow IPFs to continue to receive the rural adjustment or a hold harmless provision that would prevent payments from dropping below what the IPF would have received had they remained designated as a rural IPF.

Response: We are finalizing our proposal to transition IPFs to CBSA-based labor market definitions. We recognize that IPFs that were previously considered rural will lose the 17 percent rural facility-level adjustment when they are redesignated as urban. However, as discussed above, since we are currently in the middle of a transition period from reasonable-cost based payments to PPS payments, the effects of changing to CBSA-based definitions are mitigated, since currently the wage index affects approximately 38 percent of an IPF's payment, and the rural adjustment affects 50 percent of an IPF's payment.

In addition, the IPF PPS has a stop-loss policy in place to protect IPFs that receive less than 70 percent of what they would have received under TEFRA. In general, the group of providers that stands to lose the rural adjustment did well under TERFA, and the purpose of the transition from TERFA to PPS is to allow IPFs to control and reduce their costs.

As discussed in the August 11, 2004 IPPS final rule (69 FR 49032), during FY 2005, a hold harmless policy was implemented to minimize the overall impact of hospitals that were designated in FY 2004 as urban under the MSA designations, but would become rural under the CBSA designations. In the same final rule, hospitals were afforded a 3-year hold harmless policy because the IPPS determined that acute-care hospitals that changed designations from urban to rural would be substantially impacted by the significant change in wage index. Currently, under the IPF PPS, urban facilities that become rural would receive the rural facility adjustment (that is, 17 percent). As discussed in section VI.C.2 of this final rule, we are adopting the 17 percent rural adjustment. The rural facility adjustment will be applied in the same way to urban facilities that will become rural under the CBSA-based definitions. Thus, we believe that the impact of the wage index changes on any urban facilities that become rural under the new definitions will be mitigated by the rural adjustment. Finally, as discussed above, the IPF PPS has a stop-loss policy in effect during the transition from TEFRA to PPS payments. Therefore, we do not believe it is appropriate or necessary to adopt a hold harmless policy for facilities that would experience a change in designation under the CBSA-based definitions.

We note that for the CBSA designations, we identified some geographic areas where there were no hospitals, and thus no hospital wage index data on which to base the calculation of the RY 2007 IPF PPS wage index. In addressing this situation, we proposed approaches that we believe would serve as proxies for hospital wage data and provide an appropriate standard that accounts for geographic variation in labor costs.

The first situation involves rural locations in Massachusetts and Puerto Rico. We have determined that there are no rural hospitals in those locations. Since there is no reasonable proxy for more recent rural data within those areas, we are using last year's wage index value for rural Massachusetts and rural Puerto Rico. This approach is consistent with other Medicare PPSs (for example, SNF PPS and IRF PPS).

The second situation has to do with the urban area of Hinesville, GA (CBSA 25980). Under the new labor market areas there are no urban hospitals within this area. Therefore, we are using the urban areas within the State to serve as a reasonable proxy for the urban areas without specific hospital wage index data in determining the IPF PPS wage index. In this final rule, we are calculating the urban wage index value for purposes of the wage index for these areas without urban hospital data as the average wage index for all urban areas within the State. This approach is consistent with other Medicare PPSs (for example, SNF PPS and IRF PPS).

We could not apply a similar averaging in rural areas because in the rural areas there are no State rural hospital wage data available for averaging on a State-wide basis. We did not receive comments on these approaches for calculating the wage index values for areas without hospitals for RY 2007 and subsequent years. We are adopting the proposed approach in this final rule.

To facilitate an understanding of the policies related to the changes to the IPF PPS labor market areas discussed above, in the MSA/CBSA Crosswalk included as Addendum B of this final rule, we are providing a listing of each Social Security Administration (SSA) State and county location code; State and county name; existing MSA-based labor market area designation; MSA-based wage index value; CBSA-based labor market area; and the new CBSA-based wage index value. We are also providing in Addenda C the wage index for urban and rural areas based on CBSA labor market areas.

Final Rule Action: In summary, we are finalizing our proposal to adopt the CBSA labor market area definitions without a transition, without a hold-harmless policy, and without an out-commuting or out-migration adjustment.

f. Wage Index Budget Neutrality

Any adjustment or update to the IPF wage index will be made in a budget neutral manner that assures that the estimated aggregated payments under this subsection in the RY beginning July 1, 2006 are not greater or less than those that would have been made in the year without such an adjustment. Therefore, as proposed and in this final rule, we calculate a budget-neutral wage index adjustment factor using the following steps:

Steps 1: Determine the total amount of the estimated IPF PPS payments for the implementation year using the labor-related share and wage indices from FY 2005 (based on MSAs).

Step 2: Calculate the total amount of estimated IPF PPS payments for RY 2007 using the labor-related share and wage indices from FY 2006 (based on CBSAs).

Step 3: Divide the amount calculated in *Step 1* by the amount calculated in *Step 2* which yields a RY 2007 budget-neutral wage adjustment of 1.0042.

This factor is applied in the update of the Federal per diem base rate for RY 2007.

2. Adjustment for Rural Location

In the November 2004 IPF PPS final rule, we provided a 17 percent payment adjustment for IPFs located in a rural area. This adjustment was based on the regression analysis which indicated that the per diem cost of rural facilities was 17 percent higher than that of urban facilities after accounting for the influence of the other variables included in the regression. Many rural IPFs are small psychiatric units within small general acute care hospitals. We also stated in the November 2004 IPF PPS final rule that small-scale facilities are more costly on a per diem basis because there are minimum levels of fixed costs that cannot be avoided, and they do not have the economies of size advantage.

Based on the results of our regression analysis, we provided a payment adjustment for IPFs located in rural areas of 17 percent. In this final rule, we are not changing this adjustment factor. In addition, we stated in the November 2004 IPF PPS final rule that we do not plan to conduct another regression analysis until we analyze IPF PPS data. At that time, we can compare rural and urban IPFs to determine how much more costly rural facilities are on a per diem basis under the IPF PPS. In the meantime, we are applying a 17 percent payment adjustment for IPFs located in a rural area as defined at § 412.64(b)(1)(ii)(C).

Final Rule Action: In summary, we are adopting the 17 percent rural adjustment currently in effect for RY 2007.

3. Teaching Adjustment

In the November 2004 IPF PPS final rule, we established a facility-level adjustment for IPFs that are, or are part of, teaching institutions. The teaching status adjustment accounts for the higher indirect operating costs experienced by facilities that participate in graduate medical education (GME) programs. We have received numerous requests for clarification of the IPF PPS teaching adjustment, especially with regard to comparisons with the IPPS IME adjustment that were included in the November 2004 IPF PPS final rule. As a result, we are including an expanded explanation of the IPF PPS teaching status adjustment and are clarifying the changes to § 412.424(d)(1)(iii) regarding the teaching adjustment.

Medicare makes direct GME payments (for direct costs such as resident and teaching physician salaries, and other

direct teaching costs) to all teaching hospitals including those paid under the IPPS, and those that were once paid under the TEFRA rate-of-increase limits but are now paid under other PPSs. These direct GME payments are made separately from payments for hospital operating costs and are not part of the PPSs. However, the direct GME payments do not address the higher indirect operating costs experienced by teaching hospitals. For teaching hospitals paid under the TEFRA rate-of-increase limits, Medicare did not make separate medical education payments because payments to these hospitals were based on the hospitals' reasonable costs. Since payments under TEFRA were based on hospitals' reasonable costs, the higher indirect costs that might be associated with teaching programs would automatically have been factored into the TEFRA payments.

As previously mentioned, we conducted regression analysis of FY 2002 IPF data as the basis for the payment adjustments included in the November 2004 IPF PPS final rule. In conducting the analysis, we used the resident counts reported on hospital cost reports (worksheet S–3, Part 1, line 12, column 7 for freestanding psychiatric hospitals and worksheet S–3, Part 1, line 14 (or line 14.01 for subprovider 2), column 7 for psychiatric units of acute care hospitals). That is, for the freestanding psychiatric hospitals, we used the number of residents and interns reported for the entire hospital. For the psychiatric units of acute care hospitals, we used the number of residents and interns reported for the psychiatric unit, which are reported separately on the cost report from the number reported for the rest of the hospital.

The regression analysis (with the logarithm of costs as the dependent variable) showed that the indirect teaching cost variable is significant in explaining the higher costs of IPFs that have teaching programs. We calculated the teaching adjustment based on the IPF's ''teaching variable,'' which is one plus the ratio of the number of full-time equivalent (FTE) residents training in the IPF (subject to limitations described below) to the IPF's average daily census (ADC).

In the cost regressions conducted for the November 2004 IPF PPS final rule, the logarithm of the teaching variable had a coefficient value of 0.5150. We converted this cost effect to a teaching payment adjustment by treating the regression coefficient as an exponent and raising the teaching variable to a power equal to the coefficient value. In other words, the teaching adjustment is calculated by raising the teaching variable (1 + FTE residents/ADC) to the 0.5150 power. To compute the percentage increase in the IPF PPS payment attributable to the teaching adjustment (that is, the amount to be reconciled at cost report settlement), raise the teaching variable (1 + FTE residents/ADC) to the 0.5150 power. For example, for an IPF with a teaching variable of 0.10 and using a coefficient value of 0.5150, the per diem payment would increase by 5.03 percent; for an IPF with a teaching variable of 0.05, the per diem payment would increase by 2.54 percent. We note that the coefficient value of 0.5150 was based on regression analysis holding all other components of the payment system constant.

In addition, we established the teaching adjustment in a manner that limited the incentives for IPFs to add FTE residents for the purpose of increasing their teaching adjustment. We imposed a cap on the number of FTE residents that may be counted for purposes of calculating the teaching adjustment, similar to that established by sections 4621 (IME FTE cap for IPPS hospitals) and 4623 (direct GME FTE cap for all hospitals) of the BBA. We emphasize that the cap limits the number of FTE residents that teaching IPFs may count for the purposes of calculating the IPF PPS teaching adjustment, not the number of residents teaching institutions can hire or train.

The FTE resident cap is applied the same way in freestanding teaching psychiatric hospitals and in distinct part psychiatric units with GME programs. Similar to the regulations for counting FTE residents under the IPPS as described in § 412.105(f), we calculated the number of FTE residents that trained in the IPF during a ''base year'' and use that FTE resident number as the cap. An IPF's FTE resident cap would ultimately be determined based on the final settlement of the IPF's most recent cost report filed before November 15, 2004 (that is, the publication date of the IPF PPS final rule).

Similar to teaching hospitals under the IPPS, IPFs that first begin training residents after November 15, 2004 initially receive an FTE cap of ''0''. The FTE caps for teaching IPFs (whether they are new or existing IPFs) that start training residents in a new GME program may be subsequently adjusted in accordance with the IPPS policies described in § 412.105(f)(1)(vii) and GME policies described in § 413.79(e)(1)(i) and (ii). For purposes of the teaching status adjustment for IPFs, a new graduate medical education program means a medical education program that receives initial accreditation by the appropriate accrediting body or begins training residents on or after November 15, 2004. However, contrary to the policy for IME FTE resident caps under the IPPS, we do not allow IPFs to aggregate the FTE resident caps used to compute the IPF PPS teaching adjustment through affiliation agreements. We included these policies because we believe it is important to limit the total pool of resident FTE cap positions within the IPF community and avoid incentives for IPFs to add FTE residents in order to increase their payments.

Residents with less than full-time status and residents rotating through the psychiatric hospital or unit for less than the entire cost reporting period are counted in proportion to the time they spend in their assignment with the IPF. For example, a 3-month rotation by a full-time resident to the IPF during a 12-month cost reporting period will be counted as 0.25 FTE for purposes of counting residents to calculate the ratio. No FTE resident time counted for purposes of the IPPS IME adjustment is permitted to be counted for purposes of the teaching status adjustment for the IPF PPS.

As noted previously, the denominator used to calculate the teaching adjustment under the IPF PPS is the IPF's ADC from the current cost reporting period. We chose to use the ADC because it is closely related to the IPF's patient load, which affects the number of interns and residents the IPF can train. We also believe the ADC is a measure that can be defined precisely and is difficult to manipulate. Although the IPPS IME adjustment uses the hospital's number of beds as the denominator, the capital PPS (as specified at § 412.322) and the IRF PPS (as specified at § 412.624(e)(4) both use the ADC as the denominator for the indirect medical education and teaching adjustments, respectively.

If a psychiatric hospital's or unit's FTE count of residents in a given year is higher than the FTE count in the base year (the base year being used to establish the cap), we base payments in that year on the lower number (the cap amount). This approach is consistent with the IME adjustment under the IPPS and the teaching adjustment under the IRF PPS. The IPF remains free to add FTE residents above the cap amount, but it cannot count the number of FTE residents above the cap for purposes of calculating the teaching adjustment. This means that the cap serves as an upper limit on the number of FTE residents that may be counted for purposes of calculating the teaching

status adjustment. IPFs can adjust their number of FTE residents counted for purposes of calculating the teaching adjustment as long as they remain under the cap. On the other hand, if a psychiatric hospital or unit were to have fewer FTE residents in a given year than in the base year (that is, fewer residents than its FTE resident cap), teaching adjustment payments in that year would be based on the lower number (that is, the current year's FTE count of resident).

In response to inquiries about how the teaching adjustment is applied under the IPF PPS, we proposed to add a new paragraph § 412.424(d)(1)(iii)(E) to clarify that the teaching adjustment is made on a claim basis as an interim payment and the final payment for the claim would be made in full during the final settlement of the cost report. The difference between those interim payments and the actual teaching adjustment amount computed in the cost report would be adjusted through lump sum payments/recoupments when the cost report is filed and later settled.

As noted in section VI.D.1.a of this final rule, in reviewing the methodology used to simulate the IPF PPS payments used for the November 2004 IPF PPS final rule, we discovered that the computer code incorrectly assigned non-teaching status to most teaching facilities. As a result, total IPF PPS payments were underestimated by about 1.36 percent. To resolve the issue, as discussed in section V.B.3 of this final rule, we are amending the Federal per diem base rate prospectively for all IPFs.

As with other adjustment factors derived through the regression analysis, we do not plan to rerun the regression analysis until we analyze IPF PPS data. Until then, as proposed, we are retaining the 0.5150 teaching adjustment to the Federal per diem base rate.

Public comments and our responses on the proposed changes for implementing the teaching adjustment are summarized below:

Comment: A commenter stated that the use of ''final settled'' cost reports may allow hospitals to report accurate counts during the audit process. However, the commenter indicated that if this is not correct, or if certain hospitals' 2004 cost reports have already gone through final settlement, CMS should take action to ensure that accurate resident counts for purposes of determining the IPF teaching adjustment resident cap.

The commenter indicated that for the regression analysis, CMS used the resident count reported on Worksheet S–3, Part 1, lines 14 and 14.01, column 7 for psychiatric units of acute care hospitals. The commenter expressed concern regarding the data used for the regression analysis due to the ambiguity of the cost reporting instructions. The commenter believes that this count may not accurately reflect the resident count in the hospital's psychiatric unit. Specifically, since the cost reporting instructions state that one should ''enter the number of interns and full time equivalents in an approved program determined in accordance with 42 CFR 412.105(g) for the indirect medical education adjustment.'' The commenter further stated that for cost reports before November 15, 2004, psychiatric unit resident counts were not eligible to be counted for purposes of the acute inpatient IME adjustment.

Response: As explained in the November 2004 IPF PPS final rule and the RY 2007 proposed rule, similar to the regulations for counting FTE residents under the IPPS as described in § 412.105(f), we calculate the number of FTE residents that trained in the IPF during a ''base year'' and use that FTE resident number as the cap. An IPF's FTE resident cap would ultimately be determined based on the final settlement of the IPF's most recent cost report filed before November 15, 2004.

Although we are concerned about the accuracy of the information reported in the cost report, including the number of FTE residents reported on Wkst. S–3, Part 1, Column 7, it is, foremost, the hospital's responsibility to report this data accurately. An official of the hospital certifies that the information on all the worksheets in the cost report is correct to the best of his or her knowledge and belief.

Although the instructions for Column 7 of Wkst. S–3, Part I contain an outdated reference to § 412.105(g) (that is, this reference was changed in the Code of Federal Regulations to § 412.105(f) in 1997 but the Wkst. S–3, Part I instructions were not updated accordingly), these instructions specify that the FTE resident count to be reported in Column 7 is determined in accordance with the policies for IME adjustment. We do not believe the redesignation of the relevant regulation should have caused confusion.

If the hospitals believe that the FTE resident counts on the base year cost report are incorrect, they have an option of submitting an amended cost report or requesting a reopening.

Comment: One commenter indicated a discrepancy between the reference to the regulation regarding the base period for determining the IPF's FTE resident in the RY 2007 IPF PPS proposed rule (71 FR 3653) and the reference to that regulation in the current Code of Federal Regulations (CFR). The commenter stated that the RY 2007 IPF PPS proposed rule cited § 412.424(d)(1)(iii)(C) as the relevant regulation, while the current CFR reference can be found at § 412.424(d)(1)(iii)(B)(1).

Response: The existing regulation at § 412.424(d)(1)(iii)(C) implements the FTE resident cap for purposes of the IPF teaching status adjustment. The FTE resident cap is established in the base period as specified in the November 2004 IPF PPS final rule (69 FR 66979), and codified in regulations at § 412.424(d)(1)(iii)(B)(1). The reference in the RY 2007 IPF PPS proposed rule (71 FR 3653) reflects the proposal to redesignate portions of the reference to the teaching status adjustment. In this final rule, we will finalize the reference (and all other changes as proposed) to the base period to be § 412.424(d)(1)(iii)(C) and will replace § 412.424(d)(1)(iii)(B)(1) currently in the CFR.

Comment: One commenter requested clarification about application of the FTE resident cap for those IPFs that begin training residents after November 15, 2004.

Response: As we indicated in the RY 2007 proposed rule, IPFs that did not train interns and residents during the time period of the IPF's most recent cost report filed before November 15, 2005 would receive an FTE cap of ''zero''. As a result, we would not apply a teaching adjustment to claims submitted by the IPF. However, if the IPF (whether it is new or existing) begins training residents in a new medical residency training program after that date, the IPF will begin to receive the teaching adjustment under the IPF PPS in the next cost reporting period based on the FTE intern and resident count in accordance with the policies applicable under the IPPS.

In this case, the FTE resident cap would not be revised until the beginning of the fourth year of the new training program. The cap is set based on a review of the number of interns and residents in each of the first three program years. Before the completion of the third year of the new training program, the actual intern and resident count is reported on the cost report and used for the calculation of the teaching adjustment for the first three years of the new teaching program. After the third year of the new program, we revise the IPF's FTE resident cap to reflect the new training program. The revised cap is calculated by multiplying the highest number of interns and residents in any program year by the number of years in

which residents are expected to complete the program.

For subsequent years, we compare the actual number of interns and residents trained in the IPF that year to the revised FTE resident cap and base the teaching adjustment on the lower number.

Final Rule Action: In summary, we are retaining the coefficient value of 0.5150 for the teaching adjustment. In § 412.402, we are providing a definition for ''new graduate medical education program'' to mean a medical education program that receives initial accreditation by the appropriate accrediting body or begins training residents on or after November 15, 2004.

We are also clarifying at § 412.424(d)(1)(iii)(E) that the teaching adjustment is made on a claim basis as an interim payment, and the final payment in full for the claim is made during the final settlement of the cost report.

4. Cost of Living Adjustment for IPFs Located in Alaska and Hawaii

The IPF PPS includes a payment adjustment for IPFs located in Alaska and Hawaii based upon the county in which the IPF is located. As we explained in the November 2004 IPF PPS final rule, the FY 2002 data demonstrated that IPFs in Alaska and Hawaii had per diem costs that were disproportionately higher than other IPFs. Other Medicare PPSs (for example, IPPS and IRF PPS) have adopted a cost of living adjustment (COLA) to account for the cost differential of care furnished in Alaska and Hawaii. We analyzed the effect of applying a COLA to payments for IPFs located in Alaska and Hawaii. The results of our analysis demonstrated that a COLA for IPFs located in Alaska and Hawaii would improve payment equity for these facilities. As a result of this analysis, we provided a COLA adjustment in the November 2004 IPF PPS final rule. We are also adopting the same COLA adjustment in this final rule.

In general, the COLA accounts for the higher costs in the IPF and eliminates the projected loss that IPFs in Alaska and Hawaii would experience absent the COLA. A COLA factor for IPFs located in Alaska and Hawaii is made by multiplying the non-labor share of the Federal per diem base rate by the applicable COLA factor based on the county in which the IPF is located.

Table 15 below lists the specific COLA for Alaska and Hawaii IPFs. The COLA factors were obtained from the U.S. Office of Personnel Management (OPM). The COLA factors are published on the U.S. Office of Personnel Management (OPM) Web site (*http://www.opm.gov/oca/cola/rates.asp*). As proposed and in this final rule, we are adopting the COLA adjustments obtained from OPM. We will update the COLA factors if OPM updates them and as updated by OPM. Any change in the COLA factors will be made in one of our IPF PPS RY update documents. We are also amending § 412.428 to enable us to update the COLA factors if appropriate.

TABLE 15.—PROPOSED COLA FACTORS FOR ALASKA AND HAWAII IPFS

	Location	COLA
Alaska	All areas	1.25
Hawaii	Honolulu County	1.25
	Hawaii County	1.165
	Kauai County	1.2325
	Maui County	1.2375
	Kalawao County	1.2375

Final Rule Action: In summary, we did not receive any public comments on the proposed COLA for IPFs located in Alaska and Hawaii. We are adopting the COLA adjustments obtained from OPM currently in effect, and as shown in Table 15 above. We will update the COLA factors as updated by OPM. In addition, we are amending § 412.428 to enable us to update the COLA factors, if appropriate.

5. Adjustment for IPFs With a Qualifying Emergency Department (ED)

Currently, the IPF PPS includes a facility-level adjustment for IPFs with qualifying EDs. As explained in the November 2004 IPF PPS final rule, we provide an adjustment to the standardized Federal per diem base rate to account for the costs associated with maintaining a full-service ED. The adjustment is intended to account for ED costs allocated to the hospital's distinct part psychiatric unit for preadmission services otherwise payable under Medicare Part B furnished to a beneficiary during the day immediately preceding the date of admission to the IPF (see § 413.40(c)) and the overhead cost of maintaining the ED. This payment is a facility-level adjustment that applies to all IPF admissions (with the one exception as described below), regardless of whether a particular patient receives preadmission services in the hospital's ED.

The ED adjustment is incorporated into the variable per diem adjustment for the first day of each stay for IPFs with a qualifying ED. That is, IPFs with a qualifying ED receive a 31 percent adjustment as the variable per diem adjustment for day 1 of each stay. If an IPF does not have a qualifying ED, it receives a 19 percent adjustment as the variable per diem adjustment for day 1 of each patient stay.

While any IPF with a qualifying ED receives the adjustment, the adjustment is paid most often to IPFs that are psychiatric units of acute care hospitals or critical access hospitals because these providers are more likely to have an ED that meets the definition of a qualified ED in § 412.424(d)(1)(v). We defined a qualifying ED in order to avoid providing the ED adjustment to an intake unit that is not comparable to a full-service ED with respect to the array of emergency services available or cost. We defined a qualifying ED as one that is staffed and equipped to furnish a comprehensive array of emergency services and that meets the definition of a ''dedicated emergency department'' as specified in § 489.24(b) and the definition of ''provider-based status'' as specified in § 413.65. We intended that a qualifying ED provide a comprehensive array of medical and psychiatric services. In order to clarify that a comprehensive array of emergency services includes medical as well as psychiatric services, we proposed to amend § 412.424(d)(1)(v)(A).

As specified in § 489.24, a dedicated ED means ''any department or facility of the hospital, regardless of whether it is located on or off the main hospital campus, that meets at least one of the following requirements:

- It is licensed by the State in which it is located under applicable State law as an emergency room or emergency department;
- It is held out to the public (by name, posted signs, advertising, or other means) as a place that provides care for emergency medical conditions on an urgent basis without requiring a previously scheduled appointment; or
- During the calendar year immediately preceding the calendar year in which a determination under this section is being made, based on a representative sample of patient visits that occurred during the calendar year, it provides at least one-third of all its outpatient visits for the treatment of emergency medical conditions on an urgent basis without requiring a previously scheduled appointment.''

As specified in § 413.65, provider-based status means ''the relationship between a main provider and a provider-based entity or a department of a provider, remote location of a hospital, or satellite facility that complies with the provisions.'' Including provider-based status in the definition of a qualifying ED reflects the common

ownership of the hospital and the distinct part psychiatric unit.

As discussed in the November 2004 IPF PPS final rule, three steps were involved in the calculation of the ED adjustment factor.

Step 1: We estimated the proportion by which the ED costs of a case would increase the cost of the first day of the stay. Using the IPFs with ED admissions in FY 2002, we divided their average ED cost per stay admitted through the ED ($198) by their average cost per day ($715), which equals 0.28.

Step 2: We adjusted the factor estimated in step 1 to account for the fact that we would pay the higher first day adjustment for all cases in the qualifying IPFs, not just the cases admitted through the ED. Since on average, 44 percent of the cases in IPFs with ED admissions are admitted through the ED, we multiplied 0.28 by 0.44, which equals 0.12.

Step 3: We added the adjusted factor calculated in the previous 2 steps to the variable per diem adjustment derived from the regression equation that we used to derive our other payment adjustment factors. The first day payment factor from this regression is 1.19. Adding the 0.12, we obtained a first day variable per diem adjustment for IPFs with a qualifying ED equal to 1.31.

The ED adjustment is made on every qualifying claim except as described below. As specified in § 412.424(d)(1)(v)(B), the ED adjustment is not made where a patient is discharged from an acute care hospital or CAH and admitted to the same hospital's or CAH's psychiatric unit. An ED adjustment is not made in this case because the costs associated with ED services are reflected in the DRG payment to the acute care hospital or through the reasonable cost payment made to the CAH. As we explained in the November 2004 IPF PPS final rule, if we provided the ED adjustment in these cases, the hospital would be paid twice for the overhead costs of the ED (69 FR 66960).

Therefore, when patients are discharged from an acute care hospital or CAH and admitted to the same hospital's or CAH's psychiatric unit, the IPF receives the 1.19 adjustment factor as the variable per diem adjustment for the first day of the patient's stay in the IPF. We do not intend to conduct a new regression analysis for this IPF PPS update. Rather, we plan to wait until we analyze IPF PPS data. Therefore, we are retaining the 1.31 adjustment factor for IPFs with qualifying EDs for the RY beginning July 1, 2006.

As we indicated in the November 2004 IPF PPS final rule, in FY 2002, one third of the IPFs admissions were through the ED. In the November 2003 IPF proposed rule (68 FR 66920) the percentage of admissions through the ED were understated. We plan to monitor claims data to determine the number of IPF admissions admitted through the ED.

Public comments and our responses on the proposed adjustment for IPFs with qualifying EDs are summarized below:

Comment: A few commenters questioned whether IPFs would have to reapply for the ED adjustment annually. Specifically, commenters asked whether it is necessary to re-submit verification of a qualifying ED each year.

Other commenters asked for clarification as to whether the ED adjustment can still be applied based on the date the attestation letter is received or would the IPFs lose the adjustment for the entire cost reporting year.

Response: We indicated in instructions (Transmittal 384, CR 3541 dated December 1, 2004 and Transmittal 444, CR 3678 dated January 21, 2005) that IPFs should notify their FIs 30 days before the beginning of their cost reporting period regarding if they have a qualifying ED. FIs have the discretion as to how they wish to be notified and as to the type of documentation they require. Once the FI is satisfied that the IPF has a qualifying ED, the FI should enter the information in the provider-specific file within a reasonable timeframe so that the IPF can begin to receive the ED adjustment. This is a one-time verification. Application of the ED adjustment is prospective.

FIs may also use the date the documentation was received from the IPF to implement the ED adjustment. The provider-specific file can be updated from the date of the attestation and claims processed from that date will receive the ED adjustment. We do not intend that IPFs would have to wait until the beginning of their next cost report period to receive the ED adjustment.

However, if an IPF no longer meets the definition of a qualified ED, the IPF must notify their FI. The FI would immediately remove the flag from the provider-specific file and the provider will not receive the ED adjustment. If the provider should once again meet the definition of a qualified ED, they should contact their FI immediately in order to update their file.

Comment: One commenter asked what criteria CMS would use to determine what constitutes a ''comprehensive'' array of medical as well as psychiatric services. In addition, the commenter asked if the criteria are appropriate and would ensure high-quality care for psychiatric patients.

Response: In most cases, the FI would be familiar enough with the providers they service to know if the hospital has a qualifying ED. In those rare cases where the FI does not know whether the hospital's ED meets our definition of a qualifying ED (for example, new IPFs), the FI will establish that the IPF's ED is staffed and equipped to furnish a comprehensive array of emergency services. In response to the comment, we are clarifying in § 412.424(d)(1)(v)(A) that a qualifying ED is staffed and equipped to furnish both medical as well as psychiatric emergency services.

Final Rule Action: We are retaining the 1.31 percent adjustment factor for IPFs with qualifying EDs for the RY 2007.

a. New Source of Admission Code to Implement the ED Adjustment

In order to ensure that the ED adjustment is not paid for patients who are discharged from an acute care hospital or CAH and admitted to the same hospital's or CAH's psychiatric unit, we directed IPFs to enter source of admission code ''4'' (transfers from hospital inpatient) on those claims. The source of admission code is a required field on Medicare claims and indicates the source of the patient admissions. However, as we implemented the IPF PPS, we realized that admission code ''4'' is too broad to distinguish these claims because it reflects transfers from any acute care hospital or CAH. Currently, where admission code ''4'' is entered on a claim, the ED adjustment is not paid, even if the patient is transferred from a different acute hospital or CAH.

In order to pay these IPF claims appropriately, CMS requested a new source of admission code from the National Uniform Billing Committee to identify transfers from the same hospital or CAH. On June 07, 2005, the National Uniform Billing Committee granted our request to establish a new source of admission code to indicate transfers from the same hospital or CAH. The new source of admission code ''D'' is effective April 1, 2006. As proposed and in this final rule, the new code will be used by IPFs to identify IPF patients who have been transferred to the IPF from the same hospital or CAH. Claims with source of admission code ''D'' will not receive the ED adjustment.

Public comments and our response on the proposed new source of admission code to implement the ED adjustment are summarized below:

Comment: Several commenters indicated that CMS should not penalize IPFs if they receive a transfer from the acute care medical-surgical units of the same hospital. A commenter stated that there may only be one hospital with a psychiatric emergency department in a particular area. The commenter believes that to penalize the transfers is unfair; each facility whether it is the ED, surgical unit, medical unit or psychiatric unit is doing their job and should be appropriately compensated.

Response: As stated in the November 2004 final rule and the RY 2007 proposed rule, in § 412.424(d)(1)(v)(B) we specify that the ED adjustment is not made when a patient is discharged from an acute care hospital or CAH and admitted to the same hospital's or CAH's psychiatric unit. The ED adjustment is not made in this case because the costs associated with the ED services are already reflected in the DRG payment paid to the acute care hospital or through the reasonable cost payment made to the CAH. As explained in the November 2004 IPF PPS final rule and in the RY 2007 proposed rule, if we provided the ED adjustment in these cases, the hospital would be paid twice for overhead costs of the ED (see 69 FR 66960 and 71 FR 3641 respectively).

We note that the ED adjustment is a facility-level adjustment, rather than a patient-level adjustment. This facility-level adjustment applies to psychiatric hospitals and acute care hospitals with distinct part units, and CAHs that maintain a qualifying ED. We are providing the adjustment to psychiatric units in acute care hospitals or CAHs, and psychiatric hospitals because the costs of the ED are allocated to all hospital departments, including the psychiatric units. Also, the adjustment is intended to account for ED costs allocated to the distinct part psychiatric unit for preadmission services otherwise payable under Medicare Part B furnished to a beneficiary during the day immediately preceding the date of admission to the IPF and the overhead cost of maintaining the ED.

In order to ensure that Medicare does not pay twice for these types of transfers, we proposed that admission code ''D'' be used by IPFs to identify IPF patients who have been transferred to the IPF from the same hospital or CAH. Claims with source of admission code ''D'' will not receive the ED adjustment.

Final Rule Action: We are finalizing our decision to adopt the new source of admission code ''D''. Claims with source of admission code ''D'' will not receive the ED adjustment.

b. Applicability of the ED Adjustment to IPFs in Critical Access Hospitals

The BBA created the CAH program, designed to represent a separate provider type to provide acute care services in rural areas. Generally, in order to qualify as a CAH, a hospital must—

- Be located in a rural area;
- Provide 24-hour emergency care services;
- Have an average LOS of 96 hours or less;
- Operate up to 25 beds for inpatient critical access care;
- Be located more than 35 miles from a hospital or another CAH or more than 15 miles in mountainous terrain or only secondary roads;
- Or be certified by the State as of December 31, 2005 as being a ''necessary provider'' of health care services to residents in the area.

Section 405(g) of the MMA authorizes CAHs to establish distinct part psychiatric and rehabilitation units of up to 10 beds effective for cost reporting periods beginning on or after October 1, 2004. Services in these units are paid under the payment methodology that would apply if the services were provided in a distinct part psychiatric or rehabilitation unit of a hospital. As a result, IPFs that are distinct part units of CAHs are paid the same as if they were a distinct part unit of a hospital. Otherwise, the CAH is paid on a reasonable cost basis for inpatient critical access services.

In the November 2004 IPF PPS final rule, we amended § 413.70(e) to clarify that payments for services of distinct part psychiatric units in CAHs are made in accordance with the IPF PPS. In order to pay CAHs the same as other IPFs, CAHs would be subject to the 1-day preadmission services bundling provision specified in § 413.40(c)(2) for patients who are admitted to the CAH's IPF. As a result, the cost of preadmission services, including ED services furnished to CAH IPF patients would be allocated to the IPF.

D. Other Payment Adjustments and Policies

The IPF PPS includes the following payment adjustments: (1) An outlier policy to promote access to IPF care for those patients who require expensive care and to limit the financial risk of IPFs treating unusually costly patients; (2) a stop-loss provision, applicable during the transition period, to reduce financial risk to IPFs projected to experience substantial reductions in Medicare payments under the IPF PPS; (3) an interrupted stay policy to avoid overpaying stays that include a brief absence from the IPF followed by readmission to the IPF; and (4) a payment for patients who receive ECT. As proposed, we are updating those policies in this final rule. We are also making clarifications to the physician certification and recertification requirements in order to ensure consistent practices across IPFs. In addition, we are clarifying coverage of recreation therapy.

1. Outlier Payments

In the November 2004 IPF PPS final rule, we implemented regulations at § 412.424(d)(3)(i) to provide a payment adjustment for IPF stays that have extraordinarily high costs. Providing additional payments for outlier cases to IPFs that are beyond the IPF's control strongly improves the accuracy of the IPF PPS in determining resource costs at the patient and facility level because facilities receive additional compensation over and above the adjusted Federal prospective payment amount for uniquely high-cost cases. These additional payments reduce the financial losses that would otherwise be caused by treating patients who require more costly care and, therefore, reduce the incentives to under-serve these patients.

Under the IPF PPS, outlier payments are made on a per case basis rather than on a per diem basis because it is the overall financial ''gain'' or ''loss'' of the case, and not of individual days, that determines an IPF's financial risk. In addition, because patient-level charges (from which costs are estimated) are typically aggregated for the entire IPF stay, they are not reported in a manner that would permit accurate accounting on a daily basis.

Currently, we make outlier payments for discharges in which an IPF's estimated total cost for a case exceeds a fixed dollar loss threshold amount (multiplied by the IPF's facility-level adjustments) plus the Federal per diem payment amount for the case.

In instances when the case qualifies for an outlier payment, we pay 80 percent of the difference between the estimated cost for the case and the adjusted threshold amount for days 1 through 9 of the stay (consistent with the median length of stay for IPFs in FY 2002), and 60 percent of the difference for day 10 and thereafter. We established the 80 percent and 60 percent loss sharing ratios because we were concerned that a single ratio established at 80 percent (like other Medicare hospital PPSs) might provide an incentive under the IPF per diem payment system to increase length of

stay in order to receive additional payments. After establishing the loss sharing ratios, we determined the current fixed dollar loss threshold amount of $5,700 through payment simulations designed to compute a dollar loss beyond which payments are estimated to meet the 2 percent outlier spending target.

a. Update to the Outlier Fixed Dollar Loss Threshold Amount

As indicated in section II.A. of this final rule, in accordance with the update methodology described in § 412.428(d), we are updating the fixed dollar loss threshold amount used under the IPF PPS outlier policy. Based on the regression analysis and payment simulations used to develop the IPF PPS, we established a 2 percent outlier policy to make an appropriate balance between protecting IPFs from extraordinarily costly cases while ensuring the adequacy of the Federal per diem base rate for all other cases that are not outlier cases.

We continue to believe a 2 percent outlier policy is an appropriate target percentage and proposed to retain the 2 percent outlier policy. However, we believe it is necessary to update the fixed dollar loss threshold amount because analysis of the latest available data and rate increases indicates adjusting the fixed dollar loss amount is necessary in order to maintain an outlier percentage that equals 2 percent of total estimated IPF PPS payments. We intend to continue to analyze estimated outlier payments for subsequent years using the best available data in order to maintain estimated outlier payments at 2 percent of total estimated IPF PPS payments.

We have determined that in certain sections of the November 2004 IPF PPS final rule, we used the phrase ''Fixed-dollar loss threshold'' and, in other sections, we used the phrase ''Fixed-dollar loss amount'' to describe the dollar amount by which the costs of a case exceed payment in order to qualify for an outlier payment. In order to avoid confusion regarding these phrases, we are using the term ''fixed-dollar loss threshold amount'' when we are referring to the dollar amount by which the costs of a case exceed payment in order to qualify for an outlier payment.

As a result of this clarification, in § 412.402, we are revising the term ''Fixed dollar loss threshold'' to ''Fixed dollar loss threshold amount.'' We are also making clarifying changes to § 412.424(d)(3)(i) and § 412.424(d)(3)(i)(A) to state that we will provide an outlier payment if an IPF's estimated total cost for a case exceeds a ''fixed dollar loss threshold amount'' plus the total IPF adjusted payment amount for the stay, and that it is the fixed dollar loss threshold amount that is adjusted by the IPF's facility-level adjustments.

Aside from updating the terminology ''fixed dollar loss threshold amount'' and making the conforming changes to the regulation text described above, we did not propose to make any other changes to the outlier policy. Therefore, we will continue to adjust the fixed dollar loss threshold amount by the applicable facility-level payment adjustments and add this amount to the IPF PPS payment amount in order to determine if a case qualifies for an outlier payment. For cases that meet the threshold amount, we will pay 80 percent for days 1 through 9 and 60 percent for day 10 and thereafter.

In the November 2004 IPF PPS final rule, we described the process by which we calculate the outlier fixed dollar loss threshold amount. We will continue to use this process in this final rule. We begin by simulating aggregate payments with and without an outlier policy, and applying an iterative process to a fixed dollar loss amount that will result in outlier payments being equal to 2 percent of total simulated payments under the simulation. Based on this process, we proposed a fixed dollar loss threshold amount of $6200 for RY 2007. In this final rule, we are finalizing this amount. For RY 2007, IPF PPS will use $6200 as the fixed dollar loss threshold amount in the outlier calculation in order to maintain the proposed 2 percent outlier policy.

We note that the simulation analysis used to calculate the $6200 fixed dollar loss threshold amount includes all of the changes to the IPF PPS discussed in this final rule.

Public comments and our responses to changes to the outlier fixed dollar loss threshold amount are summarized below.

Comment: Several commenters requested that CMS use FY 2005 claims data to ensure that the fixed dollar loss threshold amount is correctly set, and if that data are not available, the commenters recommended that CMS keep the threshold at its current level.

Other commenters suggested that since CMS is not making any other changes to the major adjustments, changes should not be made to adjust the fixed dollar loss threshold amount. They felt that an increase in the threshold is unnecessary and might lead to a financial burden on IPFs. One commenter asked how CMS could accurately determine that 2 percent is the best outlier percentage and that the threshold amounts are appropriate.

Response: A complete set of FY 2005 claims data will not be available until later in the year, therefore we will not be able to analyze this data in time for publication of this final rule. It is necessary to update the fixed dollar loss threshold amount because we are increasing the Federal per diem base rate and the ECT payment rate. We are using the best available data to compute the updated fixed dollar loss threshold amount in our payment simulations. As stated above, we believe 2 percent is the optimal outlier percentage because it strikes an appropriate balance between protecting IPFs from extraordinarily costly cases while ensuring the adequacy of the Federal per diem base rate for all other cases that are not outlier cases. In the future, as IPF PPS data becomes available, we can analyze the accuracy of the fixed dollar loss threshold amount.

Comment: Several commenters recommended that CMS provide a detailed description of the methodology used in calculating the fixed dollar loss threshold amount.

Response: We estimate the cost of each case and inflate these costs to RY 2007 dollars in our simulations. We used FY 2002 claims and cost report data to estimate the cost per stay. We calculated these costs by taking routine per diem costs from the cost report (for the routine costs) and by taking departmental charges and cost-to-charge ratios (for the ancillary costs). These are the costs we then inflated to RY 2007 dollars in our payment simulations. We then applied RY 2007 rates and policies in our payment simulations to compute the updated fixed dollar loss threshold amount.

Comment: Several commenters requested that CMS use the same methodology as IPPS to calculate the threshold.

Response: The cost-to-charge ratio applied to charges provides Medicare the most accurate measure of a provider's per-case cost for the purpose of paying for high-cost outlier cases at the point that we process the initial claim. The cost-to-charge ratio is based on the providers' own cost and charge information as reported by the providers. In this final rule, we have applied the cost-to-charge ratios to the reported charges to estimate the cost per case, and inflated the costs to current dollars. In the future, when more recent data is available, we will consider whether using the IPPS methodology of inflating the charges and applying the latest cost-to-charge ratios to estimate the cost per case is an even more accurate method of calculating the threshold amount.

Comment: One commenter suggested that CMS investigate the possibility and legality of carrying over any unused outlier money from year to year.

Response: We have responded to similar comments a number of times in the context of other PPS regulations, ((70 FR 24168), (70 FR 24196 through 24197), (57 FR 39784), (58 FR 46347), (59 FR 45408), (60 FR 45856), (61 FR 27496), (56 FR 43227), and (61 FR 46229 through 46230)). As we have explained before and as explained below, we do not make adjustments to PPS payment rates to account for differences between projected and actual outlier payments in a previous year.

We implemented the IPF PPS outlier policy at § 412.424(d)(3)(i). We set outlier criteria so that outlier payments are projected to equal 2 percent of estimated total IPF PPS payments. In doing so, we use the best available data at the time to make our estimates.

Outlier payments are ''funded'' through a prospective adjustment to the base rate. We do not set money aside into a discrete ''pool'' dedicated solely for outlier payments. Outlier payments are based on estimates. If outlier payments for a given year are greater than projected, we do not recoup money from IPFs; if outlier payments for a given year are lower than projected, we do not make an adjustment to account for the difference. If estimates turn out to be inaccurate, we believe the more appropriate action is to continue to examine the outlier policy and to try to refine the methodology for setting outlier thresholds. Thus, consistent with this approach, for this final rule we are finalizing our decision to update the outlier threshold amount to $6200 for RY 2007 to make estimated outlier payments equal to 2 percent of total estimated IRF PPS payments in RY 2007.

Final Rule Action: In this final rule, we are adopting $6200 as the fixed dollar loss threshold amount for RY 2007.

b. Statistical Accuracy of Cost-to-Charge Ratios

As stated previously, under the IPF PPS, an outlier payment is made if an IPF's cost for a stay exceeds a fixed dollar loss threshold amount. In order to establish an IPF's cost for a particular case, we multiply the IPF's reported charges on the discharge bill by their overall cost to charge ratio (CCR). This approach to determining a provider's cost is consistent with the approach used under the IPPS and other prospective payment systems. In FY 2004, we implemented changes to the IPPS outlier policy used to determine CCRs for acute care hospitals because we became aware that payment vulnerabilities resulted in inappropriate outlier payments. Under the IPPS, we established a statistical measure of accuracy for CCRs in order to ensure that aberrant CCR data did not result in inappropriate outlier payments. As we indicated in the November 2004 IPF PPS final rule, because we believe the IPF outlier policy is susceptible to the same payment vulnerabilities as the IPPS, we adopted an approach to ensure the statistical accuracy of CCRs under the IPF PPS. Therefore, we adopted the following in the November 2004 IPF PPS final rule:

- We calculated two national ceilings, one for IPFs located in rural areas and one for IPFs located in urban areas. We computed the ceilings by first calculating the national average and the standard deviation of the CCR for both urban and rural IPFs.

To determine the rural and urban ceilings, we multiplied each of the standard deviations by 3 and added the result to the appropriate national CCR average (either rural or urban). The upper threshold CCR for IPFs in RY 2007 is 1.7447 for rural IPFs, and 1.7179 for urban IPFs, based upon CBSA-based geographic designations. If an IPF's CCR is above the applicable ceiling, the ratio is considered statistically inaccurate and we assign the appropriate national (either rural or urban) median CCR to the IPF.

Additional information regarding the national median CCRs is included in the November 2004 IPF PPS final rule (69 FR 66961).

- We do not apply the applicable national median CCR when an IPF's CCR falls below a floor. We made this decision because using the national median CCR in place of the provider's actual CCR would overstate the IPF's costs. We are applying the national CCRs to the following situations:

++ New IPFs that have not yet submitted their first Medicare cost report.

++ IPFs whose operating or capital CCR is in excess of 3 standard deviations above the corresponding national geometric mean (that is, above the ceiling).

++ Other IPFs for whom the fiscal intermediary obtains inaccurate or incomplete data with which to calculate either an operating or capital CCR or both.

For new facilities, we are using these national ratios until the facility's actual CCR can be computed using the first tentatively settled or final settled cost report, which will then be used for the subsequent cost report period.

We are not making any changes to the procedures for ensuring the statistical accuracy of CCRs in RY 2007. However, we are updating the national urban and rural CCRs (ceilings and medians) for IPFs for RY 2007 based on the full CY 2005 CCRs entered in the provider-specific file. In addition, we are updating the ceilings and national median CCRs will be based on CBSA-based geographic designations because the CBSAs are the geographic designations we are adopting for purposes of computing the proposed wage index adjustment to IPF payments beginning July 1, 2006. The national CCRs for RY 2007 were estimated to be 0.7100 for rural IPFs and 0.5500 for urban IPFs and will be used in each of the three situations cited above. These estimates were based on the IPF's location (either urban or rural) using the CBSA-based geographic designations.

In this final rule, we are finalizing our decision to update the national urban and rural CCRs (median and ceilings) based on the previous full CYs' provider-specific file. These CCRs will be announced in each year's annual notice of prospective payment rates published in the **Federal Register**. We are adding a new paragraph (g) to § 412.428 to clarify that we intend to update the national urban and rural ceilings and medians as part of the annual update of the IPF PPS and to specify when the national median urban and rural CCRs will be used.

Comment: One commenter asked that a provision be added to the national median CCR policy that an exception to the computed CCR be allowed to be filed with the FI if using the national median CCR overstates the IPF's costs.

Response: CMS believes that the actual CCR reported on the cost report should be used to calculate outlier payments. In the vast majority of cases, the IPF's CCR will be updated within a year, when the next cost report is filed. An interim cost report can be filed for special cases, in which case the updated CCR can be used. However, allowing IPFs to continually submit cost and charge data could create a burden for Fiscal Intermediaries. Finally, if the IPF is dissatisfied with the amount of payment, they can invoke existing appeal rights.

2. Stop-Loss Provision

In the November 2004 IPF PPS final rule, we implemented a stop-loss policy to reduce financial risk for those facilities expected to experience substantial reductions in Medicare payments during the IPF PPS transition period. This stop-loss policy guarantees that each facility receives total IPF PPS

payments that are no less than 70 percent of its TEFRA payments, had the IPF PPS not been implemented.

This policy is applied to the IPF PPS portion of Medicare payments during the 3-year transition. Hence, during year 1, when three-quarters of the payment were based on TEFRA and one-quarter on the IPF PPS; stop loss payments guarantee payments which are at least 70 percent of the TEFRA payments. The resulting 92.5 percent of TEFRA payments in year 1 is the sum of 75 percent and 25 percent times 70 percent.

In year 2, one-half of the payment will be based on TEFRA and one-half on the IPF PPS. In year 3, one-quarter of the payment will be based on TEFRA and three-quarters on the IPF PPS. In year 4 of the IPF PPS, Medicare payments are based 100 percent on the IPF PPS.

The combined effects of the transition and the stop-loss policies will be to ensure that the total estimated IPF PPS payments are no less than 92.5 percent in year 1, 85 percent in year 2, and 77.5 percent in year 3. We are not making any changes to the Stop-Loss provision.

3. Patients Who Receive Electroconvulsive Therapy (ECT)

In developing the IPF PPS, we received numerous public comments recommending that we include a payment adjustment for patients who receive ECT treatments during their IPF stay because furnishing ECT treatment, either directly or under arrangements, adds significantly to the cost of these stays. When we analyzed the FY 2002 MedPAR data, we found that ECT cases comprised about 6 percent of all cases and that almost 95 percent of ECT cases were treated in IPFs that are psychiatric units of acute care hospitals. Even among psychiatric units, ECT cases are concentrated among a relatively small number of facilities. Overall, approximately 450 facilities had cases with ECT. Among these facilities, we estimated the mean number of ECT cases per facility to be approximately 25. In addition, approximately one-half of the IPFs providing ECT had no more than 15 cases in FY 2002.

Our analysis confirmed that cases with ECT are substantially more costly than cases without ECT. We found that on a per case basis, ECT cases are approximately twice as expensive as non-ECT cases ($16,287 compared to $7,684). Most of this difference is due to variation in LOS (20.5 days for ECT cases compared to 11.6 days for non-ECT cases). In addition, the ancillary costs per case for ECT cases are $2,740 higher than those for non-ECT cases.

Although we are able to determine the cost of stays with ECT, we are unable to develop an ECT cost per treatment using the FY 2002 IPF claims data because the claims do not include the number of treatments. As a result, in the November 2004 IPF PPS final rule, we established the following methodology for calculating the IPF PPS ECT payment adjustment.

We established an ECT base rate using the pre-scaled and pre-adjusted median hospital cost for CPT procedure code 90870 used for payment under hospital outpatient PPS (OPPS), based on hospital claims data. The median cost for all OPPS services are posted after publication of the OPPS proposed rule at the following address: *http://www.cms.hhs.gov/hospitaloutpatientPPS*. We used unadjusted hospital claims data under the OPPS, that is, the pre-scaled and pre-adjusted median hospital cost per treatment, to establish the ECT base rate because we did not want the ECT payment under the IPF PPS to be affected by factors that are relevant to OPPS but not specifically applicable to IPFs. The median cost ($311.88) was then standardized and adjusted for budget neutrality, resulting in an ECT payment adjustment of $247.96 per treatment. The ECT base rate is adjusted for wage and COLA differences in the same manner that we adjust the Federal per diem base rate.

In order to receive the payment adjustment, IPFs must indicate on their claims the revenue code for ECT (901), along with the total number of units (ECT treatments) provided to the patient during their IPF stay. In addition, IPFs must include the ICD–9–CM procedure code for ECT (94.27) and the date of the last ECT treatment the patient received.

As we stated in the November 2004 IPF PPS final rule, although we established the ECT adjustment as a distinct payment under the IPF PPS, our preferred approach would be to include a patient level adjustment as a component of the model (for example, determined through the regression analyses) to account for the higher costs associated with ECT (69 FR 66951). We believe the approach will better control incentives towards over-utilization and be more consistent with the approach used for other patient level adjustments under the PPS. During the transition period we expect to collect more data on the number of ECT treatments per stay, and associated costs. We will utilize these data to evaluate alternative approaches for incorporating an adjustment for ECT in the payment system. To the extent that we change the payment methodology, we would propose the change first in a future rulemaking. Although our analysis will continue, we do not plan to redo the regression analysis until we analyze IPF PPS data.

It is important to note that since ECT treatment is a specialized procedure, not all providers are equipped to provide the treatment. Therefore, many patients who need ECT treatment during their IPF stay must be referred to other providers to receive the ECT treatments, and then return to the IPF. In accordance with § 412.404(d)(3), in these cases where the IPF is not able to furnish necessary treatment directly, the IPF would furnish ECT under arrangements with another provider. While a patient is an inpatient of the IPF, the IPF is responsible for all services furnished, including those furnished under arrangements by another provider. As a result, the IPF claim for these cases should reflect the services furnished under arrangements by other providers.

Public comments and our responses on the proposed ECT payment policy are summarized below.

Comment: Several commenters asked why CMS was continuing to adjust the ECT rate by the standardization factor, behavioral offset, stop-loss adjustment, and outlier adjustment when the IPF PPS is no longer budget neutral after the implementation year.

Response: We proposed to treat the ECT rate in a similar manner to the Federal per diem base rate. Specifically, we proposed to adjust the CY 2006 OPPS median rate for ECT by the standardization factor, behavioral offset, stop-loss adjustment, and outlier adjustment in addition to applying the wage index budget neutrality factor. This way, all of the adjustments that are incorporated into the Federal per diem base rate would be incorporated into the ECT rate. However, based on the comments we received, and in order to improve consistency and give more predictability in the ECT rate from year to year, we believe it is more appropriate to use the CY 2005 ECT rate as a base, and then update that amount by the market basket each rate year.

This methodology, we believe, will be even more consistent with the methodology we use to update the Federal per diem base rate because we will use the RPL market basket increase to increase both rates. Exactly as the standardization factor, behavioral offset, stop-loss adjustment, and outlier adjustment are already built into the Federal per diem base rate before we apply the market basket and the wage index budget neutrality factor, the implementation year ECT rate of

$247.96 includes the standardization factor, behavioral offset, stop-loss adjustment, and outlier adjustment. Then, just as we updated the federal per diem base rate, we will then apply the corrected standardization factor (please see section V.B for a discussion of how we adjust this factor on Federal per diem base rate), the market basket increase of 4.3 percent, and the wage index budget neutrality factor of 1.0042 to compute a RY 2007 ECT rate of $256.20.

We will monitor ECT payments and usage under the IPF PPS and the OPPS to ensure that the increased payments for ECT do not lead to changes in the frequency of utilization by reviewing the FY 2005 MedPAR claims data.

Comment: One commenter stated that CMS should ensure that the ECT amount adequately reflects the cost of providing the treatment.

Response: We believe using the CY 2005 median cost for ECT under the OPPS as a basis for our ECT payment rate is the best option at this time to ensure the most appropriate payment for ECT. We will continue to monitor ECT payments as new data become available, and will make changes, if warranted.

Final Rule Action: In summary, we will finalize the update methodology for the ECT rate by using the CY 2005 ECT rate as a base and then updating that amount by the market basket increase each rate year. We will also continue to monitor ECT payments under the IPF PPS and the OPPS.

4. Physician Certification and Recertification Requirements

Since the publication of the November 2004 IPF PPS final rule, we have received inquiries related to physician certification and recertification. It appears that some psychiatric units in acute care hospitals have been following the timeframes that are applicable to the acute care hospital of which they are a part (as specified in § 424.13) rather than those that apply to psychiatric hospitals (as specified in § 424.14).

To eliminate the confusion that we believe may be caused by the titles of § 424.13 and § 424.14 and to ensure consistency in compliance with the requirements among all IPFs, in the RY 2007 proposed rule (71 FR 3616), we proposed to revise the title of § 424.14 from ''Requirements for inpatient services of psychiatric hospitals'' to ''Requirements for inpatient services of inpatient psychiatric facilities.'' In addition, we proposed that for the purposes of payment under the IPF PPS, all IPFs would follow the physician certification and recertification requirements as specified in § 424.14.

In the November 28, 2003 IPF PPS proposed rule (68 FR 66920), we proposed to—(1) amend § 424.14 to state that in recertifying a patient's need for continued inpatient care in an IPF, a physician must indicate that the patient continues to need, on a daily basis, inpatient psychiatric care (furnished directly by or requiring the supervision of IPF personnel) or other professional services that, as a practical matter, can be provided only on an inpatient basis; and (2) revise § 424.14(d) to require that a physician recertify a patient's continued need for inpatient psychiatric care on the 10th day following admission to the IPF rather than the 18th day following admission to the IPF (68 FR 66939).

However, in the November 2004 IPF PPS final rule, we did not include the proposed physician recertification requirement changes because most of the public comments we received on this issue did not support the proposed changes and indicated that there are inconsistencies in the timeframes currently required for IPFs that warranted additional analysis. Instead, we stated that we would continue to require that a physician recertify a patient's continued need for inpatient psychiatric care on the 18th day following admission to the IPF.

Since publication of the November 2004 IPF PPS final rule, we have received additional inquiries related to the physician certification and recertification timeframes that currently apply to IPFs. As noted above, it appears that some psychiatric units in acute care hospitals have continued to follow the timeframes that are applicable to the acute care hospital of which they are a part (as specified in § 424.13) rather than those that apply to psychiatric hospitals (as specified in § 424.14). Section 424.13(d) requires the initial certification no later than as of the 12th day of hospitalization and the first recertification is required no later than as of the 18th day of hospitalization. Section § 424.14(d) requires certification at the time of admission or as soon thereafter as is reasonable and practicable and the first recertification is required as of the 18th day of hospitalization.

In order to clarify requirements and establish further consistency among provider types, for purposes of payment under the IPF PPS, we proposed that all IPFs (distinct part units of acute care hospitals and CAHs and psychiatric hospitals) meet the physician certification and recertification timeframes in § 424.14.

As proposed, we are revising § 424.14(d) to provide that the initial physician certification will be required at the time of admission or as soon thereafter as is reasonable and practicable and the first recertification will be required as of the 12th day of hospitalization. Subsequent recertifications will be required at intervals established by the hospital's UR committee (on a case-by-case basis if desired), but no less frequently then every 30 days.

We chose to propose the 12th day because it is more in line with the median LOS and it is current practice for certification in psychiatric units.

In addition, we received inquiries from FIs requesting guidance on the content requirement of physician certifications at § 424.14(c), relating to the medical necessity of continued inpatient psychiatric care. As a result, we are adding language to clarify that for purposes of payment under the IPF PPS, the physician will also recertify that the patient continues to need, on a daily basis, active treatment furnished directly by or requiring the supervision of inpatient psychiatric facility personnel.

We received several comments related to the various changes we proposed making to the Certification and Plan of Treatment Requirements of § 424.14.

Commenters were silent with respect to our proposed title revision to § 424.14 from ''Requirements for inpatient services of psychiatric hospitals'' to ''Requirements for inpatient services of inpatient psychiatric facilities.'' We are finalizing the title revision for § 424.14 as ''Requirements for inpatient services of inpatient psychiatric facilities.''

Overall, commenters supported making the physician certification requirements consistent among distinct part psychiatric units of acute care hospitals and CAHs and psychiatric hospitals. Therefore, for the purposes of payment under the IPF PPS, we are requiring that all IPFs (distinct part psychiatric units of acute care hospitals and CAHs and psychiatric hospitals) follow the physician certification and recertification requirements as specified in § 424.14.

We received mixed responses from commenters concerning our proposed physician certification and recertification timeframes.

Specific comments and our responses on the proposed changes implementing physician certification and recertification requirements are summarized below.

Comment: One hospital association expressed support for a 12-day recertification requirement, finding it

preferable to 18 days. Other commenters requested the current requirement of 18 days for the initial recertification remain in place, citing added administrative burden since most patients are discharged before the 18th day. A couple of the commenters recommended maintaining the 18-day recertification requirement since it is part of the original language for § 424.14 and further believe it is the established practice in psychiatric hospitals.

Response: When § 424.14(d)(2) was developed in the 1980s, the average LOS for inpatient psychiatric hospitalization was much longer than the current median LOS of 9 days, thereby necessitating a parallel recertification requirement of 18 days, which was reflective of current treatment practice at that time. However, as inpatient psychiatric treatment has evolved with the development of new medications and therapies, so has the average length of inpatient care.

According to the MedPar 2002 claims data, the median LOS for Medicare beneficiaries in IPFs is 9 days. Since the duration of inpatient psychiatric hospitalization stays have shortened, the certification and recertification timeframe and practices need to be updated in order to remain consistent with current practice. Thus, an earlier recertification timeframe is indicated by the shorter LOS for inpatient psychiatric hospitalization. Therefore, we continue to believe that an 18-day recertification requirement is outdated and not reflective of current inpatient psychiatric treatment.

As a result, we are finalizing that for § 424.14(d)(2), the first recertification is required as of the 12th day of hospitalization. Subsequent recertifications will be required at intervals established by the hospital's Utilization Review committee (on a case-by-case basis if desired), but no less frequently then every 30 days.

Comment: In general, commenters were silent concerning our proposal to modify the certification and recertification language of § 424.14(c), relating to the medical necessity of continued inpatient psychiatric care. However, a couple of commenters requested that the language required for certification and recertification remain consistent with § 424.14(b) and § 424.14(c). Another commenter requested clarification on the proposed language requiring ''the physician would recertify that the patient continues to need, on a daily basis* * *''. The commenter questioned whether physicians would need to chart daily in the patient's record that the patient continues to need active treatment.

Response: We proposed only one modification to § 424.14(c), ''Content of recertification'', by adding language requiring that the physician would also recertify that the patient continues to need, on a daily basis, active treatment furnished directly by or requiring the supervision of inpatient psychiatric facility personnel. This means, the patient continues to need daily, active treatment that is furnished directly by or requiring the supervision of inpatient psychiatric facility personnel. To clarify, physician certification and recertification, under § 424.14, are not the same as progress notes. A physician must certify the necessity of the services and, in some instances, recertify the continued need for those services to ensure that Medicare pays only for services of the type appropriate for Medicare coverage. Progress notes, under § 412.27(c)(4), must also be recorded by the patient's physician, in addition to a nurse, social worker, and when appropriate, others significantly involved in active treatment modalities, but are used to document the progress of the patient's treatment, and are more frequent than the certification and recertification timelines. In addition to the purpose of clarifying the recertification content requirements, this modification is consistent with the medical necessity requirement for continued inpatient psychiatric care.

As a result, for purposes of payment under the IPF PPS, the physician would also recertify that the patient continues to need, on a daily basis, active treatment furnished directly by or requiring the supervision of inpatient psychiatric facility personnel.

Final Rule Action: In summary, we are changing the title for § 424.14 from ''Requirements for inpatient services of psychiatric hospitals'' to ''Requirements for inpatient services of inpatient psychiatric facilities.''

In addition, for the purposes of payment under the IPF PPS, we are requiring that all IPFs (distinct part psychiatric units of acute care hospitals and CAHs and psychiatric hospitals) follow the physician certification and recertification requirements as specified in § 424.14.

Furthermore, § 424.14(d)(2) will require the first recertification as of the 12th day of hospitalization. Subsequent recertifications will be required at intervals established by the hospital's UR committee (on a case-by-case basis if desired), but no less frequently than every 30 days.

We are also finalizing the content requirement of physician certifications at § 424.14(c)(iii) by adding the following language, ''the physician will also recertify that the patient continues to need, on a daily basis, active treatment furnished directly by or requiring the supervision of inpatient psychiatric facility personnel.''

5. Provision of Therapeutic Recreation in IPFs

Before the implementation of the IPPS payment methodology, Medicare coverage guidelines gave specific recognition to therapeutic recreation in inpatient psychiatric hospitals. The guidelines in § 3102.1.A of the Medicare Intermediary Manual, Part 3 (MIM–3), and in § 212.1 of the Medicare Hospital Manual (which now appear in the CMS Internet Online Manual at Pub. 100–02, Chapter 2, § 20.1ff.) specifically identify therapeutic recreation as one of the services that can constitute ''active treatment'' in this setting when they are—

- Provided under an individualized treatment or diagnostic plan;
- Reasonably expected to improve the patient's condition or for the purpose of diagnosis; and
- Supervised and evaluated by a physician.

However, these guidelines refer to therapeutic recreation in terms of being an ''adjunctive'' therapy, indicating that even in this setting, it will not independently serve as a patient's sole or primary form of therapeutic treatment, but rather, will be furnished in support of (but subordinate to) some other, primary form of therapy.

When the IPPS was developed in 1983, to the extent that therapeutic recreation and other services had been furnished during the IPPS base period, the bundled IPPS payment for that setting would reflect these costs. However, during the IPPS rulemaking process, we received public comments concerned that, ''the cost-saving incentives of the PPS would lead hospitals paid under the system to stop providing recreational therapy services.'' In response, in the January 3, 1984 IPPS final rule (49 FR 242) we indicated that implementation of the IPPS would not, in fact, prohibit the provision of recreational therapy services, and that ''these services will continue to be covered to the same extent they always have been under existing Medicare policies''.

In implementing the IPPS regulations, we included criteria for identifying certain types of institutions (for example, psychiatric hospitals) that would be excluded from the IPPS and, thus, would continue to be paid under some other methodology. The

regulations also introduced criteria for identifying an IPPS-excluded inpatient psychiatric unit housed within a larger acute-care hospital that would itself be subject to the IPPS. One of these identifying criteria at 42 CFR 405.471(c)(4)(ii)(B) (later recodified at 42 CFR 412.27(b)) was the provision, through the use of qualified personnel, of a number of specified types of services, including psychological services, social work services, psychiatric nursing, occupational therapy, and recreational therapy.

As we explained in the IPPS interim final rule published on September 1, 1983 (48 FR 39758), the regulations designated these particular services because their provision ''is typical of units which treat patients whose characteristics are like those in psychiatric hospitals. Consequently, the provision of these services is an identifier of such a patient population''. We note that the designation of these particular services in this context did not serve to define the scope of their coverage under Medicare, nor to mandate their provision in this setting, but merely to identify them as being characteristic of the type of psychiatric unit that would qualify for exclusion from the IPPS.

At the same time the IPPS was being developed, a parallel evolution was taking place in the certification requirements that facilities must meet in order to participate in the Medicare program: a shift from primarily ''process-oriented'' requirements to more ''outcome-oriented'' requirements, which focus more on direct indicators of the quality of care actually being furnished to the facility's patients (as reflected in the presence of positive results and the absence of negative ones), and less on the specific ''process'' through which the facility achieves the desired outcome.

In order to participate in the Medicare program, psychiatric hospitals not only had to meet the conditions of participation (COPs) that apply to general, acute-care hospitals, but additionally had to meet special conditions related to medical records and staffing. Consistent with the recognition of therapeutic recreation as constituting active treatment in this one particular setting (as discussed above), the original COPs for psychiatric hospitals at 42 CFR 405.1038(g) mandated the presence of qualified therapists, assistants, or aides ''sufficient in number to provide comprehensive therapeutic activities, including at least occupational, recreational and physical therapy, as needed, to assure that appropriate treatment is rendered for each patient, and to establish and maintain a therapeutic milieu.'' Furthermore, 42 CFR 405.1038(g)(3) specified that ''recreational or activity therapy services are available under the direct supervision of a member of the staff who has demonstrated competence in therapeutic recreation programs,'' and § 405.1038(g)(4) and § 405.1038(g)(5) went on to prescribe additional standards regarding therapy assistants or aides and overall staffing for recreational and activity therapy.

However, when the special medical record and staffing COPs for psychiatric hospitals were subsequently recodified at § 482.62(g), the specific references to recreation therapy were deleted and replaced with a more general requirement to provide a therapeutic activities program. In response to public comments that recommended us to restore the deleted requirements, we indicated that we believe that the deleted requirements concerning therapeutic activities were overly and unnecessarily prescriptive and that the hospital should have the flexibility to determine which activities are most appropriate to its patient population and to determine the criteria to be met by employees providing these services. (See the IPPS PPS rule published on June 17, 1986 (51 FR 22032)).

However, when the 1986 COP changes applicable to psychiatric hospitals were made, we inadvertently retained specific references to recreation therapy in § 412.27. Since the intent of § 412.27(b) is to identify services provided in psychiatric units that are characteristic of services furnished in psychiatric hospitals, we believe it is no longer appropriate to include references to specific therapies in § 412.27. Therefore, in order to have consistent requirements among IPFs, in the RY 2007 IPF PPS proposed rule, we proposed removing recreational therapy from § 412.27(b).

We went on to further explain in the RY 2007 IPF PPS proposed rule that in addition to being consistent with current provisions, we believe the IPF PPS base rate which was developed using FY 2002 data, already reflects the provision of recreation therapy.

We received a few public comments concerning our proposal to remove reference to recreational therapy in § 412.27(b). Overall the commenters recommended that we not delete the reference to recreational therapy.

Public comments and our responses on the proposed changes for removing the reference to recreational therapy are summarized below:

Comment: An industry organization suggested that if CMS'; goal is to maintain consistency, CMS should adopt the language as specified in § 482.62 from the COPs for § 412.27(b).

Response: We believe that this commenter raises a valid concern in terms of maintaining consistency. We also agree with the suggestion of applying the same language to both § 482.62 and § 412.27(b), thereby maintaining consistent requirements among IPFs. Since § 482.62 refers to ''therapeutic activities,'' we are revising § 412.27(b), to be consistent with § 482.62, by replacing the reference to recreational and occupational therapy with the term ''therapeutic activities.''

Comment: Several commenters stated that the inclusion of recreational therapy in § 412.27(b), is no more specific than the references included for social work or occupational therapy.

Response: As we indicated in the RY 2007 IPF PPS proposed rule, since the intent of § 412.27(b) is to identify services provided in psychiatric units that are characteristic of services furnished in psychiatric hospitals, we believe it is essential to maintain consistency among the provisions for § 482.62 and § 412.27(b). Therefore, we are removing the reference to both recreational and occupational therapy from § 412.27(b) and replacing them with the more general reference to therapeutic activities which is currently used in § 482.62.

However, we believe it is important to maintain the reference to social work services in § 412.27, since it is currently included in § 482.62.

Comment: One commenter requested that CMS continue to pay for recreational therapy. Other commenters were concerned that if the reference to recreational therapy is removed, people may not know that Medicare has traditionally recognized recreational therapy as an adjunctive therapy in psychiatric facilities.

Response: As we discussed in the RY 2007 IPF PPS proposed rule, we believe the IPF PPS base rate, which was developed using FY 2002 data, reflects the provision of recreation and occupational therapy. Even though we are removing the specific reference to recreation and occupational therapy in § 412.27(b), both recreational and occupational therapy services will continue to be covered to the same extent they always have been under existing Medicare policies.

In addition, although we are removing the specific references to recreational and occupational therapy from § 412.27(b), we want to emphasize that both therapies are, and continue to be,

valuable therapeutic interventions in psychiatric treatment.

Final Rule Action: In summary, for consistency, we are adopting the language as specified in § 482.62 from the COPs for § 412.27(b). Specifically, 412.27(b) will state—''Furnish, through the use of qualified personnel, psychological services, social work services, psychiatric nursing services and therapeutic activities.''

6. Same Day Transfers

Currently, when a transfer, discharge, or death occurs on the same day as an admission to an IPF, the IPF PPS PRICER does not recognize any covered IPF days and the IPF claims are suspended. Based on review of a limited sample of the IPF and subsequent IPPS claims, it appears that many of these patients are first seen in a hospital's ED, are admitted to the hospital's psychiatric unit and, later the same day, determined to be too medically compromised to be managed in the psychiatric unit. This scenario may occur because the patient presents at the ED and is admitted to the psychiatric unit in the middle of the night, and when the patient's admission to the unit is reviewed by a psychiatrist the next morning, the physician determines that the patient should be discharged for acute care. In other cases, a patient may have been admitted to a freestanding psychiatric hospital based on the information furnished by an ED of an acute care hospital. However, after admission, the psychiatric hospital staff evaluates the patient and determines that the patient has medical needs that they are not staffed or equipped to meet.

The Provider Reimbursement Manual addresses the same day transfer issue from the perspective of counting Medicare days for the purpose of Medicare cost reporting. Section 2205 indicates that only full patient days may be used to apportion inpatient routine care service costs and that a day begins at midnight and ends 24 hours later. However, section 2205.1 explains how to count a day if the day of admission and the day of discharge are the same. Section 2205.1 indicates that when a patient is admitted and then transferred from one participating provider to another before midnight of the same day, a day (except for utilization purposes) is counted at both providers. A day of Medicare utilization is charged only for the admission to the second provider. This distinction is important for psychiatric admissions because IPF stays are subject to the 190-day lifetime limit on inpatient psychiatric care.

Section 1812(b) of the Act and 42 CFR 409.62 indicate that payment is not available for inpatient psychiatric hospital services furnished beyond the 190-day lifetime limit. Thus, Medicare coverage of IPF services, specifically IPF services furnished in freestanding psychiatric hospitals is limited to 190 days. In consideration of the limit on coverage of IPF services, where there is a same day transfer between Medicare participating providers, we only count the second admission for utilization purposes. Therefore, the initial admission to the IPF does not count against a beneficiary's lifetime psychiatric services limit.

We have some concerns regarding same day transfers from an IPF. Under TEFRA, a hospital receives its cost up to the hospital's TEFRA limit. The TEFRA limit is based on the hospital's average cost per discharge in a base period. When an admission and discharge occur on the same day, the hospital's cost is unlikely to exceed the TEFRA limit, so the hospital receives its cost for the day. These same day transfers also improve the hospital's payment under TEFRA by slightly reducing its cost per discharge. We are also concerned that when the transfer occurs in the same hospital, this practice circumvents bundling rules under the IPPS, in that it unbundles the ED charges from the IPPS claim and allocates the ED costs to the psychiatric unit even though the patient may have been inappropriately admitted to the unit.

Based on the review of IPF PPS claims we conducted, it did not appear that the admissions to the IPF were medically reasonable and necessary. However, we believe it is important to base a decision regarding coverage of these days on a comprehensive review of the claims. Therefore, in the RY 2007 IPF PPS proposed rule, we did not propose a change in payment policy. However, we did consider several alternative methods for addressing same day transfers under the IPF PPS which are described below. Any change to treatment of same day transfers would be made prospectively.

We could treat these days as covered days under the IPF PPS. However, under the IPF PPS, a 19 percent adjustment to the base rate is applied to day 1 of the stay to reflect the additional administrative and clinical costs associated with admission and the day 1 adjustment is increased to 31 percent when the IPF has a qualifying ED. The IPF may also receive, for example, a teaching adjustment or rural adjustment, for these partial days of care. Several of the claims in our analysis indicate a stay of 2 hours. We are concerned that this approach would overpay IPFs and encourage inappropriate admissions and transfers.

Another option would be to make no PPS payment, but continue making TEFRA payments during the IPF PPS transition period. For example, for cost reporting periods beginning in 2006, IPFs would receive a blended payment consisting of 50 percent PPS and 50 percent TEFRA. Therefore, under this approach we would allow some payment for these days for cost reporting periods in 2006 and 2007, but once the IPF PPS transition period is over, the IPFs would receive no payment for these days. We think this approach would encourage changes in admission practices in order to avoid the need to transfer patients. However, once the IPF PPS transition is over, there would be no payment mechanism to pay IPFs for stays in which there is a circumstance, not reasonably foreseeable by the admitting IPF, for example, a serious change in health status on the day of admission.

We could treat these same day transfer cases as covered days under the IPF PPS but limit payment to the Federal per diem base rate or some other payment amount, for example, half the Federal per diem base rate. This approach would limit payment to IPFs in order to provide an incentive for IPFs to make medical clearance determinations as early in the IPF stay as possible. However, we are concerned that this approach would not lead to changes in admission practices to avoid inappropriate admissions and the need for subsequent transfers.

It is important to note that the cost for these days was included in the cost reports used to develop the IPF PPS, and, as a result, the average cost per day that was used to establish the Federal per diem base rate is higher than it would otherwise have been had those days not been included.

We specifically request public comment from IPFs on this issue to help us to develop a payment policy that pays IPFs appropriately for these days and provides an incentive to avoid same day transfers wherever possible.

Public comments and our responses on the proposed changes for implementing the same day transfers are summarized below.

Comment: We received several comments concerning the issue of an appropriate payment for same day transfers. Many commenters indicated that CMS should conduct a thorough examination of the 2005 claims because they do not believe that same day transfers would be found to be prevalent occurrences. The same commenters also stated that if CMS decides to investigate

other options, the agency should convene the field through an open-door forum or other such venue to discuss the possibilities.

In addition, several commenters requested that when sufficient data is available to fully evaluate same day transfers, CMS should request input from the field before making any changes to current policy. Other commenters also indicated that CMS should continue to reimburse same day transfers as 1-day stays unless it can demonstrate empirically that the cost of the former is sufficiently less than the cost of the latter to justify a partial payment.

Another commenter requested that CMS release a version of the MedPar with relevant information to qualified researchers who would be pleased to conduct an empirical analysis for the agency.

Many commenters supported CMS' instructions for its payment methodology for the suspended IPF PPS same day transfer claims from January 1, 2005. The instructions counted these days as covered for cost reporting purposes if the day of admission and the day of discharge are the same. Other commenters indicated that CMS should not penalize provider's evaluation and treatment efforts, stating that the work was done, therefore providers should be compensated.

Furthermore, commenters support the way section 2205.1 of the Provider Reimbursement Manual instructs FIs to count a day if the day of admission and the day of discharge are the same. The majority of the commenters recommended paying the PPS per diem for these transfers.

Response: We will take all comments into consideration as we develop a payment policy that not only pays appropriately for these days, but will also provide an incentive to avoid same day transfers wherever possible.

Final Rule Action: In summary, we received multiple comments on the same day transfer. We will take all comments into consideration as we develop a payment policy for same day transfers. We will develop the policy for same day transfers in the future, after we analyze IPF PPS data.

VII. Miscellaneous Public Comments Within the Scope of the Proposed Rule

Comment: A commenter requested an inner-city adjustment, indicating that the difficulties of inner-city IPFs are related to a high volume of non-payment in contrast to the more likely rural under use and low volume costs. The commenter suggested a 20 percent adjustment at least, for inner-city IPFs.

Response: We did not include an explicit payment adjustment for inner city facilities in the November 2004 IPF PPS final rule nor did we propose an urban adjustment in the RY 2007 proposed rule. As indicated in the November 2004 IPF PPS final rule (69 FR 66954), we did not include an adjustment for urban IPFs because the regression analysis we conducted did not indicate that urban IPFs were more costly on a per diem basis.

As previously stated, we do not plan to rerun the regression analysis until we analyze IPF PPS data (that is no earlier than FY 2008). When we rerun the regression analysis, we will test for the need for an urban or inner city adjustment.

Comment: A commenter objected to CMS not posting the proposed rule to the CMS Web site until January 18, 2006 while the rule actually went on public display January 13, 2006 and was not published in the **Federal Register** until January 23, 2006. The commenter stated that if CMS chooses to start the comment period based on the date of display, CMS must ensure that the display copy is promptly posted on the Web site to provide interested parties sufficient time to review the rule and draft comments before the comment period ends.

Response: It is our general practice to post **Federal Register** documents on our website as soon as practicable after the documents are on public display at the Office of the Federal Register. When we chose to start the comment period from the day of public display, while we are not required to do so, it was our intent to post the proposed rule on CMS website immediately. However, due to circumstances out of our control, we were unable to immediately do so because our Web site at *http://www.cms.hhs.gov* was being redesigned. However, we did publish a press release on January 13, 2006, announcing the IPF PPS proposed rule went on public display at the **Federal Register** on January 13, 2006 and that it would be published in the **Federal Register** on January 23, 2006. In addition, we posted the rule as soon as was practicable for us to do so, on Wednesday, January 18, 2006.

VIII. Provisions of the Final Rule

This final rule essentially incorporates the provisions of the proposed rule, in which we proposed to update the IPF PPS for RY 2007 applicable to IPF discharges occurring during the RY beginning July 1, 2006 through June 30, 2007. In addition, we proposed to adopt the new OMB labor market area definitions for our geographic classifications. The provisions of this final rule that differ from the proposed rule are as follows.

ECT policy Payment

In the RY 2007 IPF PPS proposed rule, we proposed to update the ECT base rate using the pre-scaled pre-adjusted hospital median cost for ECT used for the CY 2006 update of the OPPS. The median cost would then be standardized, adjusted for budget neutrality, and adjusted for wage and COLA differences in the same manner that we adjust the per diem rate.

However, based on the public comments, we are changing the methodology used for calculating the ECT policy payment rate. In order to improve consistency with our updates to the Federal per diem base rate and provide IPFs more predictability for the ECT rate from year to year, we will use the CY 2005 ECT rate as a base, and then update that amount by the market basket increase each rate year.

Section 412.402 Definition

In § 412.402, we are adding the definition of ''New GME education program'' to mean a medical education program that receives initial accreditation by the appropriate accrediting body or begins training residents on or after November 15, 2004.

Section 412.27 Excluded psychiatric units: Additional requirements.

In § 412.27, we are amending paragraph (b) to remove the specific reference to ''occupational therapy, and recreational therapy.'' We are adding in its place ''therapeutic activities'' in order to maintain consistency with current provisions and since the IPF PPS base rate already reflects the provision of recreational therapy.

Section 412.428 Publication of updates to the inpatient psychiatric facility prospective payment system.

In § 412.428, we are revising paragraph (b)(3) to reflect that the rate of increase factor is revised as of October 1 of each year.

Other Issues

In the Inpatient Prospective Payment System proposed rule, published April 25, 2006 (71 FR 23996), we discussed in detail the Health Care Information Transparency Initiative and our efforts to promote effective use of health information technology (HIT) as a means to help improve health care quality and improve efficiency. Specifically, with regard to the transparency initiative, we discuss several potential options for making

pricing and quality information available to the public (71 FR 24120 through 24121). We solicited comments on ways the Department can encourage transparency in health care quality and pricing whether through its leadership on voluntary initiatives or through regulatory requirements. We also are seeking comment on the Department's statutory authority to impose such requirements.

In addition, we discussed the potential for HIT to facilitate improvements in the quality and efficiency of health care services (71 FR 24100 through 24101). We solicited comments on our statutory authority to encourage the adoption and use of HIT. The 2007 Budget states that ''the Administration supports the adoption of health information technology (IT) as a normal cost of doing business to ensure patients receive high quality care.'' We also are seeking comments on the appropriate role of HIT in potential value-based purchasing program, beyond the intrinsic incentives of a PPS to provide efficient care, encourage the avoidance of unnecessary costs, and increase quality of care. In addition, we are seeking comments on promotion of the use of effective HIT through Medicare conditions of participation.

We intend to consider both the health care information transparency initiative and the use of health information technology as we refine and update all Medicare payment systems. Therefore, while these initiatives are not included in this final rule, we are in the process of seeking input on these initiatives in various proposed Medicare payment rules being issued this year and may pursue these policies in future rulemaking for the IPF PPS.

IX. Collection of Information Requirement

This document does not impose information collection and recordkeeping requirements. Consequently, it need not be reviewed by the Office of Management and Budget under the authority of the Paperwork Reduction Act of 1995.

X. Regulatory Impact Analysis

A. Overall Impact

We have examined the impact of this final rule as required by Executive Order 12866 (September 1993, Regulatory Planning and Review), the Regulatory Flexibility Act (RFA) (September 19, 1980, Pub. L. 96–354), section 1102(b) of the Social Security Act, the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104–4), and Executive Order 13132.

Executive Order 12866 (as amended by Executive Order 13258, which merely reassigns responsibility of duties) directs agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). A regulatory impact analysis (RIA) must be prepared for major rules with economically significant effects ($100 million or more in any 1 year).

Based on the impact analysis, we estimate the expenditures from the IPF PPS implementation year to the 2007 IPF PPS RY will be increased by $160 million. The updates to the IPF labor-related share and wage indices are made in a budget neutral manner and thus have no effect on estimated costs to the Medicare program. Therefore, the estimated increased cost to the Medicare program is the result of a combination of the updated IPF market baskets, which is offset by the transition blend and the revision of the standardization factor. The IPF PPS was budget neutral in the implementation year, but it is not budget neutral in RY 2007. As discussed in section V.B.2 of this final rule, the standardization factor and budget neutrality factors (behavioral offset, stop-loss adjustment, and outlier adjustment) are built into the Federal per diem base rate and the ECT rate. We are increasing these rates by the market basket, resulting in a $160 million increase in payments from the implementation year to RY 2007.

We note that aspects of the transition, including the stop-loss policy and the transition to the 50/50 percent blend in RY 2007 and the transition to the 75/25 percent blend in the 2008 IPF PPS RY, were included in the November 2004 IPF PPS final rule and thus are not incremental to this rule. Nevertheless, it is essential to analyze the impact of the transition blend in order to calculate the increase in cost to the Medicare program.

The impact of the transition blend is an approximately 0.2 percent (about $10 million) decrease in overall payments in RY 2007 and the distribution of that impact is summarized in Table 15. Therefore, the impact attributable to the policy changes finalized in this rulemaking, primarily the market basket update and the standardization correction, is approximately $170 million in the IPF PPS RY 2007.

Since costs to the Medicare program are estimated to be greater than $100 million, this final rule is considered a major economic rule, as defined in 5 U.S.C. 40(2).

The RFA requires agencies to analyze options for regulatory relief of small businesses. For purposes of the RFA, small entities include small businesses, nonprofit organizations, and governmental jurisdictions. Most IPFs and most other providers and suppliers are considered small entities, either by nonprofit status or by having revenues of $6 million to $29 million in any 1 year. (For details, see the Small Business Administration's regulation that set forth size standards for health care industries at (65 FR 69432).)

HHS considers that a substantial number of entities are affected if the rule impacts more than 5 percent of the total number of small entities as it does in this rule. We included all freestanding psychiatric hospitals (79 are non-profit hospitals) in the analysis since their total revenues do not exceed the $29 million threshold. We also included psychiatric units of small hospitals, that is, those hospitals with fewer than 100 beds. We did not include psychiatric units within larger hospitals in the analysis because we believe this final rule would not significantly impact total revenues of the entire hospital that supports the unit. We have provided the following RFA analysis in section V.B to emphasize that, although the final rule will impact a substantial number of IPFs that were identified as small entities, we do not believe it will have a significant economic impact. Based on the analysis of the 1063 psychiatric facilities that were classified as small entities as described above, we estimate the combined impact of the IPF PPS will be a 4.2 percent increase in payments in RY 2007 relative to their payments in the implementation year of the IPF PPS. Based on the information available, we believe that Medicare payments may constitute a small portion of governmental IPFs' revenue stream. We have prepared the impact analysis in section X.B.2 to describe the impact of the final rule in order to provide a factual basis for our conclusions regarding small business impact.

In addition, section 1102(b) of the Act requires us to prepare a regulatory impact analysis if a final rule may have a significant impact on the operations of a substantial number of small rural hospitals. This analysis must conform to the provisions of section 604 of the RFA. With the exception of hospitals located in certain New England counties, for purposes of section 1102(b) of the Act, we previously defined a small rural hospital as a hospital with fewer than 100 beds that is located outside of a Metropolitan Statistical

Area (MSA) or New England County Metropolitan Area (NECMA). However, under the new labor market definitions, we will no longer employ NECMAs to define urban areas in New England. Therefore, for purposes of this analysis, we now define a small rural hospital as a hospital with fewer than 100 beds that is located outside of an MSA. We have determined that this final rule will have a substantial impact on hospitals classified as located in rural areas. As discussed earlier in this preamble, we will continue to provide a payment adjustment of 17 percent for IPFs located in rural areas. In addition, we have established a 3-year transition to the new system to allow IPFs an opportunity to adjust to the new system. Therefore, the impacts shown in Table 15 below reflect the adjustments that are designed to minimize or eliminate any potentially significant negative impact that the IPF PPS may otherwise have on small rural IPFs.

Section 202 of the Unfunded Mandates Reform Act of 1995 also requires that agencies assess anticipated costs and benefits before issuing any final rule whose mandates require spending in any 1 year of $100 million in 1995 dollars, updated annually for inflation. That threshold level is currently approximately $120 million. This final rule will not mandate any requirements for State, local, or tribal governments, nor would it affect private sector costs.

Executive Order 13132 establishes certain requirements that an agency must meet when it promulgates a final rule that imposes substantial direct requirement costs on State and local governments, preempts State law, or otherwise has Federalism implications.

We have reviewed this final rule under the criteria set forth in Executive Order 13132 and have determined that the final rule will not have any substantial impact on the rights, roles, and responsibilities of State, local, or tribal governments.

B. Anticipated Effects of the Final Rule

We discuss below the impact of this final rule on the Federal Medicare budget and on IPFs.

1. Budgetary Impact

As discussed in detail in the IPF PPS proposed rule and summarized in section V.B. of this final rule, we applied a budget neutrality factor to the Federal per diem and ECT base rates to ensure that total payments under the IPF PPS in the implementation period would equal the amount that would have been paid if the IPF PPS had not been implemented. The budget neutrality factor includes the following components: outlier adjustment, stop-loss adjustment, and the behavioral offset. We do not plan to change any of these adjustment factors or projections until we analyze IPF PPS data. In accordance with § 412.424(c)(3)(ii), we will evaluate the accuracy of the budget neutrality adjustment within the first 5 years after implementation of the payment system. We may make a one-time prospective adjustment to the Federal per diem and ECT base rates to account for differences between the historical data on cost-based TEFRA payments (the basis of the budget neutrality adjustment) and estimates of TEFRA payments based on actual data from the first year of the IPF PPS. As part of that process, we will re-assess the accuracy of all of the factors impacting budget neutrality.

In addition, as discussed in section VI.C.1 of this final rule, we are adopting the new CBSAs and labor market share in a budget neutral manner by applying a wage index budget neutrality factor to the Federal per diem and ECT base rates. Thus, the budgetary impact to the Medicare program by the update of the IPF PPS will be the combination of the market basket updates (see section V.C of this final rule), the revision of the standardization factor (see section V.B.3 of this final rule), and the planned update of the payment blend discussed below.

2. Impacts on Providers

To understand the impact of the changes to the IPF PPS discussed in this final rule on providers, it is necessary to compare estimated payments under the IPF PPS rates and factors for the RY 2007 to estimated payments under the IPF PPS rates and factors for the IPF PPS implementation year. The estimated payments for the IPF implementation year are a blend of: 75 percent of the facility-specific TEFRA payment and 25 percent of the IPF PPS payment with stop loss payment. The estimated payments for the IPF PPS RY 2007 are a blend of: 50 percent of the facility-specific TEFRA payment and 50 percent of the IPF PPS payment with stop loss payment. We determined the percent change of estimated 2007 IPF PPS RY payments to estimated IPF PPS implementation year payments for each category of IPFs. In addition, for each category of IPFs, we have included the estimated percent change in payments resulting from the revision of the standardization factor (as discussed in section V.B.3 of this final rule, the ratio of estimated total TEFRA payments to estimated total PPS payments in the implementation year was overestimated and therefore needed to be reduced. We will apply the revised standardization factor prospectively to the Federal per diem base rate and ECT amount), the wage index changes for the IPF PPS RY 2007, the market basket update to IPF PPS payments, and the transition blend for the IPF PPS RY 2007 payment and the facility-specific TEFRA payment.

To illustrate the impacts of the final RY 2007 changes, our analysis begins with an implementation year baseline simulation model based on FY 2002 IPF payments inflated to 2005 with market baskets; the estimated outlier payments in 2005; the estimated stop-loss payments in 2005; the MSA designations for IPFs based on OMB's MSA definitions before June 2003; the 2005 MSA wage index; the implementation year labor-market share; and the implementation year percentage amount of the rural adjustment. During the simulation, the outlier payment is maintained at the target of 2 percent of total PPS payments.

Each of the following changes is added incrementally to this baseline model in order for us to isolate the effects of each change:

- IPF PPS payments adjusted by the revised standardization factor.
- The new CBSAs based on new geographic area definitions announced by OMB in June 2003 and the RY 2007 final budget-neutral labor-related share and wage index adjustment.
- A blended market basket update of 4.5 percent resulting in an update to the hospital-specific TEFRA target amount and an update to the IPF PPS base rates as discussed below.

++ In the IPPS final rule published August 12, 2005 (70 FR 47707), we established an update factor of 3.8 percent effective for cost reporting periods beginning on or after October 1, 2005 using the 2002-based excluded hospital market basket. The 3.8 percent update is applied to the IPF's established TEFRA target amount for cost reporting periods beginning on or after October 1, 2005. However, since the midpoints of the RY 2007 and the IPF PPS implementation period are 15 months apart, the TEFRA payment increase is projected to be 4.6 percent.

++ An update to the Federal per diem base rate of 4.3 percent based on the 2002-based RPL market basket (see section V.C.1.b of this final rule). The market basket update is based on a 15-month time period (from the midpoint of the IPF PPS implementation period to the midpoint of the RY 2007).

- The transition to 50 percent IPF PPS payment and 50 percent facility-specific TEFRA payment.

Our final comparison illustrates the percent change in payments from the IPF PPS implementation year (that is, January 1, 2005 to June 30, 2006) to RY 2007 (that is, July 1, 2006 to June 30, 2007).

TABLE 15.—PROJECTED IMPACTS

Facility by type (1)	Number of facilities (2)	Standardization factor correction (percent) (3)	CBSA wage index and labor share (percent) (4)	Market basket (percent) (5)	Transition blend (percent) (6)	Total (percent) (7)
All Facilities	1,806	−0.3	0.0	4.5	−0.2	4.0
By Type of Ownership:						
Psychiatric Hospitals:						
Government	178	−0.5	0.1	4.5	11.0	15.6
Non-profit	79	−0.4	0.1	4.5	1.6	6.0
For-profit	150	−0.4	0.1	4.5	4.3	8.7
Psychiatric Units	1,399	−0.3	0.0	4.5	−1.8	2.3
Rural	385	−0.3	0.0	4.5	−0.9	3.2
Urban	1,421	−0.3	0.0	4.5	−0.1	4.1
By Urban or Rural Classification:						
Urban by Facility Type:						
Psychiatric Hospitals:						
Government	144	−0.5	0.1	4.5	10.9	15.4
Non-profit	73	−0.4	0.1	4.5	1.7	6.1
For-profit	143	−0.4	0.1	4.5	4.4	8.8
Psychiatric Units	1,061	−0.3	0.0	4.5	−1.7	2.4
Rural by Facility Type:						
Psychiatric Hospitals:						
Government	34	−0.5	−0.1	4.5	12.0	16.3
Non-profit	6	−0.3	0.3	4.5	−0.7	3.9
For-profit	7	−0.2	−0.1	4.5	−1.8	2.4
Psychiatric Units	338	−0.3	0.0	4.5	−2.0	2.1
By Teaching Status:						
Non-teaching	1,537	−0.3	0.0	4.5	−0.4	3.8
Less than 10% interns and residents to beds	148	−0.3	0.1	4.5	0.5	4.7
10% to 30% interns and residents to beds	72	−0.3	0.0	4.5	0.4	4.6
More than 30% interns and residents to beds	49	−0.4	0.1	4.5	0.0	4.3
By Region:						
New England	126	−0.3	0.0	4.5	−0.4	3.8
Mid-Atlantic	306	−0.4	0.2	4.5	2.9	7.3
South Atlantic	238	−0.3	−0.2	4.5	0.1	4.0
East North Central	325	−0.3	−0.1	4.5	−1.5	2.6
East South Central	159	−0.4	−0.1	4.5	−0.3	3.7
West North Central	169	−0.3	−0.2	4.5	−1.0	3.0
West South Central	237	−0.3	−0.1	4.5	−2.7	1.4
Mountain	83	−0.3	−0.1	4.5	−0.4	3.7
Pacific	156	−0.3	0.3	4.5	−0.5	4.0
By Bed Size:						

TABLE 15.—PROJECTED IMPACTS—Continued

Facility by type (1)	Number of facilities (2)	Standardization factor correction (percent) (3)	CBSA wage index and labor share (percent) (4)	Market basket (percent) (5)	Transition blend (percent) (6)	Total (percent) (7)
Psychiatric Hospitals:						
Under 12 beds	26	−0.2	0.1	4.5	−3.8	0.6
12 to 25 beds	46	−0.3	−0.2	4.5	0.2	4.3
25 to 50 beds	91	−0.4	0.1	4.5	4.2	8.6
50 to 75 beds	82	−0.4	0.1	4.5	3.8	8.3
Over 75 beds	162	−0.5	0.1	4.5	8.6	13.0
Psychiatric Units:						
Under 12 beds	600	−0.3	−0.1	4.5	−4.5	−0.5
12 to 25 beds	474	−0.3	0.0	4.5	−1.9	2.2
25 to 50 beds	228	−0.3	0.0	4.5	−0.6	3.5
50 to 75 beds	58	−0.3	0.0	4.5	0.1	4.3
Over 75 beds	39	−0.4	0.0	4.5	1.3	5.5

3. Results

Table 15 above displays the results of our analysis. The table groups IPFs into the categories listed below based on characteristics provided in the Online Survey and Certification and Reporting (OSCAR) file and the FY 2002 cost report data from HCRIS:

- Facility Type
- Location
- Teaching Status Adjustment
- Census Region
- Size

The top row of the table shows the overall impact on the 1,806 IPFs included in the analysis.

In column 3, we present the effects of the revised standardization factor (see section V.B.3 of this final rule for a discussion of this revision). This is defined to be the comparison of the simulated implementation year payments under the revised standardization factor to the simulated implementation year payments under the original standardization factor. In aggregate, the revision is projected to result in a 0.3 percent decrease in overall payments to IPFs. There are small distributional effects among different categories of IPFs. For example, urban and rural government psychiatric hospitals and psychiatric hospitals with over 75 beds will receive the largest decrease of 0.5 percent, while rural for-profit psychiatric hospitals and psychiatric hospitals with fewer than 12 beds will receive the smallest decrease of 0.2 percent.

In column 4, we present the effects of the budget-neutral update to the labor-related share and the wage index adjustment under the new CBSA geographic area definitions announced by OMB in June 2003. This is a comparison of the simulated implementation year payments under revised budget neutral factor and labor-related share and wage index under CBSA classification to the simulated implementation year payments under revised budget neutral factor and labor-related share and wage index under current MSA classifications. There is no projected change in aggregate payments to IPFs, as indicated in the first row of column 4. There would, however, be small distributional effects among different categories of IPFs. For example, several categories of IPFs, such as IPFs located in the South Atlantic and West North Central regions, and psychiatric hospitals with between 12 and 25 beds, will experience a 0.2 percent decrease in payments. Rural non-profit hospitals and hospitals located in the Pacific region will receive the largest increase of 0.3 percent.

In column 5, we present the effects of the market basket update to the IPF PPS payments by applying the TEFRA and PPS updates to payments under revised budget neutral factor and labor-related share and wage index under CBSA classification. In the aggregate this update is projected to be a 4.5 percent increase in overall payments to IPFs. This 4.5 percent reflects the current blend of the 4.6 percent update for IPF TEFRA payments and the 4.3 percent update for the IPF PPS payments.

In column 6, we present the effects of the payment change in transition blend percentages to transition year 2 (TEFRA Rate Percentage = 50 percent, IPF PPS Federal Rate Percentage = 50 percent) from transition year 1 (TEFRA Rate Percentage = 75 percent, IPF PPS Federal Rate Percentage = 25 percent) of the IPF PPS under revised budget neutral factor, labor-related share and wage index under CBSA classification, and TEFRA and PPS updates to RY 2007. The overall aggregate effect, across all hospital groups, is projected to be a 0.2 percent decrease in payments to IPFs. There are distributional effects of these changes among different categories of IPFs. The largest increases will be among government psychiatric hospitals, with rural government hospitals receiving a 12.0 percent increase and urban government hospitals receiving a 10.9 percent increase. Alternatively, psychiatric hospitals and units with fewer than 12 beds will receive the largest decreases of 3.8 percent and 4.5 percent, respectively.

Column 7 compares our estimates of the changes reflected in this final rule for RY 2007, to our estimates of payments in the implementation year

(without these changes). This column reflects all RY 2007 changes relative to the implementation year (as shown in columns 3 through 6). The average increase for all IPFs is approximately 4.0 percent. This increase includes the effects of the market basket updates resulting in a 4.5 percent increase in total RY 2007 payments. It also includes a 0.3 percent decrease in RY 2007 payments for the standardization factor revision and a 0.2 percent decrease in RY 2007 payments for the transition blend.

Overall, the largest payment increase is projected to be among government IPFs. Urban government psychiatric hospitals will receive a 15.4 percent increase and rural government psychiatric hospitals will receive a 16.3 percent increase. Psychiatric hospitals with fewer than 12 beds will receive a 0.6 percent increase and psychiatric units with fewer than 12 beds will receive a 0.5 percent decrease.

4. Effect on the Medicare Program

Based on actuarial projections resulting from our experience with other PPSs, we estimate that Medicare spending (total Medicare program payments) for IPF services over the next 5 years would be as follows:

TABLE 16.—ESTIMATED PAYMENTS

Rate year	Dollars in millions
July 1, 2006 to June 30, 2007	$4,299
July 1, 2007 to June 30, 2008	4,427
July 1, 2008 to June 30, 2009	4,613
July 1, 2009 to June 30, 2010	4,813
July 1, 2010 to June 30, 2011	5,033

These estimates are based on the current estimate of increases in the excluded hospital with capital market basket as follows:

- 3.4 percent for RY 2007;
- 3.1 percent for RY 2008;
- 2.8 percent for RY 2009;
- 2.3 percent for RY 2010; and
- 2.7 percent for RY 2011.

We estimate that there would be a change in fee-for-service Medicare beneficiary enrollment as follows:

- −0.3 percent in RY 2007;
- 0.1 percent in RY 2008;
- 0.2 percent in RY 2009;
- −0.3 percent in RY 2010; and
- −0.2 percent in RY 2011.

In the implementation year we estimated aggregate payments under the IPF PPS to equal the estimated aggregate payments that would be made if the IPF PPS were not implemented. Our methodology for estimating payments for purposes of the budget-neutrality calculations uses the best available data.

We will evaluate the accuracy of the assumptions used to compute the budget-neutrality calculation in the implementation year. We intend to analyze claims and cost report data from the implementation year of the IPF PPS to determine whether the factors used to develop the Federal per diem base rate are not significantly different from the actual results experienced in that year. We plan to compare payments under the final IPF PPS (which relies on an estimate of cost-based TEFRA payments using historical data from a base year and assumptions that trend the data to the initial implementation period) to estimated cost-based TEFRA payments based on actual data from the first year of the IPF PPS. If we find that an adjustment is necessary, the percent difference (either positive or negative) would be applied prospectively to the established prospective payment rates to ensure the rates accurately reflect the payment levels intended by the statute.

Section 124 of Pub. L. 106–113 provides the Secretary broad authority to make an adjustment. We intend to perform this analysis within the first 5 years of the implementation of the IPF PPS.

5. Effect on Beneficiaries

Under the IPF PPS, IPFs will receive payment based on the average resources consumed by patients for each day. We do not expect changes in the quality of care or access to services for Medicare beneficiaries under the IPF PPS. In fact, we believe that access to IPF services will be enhanced due to the patient and facility level adjustment factors, all of which are intended to adequately reimburse IPFs for expensive cases. Finally, the stop-loss policy is intended to assist IPFs during the transition. In addition, we expect that setting payment rates prospectively for IPF services would enhance the efficiency of the Medicare program.

6. Computer Hardware and Software

We do not anticipate that IPFs would incur additional systems operating costs in order to effectively participate in the IPF PPS. We believe that IPFs and CAHs possess the computer hardware capability to handle the billing requirements under the IPF PPS. Our belief is based on indications that approximately 99 percent of hospital inpatient claims are submitted electronically. In addition, we are not adopting significant changes in claims processing.

C. Accounting Statement

As required by OMB Circular A–4 (available at *http://www.whitehouse.gov/omb/circulars/a004/a-4.pdf*), in Table 17 below, we have prepared an accounting statement showing the classification of the expenditures associated with the provisions of this final rule. This table provides our best estimate of the increase in Medicare payments under the IPF PPS as a result of the changes presented in this final rule based on the data for 1,806 IPFs in our database. All expenditures are classified as transfers to Medicare providers (that is, IPFs).

TABLE 17.—ACCOUNTING STATEMENT: CLASSIFICATION OF ESTIMATED EXPENDITURES, FROM THE 2006 IPF PPS RY TO THE 2007 IPF PPS RY

[In millions]

Category	Transfers
Annualized Monetized Transfers.	$170.
From Whom To Whom?.	Federal Government To IPFs Medicare Providers.

D. Alternatives Considered

We considered the following alternatives in developing the update to the IPF PPS:

One option we considered was incorporating a transition from MSA-based labor market definitions to CBSA-based labor market definitions for the purpose of applying the area wage index. As stated in section VI.C.1.e of this final rule, we are not adopting a transition policy here because IPFs are already in a transition from reasonable cost based reimbursement to IPF PPS payments. In addition, as evident in Table 15 above, the wage index change does not appear to have a large impact on IPFs.

We also considered increasing our outlier percentage so that outlier payments would be projected to be 3 percent (or higher) of total PPS payments. However, this approach would not target the truly costly cases. Instead, implementing such a policy would have the effect of lowering the fixed dollar loss threshold amount, therefore spreading outlier payments across more IPFs. In addition, the Federal per diem base rate would have to be reduced by another percentage point.

In this final rule, we used the best available complete data set (that is, FY 2002 claims and cost report data) to assess the impact of the various policy changes. As previously stated, we will not know the true impact of the wage index changes, the transition blend period, or the market basket increases until we analyze IPF PPS data.

We considered alternative policies in order to reduce financial risk to facilities in the event that they experience substantial reductions in Medicare payments during the period of transition to the IPF PPS. The stop-loss adjustment is applied to the IPF PPS portion of Medicare payments during the transition. We estimate that about 10 percent of IPFs would receive additional payments under the stop-loss policy.

The 70 percent of TEFRA stop-loss policy required a reduction in the per diem rate to make the stop-loss policy budget neutral during the implementation year. As a result, in the November 2004 IPF PPS final rule, we made a reduction to the Federal per diem base rate of 0.4 percent for budget neutrality.

In developing this final rule, we again considered an 80 percent stop-loss policy for RY 2007. Adopting an 80 percent policy would require a reduction in the Federal per diem base rate of over 2.5 percent, and we estimate that about 29 percent of IPFs would receive additional payments. We chose to stay with the 70 percent policy for the same reasons discussed in the November 2004 IPF PPS final rule. Specifically, the 70 percent stop-loss policy targets the IPFs that experience the greatest impact relative to current payments, and it limits the size of the reduction to the Federal per diem base rate.

In accordance with the provisions of Executive Order 12866, this rule was previously reviewed by OMB.

List of Subjects

42 CFR Part 412

Administrative practice and procedure, Health facilities, Medicare, Puerto Rico, Reporting and recordkeeping requirements.

42 CFR Part 424

Emergency medical services, Health facilities, Health professions, Medicare, Reporting and recordkeeping requirements.

■ For the reasons set forth in the preamble, the Centers for Medicare & Medicaid Services amends 42 CFR chapter IV as follows:

PART 412—PROSPECTIVE PAYMENT SYSTEMS FOR HOSPITAL SERVICES

■ 1. The authority citation for part 412 is revised to read as follows:

Authority: Secs. 1102 and 1871 of the Social Security Act (42 U.S.C. 1302 and 1395hh), Sec. 124 of Pub. L. 106–113, 113 Stat. 1515, and Sec. 405 of Pub. L. 108–173, 117 Stat. 2266.

■ 2. Amend § 412.27 by revising paragraph (b) to read as follows:

§ 412.27 Excluded psychiatric units: Additional requirements.

* * * * *

(b) Furnish, through the use of qualified personnel, psychological services, social work services, psychiatric nursing, and therapeutic activities.

* * * * *

■ 3. Section 412.402 is amended by—
■ A. Republishing the introductory text.
■ B. Removing the definition of ''Fixed dollar loss threshold.''
■ C. Adding the definitions of ''Fixed dollar loss threshold amount,'' and ''new graduate medical education program'' in alphabetical order.
■ D. Revising the definitions of ''Qualifying emergency department,'' ''Rural area,'' and ''Urban area.''

The revisions and additions read as follows:

§ 412.402 Definitions.

As used in this subpart—

* * * * *

Fixed dollar loss threshold amount means a dollar amount which, when added to the Federal payment amount for a case, the estimated costs of a case must exceed in order for the case to qualify for an outlier payment.

* * * * *

New graduate medical education program means a medical education program that receives initial accreditation by the appropriate accrediting body or begins training residents on or after November 15, 2004.

* * * * *

Qualifying emergency department means an emergency department that is staffed and equipped to furnish a comprehensive array of emergency services and meeting the definitions of a dedicated emergency department as specified in § 489.24(b) of this chapter and the definition of ''provider-based status'' as specified in § 413.65 of this chapter.

Rural area means for cost reporting periods beginning January 1, 2005, with respect to discharges occurring during the period covered by such cost reports but before July 1, 2006, an area as defined in § 412.62(f)(1)(iii). For discharges occurring on or after July 1, 2006, rural area means an area as defined in § 412.64(b)(1)(ii)(C).

Urban area means for cost reporting periods beginning on or after January 1, 2005, with respect to discharges occurring during the period covered by such cost reports but before July 1, 2006, an area as defined in § 412.62(f)(1)(ii). For discharges occurring on or after July 1, 2006, urban area means an area as defined in § 412.64(b)(1)(ii)(A) and § 412.64(b)(1)(ii)(B).

■ 4. Section 412.424 is amended by—
■ A. Revising paragraph (d)(l)(iii).
■ B. Republishing the heading of paragraph (d)(1)(v).
■ C. Revising paragraph (d)(1)(v)(A).
■ D. Adding paragraph (d)(2) introductory text.
■ E. Removing and reserving paragraph (d)(2)(iii).
■ F. Revising paragraphs (d)(3)(i) introductory text and (d)(3)(i)(A).

The revisions and additions read as follows:

§ 412.424 Methodology for calculating the Federal per diem payment amount.

* * * * *

(d) * * *

(1) * * *

(iii) *Teaching adjustment.* CMS adjusts the Federal per diem base rate by a factor to account for indirect teaching costs.

(A) An inpatient psychiatric facility's teaching adjustment is based on the ratio of the number of full-time equivalent residents training in the inpatient psychiatric facility divided by the facility's average daily census.

(B) Residents with less than full-time status and residents rotating through the inpatient psychiatric facility for less than a full year will be counted in proportion to the time they spend in the inpatient psychiatric facility.

(C) Except as described in paragraph (d)(1)(iii)(D) of this section, the actual number of current year full-time equivalent residents used in calculating the teaching adjustment is limited to the number of full-time equivalent residents in the inpatient psychiatric facility's most recently filed cost report filed with its fiscal intermediary before November 15, 2004 (base year).

(D) If the inpatient psychiatric facility first begins training residents in a new approved graduate medical education program after November 15, 2004, the number of full-time equivalent residents determined under paragraph (d)(1)(iii)(C) of this section may be adjusted using the method described in § 413.79(e)(1)(i) and (ii) of this chapter.

(E) The teaching adjustment is made on a claim basis as an interim payment,

and the final payment in full for the claim is made during the final settlement of the cost report.

* * * * *

(v) *Adjustment for IPF with qualifying emergency departments.* (A) CMS adjusts the Federal per diem base rate to account for the costs associated with maintaining a qualifying emergency department. A qualifying emergency department is staffed and equipped to furnish a comprehensive array of emergency services (medical and psychiatric) and meets the requirements of § 489.24(b) and § 413.65 of this chapter.

* * * * *

(2) *Patient-level adjustments.* The inpatient psychiatric facility must identify a principal psychiatric diagnosis as specified in § 412.27(a) for each patient. CMS adjusts the Federal per diem base rate by a factor to account for the diagnosis-related group assignment associated with the principal diagnosis, as specified by CMS.

* * * * *

(3) *Other adjustments.* (i) *Outlier payments.* CMS provides an outlier payment if an inpatient psychiatric facility's estimated total cost for a case exceeds a fixed dollar loss threshold amount for an inpatient psychiatric facility as defined in § 412.402 plus the Federal payment amount for the case.

(A) The fixed dollar loss threshold amount is adjusted for the inpatient psychiatric facility's adjustments for wage area, teaching, rural locations, and cost of living adjustment for facilities located in Alaska and Hawaii.

* * * * *

§ 412.426 [Amended]

■ 5. In § 412.426, paragraph (a) introductory text is amended by removing the reference ''§ 412.424(c)'' and adding the reference ''§ 412.424(d)'' in its place.

■ 6. Section 412.428 is amended by—
■ A. Republishing the introductory text.
■ B. Revising paragraph (b) and (d).
■ C. Adding a new paragraph (g).
■ D. Adding a new paragraph (h).

The revision and additions reads as follows:

§ 412.428 Publication of updates to the inpatient psychiatric facility prospective payment system.

CMS will publish annually in the **Federal Register** information pertaining to updates to the inpatient psychiatric facility prospective payment system. This information includes:

* * * * *

(b)(1) For discharges occurring on or after January 1, 2005 but before July 1, 2006, the rate of increase factor, described in § 412.424(a)(2)(iii), for the Federal portion of the inpatient psychiatric facility's payment is based on the excluded hospital with capital market basket under the update methodology described in section 1886(b)(3)(B)(ii) of the Act for each year.

(2) For discharges occurring on or after July 1, 2006, the rate of increase factor for the Federal portion of the inpatient psychiatric facility's payment is based on the Rehabilitation, Psychiatric, and Long-Term Care (RPL) market basket.

(3) For discharges occurring on or after January 1, 2005 but before October 1, 2005, the rate of increase factor, described in § 412.424(a)(2)(iii), for the reasonable cost portion of the inpatient psychiatric facility's payment is based on the 1997-based excluded hospital market basket under the updated methodology described in section 1886(b)(3)(B)(ii) of the Act for each year.

(4) For discharges occurring on or after October 1, 2005, the rate of increase factor for the reasonable cost portion of the inpatient psychiatric facility's payment is based on the 2002-based excluded hospital market basket.

* * * * *

(d) Updates to the fixed dollar loss threshold amount in order to maintain the appropriate outlier percentage.

* * * * *

(g) Update the national urban and rural cost to charge ratio median and ceilings. CMS will apply the national cost to charge ratio to—

(1) New inpatient psychiatric facilities that have not submitted their first Medicare cost report.

(2) Inpatient psychiatric facilities whose operating or capital cost to charge ratio is in excess of 3 standard deviations above the corresponding national geometric mean.

(3) Other inpatient psychiatric facilities for which the fiscal intermediary obtains inaccurate or incomplete data with which to calculate either an operating or capital cost to charge ratio or both.

(h) Update the cost of living adjustment factor if appropriate.

PART 424—CONDITIONS FOR MEDICARE PAYMENT

■ 7. The authority citation for part 424 continues to read as follows:

Authority: Secs. 1102 and 1871 of the Social Security Act (42 U.S.C. 1302 and 1395hh).

■ 8. Section 424.14 is amended by—
■ A. Revising the heading.
■ B. Adding a new paragraph (c)(3).
■ C. Revising paragraph (d)(2).

The addition and revisions read as follows:

§ 424.14 Requirements for inpatient services of inpatient psychiatric facilities.

* * * * *

(c) * * *

(3) The patient continues to need, on a daily basis, active inpatient psychiatric care (furnished directly by or requiring the supervision of inpatient psychiatric facility personnel) or other professional services that can only be provided on an inpatient basis.

(d) * * *

(2) The first recertification is required as of the 12th day of hospitalization. Subsequent recertifications are required at intervals established by the UR committee (on a case-by-case basis if it so chooses), but no less frequently than every 30 days.

* * * * *

(Catalog of Federal Domestic Assistance Program No. 93.778, Medical Assistance Program)

(Catalog of Federal Domestic Assistance Program No. 93.773, Medicare—Hospital Insurance; and Program No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: April 19, 2006.

Mark B. McClellan,

Administrator, Centers for Medicare & Medicaid Services.

Approved: April 28, 2006.

Michael O. Leavitt,

Secretary.

Addendum A—Rate and Adjustment Factors

PER DIEM RATE

Federal Per Diem Base Rate	$595.09
Labor Share (0.75665)	450.27
Non-Labor Share (0.24335)	144.82

FIXED DOLLAR LOSS THRESHOLD AMOUNT

$6200

FACILITY ADJUSTMENTS

Rural Adjustment Factor.	1.17.
Teaching Adjustment Factor.	0.5150.
Wage Index	Pre-reclass Hospital Wage Index (FY2006).

COST OF LIVING ADJUSTMENTS (COLAS)

Alaska	1.25
Hawaii:	

COST OF LIVING ADJUSTMENTS (COLAS)—Continued

Honolulu County	1.25
Hawaii County	1.165
Kauai County	1.2325
Maui County	1.2375
Kalawao County	1.2375

PATIENT ADJUSTMENTS

ECT—Per Treatment	$256.20

VARIABLE PER DIEM ADJUSTMENTS

	Adjustment factor
Day 1—Facility Without a Qualifying Emergency Department	1.19
Day 1—Facility With a Qualifying Emergency Department	1.31

VARIABLE PER DIEM ADJUSTMENTS—Continued

	Adjustment factor
Day 2	1.12
Day 3	1.08
Day 4	1.05
Day 5	1.04
Day 6	1.02
Day 7	1.01
Day 8	1.01
Day 9	1.00
Day 10	1.00
Day 11	0.99
Day 12	0.99
Day 13	0.99
Day 14	0.99
Day 15	0.98
Day 16	0.97
Day 17	0.97
Day 18	0.96
Day 19	0.95
Day 20	0.95

VARIABLE PER DIEM ADJUSTMENTS—Continued

	Adjustment factor
Day 21	0.95
After Day 21	0.92

AGE ADJUSTMENTS

Age (in years)	Adjustment factor
Under 45	1.00
45 and under 50	1.01
50 and under 55	1.02
55 and under 60	1.04
60 and under 65	1.07
65 and under 70	1.10
70 and under 75	1.13
75 and under 80	1.15
80 and over	1.17

DRG ADJUSTMENTS

DRG	DRG definition	Adjustment factor
DRG 424	O.R. Procedure with Principal Diagnosis of Mental Illness	1.22
DRG 425	Acute Adjustment Reaction & Psychosocial Dysfunction	1.05
DRG 426	Depressive Neurosis	0.99
DRG 427	Neurosis, Except Depressive	1.02
DRG 428	Disorders of Personality & Impulse Control	1.02
DRG 429	Organic Disturbances & Mental Retardation	1.03
DRG 430	Psychosis	1.00
DRG 431	Childhood Mental Disorders	0.99
DRG 432	Other Mental Disorders Diagnoses	0.92
DRG 433	Alcohol/Drug Abuse or Dependence Leave Against Medical Advice (LAMA)	0.97
DRG 521	Alcohol/Drug Abuse or Dependence with Comorbid Conditions	1.02
DRG 522	Alcohol/Drug Abuse or Dependence with Rehabilitation Therapy without Comorbid Conditions	0.98
DRG 523	Alcohol/Drug Abuse or Dependence without Rehabilitation Therapy	0.88
DRG 12	Degenerative Nervous System Disorders without Comorbid Conditions	1.05
DRG 23	Non-traumatic Stupor & Coma	1.07

COMORBIDITY ADJUSTMENTS

Comorbidity	Adjustment factor
Developmental Disabilities	1.04
Coagulation Factor Deficit	1.13
Tracheostomy	1.06
Eating and Conduct Disorders	1.12
Infectious Diseases	1.07
Renal Failure, Acute	1.11
Renal Failure, Chronic	1.11
Oncology Treatment	1.07
Uncontrolled Diabetes Mellitus with or without Complications	1.05

COMORBIDITY ADJUSTMENTS—Continued

Comorbidity	Adjustment factor
Severe Protein Calorie Malnutrition	1.13
Drug/Alcohol Induced Mental Disorders	1.03
Cardiac Conditions	1.11
Gangrene	1.10
Chronic Obstructive Pulmonary Disease	1.12

COMORBIDITY ADJUSTMENTS—Continued

Comorbidity	Adjustment factor
Artificial Openings - Digestive & Urinary	1.08
Severe Musculoskeletal & Connective Tissue Diseases	1.09
Poisoning	1.11

Addendum B—RY 2007 IPF PPS Wage Index Table

SSA State/ County Code	County name	MSA No.	MSA urban/ rural	2006 MSA-based WI	CBSA No.	CBSA urban/ rural	2006 CBSA-based WI
01000	Autauga County, Alabama	5240	Urban	0.8618	33860	Urban	0.8618
01010	Baldwin County, Alabama	5160	Urban	0.7861	99901	Rural	0.7446
01020	Barbour County, Alabama	01	Rural	0.7432	99901	Rural	0.7446
01030	Bibb County, Alabama	01	Rural	0.7432	13820	Urban	0.8959
01040	Blount County, Alabama	1000	Urban	0.9000	13820	Urban	0.8959
01050	Bullock County, Alabama	01	Rural	0.7432	99901	Rural	0.7446
01060	Butler County, Alabama	01	Rural	0.7432	99901	Rural	0.7446
01070	Calhoun County, Alabama	0450	Urban	0.7682	11500	Urban	0.7682

SSA State/ County Code	County name	MSA No.	MSA urban/ rural	2006 MSA-based WI	CBSA No.	CBSA urban/ rural	2006 CBSA-based WI
01080	Chambers County, Alabama	01	Rural	0.7432	99901	Rural	0.7446
01090	Cherokee County, Alabama	01	Rural	0.7432	99901	Rural	0.7446
01100	Chilton County, Alabama	01	Rural	0.7432	13820	Urban	0.8959
01110	Choctaw County, Alabama	01	Rural	0.7432	99901	Rural	0.7446
01120	Clarke County, Alabama	01	Rural	0.7432	99901	Rural	0.7446
01130	Clay County, Alabama	01	Rural	0.7432	99901	Rural	0.7446
01140	Cleburne County, Alabama	01	Rural	0.7432	99901	Rural	0.7446
01150	Coffee County, Alabama	01	Rural	0.7432	99901	Rural	0.7446
01160	Colbert County, Alabama	2650	Urban	0.8272	22520	Urban	0.8272
01170	Conecuh County, Alabama	01	Rural	0.7432	99901	Rural	0.7446
01180	Coosa County, Alabama	01	Rural	0.7432	99901	Rural	0.7446
01190	Covington County, Alabama	01	Rural	0.7432	99901	Rural	0.7446
01200	Crenshaw County, Alabama	01	Rural	0.7432	99901	Rural	0.7446
01210	Cullman County, Alabama	01	Rural	0.7432	99901	Rural	0.7446
01220	Dale County, Alabama	2180	Urban	0.7701	99901	Rural	0.7446
01230	Dallas County, Alabama	01	Rural	0.7432	99901	Rural	0.7446
01240	De Kalb County, Alabama	01	Rural	0.7432	99901	Rural	0.7446
01250	Elmore County, Alabama	5240	Urban	0.8618	33860	Urban	0.8618
01260	Escambia County, Alabama	01	Rural	0.7432	99901	Rural	0.7446
01270	Etowah County, Alabama	2880	Urban	0.7938	23460	Urban	0.7938
01280	Fayette County, Alabama	01	Rural	0.7432	99901	Rural	0.7446
01290	Franklin County, Alabama	01	Rural	0.7432	99901	Rural	0.7446
01300	Geneva County, Alabama	01	Rural	0.7432	20020	Urban	0.7721
01310	Greene County, Alabama	01	Rural	0.7432	46220	Urban	0.8645
01320	Hale County, Alabama	01	Rural	0.7432	46220	Urban	0.8645
01330	Henry County, Alabama	01	Rural	0.7432	20020	Urban	0.7721
01340	Houston County, Alabama	2180	Urban	0.7701	20020	Urban	0.7721
01350	Jackson County, Alabama	01	Rural	0.7432	99901	Rural	0.7446
01360	Jefferson County, Alabama	1000	Urban	0.9000	13820	Urban	0.8959
01370	Lamar County, Alabama	01	Rural	0.7432	99901	Rural	0.7446
01380	Lauderdale County, Alabama	2650	Urban	0.8272	22520	Urban	0.8272
01390	Lawrence County, Alabama	2030	Urban	0.8469	19460	Urban	0.8469
01400	Lee County, Alabama	0580	Urban	0.8100	12220	Urban	0.8100
01410	Limestone County, Alabama	3440	Urban	0.9146	26620	Urban	0.9146
01420	Lowndes County, Alabama	01	Rural	0.7432	33860	Urban	0.8618
01430	Macon County, Alabama	01	Rural	0.7432	99901	Rural	0.7446
01440	Madison County, Alabama	3440	Urban	0.9146	26620	Urban	0.9146
01450	Marengo County, Alabama	01	Rural	0.7432	99901	Rural	0.7446
01460	Marion County, Alabama	01	Rural	0.7432	99901	Rural	0.7446
01470	Marshall County, Alabama	01	Rural	0.7432	99901	Rural	0.7446
01480	Mobile County, Alabama	5160	Urban	0.7861	33660	Urban	0.7891
01490	Monroe County, Alabama	01	Rural	0.7432	99901	Rural	0.7446
01500	Montgomery County, Alabama	5240	Urban	0.8618	33860	Urban	0.8618
01510	Morgan County, Alabama	2030	Urban	0.8469	19460	Urban	0.8469
01520	Perry County, Alabama	01	Rural	0.7432	99901	Rural	0.7446
01530	Pickens County, Alabama	01	Rural	0.7432	99901	Rural	0.7446
01540	Pike County, Alabama	01	Rural	0.7432	99901	Rural	0.7446
01550	Randolph County, Alabama	01	Rural	0.7432	99901	Rural	0.7446
01560	Russell County, Alabama	1800	Urban	0.8560	17980	Urban	0.8560
01570	St Clair County, Alabama	1000	Urban	0.9000	13820	Urban	0.8959
01580	Shelby County, Alabama	1000	Urban	0.9000	13820	Urban	0.8959
01590	Sumter County, Alabama	01	Rural	0.7432	99901	Rural	0.7446
01600	Talladega County, Alabama	01	Rural	0.7432	99901	Rural	0.7446
01610	Tallapoosa County, Alabama	01	Rural	0.7432	99901	Rural	0.7446
01620	Tuscaloosa County, Alabama	8600	Urban	0.8764	46220	Urban	0.8645
01630	Walker County, Alabama	01	Rural	0.7432	13820	Urban	0.8959
01640	Washington County, Alabama	01	Rural	0.7432	99901	Rural	0.7446
01650	Wilcox County, Alabama	01	Rural	0.7432	99901	Rural	0.7446
01660	Winston County, Alabama	01	Rural	0.7432	99901	Rural	0.7446
02013	Aleutians County East, Alaska	02	Rural	1.1888	99902	Rural	1.1977
02016	Aleutians County West, Alaska	02	Rural	1.1888	99902	Rural	1.1977
02020	Anchorage County, Alaska	0380	Urban	1.1784	11260	Urban	1.1895
02030	Angoon County, Alaska	02	Rural	1.1888	99902	Rural	1.1977
02040	Barrow-North Slope County, Alaska	02	Rural	1.1888	99902	Rural	1.1977
02050	Bethel County, Alaska	02	Rural	1.1888	99902	Rural	1.1977
02060	Bristol Bay Borough County, Alaska	02	Rural	1.1888	99902	Rural	1.1977
02068	Denali County, Alaska	02	Rural	1.1888	99902	Rural	1.1977
02070	Bristol Bay County, Alaska	02	Rural	1.1888	99902	Rural	1.1977
02080	Cordova-Mc Carthy County, Alaska	02	Rural	1.1888	99902	Rural	1.1977
02090	Fairbanks County, Alaska	02	Rural	1.1888	21820	Urban	1.1408
02100	Haines County, Alaska	02	Rural	1.1888	99902	Rural	1.1977
02110	Juneau County, Alaska	02	Rural	1.1888	99902	Rural	1.1977

SSA State/ County Code	County name	MSA No.	MSA urban/ rural	2006 MSA-based WI	CBSA No.	CBSA urban/ rural	2006 CBSA-based WI
02120	Kenai-Cook Inlet County, Alaska	02	Rural	1.1888	99902	Rural	1.1977
02122	Kenai Peninsula Borough, Alaska	02	Rural	1.1888	99902	Rural	1.1977
02130	Ketchikan County, Alaska	02	Rural	1.1888	99902	Rural	1.1977
02140	Kobuk County, Alaska	02	Rural	1.1888	99902	Rural	1.1977
02150	Kodiak County, Alaska	02	Rural	1.1888	99902	Rural	1.1977
02160	Kuskokwin County, Alaska	02	Rural	1.1888	99902	Rural	1.1977
02164	Lake and Peninsula Borough, Alaska	02	Rural	1.1888	99902	Rural	1.1977
02170	Matanuska County, Alaska	02	Rural	1.1888	11260	Urban	1.1895
02180	Nome County, Alaska	02	Rural	1.1888	99902	Rural	1.1977
02185	North Slope Borough, Alaska	02	Rural	1.1888	99902	Rural	1.1977
02188	Northwest Arctic Borough, Alaska	02	Rural	1.1888	99902	Rural	1.1977
02190	Outer Ketchikan County, Alaska	02	Rural	1.1888	99902	Rural	1.1977
02200	Prince Of Wales County, Alaska	02	Rural	1.1888	99902	Rural	1.1977
02201	Prince of Wales-Outer Ketchikan Census Area, Alaska	02	Rural	1.1888	99902	Rural	1.1977
02210	Seward County, Alaska	02	Rural	1.1888	99902	Rural	1.1977
02220	Sitka County, Alaska	02	Rural	1.1888	99902	Rural	1.1977
02230	Skagway-Yakutat County, Alaska	02	Rural	1.1888	99902	Rural	1.1977
02231	Skagway-Yakutat-Angoon Census Area, Alaska	02	Rural	1.1888	99902	Rural	1.1977
02232	Skagway-Hoonah-Angoon Census Area, Alaska	02	Rural	1.1888	99902	Rural	1.1977
02240	Southeast Fairbanks County, Alaska	02	Rural	1.1888	99902	Rural	1.1977
02250	Upper Yukon County, Alaska	02	Rural	1.1888	99902	Rural	1.1977
02260	Valdz-Chitna-Whitier County, Alaska	02	Rural	1.1888	99902	Rural	1.1977
02261	Valdex-Cordove Census Area, Alaska	02	Rural	1.1888	99902	Rural	1.1977
02270	Wade Hampton County, Alaska	02	Rural	1.1888	99902	Rural	1.1977
02280	Wrangell-Petersburg County, Alaska	02	Rural	1.1888	99902	Rural	1.1977
02282	Yakutat Borough, Alaska	02	Rural	1.1888	99902	Rural	1.1977
02290	Yukon-Koyukuk County, Alaska	02	Rural	1.1888	99902	Rural	1.1977
03000	Apache County, Arizona	03	Rural	0.9045	99903	Rural	0.8768
03010	Cochise County, Arizona	03	Rural	0.9045	99903	Rural	0.8768
03020	Coconino County, Arizona	2620	Urban	1.1845	22380	Urban	1.2092
03030	Gila County, Arizona	03	Rural	0.9045	99903	Rural	0.8768
03040	Graham County, Arizona	03	Rural	0.9045	99903	Rural	0.8768
03050	Greenlee County, Arizona	03	Rural	0.9045	99903	Rural	0.8768
03055	La Paz County, Arizona	03	Rural	0.9045	99903	Rural	0.8768
03060	Maricopa County, Arizona	6200	Urban	1.0127	38060	Urban	1.0127
03070	Mohave County, Arizona	4120	Urban	1.1155	99903	Rural	0.8768
03080	Navajo County, Arizona	03	Rural	0.9045	99903	Rural	0.8768
03090	Pima County, Arizona	8520	Urban	0.9007	46060	Urban	0.9007
03100	Pinal County, Arizona	6200	Urban	1.0127	38060	Urban	1.0127
03110	Santa Cruz County, Arizona	03	Rural	0.9045	99903	Rural	0.8768
03120	Yavapai County, Arizona	03	Rural	0.9045	39140	Urban	0.9869
03130	Yuma County, Arizona	9360	Urban	0.9126	49740	Urban	0.9126
04000	Arkansas County, Arkansas	04	Rural	0.7744	99904	Rural	0.7466
04010	Ashley County, Arkansas	04	Rural	0.7744	99904	Rural	0.7466
04020	Baxter County, Arkansas	04	Rural	0.7744	99904	Rural	0.7466
04030	Benton County, Arkansas	2580	Urban	0.8661	22220	Urban	0.8661
04040	Boone County, Arkansas	04	Rural	0.7744	99904	Rural	0.7466
04050	Bradley County, Arkansas	04	Rural	0.7744	99904	Rural	0.7466
04060	Calhoun County, Arkansas	04	Rural	0.7744	99904	Rural	0.7466
04070	Carroll County, Arkansas	04	Rural	0.7744	99904	Rural	0.7466
04080	Chicot County, Arkansas	04	Rural	0.7744	99904	Rural	0.7466
04090	Clark County, Arkansas	04	Rural	0.7744	99904	Rural	0.7466
04100	Clay County, Arkansas	04	Rural	0.7744	99904	Rural	0.7466
04110	Cleburne County, Arkansas	04	Rural	0.7744	99904	Rural	0.7466
04120	Cleveland County, Arkansas	04	Rural	0.7744	38220	Urban	0.8680
04130	Columbia County, Arkansas	04	Rural	0.7744	99904	Rural	0.7466
04140	Conway County, Arkansas	04	Rural	0.7744	99904	Rural	0.7466
04150	Craighead County, Arkansas	3700	Urban	0.7911	27860	Urban	0.7911
04160	Crawford County, Arkansas	2720	Urban	0.8246	22900	Urban	0.8230
04170	Crittenden County, Arkansas	4920	Urban	0.9416	32820	Urban	0.9397
04180	Cross County, Arkansas	04	Rural	0.7744	99904	Rural	0.7466
04190	Dallas County, Arkansas	04	Rural	0.7744	99904	Rural	0.7466
04200	Desha County, Arkansas	04	Rural	0.7744	99904	Rural	0.7466
04210	Drew County, Arkansas	04	Rural	0.7744	99904	Rural	0.7466
04220	Faulkner County, Arkansas	4400	Urban	0.8747	30780	Urban	0.8747
04230	Franklin County, Arkansas	04	Rural	0.7744	22900	Urban	0.8230
04240	Fulton County, Arkansas	04	Rural	0.7744	99904	Rural	0.7466
04250	Garland County, Arkansas	04	Rural	0.7744	26300	Urban	0.9005
04260	Grant County, Arkansas	04	Rural	0.7744	30780	Urban	0.8747
04270	Greene County, Arkansas	04	Rural	0.7744	99904	Rural	0.7466
04280	Hempstead County, Arkansas	04	Rural	0.7744	99904	Rural	0.7466
04290	Hot Spring County, Arkansas	04	Rural	0.7744	99904	Rural	0.7466

SSA State/ County Code	County name	MSA No.	MSA urban/ rural	2006 MSA-based WI	CBSA No.	CBSA urban/ rural	2006 CBSA-based WI
04300	Howard County, Arkansas	04	Rural	0.7744	99904	Rural	0.7466
04310	Independence County, Arkansas	04	Rural	0.7744	99904	Rural	0.7466
04320	Izard County, Arkansas	04	Rural	0.7744	99904	Rural	0.7466
04330	Jackson County, Arkansas	04	Rural	0.7744	99904	Rural	0.7466
04340	Jefferson County, Arkansas	6240	Urban	0.8680	38220	Urban	0.8680
04350	Johnson County, Arkansas	04	Rural	0.7744	99904	Rural	0.7466
04360	Lafayette County, Arkansas	04	Rural	0.7744	99904	Rural	0.7466
04370	Lawrence County, Arkansas	04	Rural	0.7744	99904	Rural	0.7466
04380	Lee County, Arkansas	04	Rural	0.7744	99904	Rural	0.7466
04390	Lincoln County, Arkansas	04	Rural	0.7744	38220	Urban	0.8680
04400	Little River County, Arkansas	04	Rural	0.7744	99904	Rural	0.7466
04410	Logan County, Arkansas	04	Rural	0.7744	99904	Rural	0.7466
04420	Lonoke County, Arkansas	4400	Urban	0.8747	30780	Urban	0.8747
04430	Madison County, Arkansas	04	Rural	0.7744	22220	Urban	0.8661
04440	Marion County, Arkansas	04	Rural	0.7744	99904	Rural	0.7466
04450	Miller County, Arkansas	8360	Urban	0.8283	45500	Urban	0.8283
04460	Mississippi County, Arkansas	04	Rural	0.7744	99904	Rural	0.7466
04470	Monroe County, Arkansas	04	Rural	0.7744	99904	Rural	0.7466
04480	Montgomery County, Arkansas	04	Rural	0.7744	99904	Rural	0.7466
04490	Nevada County, Arkansas	04	Rural	0.7744	99904	Rural	0.7466
04500	Newton County, Arkansas	04	Rural	0.7744	99904	Rural	0.7466
04510	Ouachita County, Arkansas	04	Rural	0.7744	99904	Rural	0.7466
04520	Perry County, Arkansas	04	Rural	0.7744	30780	Urban	0.8747
04530	Phillips County, Arkansas	04	Rural	0.7744	99904	Rural	0.7466
04540	Pike County, Arkansas	04	Rural	0.7744	99904	Rural	0.7466
04550	Poinsett County, Arkansas	04	Rural	0.7744	27860	Urban	0.7911
04560	Polk County, Arkansas	04	Rural	0.7744	99904	Rural	0.7466
04570	Pope County, Arkansas	04	Rural	0.7744	99904	Rural	0.7466
04580	Prairie County, Arkansas	04	Rural	0.7744	99904	Rural	0.7466
04590	Pulaski County, Arkansas	4400	Urban	0.8747	30780	Urban	0.8747
04600	Randolph County, Arkansas	04	Rural	0.7744	99904	Rural	0.7466
04610	St Francis County, Arkansas	04	Rural	0.7744	99904	Rural	0.7466
04620	Saline County, Arkansas	4400	Urban	0.8747	30780	Urban	0.8747
04630	Scott County, Arkansas	04	Rural	0.7744	99904	Rural	0.7466
04640	Searcy County, Arkansas	04	Rural	0.7744	99904	Rural	0.7466
04650	Sebastian County, Arkansas	2720	Urban	0.8246	22900	Urban	0.8230
04660	Sevier County, Arkansas	04	Rural	0.7744	99904	Rural	0.7466
04670	Sharp County, Arkansas	04	Rural	0.7744	99904	Rural	0.7466
04680	Stone County, Arkansas	04	Rural	0.7744	99904	Rural	0.7466
04690	Union County, Arkansas	04	Rural	0.7744	99904	Rural	0.7466
04700	Van Buren County, Arkansas	04	Rural	0.7744	99904	Rural	0.7466
04710	Washington County, Arkansas	2580	Urban	0.8661	22220	Urban	0.8661
04720	White County, Arkansas	04	Rural	0.7744	99904	Rural	0.7466
04730	Woodruff County, Arkansas	04	Rural	0.7744	99904	Rural	0.7466
04740	Yell County, Arkansas	04	Rural	0.7744	99904	Rural	0.7466
05000	Alameda County, California	5775	Urban	1.5346	36084	Urban	1.5346
05010	Alpine County, California	05	Rural	1.0775	99905	Rural	1.1054
05020	Amador County, California	05	Rural	1.0775	99905	Rural	1.1054
05030	Butte County, California	1620	Urban	1.0511	17020	Urban	1.0511
05040	Calaveras County, California	05	Rural	1.0775	99905	Rural	1.1054
05050	Colusa County, California	05	Rural	1.0775	99905	Rural	1.1054
05060	Contra Costa County, California	5775	Urban	1.5346	36084	Urban	1.5346
05070	Del Norte County, California	05	Rural	1.0775	99905	Rural	1.1054
05080	Eldorado County, California	6920	Urban	1.3143	40900	Urban	1.2969
05090	Fresno County, California	2840	Urban	1.0428	23420	Urban	1.0538
05100	Glenn County, California	05	Rural	1.0775	99905	Rural	1.1054
05110	Humboldt County, California	05	Rural	1.0775	99905	Rural	1.1054
05120	Imperial County, California	05	Rural	1.0775	20940	Urban	0.8906
05130	Inyo County, California	05	Rural	1.0775	99905	Rural	1.1054
05140	Kern County, California	0680	Urban	1.0470	12540	Urban	1.0470
05150	Kings County, California	05	Rural	1.0775	25260	Urban	1.0036
05160	Lake County, California	05	Rural	1.0775	99905	Rural	1.1054
05170	Lassen County, California	05	Rural	1.0775	99905	Rural	1.1054
05200	Los Angeles County, California	4480	Urban	1.1783	31084	Urban	1.1783
05210	Los Angeles County, California	4480	Urban	1.1783	31084	Urban	1.1783
05300	Madera County, California	2840	Urban	1.0428	31460	Urban	0.8713
05310	Marin County, California	7360	Urban	1.4994	41884	Urban	1.4994
05320	Mariposa County, California	05	Rural	1.0775	99905	Rural	1.1054
05330	Mendocino County, California	05	Rural	1.0775	99905	Rural	1.1054
05340	Merced County, California	4940	Urban	1.1109	32900	Urban	1.1109
05350	Modoc County, California	05	Rural	1.0775	99905	Rural	1.1054
05360	Mono County, California	05	Rural	1.0775	99905	Rural	1.1054

SSA State/ County Code	County name	MSA No.	MSA urban/ rural	2006 MSA-based WI	CBSA No.	CBSA urban/ rural	2006 CBSA-based WI
05370	Monterey County, California	7120	Urban	1.4128	41500	Urban	1.4128
05380	Napa County, California	8720	Urban	1.3983	34900	Urban	1.2643
05390	Nevada County, California	05	Rural	1.0775	99905	Rural	1.1054
05400	Orange County, California	5945	Urban	1.1559	42044	Urban	1.1559
05410	Placer County, California	6920	Urban	1.3143	40900	Urban	1.2969
05420	Plumas County, California	05	Rural	1.0775	99905	Rural	1.1054
05430	Riverside County, California	6780	Urban	1.1027	40140	Urban	1.1027
05440	Sacramento County, California	6920	Urban	1.3143	40900	Urban	1.2969
05450	San Benito County, California	05	Rural	1.0775	41940	Urban	1.5099
05460	San Bernardino County, California	6780	Urban	1.1027	40140	Urban	1.1027
05470	San Diego County, California	7320	Urban	1.1413	41740	Urban	1.1413
05480	San Francisco County, California	7360	Urban	1.4994	41884	Urban	1.4994
05490	San Joaquin County, California	8120	Urban	1.1307	44700	Urban	1.1307
05500	San Luis Obispo County, California	7460	Urban	1.1349	42020	Urban	1.1349
05510	San Mateo County, California	7360	Urban	1.4994	41884	Urban	1.4994
05520	Santa Barbara County, California	7480	Urban	1.1694	42060	Urban	1.1694
05530	Santa Clara County, California	7400	Urban	1.5118	41940	Urban	1.5099
05540	Santa Cruz County, California	7485	Urban	1.5166	42100	Urban	1.5166
05550	Shasta County, California	6690	Urban	1.2203	39820	Urban	1.2203
05560	Sierra County, California	05	Rural	1.0775	99905	Rural	1.1054
05570	Siskiyou County, California	05	Rural	1.0775	99905	Rural	1.1054
05580	Solano County, California	8720	Urban	1.3983	46700	Urban	1.4936
05590	Sonoma County, California	7500	Urban	1.3493	42220	Urban	1.3493
05600	Stanislaus County, California	5170	Urban	1.1885	33700	Urban	1.1885
05610	Sutter County, California	9340	Urban	1.0921	49700	Urban	1.0921
05620	Tehama County, California	05	Rural	1.0775	99905	Rural	1.1054
05630	Trinity County, California	05	Rural	1.0775	99905	Rural	1.1054
05640	Tulare County, California	8780	Urban	1.0123	47300	Urban	1.0123
05650	Tuolumne County, California	05	Rural	1.0775	99905	Rural	1.1054
05660	Ventura County, California	8735	Urban	1.1622	37100	Urban	1.1622
05670	Yolo County, California	9270	Urban	0.9950	40900	Urban	1.2969
05680	Yuba County, California	9340	Urban	1.0921	49700	Urban	1.0921
06000	Adams County, Colorado	2080	Urban	1.0723	19740	Urban	1.0723
06010	Alamosa County, Colorado	06	Rural	0.9380	99906	Rural	0.9380
06020	Arapahoe County, Colorado	2080	Urban	1.0723	19740	Urban	1.0723
06030	Archuleta County, Colorado	06	Rural	0.9380	99906	Rural	0.9380
06040	Baca County, Colorado	06	Rural	0.9380	99906	Rural	0.9380
06050	Bent County, Colorado	06	Rural	0.9380	99906	Rural	0.9380
06060	Boulder County, Colorado	1125	Urban	0.9734	14500	Urban	0.9734
06070	Chaffee County, Colorado	06	Rural	0.9380	99906	Rural	0.9380
06080	Cheyenne County, Colorado	06	Rural	0.9380	99906	Rural	0.9380
06090	Clear Creek County, Colorado	06	Rural	0.9380	19740	Urban	1.0723
06100	Conejos County, Colorado	06	Rural	0.9380	99906	Rural	0.9380
06110	Costilla County, Colorado	06	Rural	0.9380	99906	Rural	0.9380
06120	Crowley County, Colorado	06	Rural	0.9380	99906	Rural	0.9380
06130	Custer County, Colorado	06	Rural	0.9380	99906	Rural	0.9380
06140	Delta County, Colorado	06	Rural	0.9380	99906	Rural	0.9380
06150	Denver County, Colorado	2080	Urban	1.0723	19740	Urban	1.0723
06160	Dolores County, Colorado	06	Rural	0.9380	99906	Rural	0.9380
06170	Douglas County, Colorado	2080	Urban	1.0723	19740	Urban	1.0723
06180	Eagle County, Colorado	06	Rural	0.9380	99906	Rural	0.9380
06190	Elbert County, Colorado	06	Rural	0.9380	19740	Urban	1.0723
06200	El Paso County, Colorado	1720	Urban	0.9468	17820	Urban	0.9468
06210	Fremont County, Colorado	06	Rural	0.9380	99906	Rural	0.9380
06220	Garfield County, Colorado	06	Rural	0.9380	99906	Rural	0.9380
06230	Gilpin County, Colorado	06	Rural	0.9380	19740	Urban	1.0723
06240	Grand County, Colorado	06	Rural	0.9380	99906	Rural	0.9380
06250	Gunnison County, Colorado	06	Rural	0.9380	99906	Rural	0.9380
06260	Hinsdale County, Colorado	06	Rural	0.9380	99906	Rural	0.9380
06270	Huerfano County, Colorado	06	Rural	0.9380	99906	Rural	0.9380
06280	Jackson County, Colorado	06	Rural	0.9380	99906	Rural	0.9380
06290	Jefferson County, Colorado	2080	Urban	1.0723	19740	Urban	1.0723
06300	Kiowa County, Colorado	06	Rural	0.9380	99906	Rural	0.9380
06310	Kit Carson County, Colorado	06	Rural	0.9380	99906	Rural	0.9380
06320	Lake County, Colorado	06	Rural	0.9380	99906	Rural	0.9380
06330	La Plata County, Colorado	06	Rural	0.9380	99906	Rural	0.9380
06340	Larimer County, Colorado	2670	Urban	1.0122	22660	Urban	1.0122
06350	Las Animas County, Colorado	06	Rural	0.9380	99906	Rural	0.9380
06360	Lincoln County, Colorado	06	Rural	0.9380	99906	Rural	0.9380
06370	Logan County, Colorado	06	Rural	0.9380	99906	Rural	0.9380
06380	Mesa County, Colorado	2995	Urban	0.9550	24300	Urban	0.9550
06390	Mineral County, Colorado	06	Rural	0.9380	99906	Rural	0.9380

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06400	Moffat County, Colorado	06	Rural	0.9380	99906	Rural	0.9380
06410	Montezuma County, Colorado	06	Rural	0.9380	99906	Rural	0.9380
06420	Montrose County, Colorado	06	Rural	0.9380	99906	Rural	0.9380
06430	Morgan County, Colorado	06	Rural	0.9380	99906	Rural	0.9380
06440	Otero County, Colorado	06	Rural	0.9380	99906	Rural	0.9380
06450	Ouray County, Colorado	06	Rural	0.9380	99906	Rural	0.9380
06460	Park County, Colorado	06	Rural	0.9380	19740	Urban	1.0723
06470	Phillips County, Colorado	06	Rural	0.9380	99906	Rural	0.9380
06480	Pitkin County, Colorado	06	Rural	0.9380	99906	Rural	0.9380
06490	Prowers County, Colorado	06	Rural	0.9380	99906	Rural	0.9380
06500	Pueblo County, Colorado	6560	Urban	0.8623	39380	Urban	0.8623
06510	Rio Blanco County, Colorado	06	Rural	0.9380	99906	Rural	0.9380
06520	Rio Grande County, Colorado	06	Rural	0.9380	99906	Rural	0.9380
06530	Routt County, Colorado	06	Rural	0.9380	99906	Rural	0.9380
06540	Saguache County, Colorado	06	Rural	0.9380	99906	Rural	0.9380
06550	San Juan County, Colorado	06	Rural	0.9380	99906	Rural	0.9380
06560	San Miguel County, Colorado	06	Rural	0.9380	99906	Rural	0.9380
06570	Sedgwick County, Colorado	06	Rural	0.9380	99906	Rural	0.9380
06580	Summit County, Colorado	06	Rural	0.9380	99906	Rural	0.9380
06590	Teller County, Colorado	06	Rural	0.9380	17820	Urban	0.9468
06600	Washington County, Colorado	06	Rural	0.9380	99906	Rural	0.9380
06610	Weld County, Colorado	3060	Urban	0.9570	24540	Urban	0.9570
06620	Yuma County, Colorado	06	Rural	0.9380	99906	Rural	0.9380
06630	Broomfield County, Colorado	2080	Urban	1.0723	19740	Urban	1.0723
07000	Fairfield County, Connecticut	5483	Urban	1.2196	14860	Urban	1.2592
07010	Hartford County, Connecticut	3283	Urban	1.1073	25540	Urban	1.1073
07020	Litchfield County, Connecticut	3283	Urban	1.1073	25540	Urban	1.1073
07030	Middlesex County, Connecticut	3283	Urban	1.1073	25540	Urban	1.1073
07040	New Haven County, Connecticut	5483	Urban	1.2196	35300	Urban	1.1887
07050	New London County, Connecticut	5523	Urban	1.1345	35980	Urban	1.1345
07060	Tolland County, Connecticut	3283	Urban	1.1073	25540	Urban	1.1073
07070	Windham County, Connecticut	07	Rural	1.1730	99907	Rural	1.1730
08000	Kent County, Delaware	2190	Urban	0.9776	20100	Urban	0.9776
08010	New Castle County, Delaware	9160	Urban	1.0527	48864	Urban	1.0471
08020	Sussex County, Delaware	08	Rural	0.9579	99908	Rural	0.9579
09000	Washington Dc County, Dist Of Col	8840	Urban	1.0976	47894	Urban	1.0926
10000	Alachua County, Florida	2900	Urban	0.9388	23540	Urban	0.9388
10010	Baker County, Florida	10	Rural	0.8677	27260	Urban	0.9290
10020	Bay County, Florida	6015	Urban	0.8005	37460	Urban	0.8005
10030	Bradford County, Florida	10	Rural	0.8677	99910	Rural	0.8568
10040	Brevard County, Florida	4900	Urban	0.9839	37340	Urban	0.9839
10050	Broward County, Florida	2680	Urban	1.0432	22744	Urban	1.0432
10060	Calhoun County, Florida	10	Rural	0.8677	99910	Rural	0.8568
10070	Charlotte County, Florida	6580	Urban	0.9255	39460	Urban	0.9255
10080	Citrus County, Florida	10	Rural	0.8677	99910	Rural	0.8568
10090	Clay County, Florida	3600	Urban	0.9299	27260	Urban	0.9290
10100	Collier County, Florida	5345	Urban	1.0139	34940	Urban	1.0139
10110	Columbia County, Florida	10	Rural	0.8677	99910	Rural	0.8568
10120	Dade County, Florida	5000	Urban	0.9750	33124	Urban	0.9750
10130	De Soto County, Florida	10	Rural	0.8677	99910	Rural	0.8568
10140	Dixie County, Florida	10	Rural	0.8677	99910	Rural	0.8568
10150	Duval County, Florida	3600	Urban	0.9299	27260	Urban	0.9290
10160	Escambia County, Florida	6080	Urban	0.8096	37860	Urban	0.8096
10170	Flagler County, Florida	2020	Urban	0.9325	99910	Rural	0.8568
10180	Franklin County, Florida	10	Rural	0.8677	99910	Rural	0.8568
10190	Gadsden County, Florida	8240	Urban	0.8688	45220	Urban	0.8688
10200	Gilchrist County, Florida	10	Rural	0.8677	23540	Urban	0.9388
10210	Glades County, Florida	10	Rural	0.8677	99910	Rural	0.8568
10220	Gulf County, Florida	10	Rural	0.8677	99910	Rural	0.8568
10230	Hamilton County, Florida	10	Rural	0.8677	99910	Rural	0.8568
10240	Hardee County, Florida	10	Rural	0.8677	99910	Rural	0.8568
10250	Hendry County, Florida	10	Rural	0.8677	99910	Rural	0.8568
10260	Hernando County, Florida	8280	Urban	0.9233	45300	Urban	0.9233
10270	Highlands County, Florida	10	Rural	0.8677	99910	Rural	0.8568
10280	Hillsborough County, Florida	8280	Urban	0.9233	45300	Urban	0.9233
10290	Holmes County, Florida	10	Rural	0.8677	99910	Rural	0.8568
10300	Indian River County, Florida	10	Rural	0.8677	42680	Urban	0.9434
10310	Jackson County, Florida	10	Rural	0.8677	99910	Rural	0.8568
10320	Jefferson County, Florida	10	Rural	0.8677	45220	Urban	0.8688
10330	Lafayette County, Florida	10	Rural	0.8677	99910	Rural	0.8568
10340	Lake County, Florida	5960	Urban	0.9464	36740	Urban	0.9464
10350	Lee County, Florida	2700	Urban	0.9356	15980	Urban	0.9356

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10360	Leon County, Florida	8240	Urban	0.8688	45220	Urban	0.8688
10370	Levy County, Florida	10	Rural	0.8677	99910	Rural	0.8568
10380	Liberty County, Florida	10	Rural	0.8677	99910	Rural	0.8568
10390	Madison County, Florida	10	Rural	0.8677	99910	Rural	0.8568
10400	Manatee County, Florida	7510	Urban	0.9639	42260	Urban	0.9639
10410	Marion County, Florida	5790	Urban	0.8925	36100	Urban	0.8925
10420	Martin County, Florida	2710	Urban	1.0123	38940	Urban	1.0123
10430	Monroe County, Florida	10	Rural	0.8677	99910	Rural	0.8568
10440	Nassau County, Florida	3600	Urban	0.9299	27260	Urban	0.9290
10450	Okaloosa County, Florida	2750	Urban	0.8872	23020	Urban	0.8872
10460	Okeechobee County, Florida	10	Rural	0.8677	99910	Rural	0.8568
10470	Orange County, Florida	5960	Urban	0.9464	36740	Urban	0.9464
10480	Osceola County, Florida	5960	Urban	0.9464	36740	Urban	0.9464
10490	Palm Beach County, Florida	8960	Urban	1.0067	48424	Urban	1.0067
10500	Pasco County, Florida	8280	Urban	0.9233	45300	Urban	0.9233
10510	Pinellas County, Florida	8280	Urban	0.9233	45300	Urban	0.9233
10520	Polk County, Florida	3980	Urban	0.8912	29460	Urban	0.8912
10530	Putnam County, Florida	10	Rural	0.8677	99910	Rural	0.8568
10540	Johns County, Florida	3600	Urban	0.9299	27260	Urban	0.9290
10550	St Lucie County, Florida	2710	Urban	1.0123	38940	Urban	1.0123
10560	Santa Rosa County, Florida	6080	Urban	0.8096	37860	Urban	0.8096
10570	Sarasota County, Florida	7510	Urban	0.9639	42260	Urban	0.9639
10580	Seminole County, Florida	5960	Urban	0.9464	36740	Urban	0.9464
10590	Sumter County, Florida	10	Rural	0.8677	99910	Rural	0.8568
10600	Suwannee County, Florida	10	Rural	0.8677	99910	Rural	0.8568
10610	Taylor County, Florida	10	Rural	0.8677	99910	Rural	0.8568
10620	Union County, Florida	10	Rural	0.8677	99910	Rural	0.8568
10630	Volusia County, Florida	2020	Urban	0.9325	19660	Urban	0.9299
10640	Wakulla County, Florida	10	Rural	0.8677	45220	Urban	0.8688
10650	Walton County, Florida	10	Rural	0.8677	99910	Rural	0.8568
10660	Washington County, Florida	10	Rural	0.8677	99910	Rural	0.8568
11000	Appling County, Georgia	11	Rural	0.8166	99911	Rural	0.7662
11010	Atkinson County, Georgia	11	Rural	0.8166	99911	Rural	0.7662
11011	Bacon County, Georgia	11	Rural	0.8166	99911	Rural	0.7662
11020	Baker County, Georgia	11	Rural	0.8166	10500	Urban	0.8628
11030	Baldwin County, Georgia	11	Rural	0.8166	99911	Rural	0.7662
11040	Banks County, Georgia	11	Rural	0.8166	99911	Rural	0.7662
11050	Barrow County, Georgia	0520	Urban	0.9793	12060	Urban	0.9793
11060	Bartow County, Georgia	0520	Urban	0.9793	12060	Urban	0.9793
11070	Ben Hill County, Georgia	11	Rural	0.8166	99911	Rural	0.7662
11080	Berrien County, Georgia	11	Rural	0.8166	99911	Rural	0.7662
11090	Bibb County, Georgia	4680	Urban	0.9277	31420	Urban	0.9443
11100	Bleckley County, Georgia	11	Rural	0.8166	99911	Rural	0.7662
11110	Brantley County, Georgia	11	Rural	0.8166	15260	Urban	0.9311
11120	Brooks County, Georgia	11	Rural	0.8166	46660	Urban	0.8866
11130	Bryan County, Georgia	7520	Urban	0.9461	42340	Urban	0.9461
11140	Bulloch County, Georgia	11	Rural	0.8166	99911	Rural	0.7662
11150	Burke County, Georgia	11	Rural	0.8166	12260	Urban	0.9748
11160	Butts County, Georgia	11	Rural	0.8166	12060	Urban	0.9793
11161	Calhoun County, Georgia	11	Rural	0.8166	99911	Rural	0.7662
11170	Camden County, Georgia	11	Rural	0.8166	99911	Rural	0.7662
11180	Candler County, Georgia	11	Rural	0.8166	99911	Rural	0.7662
11190	Carroll County, Georgia	0520	Urban	0.9793	12060	Urban	0.9793
11200	Catoosa County, Georgia	1560	Urban	0.9088	16860	Urban	0.9088
11210	Charlton County, Georgia	11	Rural	0.8166	99911	Rural	0.7662
11220	Chatham County, Georgia	7520	Urban	0.9461	42340	Urban	0.9461
11230	Chattahoochee County, Georgia	1800	Urban	0.8560	17980	Urban	0.8560
11240	Chattooga County, Georgia	11	Rural	0.8166	99911	Rural	0.7662
11250	Cherokee County, Georgia	0520	Urban	0.9793	12060	Urban	0.9793
11260	Clarke County, Georgia	0500	Urban	0.9855	12020	Urban	0.9855
11270	Clay County, Georgia	11	Rural	0.8166	99911	Rural	0.7662
11280	Clayton County, Georgia	0520	Urban	0.9793	12060	Urban	0.9793
11281	Clinch County, Georgia	11	Rural	0.8166	99911	Rural	0.7662
11290	Cobb County, Georgia	0520	Urban	0.9793	12060	Urban	0.9793
11291	Coffee County, Georgia	11	Rural	0.8166	99911	Rural	0.7662
11300	Colquitt County, Georgia	11	Rural	0.8166	99911	Rural	0.7662
11310	Columbia County, Georgia	0600	Urban	0.9808	12260	Urban	0.9748
11311	Cook County, Georgia	11	Rural	0.8166	99911	Rural	0.7662
11320	Coweta County, Georgia	0520	Urban	0.9793	12060	Urban	0.9793
11330	Crawford County, Georgia	11	Rural	0.8166	31420	Urban	0.9443
11340	Crisp County, Georgia	11	Rural	0.8166	99911	Rural	0.7662
11341	Dade County, Georgia	1560	Urban	0.9088	16860	Urban	0.9088

SSA State/ County Code	County name	MSA No.	MSA urban/ rural	2006 MSA-based WI	CBSA No.	CBSA urban/ rural	2006 CBSA-based WI
11350	Dawson County, Georgia	11	Rural	0.8166	12060	Urban	0.9793
11360	Decatur County, Georgia	11	Rural	0.8166	99911	Rural	0.7662
11370	De Kalb County, Georgia	0520	Urban	0.9793	12060	Urban	0.9793
11380	Dodge County, Georgia	11	Rural	0.8166	99911	Rural	0.7662
11381	Dooly County, Georgia	11	Rural	0.8166	99911	Rural	0.7662
11390	Dougherty County, Georgia	0120	Urban	0.8628	10500	Urban	0.8628
11400	Douglas County, Georgia	0520	Urban	0.9793	12060	Urban	0.9793
11410	Early County, Georgia	11	Rural	0.8166	99911	Rural	0.7662
11420	Echols County, Georgia	11	Rural	0.8166	46660	Urban	0.8866
11421	Effingham County, Georgia	7520	Urban	0.9461	42340	Urban	0.9461
11430	Elbert County, Georgia	11	Rural	0.8166	99911	Rural	0.7662
11440	Emanuel County, Georgia	11	Rural	0.8166	99911	Rural	0.7662
11441	Evans County, Georgia	11	Rural	0.8166	99911	Rural	0.7662
11450	Fannin County, Georgia	11	Rural	0.8166	99911	Rural	0.7662
11451	Fayette County, Georgia	0520	Urban	0.9793	12060	Urban	0.9793
11460	Floyd County, Georgia	11	Rural	0.8166	40660	Urban	0.9414
11461	Forsyth County, Georgia	0520	Urban	0.9793	12060	Urban	0.9793
11462	Franklin County, Georgia	11	Rural	0.8166	99911	Rural	0.7662
11470	Fulton County, Georgia	0520	Urban	0.9793	12060	Urban	0.9793
11471	Gilmer County, Georgia	11	Rural	0.8166	99911	Rural	0.7662
11480	Glascock County, Georgia	11	Rural	0.8166	99911	Rural	0.7662
11490	Glynn County, Georgia	11	Rural	0.8166	15260	Urban	0.9311
11500	Gordon County, Georgia	11	Rural	0.8166	99911	Rural	0.7662
11510	Grady County, Georgia	11	Rural	0.8166	99911	Rural	0.7662
11520	Greene County, Georgia	11	Rural	0.8166	99911	Rural	0.7662
11530	Gwinnett County, Georgia	0520	Urban	0.9793	12060	Urban	0.9793
11540	Habersham County, Georgia	11	Rural	0.8166	99911	Rural	0.7662
11550	Hall County, Georgia	11	Rural	0.8166	23580	Urban	0.8874
11560	Hancock County, Georgia	11	Rural	0.8166	99911	Rural	0.7662
11570	Haralson County, Georgia	11	Rural	0.8166	12060	Urban	0.9793
11580	Harris County, Georgia	1800	Urban	0.8560	17980	Urban	0.8560
11581	Hart County, Georgia	11	Rural	0.8166	99911	Rural	0.7662
11590	Heard County, Georgia	11	Rural	0.8166	12060	Urban	0.9793
11591	Henry County, Georgia	0520	Urban	0.9793	12060	Urban	0.9793
11600	Houston County, Georgia	4680	Urban	0.9277	47580	Urban	0.8645
11601	Irwin County, Georgia	11	Rural	0.8166	99911	Rural	0.7662
11610	Jackson County, Georgia	11	Rural	0.8166	99911	Rural	0.7662
11611	Jasper County, Georgia	11	Rural	0.8166	12060	Urban	0.9793
11612	Jeff Davis County, Georgia	11	Rural	0.8166	99911	Rural	0.7662
11620	Jefferson County, Georgia	11	Rural	0.8166	99911	Rural	0.7662
11630	Jenkins County, Georgia	11	Rural	0.8166	99911	Rural	0.7662
11640	Johnson County, Georgia	11	Rural	0.8166	99911	Rural	0.7662
11650	Jones County, Georgia	4680	Urban	0.9277	31420	Urban	0.9443
11651	Lamar County, Georgia	11	Rural	0.8166	12060	Urban	0.9793
11652	Lanier County, Georgia	11	Rural	0.8166	46660	Urban	0.8866
11660	Laurens County, Georgia	11	Rural	0.8166	99911	Rural	0.7662
11670	Lee County, Georgia	0120	Urban	0.8628	10500	Urban	0.8628
11680	Liberty County, Georgia	11	Rural	0.8166	25980	Urban	[1] 0.91981
11690	Lincoln County, Georgia	11	Rural	0.8166	99911	Rural	0.7662
11691	Long County, Georgia	11	Rural	0.8166	25980	Urban	[1] 0.91981
11700	Lowndes County, Georgia	11	Rural	0.8166	46660	Urban	0.8866
11701	Lumpkin County, Georgia	11	Rural	0.8166	99911	Rural	0.7662
11702	Mc Duffie County, Georgia	0600	Urban	0.9808	12260	Urban	0.9748
11703	Mc Intosh County, Georgia	11	Rural	0.8166	15260	Urban	0.9311
11710	Macon County, Georgia	11	Rural	0.8166	99911	Rural	0.7662
11720	Madison County, Georgia	0500	Urban	0.9855	12020	Urban	0.9855
11730	Marion County, Georgia	11	Rural	0.8166	17980	Urban	0.8560
11740	Meriwether County, Georgia	11	Rural	0.8166	12060	Urban	0.9793
11741	Miller County, Georgia	11	Rural	0.8166	99911	Rural	0.7662
11750	Mitchell County, Georgia	11	Rural	0.8166	99911	Rural	0.7662
11760	Monroe County, Georgia	11	Rural	0.8166	31420	Urban	0.9443
11770	Montgomery County, Georgia	11	Rural	0.8166	99911	Rural	0.7662
11771	Morgan County, Georgia	11	Rural	0.8166	99911	Rural	0.7662
11772	Murray County, Georgia	11	Rural	0.8166	19140	Urban	0.9079
11780	Muscogee County, Georgia	1800	Urban	0.8560	17980	Urban	0.8560
11790	Newton County, Georgia	0520	Urban	0.9793	12060	Urban	0.9793
11800	Oconee County, Georgia	0500	Urban	0.9855	12020	Urban	0.9855
11801	Oglethorpe County, Georgia	11	Rural	0.8166	12020	Urban	0.9855
11810	Paulding County, Georgia	0520	Urban	0.9793	12060	Urban	0.9793
11811	Peach County, Georgia	4680	Urban	0.9277	99911	Rural	0.7662
11812	Pickens County, Georgia	0520	Urban	0.9793	12060	Urban	0.9793
11820	Pierce County, Georgia	11	Rural	0.8166	99911	Rural	0.7662

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11821	Pike County, Georgia	11	Rural	0.8166	12060	Urban	0.9793
11830	Polk County, Georgia	11	Rural	0.8166	99911	Rural	0.7662
11831	Pulaski County, Georgia	11	Rural	0.8166	99911	Rural	0.7662
11832	Putnam County, Georgia	11	Rural	0.8166	99911	Rural	0.7662
11833	Quitman County, Georgia	11	Rural	0.8166	99911	Rural	0.7662
11834	Rabun County, Georgia	11	Rural	0.8166	99911	Rural	0.7662
11835	Randolph County, Georgia	11	Rural	0.8166	99911	Rural	0.7662
11840	Richmond County, Georgia	0600	Urban	0.9808	12260	Urban	0.9748
11841	Rockdale County, Georgia	0520	Urban	0.9793	12060	Urban	0.9793
11842	Schley County, Georgia	11	Rural	0.8166	99911	Rural	0.7662
11850	Screven County, Georgia	11	Rural	0.8166	99911	Rural	0.7662
11851	Seminole County, Georgia	11	Rural	0.8166	99911	Rural	0.7662
11860	Spalding County, Georgia	0520	Urban	0.9793	12060	Urban	0.9793
11861	Stephens County, Georgia	11	Rural	0.8166	99911	Rural	0.7662
11862	Stewart County, Georgia	11	Rural	0.8166	99911	Rural	0.7662
11870	Sumter County, Georgia	11	Rural	0.8166	99911	Rural	0.7662
11880	Talbot County, Georgia	11	Rural	0.8166	99911	Rural	0.7662
11881	Taliaferro County, Georgia	11	Rural	0.8166	99911	Rural	0.7662
11882	Tattnall County, Georgia	11	Rural	0.8166	99911	Rural	0.7662
11883	Taylor County, Georgia	11	Rural	0.8166	99911	Rural	0.7662
11884	Telfair County, Georgia	11	Rural	0.8166	99911	Rural	0.7662
11885	Terrell County, Georgia	11	Rural	0.8166	10500	Urban	0.8628
11890	Thomas County, Georgia	11	Rural	0.8166	99911	Rural	0.7662
11900	Tift County, Georgia	11	Rural	0.8166	99911	Rural	0.7662
11901	Toombs County, Georgia	11	Rural	0.8166	99911	Rural	0.7662
11902	Towns County, Georgia	11	Rural	0.8166	99911	Rural	0.7662
11903	Treutlen County, Georgia	11	Rural	0.8166	99911	Rural	0.7662
11910	Troup County, Georgia	11	Rural	0.8166	99911	Rural	0.7662
11911	Turner County, Georgia	11	Rural	0.8166	99911	Rural	0.7662
11912	Twiggs County, Georgia	4680	Urban	0.9277	31420	Urban	0.9443
11913	Union County, Georgia	11	Rural	0.8166	99911	Rural	0.7662
11920	Upson County, Georgia	11	Rural	0.8166	99911	Rural	0.7662
11921	Walker County, Georgia	1560	Urban	0.9088	16860	Urban	0.9088
11930	Walton County, Georgia	0520	Urban	0.9793	12060	Urban	0.9793
11940	Ware County, Georgia	11	Rural	0.8166	99911	Rural	0.7662
11941	Warren County, Georgia	11	Rural	0.8166	99911	Rural	0.7662
11950	Washington County, Georgia	11	Rural	0.8166	99911	Rural	0.7662
11960	Wayne County, Georgia	11	Rural	0.8166	99911	Rural	0.7662
11961	Webster County, Georgia	11	Rural	0.8166	99911	Rural	0.7662
11962	Wheeler County, Georgia	11	Rural	0.8166	99911	Rural	0.7662
11963	White County, Georgia	11	Rural	0.8166	99911	Rural	0.7662
11970	Whitfield County, Georgia	11	Rural	0.8166	19140	Urban	0.9079
11971	Wilcox County, Georgia	11	Rural	0.8166	99911	Rural	0.7662
11972	Wilkes County, Georgia	11	Rural	0.8166	99911	Rural	0.7662
11973	Wilkinson County, Georgia	11	Rural	0.8166	99911	Rural	0.7662
11980	Worth County, Georgia	11	Rural	0.8166	10500	Urban	0.8628
12005	Kalawao County, Hawaii	12	Rural	1.0551	99912	Rural	1.0551
12010	Hawaii County, Hawaii	12	Rural	1.0551	99912	Rural	1.0551
12020	Honolulu County, Hawaii	3320	Urban	1.1214	26180	Urban	1.1214
12040	Kauai County, Hawaii	12	Rural	1.0551	99912	Rural	1.0551
12050	Maui County, Hawaii	12	Rural	1.0551	99912	Rural	1.0551
13000	Ada County, Idaho	1080	Urban	0.9052	14260	Urban	0.9052
13010	Adams County, Idaho	13	Rural	0.9097	99913	Rural	0.8037
13020	Bannock County, Idaho	6340	Urban	0.9351	38540	Urban	0.9351
13030	Bear Lake County, Idaho	13	Rural	0.9097	99913	Rural	0.8037
13040	Benewah County, Idaho	13	Rural	0.9097	99913	Rural	0.8037
13050	Bingham County, Idaho	13	Rural	0.9097	99913	Rural	0.8037
13060	Blaine County, Idaho	13	Rural	0.9097	99913	Rural	0.8037
13070	Boise County, Idaho	13	Rural	0.9097	14260	Urban	0.9052
13080	Bonner County, Idaho	13	Rural	0.9097	99913	Rural	0.8037
13090	Bonneville County, Idaho	13	Rural	0.9097	26820	Urban	0.9420
13100	Boundary County, Idaho	13	Rural	0.9097	99913	Rural	0.8037
13110	Butte County, Idaho	13	Rural	0.9097	99913	Rural	0.8037
13120	Camas County, Idaho	13	Rural	0.9097	99913	Rural	0.8037
13130	Canyon County, Idaho	1080	Urban	0.9052	14260	Urban	0.9052
13140	Caribou County, Idaho	13	Rural	0.9097	99913	Rural	0.8037
13150	Cassia County, Idaho	13	Rural	0.9097	99913	Rural	0.8037
13160	Clark County, Idaho	13	Rural	0.9097	99913	Rural	0.8037
13170	Clearwater County, Idaho	13	Rural	0.9097	99913	Rural	0.8037
13180	Custer County, Idaho	13	Rural	0.9097	99913	Rural	0.8037
13190	Elmore County, Idaho	13	Rural	0.9097	99913	Rural	0.8037
13200	Franklin County, Idaho	13	Rural	0.9097	30860	Urban	0.9164

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13210	Fremont County, Idaho	13	Rural	0.9097	99913	Rural	0.8037
13220	Gem County, Idaho	13	Rural	0.9097	14260	Urban	0.9052
13230	Gooding County, Idaho	13	Rural	0.9097	99913	Rural	0.8037
13240	Idaho County, Idaho	13	Rural	0.9097	99913	Rural	0.8037
13250	Jefferson County, Idaho	13	Rural	0.9097	26820	Urban	0.9420
13260	Jerome County, Idaho	13	Rural	0.9097	99913	Rural	0.8037
13270	Kootenai County, Idaho	13	Rural	0.9097	17660	Urban	0.9647
13280	Latah County, Idaho	13	Rural	0.9097	99913	Rural	0.8037
13290	Lemhi County, Idaho	13	Rural	0.9097	99913	Rural	0.8037
13300	Lewis County, Idaho	13	Rural	0.9097	99913	Rural	0.8037
13310	Lincoln County, Idaho	13	Rural	0.9097	99913	Rural	0.8037
13320	Madison County, Idaho	13	Rural	0.9097	99913	Rural	0.8037
13330	Minidoka County, Idaho	13	Rural	0.9097	99913	Rural	0.8037
13340	Nez Perce County, Idaho	13	Rural	0.9097	30300	Urban	0.9886
13350	Oneida County, Idaho	13	Rural	0.9097	99913	Rural	0.8037
13360	Owyhee County, Idaho	13	Rural	0.9097	14260	Urban	0.9052
13370	Payette County, Idaho	13	Rural	0.9097	99913	Rural	0.8037
13380	Power County, Idaho	13	Rural	0.9097	38540	Urban	0.9351
13390	Shoshone County, Idaho	13	Rural	0.9097	99913	Rural	0.8037
13400	Teton County, Idaho	13	Rural	0.9097	99913	Rural	0.8037
13410	Twin Falls County, Idaho	13	Rural	0.9097	99913	Rural	0.8037
13420	Valley County, Idaho	13	Rural	0.9097	99913	Rural	0.8037
13430	Washington County, Idaho	13	Rural	0.9097	99913	Rural	0.8037
14000	Adams County, Illinois	14	Rural	0.8301	99914	Rural	0.8271
14010	Alexander County, Illinois	14	Rural	0.8301	99914	Rural	0.8271
14020	Bond County, Illinois	14	Rural	0.8301	41180	Urban	0.8954
14030	Boone County, Illinois	6880	Urban	0.9984	40420	Urban	0.9984
14040	Brown County, Illinois	14	Rural	0.8301	99914	Rural	0.8271
14050	Bureau County, Illinois	14	Rural	0.8301	99914	Rural	0.8271
14060	Calhoun County, Illinois	14	Rural	0.8301	41180	Urban	0.8954
14070	Carroll County, Illinois	14	Rural	0.8301	99914	Rural	0.8271
14080	Cass County, Illinois	14	Rural	0.8301	99914	Rural	0.8271
14090	Champaign County, Illinois	1400	Urban	0.9594	16580	Urban	0.9594
14100	Christian County, Illinois	14	Rural	0.8301	99914	Rural	0.8271
14110	Clark County, Illinois	14	Rural	0.8301	99914	Rural	0.8271
14120	Clay County, Illinois	14	Rural	0.8301	99914	Rural	0.8271
14130	Clinton County, Illinois	7040	Urban	0.8962	41180	Urban	0.8954
14140	Coles County, Illinois	14	Rural	0.8301	99914	Rural	0.8271
14141	Cook County, Illinois	1600	Urban	1.0783	16974	Urban	1.0790
14150	Crawford County, Illinois	14	Rural	0.8301	99914	Rural	0.8271
14160	Cumberland County, Illinois	14	Rural	0.8301	99914	Rural	0.8271
14170	De Kalb County, Illinois	1600	Urban	1.0783	16974	Urban	1.0790
14180	De Witt County, Illinois	14	Rural	0.8301	99914	Rural	0.8271
14190	Douglas County, Illinois	14	Rural	0.8301	99914	Rural	0.8271
14250	Du Page County, Illinois	1600	Urban	1.0783	16974	Urban	1.0790
14310	Edgar County, Illinois	14	Rural	0.8301	99914	Rural	0.8271
14320	Edwards County, Illinois	14	Rural	0.8301	99914	Rural	0.8271
14330	Effingham County, Illinois	14	Rural	0.8301	99914	Rural	0.8271
14340	Fayette County, Illinois	14	Rural	0.8301	99914	Rural	0.8271
14350	Ford County, Illinois	14	Rural	0.8301	16580	Urban	0.9594
14360	Franklin County, Illinois	14	Rural	0.8301	99914	Rural	0.8271
14370	Fulton County, Illinois	14	Rural	0.8301	99914	Rural	0.8271
14380	Gallatin County, Illinois	14	Rural	0.8301	99914	Rural	0.8271
14390	Greene County, Illinois	14	Rural	0.8301	99914	Rural	0.8271
14400	Grundy County, Illinois	1600	Urban	1.0783	16974	Urban	1.0790
14410	Hamilton County, Illinois	14	Rural	0.8301	99914	Rural	0.8271
14420	Hancock County, Illinois	14	Rural	0.8301	99914	Rural	0.8271
14421	Hardin County, Illinois	14	Rural	0.8301	99914	Rural	0.8271
14440	Henderson County, Illinois	14	Rural	0.8301	99914	Rural	0.8271
14450	Henry County, Illinois	1960	Urban	0.8724	19340	Urban	0.8724
14460	Iroquois County, Illinois	14	Rural	0.8301	99914	Rural	0.8271
14470	Jackson County, Illinois	14	Rural	0.8301	99914	Rural	0.8271
14480	Jasper County, Illinois	14	Rural	0.8301	99914	Rural	0.8271
14490	Jefferson County, Illinois	14	Rural	0.8301	99914	Rural	0.8271
14500	Jersey County, Illinois	7040	Urban	0.8962	41180	Urban	0.8954
14510	Jo Daviess County, Illinois	14	Rural	0.8301	99914	Rural	0.8271
14520	Johnson County, Illinois	14	Rural	0.8301	99914	Rural	0.8271
14530	Kane County, Illinois	1600	Urban	1.0783	16974	Urban	1.0790
14540	Kankakee County, Illinois	3740	Urban	1.0721	28100	Urban	1.0721
14550	Kendall County, Illinois	1600	Urban	1.0783	16974	Urban	1.0790
14560	Knox County, Illinois	14	Rural	0.8301	99914	Rural	0.8271
14570	Lake County, Illinois	1600	Urban	1.0783	29404	Urban	1.0429

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14580	La Salle County, Illinois	14	Rural	0.8301	99914	Rural	0.8271
14590	Lawrence County, Illinois	14	Rural	0.8301	99914	Rural	0.8271
14600	Lee County, Illinois	14	Rural	0.8301	99914	Rural	0.8271
14610	Livingston County, Illinois	14	Rural	0.8301	99914	Rural	0.8271
14620	Logan County, Illinois	14	Rural	0.8301	99914	Rural	0.8271
14630	Mc Donough County, Illinois	14	Rural	0.8301	99914	Rural	0.8271
14640	Mc Henry County, Illinois	1600	Urban	1.0783	16974	Urban	1.0790
14650	Mclean County, Illinois	1040	Urban	0.9075	14060	Urban	0.9075
14660	Macon County, Illinois	2040	Urban	0.8067	19500	Urban	0.8067
14670	Macoupin County, Illinois	14	Rural	0.8301	41180	Urban	0.8954
14680	Madison County, Illinois	7040	Urban	0.8962	41180	Urban	0.8954
14690	Marion County, Illinois	14	Rural	0.8301	99914	Rural	0.8271
14700	Marshall County, Illinois	14	Rural	0.8301	37900	Urban	0.8870
14710	Mason County, Illinois	14	Rural	0.8301	99914	Rural	0.8271
14720	Massac County, Illinois	14	Rural	0.8301	99914	Rural	0.8271
14730	Menard County, Illinois	7880	Urban	0.8792	44100	Urban	0.8792
14740	Mercer County, Illinois	14	Rural	0.8301	19340	Urban	0.8724
14750	Monroe County, Illinois	7040	Urban	0.8962	41180	Urban	0.8954
14760	Montgomery County, Illinois	14	Rural	0.8301	99914	Rural	0.8271
14770	Morgan County, Illinois	14	Rural	0.8301	99914	Rural	0.8271
14780	Moultrie County, Illinois	14	Rural	0.8301	99914	Rural	0.8271
14790	Ogle County, Illinois	6880	Urban	0.9984	99914	Rural	0.8271
14800	Peoria County, Illinois	6120	Urban	0.8870	37900	Urban	0.8870
14810	Perry County, Illinois	14	Rural	0.8301	99914	Rural	0.8271
14820	Piatt County, Illinois	14	Rural	0.8301	16580	Urban	0.9594
14830	Pike County, Illinois	14	Rural	0.8301	99914	Rural	0.8271
14831	Pope County, Illinois	14	Rural	0.8301	99914	Rural	0.8271
14850	Pulaski County, Illinois	14	Rural	0.8301	99914	Rural	0.8271
14860	Putnam County, Illinois	14	Rural	0.8301	99914	Rural	0.8271
14870	Randolph County, Illinois	14	Rural	0.8301	99914	Rural	0.8271
14880	Richland County, Illinois	14	Rural	0.8301	99914	Rural	0.8271
14890	Rock Island County, Illinois	1960	Urban	0.8724	19340	Urban	0.8724
14900	St Clair County, Illinois	7040	Urban	0.8962	41180	Urban	0.8954
14910	Saline County, Illinois	14	Rural	0.8301	99914	Rural	0.8271
14920	Sangamon County, Illinois	7880	Urban	0.8792	44100	Urban	0.8792
14921	Schuyler County, Illinois	14	Rural	0.8301	99914	Rural	0.8271
14940	Scott County, Illinois	14	Rural	0.8301	99914	Rural	0.8271
14950	Shelby County, Illinois	14	Rural	0.8301	99914	Rural	0.8271
14960	Stark County, Illinois	14	Rural	0.8301	37900	Urban	0.8870
14970	Stephenson County, Illinois	14	Rural	0.8301	99914	Rural	0.8271
14980	Tazewell County, Illinois	6120	Urban	0.8870	37900	Urban	0.8870
14981	Union County, Illinois	14	Rural	0.8301	99914	Rural	0.8271
14982	Vermilion County, Illinois	14	Rural	0.8301	19180	Urban	0.9028
14983	Wabash County, Illinois	14	Rural	0.8301	99914	Rural	0.8271
14984	Warren County, Illinois	14	Rural	0.8301	99914	Rural	0.8271
14985	Washington County, Illinois	14	Rural	0.8301	99914	Rural	0.8271
14986	Wayne County, Illinois	14	Rural	0.8301	99914	Rural	0.8271
14987	White County, Illinois	14	Rural	0.8301	99914	Rural	0.8271
14988	Whiteside County, Illinois	14	Rural	0.8301	99914	Rural	0.8271
14989	Will County, Illinois	1600	Urban	1.0783	16974	Urban	1.0790
14990	Williamson County, Illinois	14	Rural	0.8301	99914	Rural	0.8271
14991	Winnebago County, Illinois	6880	Urban	0.9984	40420	Urban	0.9984
14992	Woodford County, Illinois	6120	Urban	0.8870	37900	Urban	0.8870
15000	Adams County, Indiana	2760	Urban	0.9706	99915	Rural	0.8624
15010	Allen County, Indiana	2760	Urban	0.9706	23060	Urban	0.9793
15020	Bartholomew County, Indiana	15	Rural	0.8739	18020	Urban	0.9588
15030	Benton County, Indiana	15	Rural	0.8739	29140	Urban	0.8736
15040	Blackford County, Indiana	15	Rural	0.8739	99915	Rural	0.8624
15050	Boone County, Indiana	3480	Urban	0.9865	26900	Urban	0.9920
15060	Brown County, Indiana	15	Rural	0.8739	26900	Urban	0.9920
15070	Carroll County, Indiana	15	Rural	0.8739	29140	Urban	0.8736
15080	Cass County, Indiana	15	Rural	0.8739	99915	Rural	0.8624
15090	Clark County, Indiana	4520	Urban	0.9293	31140	Urban	0.9251
15100	Clay County, Indiana	8320	Urban	0.8337	45460	Urban	0.8304
15110	Clinton County, Indiana	3920	Urban	0.8736	99915	Rural	0.8624
15120	Crawford County, Indiana	15	Rural	0.8739	99915	Rural	0.8624
15130	Daviess County, Indiana	15	Rural	0.8739	99915	Rural	0.8624
15140	Dearborn County, Indiana	1640	Urban	0.9734	17140	Urban	0.9615
15150	Decatur County, Indiana	15	Rural	0.8739	99915	Rural	0.8624
15160	De Kalb County, Indiana	2760	Urban	0.9706	99915	Rural	0.8624
15170	Delaware County, Indiana	5280	Urban	0.8930	34620	Urban	0.8930
15180	Dubois County, Indiana	15	Rural	0.8739	99915	Rural	0.8624

SSA State/ County Code	County name	MSA No.	MSA urban/ rural	2006 MSA-based WI	CBSA No.	CBSA urban/ rural	2006 CBSA-based WI
15190	Elkhart County, Indiana	2330	Urban	0.9627	21140	Urban	0.9627
15200	Fayette County, Indiana	15	Rural	0.8739	99915	Rural	0.8624
15210	Floyd County, Indiana	4520	Urban	0.9293	31140	Urban	0.9251
15220	Fountain County, Indiana	15	Rural	0.8739	99915	Rural	0.8624
15230	Franklin County, Indiana	15	Rural	0.8739	17140	Urban	0.9615
15240	Fulton County, Indiana	15	Rural	0.8739	99915	Rural	0.8624
15250	Gibson County, Indiana	15	Rural	0.8739	21780	Urban	0.8713
15260	Grant County, Indiana	15	Rural	0.8739	99915	Rural	0.8624
15270	Greene County, Indiana	15	Rural	0.8739	14020	Urban	0.8447
15280	Hamilton County, Indiana	3480	Urban	0.9865	26900	Urban	0.9920
15290	Hancock County, Indiana	3480	Urban	0.9865	26900	Urban	0.9920
15300	Harrison County, Indiana	4520	Urban	0.9293	31140	Urban	0.9251
15310	Hendricks County, Indiana	3480	Urban	0.9865	26900	Urban	0.9920
15320	Henry County, Indiana	15	Rural	0.8739	99915	Rural	0.8624
15330	Howard County, Indiana	3850	Urban	0.9508	29020	Urban	0.9508
15340	Huntington County, Indiana	2760	Urban	0.9706	99915	Rural	0.8624
15350	Jackson County, Indiana	15	Rural	0.8739	99915	Rural	0.8624
15360	Jasper County, Indiana	15	Rural	0.8739	23844	Urban	0.9395
15370	Jay County, Indiana	15	Rural	0.8739	99915	Rural	0.8624
15380	Jefferson County, Indiana	15	Rural	0.8739	99915	Rural	0.8624
15390	Jennings County, Indiana	15	Rural	0.8739	99915	Rural	0.8624
15400	Johnson County, Indiana	3480	Urban	0.9865	26900	Urban	0.9920
15410	Knox County, Indiana	15	Rural	0.8739	99915	Rural	0.8624
15420	Kosciusko County, Indiana	15	Rural	0.8739	99915	Rural	0.8624
15430	Lagrange County, Indiana	15	Rural	0.8739	99915	Rural	0.8624
15440	Lake County, Indiana	2960	Urban	0.9395	23844	Urban	0.9395
15450	La Porte County, Indiana	15	Rural	0.8739	33140	Urban	0.9399
15460	Lawrence County, Indiana	15	Rural	0.8739	99915	Rural	0.8624
15470	Madison County, Indiana	3480	Urban	0.9865	11300	Urban	0.8586
15480	Marion County, Indiana	3480	Urban	0.9865	26900	Urban	0.9920
15490	Marshall County, Indiana	15	Rural	0.8739	99915	Rural	0.8624
15500	Martin County, Indiana	15	Rural	0.8739	99915	Rural	0.8624
15510	Miami County, Indiana	15	Rural	0.8739	99915	Rural	0.8624
15520	Monroe County, Indiana	1020	Urban	0.8447	14020	Urban	0.8447
15530	Montgomery County, Indiana	15	Rural	0.8739	99915	Rural	0.8624
15540	Morgan County, Indiana	3480	Urban	0.9865	26900	Urban	0.9920
15550	Newton County, Indiana	15	Rural	0.8739	23844	Urban	0.9395
15560	Noble County, Indiana	15	Rural	0.8739	99915	Rural	0.8624
15570	Ohio County, Indiana	1640	Urban	0.9734	17140	Urban	0.9615
15580	Orange County, Indiana	15	Rural	0.8739	99915	Rural	0.8624
15590	Owen County, Indiana	15	Rural	0.8739	14020	Urban	0.8447
15600	Parke County, Indiana	15	Rural	0.8739	99915	Rural	0.8624
15610	Perry County, Indiana	15	Rural	0.8739	99915	Rural	0.8624
15620	Pike County, Indiana	15	Rural	0.8739	99915	Rural	0.8624
15630	Porter County, Indiana	2960	Urban	0.9395	23844	Urban	0.9395
15640	Posey County, Indiana	2440	Urban	0.8713	21780	Urban	0.8713
15650	Pulaski County, Indiana	15	Rural	0.8739	99915	Rural	0.8624
15660	Putnam County, Indiana	15	Rural	0.8739	26900	Urban	0.9920
15670	Randolph County, Indiana	15	Rural	0.8739	99915	Rural	0.8624
15680	Ripley County, Indiana	15	Rural	0.8739	99915	Rural	0.8624
15690	Rush County, Indiana	15	Rural	0.8739	99915	Rural	0.8624
15700	St Joseph County, Indiana	7800	Urban	0.9788	43780	Urban	0.9788
15710	Scott County, Indiana	4520	Urban	0.9293	99915	Rural	0.8624
15720	Shelby County, Indiana	3480	Urban	0.9865	26900	Urban	0.9920
15730	Spencer County, Indiana	15	Rural	0.8739	99915	Rural	0.8624
15740	Starke County, Indiana	15	Rural	0.8739	99915	Rural	0.8624
15750	Steuben County, Indiana	15	Rural	0.8739	99915	Rural	0.8624
15760	Sullivan County, Indiana	15	Rural	0.8739	45460	Urban	0.8304
15770	Switzerland County, Indiana	15	Rural	0.8739	99915	Rural	0.8624
15780	Tippecanoe County, Indiana	3920	Urban	0.8736	29140	Urban	0.8736
15790	Tipton County, Indiana	3850	Urban	0.9508	29020	Urban	0.9508
15800	Union County, Indiana	15	Rural	0.8739	99915	Rural	0.8624
15810	Vanderburgh County, Indiana	2440	Urban	0.8713	21780	Urban	0.8713
15820	Vermillion County, Indiana	8320	Urban	0.8337	45460	Urban	0.8304
15830	Vigo County, Indiana	8320	Urban	0.8337	45460	Urban	0.8304
15840	Wabash County, Indiana	15	Rural	0.8739	99915	Rural	0.8624
15850	Warren County, Indiana	15	Rural	0.8739	99915	Rural	0.8624
15860	Warrick County, Indiana	2440	Urban	0.8713	21780	Urban	0.8713
15870	Washington County, Indiana	15	Rural	0.8739	31140	Urban	0.9251
15880	Wayne County, Indiana	15	Rural	0.8739	99915	Rural	0.8624
15890	Wells County, Indiana	2760	Urban	0.9706	23060	Urban	0.9793
15900	White County, Indiana	15	Rural	0.8739	99915	Rural	0.8624

SSA State/ County Code	County name	MSA No.	MSA urban/ rural	2006 MSA-based WI	CBSA No.	CBSA urban/ rural	2006 CBSA-based WI
15910	Whitley County, Indiana	2760	Urban	0.9706	23060	Urban	0.9793
16000	Adair County, Iowa	16	Rural	0.8594	99916	Rural	0.8509
16010	Adams County, Iowa	16	Rural	0.8594	99916	Rural	0.8509
16020	Allamakee County, Iowa	16	Rural	0.8594	99916	Rural	0.8509
16030	Appanoose County, Iowa	16	Rural	0.8594	99916	Rural	0.8509
16040	Audubon County, Iowa	16	Rural	0.8594	99916	Rural	0.8509
16050	Benton County, Iowa	16	Rural	0.8594	16300	Urban	0.8825
16060	Black Hawk County, Iowa	8920	Urban	0.8557	47940	Urban	0.8557
16070	Boone County, Iowa	16	Rural	0.8594	99916	Rural	0.8509
16080	Bremer County, Iowa	16	Rural	0.8594	47940	Urban	0.8557
16090	Buchanan County, Iowa	16	Rural	0.8594	99916	Rural	0.8509
16100	Buena Vista County, Iowa	16	Rural	0.8594	99916	Rural	0.8509
16110	Butler County, Iowa	16	Rural	0.8594	99916	Rural	0.8509
16120	Calhoun County, Iowa	16	Rural	0.8594	99916	Rural	0.8509
16130	Carroll County, Iowa	16	Rural	0.8594	99916	Rural	0.8509
16140	Cass County, Iowa	16	Rural	0.8594	99916	Rural	0.8509
16150	Cedar County, Iowa	16	Rural	0.8594	99916	Rural	0.8509
16160	Cerro Gordo County, Iowa	16	Rural	0.8594	99916	Rural	0.8509
16170	Cherokee County, Iowa	16	Rural	0.8594	99916	Rural	0.8509
16180	Chickasaw County, Iowa	16	Rural	0.8594	99916	Rural	0.8509
16190	Clarke County, Iowa	16	Rural	0.8594	99916	Rural	0.8509
16200	Clay County, Iowa	16	Rural	0.8594	99916	Rural	0.8509
16210	Clayton County, Iowa	16	Rural	0.8594	99916	Rural	0.8509
16220	Clinton County, Iowa	16	Rural	0.8594	99916	Rural	0.8509
16230	Crawford County, Iowa	16	Rural	0.8594	99916	Rural	0.8509
16240	Dallas County, Iowa	2120	Urban	0.9669	19780	Urban	0.9669
16250	Davis County, Iowa	16	Rural	0.8594	99916	Rural	0.8509
16260	Decatur County, Iowa	16	Rural	0.8594	99916	Rural	0.8509
16270	Delaware County, Iowa	16	Rural	0.8594	99916	Rural	0.8509
16280	Des Moines County, Iowa	16	Rural	0.8594	99916	Rural	0.8509
16290	Dickinson County, Iowa	16	Rural	0.8594	99916	Rural	0.8509
16300	Dubuque County, Iowa	2200	Urban	0.9024	20220	Urban	0.9024
16310	Emmet County, Iowa	16	Rural	0.8594	99916	Rural	0.8509
16320	Fayette County, Iowa	16	Rural	0.8594	99916	Rural	0.8509
16330	Floyd County, Iowa	16	Rural	0.8594	99916	Rural	0.8509
16340	Franklin County, Iowa	16	Rural	0.8594	99916	Rural	0.8509
16350	Fremont County, Iowa	16	Rural	0.8594	99916	Rural	0.8509
16360	Greene County, Iowa	16	Rural	0.8594	99916	Rural	0.8509
16370	Grundy County, Iowa	16	Rural	0.8594	47940	Urban	0.8557
16380	Guthrie County, Iowa	16	Rural	0.8594	19780	Urban	0.9669
16390	Hamilton County, Iowa	16	Rural	0.8594	99916	Rural	0.8509
16400	Hancock County, Iowa	16	Rural	0.8594	99916	Rural	0.8509
16410	Hardin County, Iowa	16	Rural	0.8594	99916	Rural	0.8509
16420	Harrison County, Iowa	16	Rural	0.8594	36540	Urban	0.9560
16430	Henry County, Iowa	16	Rural	0.8594	99916	Rural	0.8509
16440	Howard County, Iowa	16	Rural	0.8594	99916	Rural	0.8509
16450	Humboldt County, Iowa	16	Rural	0.8594	99916	Rural	0.8509
16460	Ida County, Iowa	16	Rural	0.8594	99916	Rural	0.8509
16470	Iowa County, Iowa	16	Rural	0.8594	99916	Rural	0.8509
16480	Jackson County, Iowa	16	Rural	0.8594	99916	Rural	0.8509
16490	Jasper County, Iowa	16	Rural	0.8594	99916	Rural	0.8509
16500	Jefferson County, Iowa	16	Rural	0.8594	99916	Rural	0.8509
16510	Johnson County, Iowa	3500	Urban	0.9747	26980	Urban	0.9747
16520	Jones County, Iowa	16	Rural	0.8594	16300	Urban	0.8825
16530	Keokuk County, Iowa	16	Rural	0.8594	99916	Rural	0.8509
16540	Kossuth County, Iowa	16	Rural	0.8594	99916	Rural	0.8509
16550	Lee County, Iowa	16	Rural	0.8594	99916	Rural	0.8509
16560	Linn County, Iowa	1360	Urban	0.8825	16300	Urban	0.8825
16570	Louisa County, Iowa	16	Rural	0.8594	99916	Rural	0.8509
16580	Lucas County, Iowa	16	Rural	0.8594	99916	Rural	0.8509
16590	Lyon County, Iowa	16	Rural	0.8594	99916	Rural	0.8509
16600	Madison County, Iowa	16	Rural	0.8594	19780	Urban	0.9669
16610	Mahaska County, Iowa	16	Rural	0.8594	99916	Rural	0.8509
16620	Marion County, Iowa	16	Rural	0.8594	99916	Rural	0.8509
16630	Marshall County, Iowa	16	Rural	0.8594	99916	Rural	0.8509
16640	Mills County, Iowa	16	Rural	0.8594	36540	Urban	0.9560
16650	Mitchell County, Iowa	16	Rural	0.8594	99916	Rural	0.8509
16660	Monona County, Iowa	16	Rural	0.8594	99916	Rural	0.8509
16670	Monroe County, Iowa	16	Rural	0.8594	99916	Rural	0.8509
16680	Montgomery County, Iowa	16	Rural	0.8594	99916	Rural	0.8509
16690	Muscatine County, Iowa	16	Rural	0.8594	99916	Rural	0.8509
16700	O Brien County, Iowa	16	Rural	0.8594	99916	Rural	0.8509

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16710	Osceola County, Iowa	16	Rural	0.8594	99916	Rural	0.8509
16720	Page County, Iowa	16	Rural	0.8594	99916	Rural	0.8509
16730	Palo Alto County, Iowa	16	Rural	0.8594	99916	Rural	0.8509
16740	Plymouth County, Iowa	16	Rural	0.8594	99916	Rural	0.8509
16750	Pocahontas County, Iowa	16	Rural	0.8594	99916	Rural	0.8509
16760	Polk County, Iowa	2120	Urban	0.9669	19780	Urban	0.9669
16770	Pottawattamie County, Iowa	5920	Urban	0.9560	36540	Urban	0.9560
16780	Poweshiek County, Iowa	16	Rural	0.8594	99916	Rural	0.8509
16790	Ringgold County, Iowa	16	Rural	0.8594	99916	Rural	0.8509
16800	Sac County, Iowa	16	Rural	0.8594	99916	Rural	0.8509
16810	Scott County, Iowa	1960	Urban	0.8724	19340	Urban	0.8724
16820	Shelby County, Iowa	16	Rural	0.8594	99916	Rural	0.8509
16830	Sioux County, Iowa	16	Rural	0.8594	99916	Rural	0.8509
16840	Story County, Iowa	16	Rural	0.8594	11180	Urban	0.9536
16850	Tama County, Iowa	16	Rural	0.8594	99916	Rural	0.8509
16860	Taylor County, Iowa	16	Rural	0.8594	99916	Rural	0.8509
16870	Union County, Iowa	16	Rural	0.8594	99916	Rural	0.8509
16880	Van Buren County, Iowa	16	Rural	0.8594	99916	Rural	0.8509
16890	Wapello County, Iowa	16	Rural	0.8594	99916	Rural	0.8509
16900	Warren County, Iowa	2120	Urban	0.9669	19780	Urban	0.9669
16910	Washington County, Iowa	16	Rural	0.8594	26980	Urban	0.9747
16920	Wayne County, Iowa	16	Rural	0.8594	99916	Rural	0.8509
16930	Webster County, Iowa	16	Rural	0.8594	99916	Rural	0.8509
16940	Winnebago County, Iowa	16	Rural	0.8594	99916	Rural	0.8509
16950	Winneshiek County, Iowa	16	Rural	0.8594	99916	Rural	0.8509
16960	Woodbury County, Iowa	7720	Urban	0.9416	43580	Urban	0.9381
16970	Worth County, Iowa	16	Rural	0.8594	99916	Rural	0.8509
16980	Wright County, Iowa	16	Rural	0.8594	99916	Rural	0.8509
17000	Allen County, Kansas	17	Rural	0.8040	99917	Rural	0.8035
17010	Anderson County, Kansas	17	Rural	0.8040	99917	Rural	0.8035
17020	Atchison County, Kansas	17	Rural	0.8040	99917	Rural	0.8035
17030	Barber County, Kansas	17	Rural	0.8040	99917	Rural	0.8035
17040	Barton County, Kansas	17	Rural	0.8040	99917	Rural	0.8035
17050	Bourbon County, Kansas	17	Rural	0.8040	99917	Rural	0.8035
17060	Brown County, Kansas	17	Rural	0.8040	99917	Rural	0.8035
17070	Butler County, Kansas	9040	Urban	0.9175	48620	Urban	0.9153
17080	Chase County, Kansas	17	Rural	0.8040	99917	Rural	0.8035
17090	Chautauqua County, Kansas	17	Rural	0.8040	99917	Rural	0.8035
17100	Cherokee County, Kansas	17	Rural	0.8040	99917	Rural	0.8035
17110	Cheyenne County, Kansas	17	Rural	0.8040	99917	Rural	0.8035
17120	Clark County, Kansas	17	Rural	0.8040	99917	Rural	0.8035
17130	Clay County, Kansas	17	Rural	0.8040	99917	Rural	0.8035
17140	Cloud County, Kansas	17	Rural	0.8040	99917	Rural	0.8035
17150	Coffey County, Kansas	17	Rural	0.8040	99917	Rural	0.8035
17160	Comanche County, Kansas	17	Rural	0.8040	99917	Rural	0.8035
17170	Cowley County, Kansas	17	Rural	0.8040	99917	Rural	0.8035
17180	Crawford County, Kansas	17	Rural	0.8040	99917	Rural	0.8035
17190	Decatur County, Kansas	17	Rural	0.8040	99917	Rural	0.8035
17200	Dickinson County, Kansas	17	Rural	0.8040	99917	Rural	0.8035
17210	Doniphan County, Kansas	17	Rural	0.8040	41140	Urban	0.9519
17220	Douglas County, Kansas	4150	Urban	0.8537	29940	Urban	0.8537
17230	Edwards County, Kansas	17	Rural	0.8040	99917	Rural	0.8035
17240	Elk County, Kansas	17	Rural	0.8040	99917	Rural	0.8035
17250	Ellis County, Kansas	17	Rural	0.8040	99917	Rural	0.8035
17260	Ellsworth County, Kansas	17	Rural	0.8040	99917	Rural	0.8035
17270	Finney County, Kansas	17	Rural	0.8040	99917	Rural	0.8035
17280	Ford County, Kansas	17	Rural	0.8040	99917	Rural	0.8035
17290	Franklin County, Kansas	17	Rural	0.8040	28140	Urban	0.9476
17300	Geary County, Kansas	17	Rural	0.8040	99917	Rural	0.8035
17310	Gove County, Kansas	17	Rural	0.8040	99917	Rural	0.8035
17320	Graham County, Kansas	17	Rural	0.8040	99917	Rural	0.8035
17330	Grant County, Kansas	17	Rural	0.8040	99917	Rural	0.8035
17340	Gray County, Kansas	17	Rural	0.8040	99917	Rural	0.8035
17350	Greeley County, Kansas	17	Rural	0.8040	99917	Rural	0.8035
17360	Greenwood County, Kansas	17	Rural	0.8040	99917	Rural	0.8035
17370	Hamilton County, Kansas	17	Rural	0.8040	99917	Rural	0.8035
17380	Harper County, Kansas	17	Rural	0.8040	99917	Rural	0.8035
17390	Harvey County, Kansas	9040	Urban	0.9175	48620	Urban	0.9153
17391	Haskell County, Kansas	17	Rural	0.8040	99917	Rural	0.8035
17410	Hodgeman County, Kansas	17	Rural	0.8040	99917	Rural	0.8035
17420	Jackson County, Kansas	17	Rural	0.8040	45820	Urban	0.8920
17430	Jefferson County, Kansas	17	Rural	0.8040	45820	Urban	0.8920

SSA State/ County Code	County name	MSA No.	MSA urban/ rural	2006 MSA-based WI	CBSA No.	CBSA urban/ rural	2006 CBSA-based WI
17440	Jewell County, Kansas	17	Rural	0.8040	99917	Rural	0.8035
17450	Johnson County, Kansas	3760	Urban	0.9490	28140	Urban	0.9476
17451	Kearny County, Kansas	17	Rural	0.8040	99917	Rural	0.8035
17470	Kingman County, Kansas	17	Rural	0.8040	99917	Rural	0.8035
17480	Kiowa County, Kansas	17	Rural	0.8040	99917	Rural	0.8035
17490	Labette County, Kansas	17	Rural	0.8040	99917	Rural	0.8035
17500	Lane County, Kansas	17	Rural	0.8040	99917	Rural	0.8035
17510	Leavenworth County, Kansas	3760	Urban	0.9490	28140	Urban	0.9476
17520	Lincoln County, Kansas	17	Rural	0.8040	99917	Rural	0.8035
17530	Linn County, Kansas	17	Rural	0.8040	28140	Urban	0.9476
17540	Logan County, Kansas	17	Rural	0.8040	99917	Rural	0.8035
17550	Lyon County, Kansas	17	Rural	0.8040	99917	Rural	0.8035
17560	Mc Pherson County, Kansas	17	Rural	0.8040	99917	Rural	0.8035
17570	Marion County, Kansas	17	Rural	0.8040	99917	Rural	0.8035
17580	Marshall County, Kansas	17	Rural	0.8040	99917	Rural	0.8035
17590	Meade County, Kansas	17	Rural	0.8040	99917	Rural	0.8035
17600	Miami County, Kansas	3760	Urban	0.9490	28140	Urban	0.9476
17610	Mitchell County, Kansas	17	Rural	0.8040	99917	Rural	0.8035
17620	Montgomery County, Kansas	17	Rural	0.8040	99917	Rural	0.8035
17630	Morris County, Kansas	17	Rural	0.8040	99917	Rural	0.8035
17640	Morton County, Kansas	17	Rural	0.8040	99917	Rural	0.8035
17650	Nemaha County, Kansas	17	Rural	0.8040	99917	Rural	0.8035
17660	Neosho County, Kansas	17	Rural	0.8040	99917	Rural	0.8035
17670	Ness County, Kansas	17	Rural	0.8040	99917	Rural	0.8035
17680	Norton County, Kansas	17	Rural	0.8040	99917	Rural	0.8035
17690	Osage County, Kansas	17	Rural	0.8040	45820	Urban	0.8920
17700	Osborne County, Kansas	17	Rural	0.8040	99917	Rural	0.8035
17710	Ottawa County, Kansas	17	Rural	0.8040	99917	Rural	0.8035
17720	Pawnee County, Kansas	17	Rural	0.8040	99917	Rural	0.8035
17730	Phillips County, Kansas	17	Rural	0.8040	99917	Rural	0.8035
17740	Pottawatomie County, Kansas	17	Rural	0.8040	99917	Rural	0.8035
17750	Pratt County, Kansas	17	Rural	0.8040	99917	Rural	0.8035
17760	Rawlins County, Kansas	17	Rural	0.8040	99917	Rural	0.8035
17770	Reno County, Kansas	17	Rural	0.8040	99917	Rural	0.8035
17780	Republic County, Kansas	17	Rural	0.8040	99917	Rural	0.8035
17790	Rice County, Kansas	17	Rural	0.8040	99917	Rural	0.8035
17800	Riley County, Kansas	17	Rural	0.8040	99917	Rural	0.8035
17810	Rooks County, Kansas	17	Rural	0.8040	99917	Rural	0.8035
17820	Rush County, Kansas	17	Rural	0.8040	99917	Rural	0.8035
17830	Russell County, Kansas	17	Rural	0.8040	99917	Rural	0.8035
17840	Saline County, Kansas	17	Rural	0.8040	99917	Rural	0.8035
17841	Scott County, Kansas	17	Rural	0.8040	99917	Rural	0.8035
17860	Sedgwick County, Kansas	9040	Urban	0.9175	48620	Urban	0.9153
17870	Seward County, Kansas	17	Rural	0.8040	99917	Rural	0.8035
17880	Shawnee County, Kansas	8440	Urban	0.8920	45820	Urban	0.8920
17890	Sheridan County, Kansas	17	Rural	0.8040	99917	Rural	0.8035
17900	Sherman County, Kansas	17	Rural	0.8040	99917	Rural	0.8035
17910	Smith County, Kansas	17	Rural	0.8040	99917	Rural	0.8035
17920	Stafford County, Kansas	17	Rural	0.8040	99917	Rural	0.8035
17921	Stanton County, Kansas	17	Rural	0.8040	99917	Rural	0.8035
17940	Stevens County, Kansas	17	Rural	0.8040	99917	Rural	0.8035
17950	Sumner County, Kansas	17	Rural	0.8040	48620	Urban	0.9153
17960	Thomas County, Kansas	17	Rural	0.8040	99917	Rural	0.8035
17970	Trego County, Kansas	17	Rural	0.8040	99917	Rural	0.8035
17980	Wabaunsee County, Kansas	17	Rural	0.8040	45820	Urban	0.8920
17981	Wallace County, Kansas	17	Rural	0.8040	99917	Rural	0.8035
17982	Washington County, Kansas	17	Rural	0.8040	99917	Rural	0.8035
17983	Wichita County, Kansas	17	Rural	0.8040	99917	Rural	0.8035
17984	Wilson County, Kansas	17	Rural	0.8040	99917	Rural	0.8035
17985	Woodson County, Kansas	17	Rural	0.8040	99917	Rural	0.8035
17986	Wyandotte County, Kansas	3760	Urban	0.9490	28140	Urban	0.9476
18000	Adair County, Kentucky	18	Rural	0.7858	99918	Rural	0.7766
18010	Allen County, Kentucky	18	Rural	0.7858	99918	Rural	0.7766
18020	Anderson County, Kentucky	18	Rural	0.7858	99918	Rural	0.7766
18030	Ballard County, Kentucky	18	Rural	0.7858	99918	Rural	0.7766
18040	Barren County, Kentucky	18	Rural	0.7858	99918	Rural	0.7766
18050	Bath County, Kentucky	18	Rural	0.7858	99918	Rural	0.7766
18060	Bell County, Kentucky	18	Rural	0.7858	99918	Rural	0.7766
18070	Boone County, Kentucky	1640	Urban	0.9734	17140	Urban	0.9615
18080	Bourbon County, Kentucky	4280	Urban	0.8988	30460	Urban	0.9075
18090	Boyd County, Kentucky	3400	Urban	0.9477	26580	Urban	0.9477
18100	Boyle County, Kentucky	18	Rural	0.7858	99918	Rural	0.7766

SSA State/ County Code	County name	MSA No.	MSA urban/ rural	2006 MSA-based WI	CBSA No.	CBSA urban/ rural	2006 CBSA-based WI
18110	Bracken County, Kentucky	18	Rural	0.7858	17140	Urban	0.9615
18120	Breathitt County, Kentucky	18	Rural	0.7858	99918	Rural	0.7766
18130	Breckinridge County, Kentucky	18	Rural	0.7858	99918	Rural	0.7766
18140	Bullitt County, Kentucky	4520	Urban	0.9293	31140	Urban	0.9251
18150	Butler County, Kentucky	18	Rural	0.7858	99918	Rural	0.7766
18160	Caldwell County, Kentucky	18	Rural	0.7858	99918	Rural	0.7766
18170	Calloway County, Kentucky	18	Rural	0.7858	99918	Rural	0.7766
18180	Campbell County, Kentucky	1640	Urban	0.9734	17140	Urban	0.9615
18190	Carlisle County, Kentucky	18	Rural	0.7858	99918	Rural	0.7766
18191	Carroll County, Kentucky	18	Rural	0.7858	99918	Rural	0.7766
18210	Carter County, Kentucky	3400	Urban	0.9477	99918	Rural	0.7766
18220	Casey County, Kentucky	18	Rural	0.7858	99918	Rural	0.7766
18230	Christian County, Kentucky	1660	Urban	0.8284	17300	Urban	0.8284
18240	Clark County, Kentucky	4280	Urban	0.8988	30460	Urban	0.9075
18250	Clay County, Kentucky	18	Rural	0.7858	99918	Rural	0.7766
18260	Clinton County, Kentucky	18	Rural	0.7858	99918	Rural	0.7766
18270	Crittenden County, Kentucky	18	Rural	0.7858	99918	Rural	0.7766
18271	Cumberland County, Kentucky	18	Rural	0.7858	99918	Rural	0.7766
18290	Daviess County, Kentucky	5990	Urban	0.8780	36980	Urban	0.8780
18291	Edmonson County, Kentucky	18	Rural	0.7858	14540	Urban	0.8211
18310	Elliott County, Kentucky	18	Rural	0.7858	99918	Rural	0.7766
18320	Estill County, Kentucky	18	Rural	0.7858	99918	Rural	0.7766
18330	Fayette County, Kentucky	4280	Urban	0.8988	30460	Urban	0.9075
18340	Fleming County, Kentucky	18	Rural	0.7858	99918	Rural	0.7766
18350	Floyd County, Kentucky	18	Rural	0.7858	99918	Rural	0.7766
18360	Franklin County, Kentucky	18	Rural	0.7858	99918	Rural	0.7766
18361	Fulton County, Kentucky	18	Rural	0.7858	99918	Rural	0.7766
18362	Gallatin County, Kentucky	1640	Urban	0.9734	17140	Urban	0.9615
18390	Garrard County, Kentucky	18	Rural	0.7858	99918	Rural	0.7766
18400	Grant County, Kentucky	1640	Urban	0.9734	17140	Urban	0.9615
18410	Graves County, Kentucky	18	Rural	0.7858	99918	Rural	0.7766
18420	Grayson County, Kentucky	18	Rural	0.7858	99918	Rural	0.7766
18421	Green County, Kentucky	18	Rural	0.7858	99918	Rural	0.7766
18440	Greenup County, Kentucky	3400	Urban	0.9477	26580	Urban	0.9477
18450	Hancock County, Kentucky	18	Rural	0.7858	36980	Urban	0.8780
18460	Hardin County, Kentucky	18	Rural	0.7858	21060	Urban	0.8802
18470	Harlan County, Kentucky	18	Rural	0.7858	99918	Rural	0.7766
18480	Harrison County, Kentucky	18	Rural	0.7858	99918	Rural	0.7766
18490	Hart County, Kentucky	18	Rural	0.7858	99918	Rural	0.7766
18500	Henderson County, Kentucky	2440	Urban	0.8713	21780	Urban	0.8713
18510	Henry County, Kentucky	18	Rural	0.7858	31140	Urban	0.9251
18511	Hickman County, Kentucky	18	Rural	0.7858	99918	Rural	0.7766
18530	Hopkins County, Kentucky	18	Rural	0.7858	99918	Rural	0.7766
18540	Jackson County, Kentucky	18	Rural	0.7858	99918	Rural	0.7766
18550	Jefferson County, Kentucky	4520	Urban	0.9293	31140	Urban	0.9251
18560	Jessamine County, Kentucky	4280	Urban	0.8988	30460	Urban	0.9075
18570	Johnson County, Kentucky	18	Rural	0.7858	99918	Rural	0.7766
18580	Kenton County, Kentucky	1640	Urban	0.9734	17140	Urban	0.9615
18590	Knott County, Kentucky	18	Rural	0.7858	99918	Rural	0.7766
18600	Knox County, Kentucky	18	Rural	0.7858	99918	Rural	0.7766
18610	Larue County, Kentucky	18	Rural	0.7858	21060	Urban	0.8802
18620	Laurel County, Kentucky	18	Rural	0.7858	99918	Rural	0.7766
18630	Lawrence County, Kentucky	18	Rural	0.7858	99918	Rural	0.7766
18640	Lee County, Kentucky	18	Rural	0.7858	99918	Rural	0.7766
18650	Leslie County, Kentucky	18	Rural	0.7858	99918	Rural	0.7766
18660	Letcher County, Kentucky	18	Rural	0.7858	99918	Rural	0.7766
18670	Lewis County, Kentucky	18	Rural	0.7858	99918	Rural	0.7766
18680	Lincoln County, Kentucky	18	Rural	0.7858	99918	Rural	0.7766
18690	Livingston County, Kentucky	18	Rural	0.7858	99918	Rural	0.7766
18700	Logan County, Kentucky	18	Rural	0.7858	99918	Rural	0.7766
18710	Lyon County, Kentucky	18	Rural	0.7858	99918	Rural	0.7766
18720	Mc Cracken County, Kentucky	18	Rural	0.7858	99918	Rural	0.7766
18730	Mc Creary County, Kentucky	18	Rural	0.7858	99918	Rural	0.7766
18740	Mc Lean County, Kentucky	18	Rural	0.7858	36980	Urban	0.8780
18750	Madison County, Kentucky	4280	Urban	0.8988	99918	Rural	0.7766
18760	Magoffin County, Kentucky	18	Rural	0.7858	99918	Rural	0.7766
18770	Marion County, Kentucky	18	Rural	0.7858	99918	Rural	0.7766
18780	Marshall County, Kentucky	18	Rural	0.7858	99918	Rural	0.7766
18790	Martin County, Kentucky	18	Rural	0.7858	99918	Rural	0.7766
18800	Mason County, Kentucky	18	Rural	0.7858	99918	Rural	0.7766
18801	Meade County, Kentucky	18	Rural	0.7858	31140	Urban	0.9251
18802	Menifee County, Kentucky	18	Rural	0.7858	99918	Rural	0.7766

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18830	Mercer County, Kentucky	18	Rural	0.7858	99918	Rural	0.7766
18831	Metcalfe County, Kentucky	18	Rural	0.7858	99918	Rural	0.7766
18850	Monroe County, Kentucky	18	Rural	0.7858	99918	Rural	0.7766
18860	Montgomery County, Kentucky	18	Rural	0.7858	99918	Rural	0.7766
18861	Morgan County, Kentucky	18	Rural	0.7858	99918	Rural	0.7766
18880	Muhlenberg County, Kentucky	18	Rural	0.7858	99918	Rural	0.7766
18890	Nelson County, Kentucky	18	Rural	0.7858	31140	Urban	0.9251
18900	Nicholas County, Kentucky	18	Rural	0.7858	99918	Rural	0.7766
18910	Ohio County, Kentucky	18	Rural	0.7858	99918	Rural	0.7766
18920	Oldham County, Kentucky	4520	Urban	0.9293	31140	Urban	0.9251
18930	Owen County, Kentucky	18	Rural	0.7858	99918	Rural	0.7766
18931	Owsley County, Kentucky	18	Rural	0.7858	99918	Rural	0.7766
18932	Pendleton County, Kentucky	1640	Urban	0.9734	17140	Urban	0.9615
18960	Perry County, Kentucky	18	Rural	0.7858	99918	Rural	0.7766
18970	Pike County, Kentucky	18	Rural	0.7858	99918	Rural	0.7766
18971	Powell County, Kentucky	18	Rural	0.7858	99918	Rural	0.7766
18972	Pulaski County, Kentucky	18	Rural	0.7858	99918	Rural	0.7766
18973	Robertson County, Kentucky	18	Rural	0.7858	99918	Rural	0.7766
18974	Rockcastle County, Kentucky	18	Rural	0.7858	99918	Rural	0.7766
18975	Rowan County, Kentucky	18	Rural	0.7858	99918	Rural	0.7766
18976	Russell County, Kentucky	18	Rural	0.7858	99918	Rural	0.7766
18977	Scott County, Kentucky	4280	Urban	0.8988	30460	Urban	0.9075
18978	Shelby County, Kentucky	18	Rural	0.7858	31140	Urban	0.9251
18979	Simpson County, Kentucky	18	Rural	0.7858	99918	Rural	0.7766
18980	Spencer County, Kentucky	18	Rural	0.7858	31140	Urban	0.9251
18981	Taylor County, Kentucky	18	Rural	0.7858	99918	Rural	0.7766
18982	Todd County, Kentucky	18	Rural	0.7858	99918	Rural	0.7766
18983	Trigg County, Kentucky	18	Rural	0.7858	17300	Urban	0.8284
18984	Trimble County, Kentucky	18	Rural	0.7858	31140	Urban	0.9251
18985	Union County, Kentucky	18	Rural	0.7858	99918	Rural	0.7766
18986	Warren County, Kentucky	18	Rural	0.7858	14540	Urban	0.8211
18987	Washington County, Kentucky	18	Rural	0.7858	99918	Rural	0.7766
18988	Wayne County, Kentucky	18	Rural	0.7858	99918	Rural	0.7766
18989	Webster County, Kentucky	18	Rural	0.7858	21780	Urban	0.8713
18990	Whitley County, Kentucky	18	Rural	0.7858	99918	Rural	0.7766
18991	Wolfe County, Kentucky	18	Rural	0.7858	99918	Rural	0.7766
18992	Woodford County, Kentucky	4280	Urban	0.8988	30460	Urban	0.9075
19000	Acadia County, Louisiana	3880	Urban	0.8251	99919	Rural	0.7411
19010	Allen County, Louisiana	19	Rural	0.7340	99919	Rural	0.7411
19020	Ascension County, Louisiana	0760	Urban	0.8643	12940	Urban	0.8593
19030	Assumption County, Louisiana	19	Rural	0.7340	99919	Rural	0.7411
19040	Avoyelles County, Louisiana	19	Rural	0.7340	99919	Rural	0.7411
19050	Beauregard County, Louisiana	19	Rural	0.7340	99919	Rural	0.7411
19060	Bienville County, Louisiana	19	Rural	0.7340	99919	Rural	0.7411
19070	Bossier County, Louisiana	7680	Urban	0.8737	43340	Urban	0.8760
19080	Caddo County, Louisiana	7680	Urban	0.8737	43340	Urban	0.8760
19090	Calcasieu County, Louisiana	3960	Urban	0.7858	29340	Urban	0.7833
19100	Caldwell County, Louisiana	19	Rural	0.7340	99919	Rural	0.7411
19110	Cameron County, Louisiana	19	Rural	0.7340	29340	Urban	0.7833
19120	Catahoula County, Louisiana	19	Rural	0.7340	99919	Rural	0.7411
19130	Claiborne County, Louisiana	19	Rural	0.7340	99919	Rural	0.7411
19140	Concordia County, Louisiana	19	Rural	0.7340	99919	Rural	0.7411
19150	De Soto County, Louisiana	19	Rural	0.7340	43340	Urban	0.8760
19160	East Baton Rouge County, Louisiana	0760	Urban	0.8643	12940	Urban	0.8593
19170	East Carroll County, Louisiana	19	Rural	0.7340	99919	Rural	0.7411
19180	East Feliciana County, Louisiana	19	Rural	0.7340	12940	Urban	0.8593
19190	Evangeline County, Louisiana	19	Rural	0.7340	99919	Rural	0.7411
19200	Franklin County, Louisiana	19	Rural	0.7340	99919	Rural	0.7411
19210	Grant County, Louisiana	19	Rural	0.7340	10780	Urban	0.8033
19220	Iberia County, Louisiana	19	Rural	0.7340	99919	Rural	0.7411
19230	Iberville County, Louisiana	19	Rural	0.7340	12940	Urban	0.8593
19240	Jackson County, Louisiana	19	Rural	0.7340	99919	Rural	0.7411
19250	Jefferson County, Louisiana	5560	Urban	0.8995	35380	Urban	0.8995
19260	Jefferson Davis County, Louisiana	19	Rural	0.7340	99919	Rural	0.7411
19270	Lafayette County, Louisiana	3880	Urban	0.8251	29180	Urban	0.8428
19280	Lafourche County, Louisiana	3350	Urban	0.7894	26380	Urban	0.7894
19290	La Salle County, Louisiana	19	Rural	0.7340	99919	Rural	0.7411
19300	Lincoln County, Louisiana	19	Rural	0.7340	99919	Rural	0.7411
19310	Livingston County, Louisiana	0760	Urban	0.8643	12940	Urban	0.8593
19320	Madison County, Louisiana	19	Rural	0.7340	99919	Rural	0.7411
19330	Morehouse County, Louisiana	19	Rural	0.7340	99919	Rural	0.7411
19340	Natchitoches County, Louisiana	19	Rural	0.7340	99919	Rural	0.7411

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19350	Orleans County, Louisiana	5560	Urban	0.8995	35380	Urban	0.8995
19360	Ouachita County, Louisiana	5200	Urban	0.8044	33740	Urban	0.8031
19370	Plaquemines County, Louisiana	5560	Urban	0.8995	35380	Urban	0.8995
19380	Pointe Coupee County, Louisiana	19	Rural	0.7340	12940	Urban	0.8593
19390	Rapides County, Louisiana	0220	Urban	0.8033	10780	Urban	0.8033
19400	Red River County, Louisiana	19	Rural	0.7340	99919	Rural	0.7411
19410	Richland County, Louisiana	19	Rural	0.7340	99919	Rural	0.7411
19420	Sabine County, Louisiana	19	Rural	0.7340	99919	Rural	0.7411
19430	St Bernard County, Louisiana	5560	Urban	0.8995	35380	Urban	0.8995
19440	St Charles County, Louisiana	5560	Urban	0.8995	35380	Urban	0.8995
19450	St Helena County, Louisiana	19	Rural	0.7340	12940	Urban	0.8593
19460	St James County, Louisiana	5560	Urban	0.8995	99919	Rural	0.7411
19470	St John Baptist County, Louisiana	5560	Urban	0.8995	35380	Urban	0.8995
19480	St Landry County, Louisiana	3880	Urban	0.8251	99919	Rural	0.7411
19490	St Martin County, Louisiana	3880	Urban	0.8251	29180	Urban	0.8428
19500	St Mary County, Louisiana	19	Rural	0.7340	99919	Rural	0.7411
19510	St Tammany County, Louisiana	5560	Urban	0.8995	35380	Urban	0.8995
19520	Tangipahoa County, Louisiana	19	Rural	0.7340	99919	Rural	0.7411
19530	Tensas County, Louisiana	19	Rural	0.7340	99919	Rural	0.7411
19540	Terrebonne County, Louisiana	3350	Urban	0.7894	26380	Urban	0.7894
19550	Union County, Louisiana	19	Rural	0.7340	33740	Urban	0.8031
19560	Vermilion County, Louisiana	19	Rural	0.7340	99919	Rural	0.7411
19570	Vernon County, Louisiana	19	Rural	0.7340	99919	Rural	0.7411
19580	Washington County, Louisiana	19	Rural	0.7340	99919	Rural	0.7411
19590	Webster County, Louisiana	7680	Urban	0.8737	99919	Rural	0.7411
19600	West Baton Rouge County, Louisiana	0760	Urban	0.8643	12940	Urban	0.8593
19610	West Carroll County, Louisiana	19	Rural	0.7340	99919	Rural	0.7411
19620	West Feliciana County, Louisiana	19	Rural	0.7340	12940	Urban	0.8593
19630	Winn County, Louisiana	19	Rural	0.7340	99919	Rural	0.7411
20000	Androscoggin County, Maine	4243	Urban	0.9331	30340	Urban	0.9331
20010	Aroostook County, Maine	20	Rural	0.8843	99920	Rural	0.8843
20020	Cumberland County, Maine	6403	Urban	1.0382	38860	Urban	1.0382
20030	Franklin County, Maine	20	Rural	0.8843	99920	Rural	0.8843
20040	Hancock County, Maine	20	Rural	0.8843	99920	Rural	0.8843
20050	Kennebec County, Maine	20	Rural	0.8843	99920	Rural	0.8843
20060	Knox County, Maine	20	Rural	0.8843	99920	Rural	0.8843
20070	Lincoln County, Maine	20	Rural	0.8843	99920	Rural	0.8843
20080	Oxford County, Maine	20	Rural	0.8843	99920	Rural	0.8843
20090	Penobscot County, Maine	0733	Urban	0.9993	12620	Urban	0.9993
20100	Piscataquis County, Maine	20	Rural	0.8843	99920	Rural	0.8843
20110	Sagadahoc County, Maine	6403	Urban	1.0382	38860	Urban	1.0382
20120	Somerset County, Maine	20	Rural	0.8843	99920	Rural	0.8843
20130	Waldo County, Maine	20	Rural	0.8843	99920	Rural	0.8843
20140	Washington County, Maine	20	Rural	0.8843	99920	Rural	0.8843
20150	York County, Maine	6403	Urban	1.0382	38860	Urban	1.0382
21000	Allegany County, Maryland	1900	Urban	0.9317	19060	Urban	0.9317
21010	Anne Arundel County, Maryland	0720	Urban	0.9897	12580	Urban	0.9897
21020	Baltimore County, Maryland	0720	Urban	0.9897	12580	Urban	0.9897
21030	Baltimore City County, Maryland	0720	Urban	0.9897	12580	Urban	0.9897
21040	Calvert County, Maryland	8840	Urban	1.0976	47894	Urban	1.0926
21050	Caroline County, Maryland	21	Rural	0.9230	99921	Rural	0.9353
21060	Carroll County, Maryland	0720	Urban	0.9897	12580	Urban	0.9897
21070	Cecil County, Maryland	9160	Urban	1.0527	48864	Urban	1.0471
21080	Charles County, Maryland	8840	Urban	1.0976	47894	Urban	1.0926
21090	Dorchester County, Maryland	21	Rural	0.9230	99921	Rural	0.9353
21100	Frederick County, Maryland	8840	Urban	1.0976	13644	Urban	1.1483
21110	Garrett County, Maryland	21	Rural	0.9230	99921	Rural	0.9353
21120	Harford County, Maryland	0720	Urban	0.9897	12580	Urban	0.9897
21130	Howard County, Maryland	0720	Urban	0.9897	12580	Urban	0.9897
21140	Kent County, Maryland	21	Rural	0.9230	99921	Rural	0.9353
21150	Montgomery County, Maryland	8840	Urban	1.0976	13644	Urban	1.1483
21160	Prince Georges County, Maryland	8840	Urban	1.0976	47894	Urban	1.0926
21170	Queen Annes County, Maryland	0720	Urban	0.9897	12580	Urban	0.9897
21180	St Marys County, Maryland	21	Rural	0.9230	99921	Rural	0.9353
21190	Somerset County, Maryland	21	Rural	0.9230	41540	Urban	0.9064
21200	Talbot County, Maryland	21	Rural	0.9230	99921	Rural	0.9353
21210	Washington County, Maryland	3180	Urban	0.9869	25180	Urban	0.9489
21220	Wicomico County, Maryland	21	Rural	0.9230	41540	Urban	0.9064
21230	Worcester County, Maryland	21	Rural	0.9230	99921	Rural	0.9353
22000	Barnstable County, Massachusetts	0743	Urban	1.2600	12700	Urban	1.2600
22010	Berkshire County, Massachusetts	6323	Urban	1.0181	38340	Urban	1.0181
22020	Bristol County, Massachusetts	1123	Urban	1.1178	39300	Urban	1.0966

SSA State/ County Code	County name	MSA No.	MSA urban/ rural	2006 MSA-based WI	CBSA No.	CBSA urban/ rural	2006 CBSA-based WI
22030	Dukes County, Massachusetts	22	Rural	1.0216	99922	Rural	1.0216
22040	Essex County, Massachusetts	1123	Urban	1.1178	21604	Urban	1.0538
22060	Franklin County, Massachusetts	22	Rural	1.0216	44140	Urban	1.0248
22070	Hampden County, Massachusetts	8003	Urban	1.0263	44140	Urban	1.0248
22080	Hampshire County, Massachusetts	8003	Urban	1.0263	44140	Urban	1.0248
22090	Middlesex County, Massachusetts	1123	Urban	1.1178	15764	Urban	1.1172
22120	Nantucket County, Massachusetts	22	Rural	1.0216	99922	Rural	1.0216
22130	Norfolk County, Massachusetts	1123	Urban	1.1178	14484	Urban	1.1558
22150	Plymouth County, Massachusetts	1123	Urban	1.1178	14484	Urban	1.1558
22160	Suffolk County, Massachusetts	1123	Urban	1.1178	14484	Urban	1.1558
22170	Worcester County, Massachusetts	1123	Urban	1.1178	49340	Urban	1.1028
23000	Alcona County, Michigan	23	Rural	0.8824	99923	Rural	0.8895
23010	Alger County, Michigan	23	Rural	0.8824	99923	Rural	0.8895
23020	Allegan County, Michigan	3000	Urban	0.9445	99923	Rural	0.8895
23030	Alpena County, Michigan	23	Rural	0.8824	99923	Rural	0.8895
23040	Antrim County, Michigan	23	Rural	0.8824	99923	Rural	0.8895
23050	Arenac County, Michigan	23	Rural	0.8824	99923	Rural	0.8895
23060	Baraga County, Michigan	23	Rural	0.8824	99923	Rural	0.8895
23070	Barry County, Michigan	23	Rural	0.8824	24340	Urban	0.9390
23080	Bay County, Michigan	6960	Urban	0.9241	13020	Urban	0.9343
23090	Benzie County, Michigan	23	Rural	0.8824	99923	Rural	0.8895
23100	Berrien County, Michigan	0870	Urban	0.8879	35660	Urban	0.8879
23110	Branch County, Michigan	23	Rural	0.8824	99923	Rural	0.8895
23120	Calhoun County, Michigan	3720	Urban	1.0143	12980	Urban	0.9508
23130	Cass County, Michigan	23	Rural	0.8824	43780	Urban	0.9788
23140	Charlevoix County, Michigan	23	Rural	0.8824	99923	Rural	0.8895
23150	Cheboygan County, Michigan	23	Rural	0.8824	99923	Rural	0.8895
23160	Chippewa County, Michigan	23	Rural	0.8824	99923	Rural	0.8895
23170	Clare County, Michigan	23	Rural	0.8824	99923	Rural	0.8895
23180	Clinton County, Michigan	4040	Urban	0.9794	29620	Urban	0.9794
23190	Crawford County, Michigan	23	Rural	0.8824	99923	Rural	0.8895
23200	Delta County, Michigan	23	Rural	0.8824	99923	Rural	0.8895
23210	Dickinson County, Michigan	23	Rural	0.8824	99923	Rural	0.8895
23220	Eaton County, Michigan	4040	Urban	0.9794	29620	Urban	0.9794
23230	Emmet County, Michigan	23	Rural	0.8824	99923	Rural	0.8895
23240	Genesee County, Michigan	2640	Urban	1.0655	22420	Urban	1.0655
23250	Gladwin County, Michigan	23	Rural	0.8824	99923	Rural	0.8895
23260	Gogebic County, Michigan	23	Rural	0.8824	99923	Rural	0.8895
23270	Grand Traverse County, Michigan	23	Rural	0.8824	99923	Rural	0.8895
23280	Gratiot County, Michigan	23	Rural	0.8824	99923	Rural	0.8895
23290	Hillsdale County, Michigan	23	Rural	0.8824	99923	Rural	0.8895
23300	Houghton County, Michigan	23	Rural	0.8824	99923	Rural	0.8895
23310	Huron County, Michigan	23	Rural	0.8824	99923	Rural	0.8895
23320	Ingham County, Michigan	4040	Urban	0.9794	29620	Urban	0.9794
23330	Ionia County, Michigan	23	Rural	0.8824	24340	Urban	0.9390
23340	Iosco County, Michigan	23	Rural	0.8824	99923	Rural	0.8895
23350	Iron County, Michigan	23	Rural	0.8824	99923	Rural	0.8895
23360	Isabella County, Michigan	23	Rural	0.8824	99923	Rural	0.8895
23370	Jackson County, Michigan	3520	Urban	0.9304	27100	Urban	0.9304
23380	Kalamazoo County, Michigan	3720	Urban	1.0143	28020	Urban	1.0381
23390	Kalkaska County, Michigan	23	Rural	0.8824	99923	Rural	0.8895
23400	Kent County, Michigan	3000	Urban	0.9445	24340	Urban	0.9390
23410	Keweenaw County, Michigan	23	Rural	0.8824	99923	Rural	0.8895
23420	Lake County, Michigan	23	Rural	0.8824	99923	Rural	0.8895
23430	Lapeer County, Michigan	2160	Urban	1.0147	47644	Urban	0.9871
23440	Leelanau County, Michigan	23	Rural	0.8824	99923	Rural	0.8895
23450	Lenawee County, Michigan	0440	Urban	1.0707	99923	Rural	0.8895
23460	Livingston County, Michigan	0440	Urban	1.0707	47644	Urban	0.9871
23470	Luce County, Michigan	23	Rural	0.8824	99923	Rural	0.8895
23480	Mackinac County, Michigan	23	Rural	0.8824	99923	Rural	0.8895
23490	Macomb County, Michigan	2160	Urban	1.0147	47644	Urban	0.9871
23500	Manistee County, Michigan	23	Rural	0.8824	99923	Rural	0.8895
23510	Marquette County, Michigan	23	Rural	0.8824	99923	Rural	0.8895
23520	Mason County, Michigan	23	Rural	0.8824	99923	Rural	0.8895
23530	Mecosta County, Michigan	23	Rural	0.8824	99923	Rural	0.8895
23540	Menominee County, Michigan	23	Rural	0.8824	99923	Rural	0.8895
23550	Midland County, Michigan	6960	Urban	0.9241	99923	Rural	0.8895
23560	Missaukee County, Michigan	23	Rural	0.8824	99923	Rural	0.8895
23570	Monroe County, Michigan	2160	Urban	1.0147	33780	Urban	0.9468
23580	Montcalm County, Michigan	23	Rural	0.8824	99923	Rural	0.8895
23590	Montmorency County, Michigan	23	Rural	0.8824	99923	Rural	0.8895
23600	Muskegon County, Michigan	3000	Urban	0.9445	34740	Urban	0.9664

SSA State/ County Code	County name	MSA No.	MSA urban/ rural	2006 MSA-based WI	CBSA No.	CBSA urban/ rural	2006 CBSA-based WI
23610	Newaygo County, Michigan	23	Rural	0.8824	24340	Urban	0.9390
23620	Oakland County, Michigan	2160	Urban	1.0147	47644	Urban	0.9871
23630	Oceana County, Michigan	23	Rural	0.8824	99923	Rural	0.8895
23640	Ogemaw County, Michigan	23	Rural	0.8824	99923	Rural	0.8895
23650	Ontonagon County, Michigan	23	Rural	0.8824	99923	Rural	0.8895
23660	Osceola County, Michigan	23	Rural	0.8824	99923	Rural	0.8895
23670	Oscoda County, Michigan	23	Rural	0.8824	99923	Rural	0.8895
23680	Otsego County, Michigan	23	Rural	0.8824	99923	Rural	0.8895
23690	Ottawa County, Michigan	3000	Urban	0.9445	26100	Urban	0.9055
23700	Presque Isle County, Michigan	23	Rural	0.8824	99923	Rural	0.8895
23710	Roscommon County, Michigan	23	Rural	0.8824	99923	Rural	0.8895
23720	Saginaw County, Michigan	6960	Urban	0.9241	40980	Urban	0.9088
23730	St Clair County, Michigan	2160	Urban	1.0147	47644	Urban	0.9871
23740	St Joseph County, Michigan	23	Rural	0.8824	99923	Rural	0.8895
23750	Sanilac County, Michigan	23	Rural	0.8824	99923	Rural	0.8895
23760	Schoolcraft County, Michigan	23	Rural	0.8824	99923	Rural	0.8895
23770	Shiawassee County, Michigan	23	Rural	0.8824	99923	Rural	0.8895
23780	Tuscola County, Michigan	23	Rural	0.8824	99923	Rural	0.8895
23790	Van Buren County, Michigan	3720	Urban	1.0143	28020	Urban	1.0381
23800	Washtenaw County, Michigan	0440	Urban	1.0707	11460	Urban	1.0859
23810	Wayne County, Michigan	2160	Urban	1.0147	19804	Urban	1.0424
23830	Wexford County, Michigan	23	Rural	0.8824	99923	Rural	0.8895
24000	Aitkin County, Minnesota	24	Rural	0.9132	99924	Rural	0.9132
24010	Anoka County, Minnesota	5120	Urban	1.1075	33460	Urban	1.1075
24020	Becker County, Minnesota	24	Rural	0.9132	99924	Rural	0.9132
24030	Beltrami County, Minnesota	24	Rural	0.9132	99924	Rural	0.9132
24040	Benton County, Minnesota	6980	Urban	0.9965	41060	Urban	0.9965
24050	Big Stone County, Minnesota	24	Rural	0.9132	99924	Rural	0.9132
24060	Blue Earth County, Minnesota	24	Rural	0.9132	99924	Rural	0.9132
24070	Brown County, Minnesota	24	Rural	0.9132	99924	Rural	0.9132
24080	Carlton County, Minnesota	24	Rural	0.9132	20260	Urban	1.0213
24090	Carver County, Minnesota	5120	Urban	1.1075	33460	Urban	1.1075
24100	Cass County, Minnesota	24	Rural	0.9132	99924	Rural	0.9132
24110	Chippewa County, Minnesota	24	Rural	0.9132	99924	Rural	0.9132
24120	Chisago County, Minnesota	5120	Urban	1.1075	33460	Urban	1.1075
24130	Clay County, Minnesota	2520	Urban	0.8486	22020	Urban	0.8486
24140	Clearwater County, Minnesota	24	Rural	0.9132	99924	Rural	0.9132
24150	Cook County, Minnesota	24	Rural	0.9132	99924	Rural	0.9132
24160	Cottonwood County, Minnesota	24	Rural	0.9132	99924	Rural	0.9132
24170	Crow Wing County, Minnesota	24	Rural	0.9132	99924	Rural	0.9132
24180	Dakota County, Minnesota	5120	Urban	1.1075	33460	Urban	1.1075
24190	Dodge County, Minnesota	24	Rural	0.9132	40340	Urban	1.1131
24200	Douglas County, Minnesota	24	Rural	0.9132	99924	Rural	0.9132
24210	Faribault County, Minnesota	24	Rural	0.9132	99924	Rural	0.9132
24220	Fillmore County, Minnesota	24	Rural	0.9132	99924	Rural	0.9132
24230	Freeborn County, Minnesota	24	Rural	0.9132	99924	Rural	0.9132
24240	Goodhue County, Minnesota	24	Rural	0.9132	99924	Rural	0.9132
24250	Grant County, Minnesota	24	Rural	0.9132	99924	Rural	0.9132
24260	Hennepin County, Minnesota	5120	Urban	1.1075	33460	Urban	1.1075
24270	Houston County, Minnesota	3870	Urban	0.9564	29100	Urban	0.9564
24280	Hubbard County, Minnesota	24	Rural	0.9132	99924	Rural	0.9132
24290	Isanti County, Minnesota	5120	Urban	1.1075	33460	Urban	1.1075
24300	Itasca County, Minnesota	24	Rural	0.9132	99924	Rural	0.9132
24310	Jackson County, Minnesota	24	Rural	0.9132	99924	Rural	0.9132
24320	Kanabec County, Minnesota	24	Rural	0.9132	99924	Rural	0.9132
24330	Kandiyohi County, Minnesota	24	Rural	0.9132	99924	Rural	0.9132
24340	Kittson County, Minnesota	24	Rural	0.9132	99924	Rural	0.9132
24350	Koochiching County, Minnesota	24	Rural	0.9132	99924	Rural	0.9132
24360	Lac Qui Parle County, Minnesota	24	Rural	0.9132	99924	Rural	0.9132
24370	Lake County, Minnesota	24	Rural	0.9132	99924	Rural	0.9132
24380	Lake Of Woods County, Minnesota	24	Rural	0.9132	99924	Rural	0.9132
24390	Le Sueur County, Minnesota	24	Rural	0.9132	99924	Rural	0.9132
24400	Lincoln County, Minnesota	24	Rural	0.9132	99924	Rural	0.9132
24410	Lyon County, Minnesota	24	Rural	0.9132	99924	Rural	0.9132
24420	Mc Leod County, Minnesota	24	Rural	0.9132	99924	Rural	0.9132
24430	Mahnomen County, Minnesota	24	Rural	0.9132	99924	Rural	0.9132
24440	Marshall County, Minnesota	24	Rural	0.9132	99924	Rural	0.9132
24450	Martin County, Minnesota	24	Rural	0.9132	99924	Rural	0.9132
24460	Meeker County, Minnesota	24	Rural	0.9132	99924	Rural	0.9132
24470	Mille Lacs County, Minnesota	24	Rural	0.9132	99924	Rural	0.9132
24480	Morrison County, Minnesota	24	Rural	0.9132	99924	Rural	0.9132
24490	Mower County, Minnesota	24	Rural	0.9132	99924	Rural	0.9132

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24500	Murray County, Minnesota	24	Rural	0.9132	99924	Rural	0.9132
24510	Nicollet County, Minnesota	24	Rural	0.9132	99924	Rural	0.9132
24520	Nobles County, Minnesota	24	Rural	0.9132	99924	Rural	0.9132
24530	Norman County, Minnesota	24	Rural	0.9132	99924	Rural	0.9132
24540	Olmsted County, Minnesota	6820	Urban	1.1131	40340	Urban	1.1131
24550	Otter Tail County, Minnesota	24	Rural	0.9132	99924	Rural	0.9132
24560	Pennington County, Minnesota	24	Rural	0.9132	99924	Rural	0.9132
24570	Pine County, Minnesota	24	Rural	0.9132	99924	Rural	0.9132
24580	Pipestone County, Minnesota	24	Rural	0.9132	99924	Rural	0.9132
24590	Polk County, Minnesota	2985	Urban	0.7901	24220	Urban	0.7901
24600	Pope County, Minnesota	24	Rural	0.9132	99924	Rural	0.9132
24610	Ramsey County, Minnesota	5120	Urban	1.1075	33460	Urban	1.1075
24620	Red Lake County, Minnesota	24	Rural	0.9132	99924	Rural	0.9132
24630	Redwood County, Minnesota	24	Rural	0.9132	99924	Rural	0.9132
24640	Renville County, Minnesota	24	Rural	0.9132	99924	Rural	0.9132
24650	Rice County, Minnesota	24	Rural	0.9132	99924	Rural	0.9132
24660	Rock County, Minnesota	24	Rural	0.9132	99924	Rural	0.9132
24670	Roseau County, Minnesota	24	Rural	0.9132	99924	Rural	0.9132
24680	St Louis County, Minnesota	2240	Urban	1.0213	20260	Urban	1.0213
24690	Scott County, Minnesota	5120	Urban	1.1075	33460	Urban	1.1075
24700	Sherburne County, Minnesota	5120	Urban	1.1075	33460	Urban	1.1075
24710	Sibley County, Minnesota	24	Rural	0.9132	99924	Rural	0.9132
24720	Stearns County, Minnesota	6980	Urban	0.9965	41060	Urban	0.9965
24730	Steele County, Minnesota	24	Rural	0.9132	99924	Rural	0.9132
24740	Stevens County, Minnesota	24	Rural	0.9132	99924	Rural	0.9132
24750	Swift County, Minnesota	24	Rural	0.9132	99924	Rural	0.9132
24760	Todd County, Minnesota	24	Rural	0.9132	99924	Rural	0.9132
24770	Traverse County, Minnesota	24	Rural	0.9132	99924	Rural	0.9132
24780	Wabasha County, Minnesota	24	Rural	0.9132	40340	Urban	1.1131
24790	Wadena County, Minnesota	24	Rural	0.9132	99924	Rural	0.9132
24800	Waseca County, Minnesota	24	Rural	0.9132	99924	Rural	0.9132
24810	Washington County, Minnesota	5120	Urban	1.1075	33460	Urban	1.1075
24820	Watonwan County, Minnesota	24	Rural	0.9132	99924	Rural	0.9132
24830	Wilkin County, Minnesota	24	Rural	0.9132	99924	Rural	0.9132
24840	Winona County, Minnesota	24	Rural	0.9132	99924	Rural	0.9132
24850	Wright County, Minnesota	5120	Urban	1.1075	33460	Urban	1.1075
24860	Yellow Medicine County, Minnesota	24	Rural	0.9132	99924	Rural	0.9132
25000	Adams County, Mississippi	25	Rural	0.7634	99925	Rural	0.7674
25010	Alcorn County, Mississippi	25	Rural	0.7634	99925	Rural	0.7674
25020	Amite County, Mississippi	25	Rural	0.7634	99925	Rural	0.7674
25030	Attala County, Mississippi	25	Rural	0.7634	99925	Rural	0.7674
25040	Benton County, Mississippi	25	Rural	0.7634	99925	Rural	0.7674
25050	Bolivar County, Mississippi	25	Rural	0.7634	99925	Rural	0.7674
25060	Calhoun County, Mississippi	25	Rural	0.7634	99925	Rural	0.7674
25070	Carroll County, Mississippi	25	Rural	0.7634	99925	Rural	0.7674
25080	Chickasaw County, Mississippi	25	Rural	0.7634	99925	Rural	0.7674
25090	Choctaw County, Mississippi	25	Rural	0.7634	99925	Rural	0.7674
25100	Claiborne County, Mississippi	25	Rural	0.7634	99925	Rural	0.7674
25110	Clarke County, Mississippi	25	Rural	0.7634	99925	Rural	0.7674
25120	Clay County, Mississippi	25	Rural	0.7634	99925	Rural	0.7674
25130	Coahoma County, Mississippi	25	Rural	0.7634	99925	Rural	0.7674
25140	Copiah County, Mississippi	25	Rural	0.7634	27140	Urban	0.8311
25150	Covington County, Mississippi	25	Rural	0.7634	99925	Rural	0.7674
25160	Desoto County, Mississippi	4920	Urban	0.9416	32820	Urban	0.9397
25170	Forrest County, Mississippi	3285	Urban	0.7601	25620	Urban	0.7601
25180	Franklin County, Mississippi	25	Rural	0.7634	99925	Rural	0.7674
25190	George County, Mississippi	25	Rural	0.7634	37700	Urban	0.8156
25200	Greene County, Mississippi	25	Rural	0.7634	99925	Rural	0.7674
25210	Grenada County, Mississippi	25	Rural	0.7634	99925	Rural	0.7674
25220	Hancock County, Mississippi	0920	Urban	0.8706	25060	Urban	0.8929
25230	Harrison County, Mississippi	0920	Urban	0.8706	25060	Urban	0.8929
25240	Hinds County, Mississippi	3560	Urban	0.8382	27140	Urban	0.8311
25250	Holmes County, Mississippi	25	Rural	0.7634	99925	Rural	0.7674
25260	Humphreys County, Mississippi	25	Rural	0.7634	99925	Rural	0.7674
25270	Issaquena County, Mississippi	25	Rural	0.7634	99925	Rural	0.7674
25280	Itawamba County, Mississippi	25	Rural	0.7634	99925	Rural	0.7674
25290	Jackson County, Mississippi	0920	Urban	0.8706	37700	Urban	0.8156
25300	Jasper County, Mississippi	25	Rural	0.7634	99925	Rural	0.7674
25310	Jefferson County, Mississippi	25	Rural	0.7634	99925	Rural	0.7674
25320	Jefferson Davis County, Mississippi	25	Rural	0.7634	99925	Rural	0.7674
25330	Jones County, Mississippi	25	Rural	0.7634	99925	Rural	0.7674
25340	Kemper County, Mississippi	25	Rural	0.7634	99925	Rural	0.7674

SSA State/ County Code	County name	MSA No.	MSA urban/ rural	2006 MSA-based WI	CBSA No.	CBSA urban/ rural	2006 CBSA-based WI
25350	Lafayette County, Mississippi	25	Rural	0.7634	99925	Rural	0.7674
25360	Lamar County, Mississippi	3285	Urban	0.7601	25620	Urban	0.7601
25370	Lauderdale County, Mississippi	25	Rural	0.7634	99925	Rural	0.7674
25380	Lawrence County, Mississippi	25	Rural	0.7634	99925	Rural	0.7674
25390	Leake County, Mississippi	25	Rural	0.7634	99925	Rural	0.7674
25400	Lee County, Mississippi	25	Rural	0.7634	99925	Rural	0.7674
25410	Leflore County, Mississippi	25	Rural	0.7634	99925	Rural	0.7674
25420	Lincoln County, Mississippi	25	Rural	0.7634	99925	Rural	0.7674
25430	Lowndes County, Mississippi	25	Rural	0.7634	99925	Rural	0.7674
25440	Madison County, Mississippi	3560	Urban	0.8382	27140	Urban	0.8311
25450	Marion County, Mississippi	25	Rural	0.7634	99925	Rural	0.7674
25460	Marshall County, Mississippi	25	Rural	0.7634	32820	Urban	0.9397
25470	Monroe County, Mississippi	25	Rural	0.7634	99925	Rural	0.7674
25480	Montgomery County, Mississippi	25	Rural	0.7634	99925	Rural	0.7674
25490	Neshoba County, Mississippi	25	Rural	0.7634	99925	Rural	0.7674
25500	Newton County, Mississippi	25	Rural	0.7634	99925	Rural	0.7674
25510	Noxubee County, Mississippi	25	Rural	0.7634	99925	Rural	0.7674
25520	Oktibbeha County, Mississippi	25	Rural	0.7634	99925	Rural	0.7674
25530	Panola County, Mississippi	25	Rural	0.7634	99925	Rural	0.7674
25540	Pearl River County, Mississippi	25	Rural	0.7634	99925	Rural	0.7674
25550	Perry County, Mississippi	25	Rural	0.7634	25620	Urban	0.7601
25560	Pike County, Mississippi	25	Rural	0.7634	99925	Rural	0.7674
25570	Pontotoc County, Mississippi	25	Rural	0.7634	99925	Rural	0.7674
25580	Prentiss County, Mississippi	25	Rural	0.7634	99925	Rural	0.7674
25590	Quitman County, Mississippi	25	Rural	0.7634	99925	Rural	0.7674
25600	Rankin County, Mississippi	3560	Urban	0.8382	27140	Urban	0.8311
25610	Scott County, Mississippi	25	Rural	0.7634	99925	Rural	0.7674
25620	Sharkey County, Mississippi	25	Rural	0.7634	99925	Rural	0.7674
25630	Simpson County, Mississippi	25	Rural	0.7634	27140	Urban	0.8311
25640	Smith County, Mississippi	25	Rural	0.7634	99925	Rural	0.7674
25650	Stone County, Mississippi	25	Rural	0.7634	25060	Urban	0.8929
25660	Sunflower County, Mississippi	25	Rural	0.7634	99925	Rural	0.7674
25670	Tallahatchie County, Mississippi	25	Rural	0.7634	99925	Rural	0.7674
25680	Tate County, Mississippi	25	Rural	0.7634	32820	Urban	0.9397
25690	Tippah County, Mississippi	25	Rural	0.7634	99925	Rural	0.7674
25700	Tishomingo County, Mississippi	25	Rural	0.7634	99925	Rural	0.7674
25710	Tunica County, Mississippi	25	Rural	0.7634	32820	Urban	0.9397
25720	Union County, Mississippi	25	Rural	0.7634	99925	Rural	0.7674
25730	Walthall County, Mississippi	25	Rural	0.7634	99925	Rural	0.7674
25740	Warren County, Mississippi	25	Rural	0.7634	99925	Rural	0.7674
25750	Washington County, Mississippi	25	Rural	0.7634	99925	Rural	0.7674
25760	Wayne County, Mississippi	25	Rural	0.7634	99925	Rural	0.7674
25770	Webster County, Mississippi	25	Rural	0.7634	99925	Rural	0.7674
25780	Wilkinson County, Mississippi	25	Rural	0.7634	99925	Rural	0.7674
25790	Winston County, Mississippi	25	Rural	0.7634	99925	Rural	0.7674
25800	Yalobusha County, Mississippi	25	Rural	0.7634	99925	Rural	0.7674
25810	Yazoo County, Mississippi	25	Rural	0.7634	99925	Rural	0.7674
26000	Adair County, Missouri	26	Rural	0.7959	99926	Rural	0.7900
26010	Andrew County, Missouri	7000	Urban	0.9519	41140	Urban	0.9519
26020	Atchison County, Missouri	26	Rural	0.7959	99926	Rural	0.7900
26030	Audrain County, Missouri	26	Rural	0.7959	99926	Rural	0.7900
26040	Barry County, Missouri	26	Rural	0.7959	99926	Rural	0.7900
26050	Barton County, Missouri	26	Rural	0.7959	99926	Rural	0.7900
26060	Bates County, Missouri	26	Rural	0.7959	28140	Urban	0.9476
26070	Benton County, Missouri	26	Rural	0.7959	99926	Rural	0.7900
26080	Bollinger County, Missouri	26	Rural	0.7959	99926	Rural	0.7900
26090	Boone County, Missouri	1740	Urban	0.8345	17860	Urban	0.8345
26100	Buchanan County, Missouri	7000	Urban	0.9519	41140	Urban	0.9519
26110	Butler County, Missouri	26	Rural	0.7959	99926	Rural	0.7900
26120	Caldwell County, Missouri	26	Rural	0.7959	28140	Urban	0.9476
26130	Callaway County, Missouri	26	Rural	0.7959	27620	Urban	0.8387
26140	Camden County, Missouri	26	Rural	0.7959	99926	Rural	0.7900
26150	Cape Girardeau County, Missouri	26	Rural	0.7959	99926	Rural	0.7900
26160	Carroll County, Missouri	26	Rural	0.7959	99926	Rural	0.7900
26170	Carter County, Missouri	26	Rural	0.7959	99926	Rural	0.7900
26180	Cass County, Missouri	3760	Urban	0.9490	28140	Urban	0.9476
26190	Cedar County, Missouri	26	Rural	0.7959	99926	Rural	0.7900
26200	Chariton County, Missouri	26	Rural	0.7959	99926	Rural	0.7900
26210	Christian County, Missouri	7920	Urban	0.8250	44180	Urban	0.8237
26220	Clark County, Missouri	26	Rural	0.7959	99926	Rural	0.7900
26230	Clay County, Missouri	3760	Urban	0.9490	28140	Urban	0.9476
26240	Clinton County, Missouri	3760	Urban	0.9490	28140	Urban	0.9476

SSA State/ County Code	County name	MSA No.	MSA urban/ rural	2006 MSA-based WI	CBSA No.	CBSA urban/ rural	2006 CBSA-based WI
26250	Cole County, Missouri	26	Rural	0.7959	27620	Urban	0.8387
26260	Cooper County, Missouri	26	Rural	0.7959	99926	Rural	0.7900
26270	Crawford County, Missouri	26	Rural	0.7959	41180	Urban	0.8954
26280	Dade County, Missouri	26	Rural	0.7959	99926	Rural	0.7900
26290	Dallas County, Missouri	26	Rural	0.7959	44180	Urban	0.8237
26300	Daviess County, Missouri	26	Rural	0.7959	99926	Rural	0.7900
26310	De Kalb County, Missouri	26	Rural	0.7959	41140	Urban	0.9519
26320	Dent County, Missouri	26	Rural	0.7959	99926	Rural	0.7900
26330	Douglas County, Missouri	26	Rural	0.7959	99926	Rural	0.7900
26340	Dunklin County, Missouri	26	Rural	0.7959	99926	Rural	0.7900
26350	Franklin County, Missouri	7040	Urban	0.8962	41180	Urban	0.8954
26360	Gasconade County, Missouri	26	Rural	0.7959	99926	Rural	0.7900
26370	Gentry County, Missouri	26	Rural	0.7959	99926	Rural	0.7900
26380	Greene County, Missouri	7920	Urban	0.8250	44180	Urban	0.8237
26390	Grundy County, Missouri	26	Rural	0.7959	99926	Rural	0.7900
26400	Harrison County, Missouri	26	Rural	0.7959	99926	Rural	0.7900
26410	Henry County, Missouri	26	Rural	0.7959	99926	Rural	0.7900
26411	Hickory County, Missouri	26	Rural	0.7959	99926	Rural	0.7900
26412	Holt County, Missouri	26	Rural	0.7959	99926	Rural	0.7900
26440	Howard County, Missouri	26	Rural	0.7959	17860	Urban	0.8345
26450	Howell County, Missouri	26	Rural	0.7959	99926	Rural	0.7900
26460	Iron County, Missouri	26	Rural	0.7959	99926	Rural	0.7900
26470	Jackson County, Missouri	3760	Urban	0.9490	28140	Urban	0.9476
26480	Jasper County, Missouri	3710	Urban	0.8582	27900	Urban	0.8582
26490	Jefferson County, Missouri	7040	Urban	0.8962	41180	Urban	0.8954
26500	Johnson County, Missouri	26	Rural	0.7959	99926	Rural	0.7900
26510	Knox County, Missouri	26	Rural	0.7959	99926	Rural	0.7900
26520	Laclede County, Missouri	26	Rural	0.7959	99926	Rural	0.7900
26530	Lafayette County, Missouri	3760	Urban	0.9490	28140	Urban	0.9476
26540	Lawrence County, Missouri	26	Rural	0.7959	99926	Rural	0.7900
26541	Lewis County, Missouri	26	Rural	0.7959	99926	Rural	0.7900
26560	Lincoln County, Missouri	7040	Urban	0.8962	41180	Urban	0.8954
26570	Linn County, Missouri	26	Rural	0.7959	99926	Rural	0.7900
26580	Livingston County, Missouri	26	Rural	0.7959	99926	Rural	0.7900
26590	Mc Donald County, Missouri	26	Rural	0.7959	22220	Urban	0.8661
26600	Macon County, Missouri	26	Rural	0.7959	99926	Rural	0.7900
26601	Madison County, Missouri	26	Rural	0.7959	99926	Rural	0.7900
26620	Maries County, Missouri	26	Rural	0.7959	99926	Rural	0.7900
26630	Marion County, Missouri	26	Rural	0.7959	99926	Rural	0.7900
26631	Mercer County, Missouri	26	Rural	0.7959	99926	Rural	0.7900
26650	Miller County, Missouri	26	Rural	0.7959	99926	Rural	0.7900
26660	Mississippi County, Missouri	26	Rural	0.7959	99926	Rural	0.7900
26670	Moniteau County, Missouri	26	Rural	0.7959	27620	Urban	0.8387
26680	Monroe County, Missouri	26	Rural	0.7959	99926	Rural	0.7900
26690	Montgomery County, Missouri	26	Rural	0.7959	99926	Rural	0.7900
26700	Morgan County, Missouri	26	Rural	0.7959	99926	Rural	0.7900
26710	New Madrid County, Missouri	26	Rural	0.7959	99926	Rural	0.7900
26720	Newton County, Missouri	3710	Urban	0.8582	27900	Urban	0.8582
26730	Nodaway County, Missouri	26	Rural	0.7959	99926	Rural	0.7900
26740	Oregon County, Missouri	26	Rural	0.7959	99926	Rural	0.7900
26750	Osage County, Missouri	26	Rural	0.7959	27620	Urban	0.8387
26751	Ozark County, Missouri	26	Rural	0.7959	99926	Rural	0.7900
26770	Pemiscot County, Missouri	26	Rural	0.7959	99926	Rural	0.7900
26780	Perry County, Missouri	26	Rural	0.7959	99926	Rural	0.7900
26790	Pettis County, Missouri	26	Rural	0.7959	99926	Rural	0.7900
26800	Phelps County, Missouri	26	Rural	0.7959	99926	Rural	0.7900
26810	Pike County, Missouri	26	Rural	0.7959	99926	Rural	0.7900
26820	Platte County, Missouri	3760	Urban	0.9490	28140	Urban	0.9476
26821	Polk County, Missouri	26	Rural	0.7959	44180	Urban	0.8237
26840	Pulaski County, Missouri	26	Rural	0.7959	99926	Rural	0.7900
26850	Putnam County, Missouri	26	Rural	0.7959	99926	Rural	0.7900
26860	Ralls County, Missouri	26	Rural	0.7959	99926	Rural	0.7900
26870	Randolph County, Missouri	26	Rural	0.7959	99926	Rural	0.7900
26880	Ray County, Missouri	3760	Urban	0.9490	28140	Urban	0.9476
26881	Reynolds County, Missouri	26	Rural	0.7959	99926	Rural	0.7900
26900	Ripley County, Missouri	26	Rural	0.7959	99926	Rural	0.7900
26910	St Charles County, Missouri	7040	Urban	0.8962	41180	Urban	0.8954
26911	St Clair County, Missouri	26	Rural	0.7959	99926	Rural	0.7900
26930	St Francois County, Missouri	26	Rural	0.7959	99926	Rural	0.7900
26940	St Louis County, Missouri	7040	Urban	0.8962	41180	Urban	0.8954
26950	St Louis City County, Missouri	7040	Urban	0.8962	41180	Urban	0.8954
26960	Ste Genevieve County, Missouri	26	Rural	0.7959	99926	Rural	0.7900

SSA State/ County Code	County name	MSA No.	MSA urban/ rural	2006 MSA-based WI	CBSA No.	CBSA urban/ rural	2006 CBSA-based WI
26970	Saline County, Missouri	26	Rural	0.7959	99926	Rural	0.7900
26980	Schuyler County, Missouri	26	Rural	0.7959	99926	Rural	0.7900
26981	Scotland County, Missouri	26	Rural	0.7959	99926	Rural	0.7900
26982	Scott County, Missouri	26	Rural	0.7959	99926	Rural	0.7900
26983	Shannon County, Missouri	26	Rural	0.7959	99926	Rural	0.7900
26984	Shelby County, Missouri	26	Rural	0.7959	99926	Rural	0.7900
26985	Stoddard County, Missouri	26	Rural	0.7959	99926	Rural	0.7900
26986	Stone County, Missouri	26	Rural	0.7959	99926	Rural	0.7900
26987	Sullivan County, Missouri	26	Rural	0.7959	99926	Rural	0.7900
26988	Taney County, Missouri	26	Rural	0.7959	99926	Rural	0.7900
26989	Texas County, Missouri	26	Rural	0.7959	99926	Rural	0.7900
26990	Vernon County, Missouri	26	Rural	0.7959	99926	Rural	0.7900
26991	Warren County, Missouri	7040	Urban	0.8962	41180	Urban	0.8954
26992	Washington County, Missouri	26	Rural	0.7959	41180	Urban	0.8954
26993	Wayne County, Missouri	26	Rural	0.7959	99926	Rural	0.7900
26994	Webster County, Missouri	7920	Urban	0.8250	44180	Urban	0.8237
26995	Worth County, Missouri	26	Rural	0.7959	99926	Rural	0.7900
26996	Wright County, Missouri	26	Rural	0.7959	99926	Rural	0.7900
27000	Beaverhead County, Montana	27	Rural	0.8762	99927	Rural	0.8762
27010	Big Horn County, Montana	27	Rural	0.8762	99927	Rural	0.8762
27020	Blaine County, Montana	27	Rural	0.8762	99927	Rural	0.8762
27030	Broadwater County, Montana	27	Rural	0.8762	99927	Rural	0.8762
27040	Carbon County, Montana	27	Rural	0.8762	13740	Urban	0.8834
27050	Carter County, Montana	27	Rural	0.8762	99927	Rural	0.8762
27060	Cascade County, Montana	3040	Urban	0.9052	24500	Urban	0.9052
27070	Chouteau County, Montana	27	Rural	0.8762	99927	Rural	0.8762
27080	Custer County, Montana	27	Rural	0.8762	99927	Rural	0.8762
27090	Daniels County, Montana	27	Rural	0.8762	99927	Rural	0.8762
27100	Dawson County, Montana	27	Rural	0.8762	99927	Rural	0.8762
27110	Deer Lodge County, Montana	27	Rural	0.8762	99927	Rural	0.8762
27113	Yellowstone National Park, Montana	27	Rural	0.8762	99927	Rural	0.8762
27120	Fallon County, Montana	27	Rural	0.8762	99927	Rural	0.8762
27130	Fergus County, Montana	27	Rural	0.8762	99927	Rural	0.8762
27140	Flathead County, Montana	27	Rural	0.8762	99927	Rural	0.8762
27150	Gallatin County, Montana	27	Rural	0.8762	99927	Rural	0.8762
27160	Garfield County, Montana	27	Rural	0.8762	99927	Rural	0.8762
27170	Glacier County, Montana	27	Rural	0.8762	99927	Rural	0.8762
27180	Golden Valley County, Montana	27	Rural	0.8762	99927	Rural	0.8762
27190	Granite County, Montana	27	Rural	0.8762	99927	Rural	0.8762
27200	Hill County, Montana	27	Rural	0.8762	99927	Rural	0.8762
27210	Jefferson County, Montana	27	Rural	0.8762	99927	Rural	0.8762
27220	Judith Basin County, Montana	27	Rural	0.8762	99927	Rural	0.8762
27230	Lake County, Montana	27	Rural	0.8762	99927	Rural	0.8762
27240	Lewis And Clark County, Montana	27	Rural	0.8762	99927	Rural	0.8762
27250	Liberty County, Montana	27	Rural	0.8762	99927	Rural	0.8762
27260	Lincoln County, Montana	27	Rural	0.8762	99927	Rural	0.8762
27270	Mc Cone County, Montana	27	Rural	0.8762	99927	Rural	0.8762
27280	Madison County, Montana	27	Rural	0.8762	99927	Rural	0.8762
27290	Meagher County, Montana	27	Rural	0.8762	99927	Rural	0.8762
27300	Mineral County, Montana	27	Rural	0.8762	99927	Rural	0.8762
27310	Missoula County, Montana	5140	Urban	0.9473	33540	Urban	0.9473
27320	Musselshell County, Montana	27	Rural	0.8762	99927	Rural	0.8762
27330	Park County, Montana	27	Rural	0.8762	99927	Rural	0.8762
27340	Petroleum County, Montana	27	Rural	0.8762	99927	Rural	0.8762
27350	Phillips County, Montana	27	Rural	0.8762	99927	Rural	0.8762
27360	Pondera County, Montana	27	Rural	0.8762	99927	Rural	0.8762
27370	Powder River County, Montana	27	Rural	0.8762	99927	Rural	0.8762
27380	Powell County, Montana	27	Rural	0.8762	99927	Rural	0.8762
27390	Prairie County, Montana	27	Rural	0.8762	99927	Rural	0.8762
27400	Ravalli County, Montana	27	Rural	0.8762	99927	Rural	0.8762
27410	Richland County, Montana	27	Rural	0.8762	99927	Rural	0.8762
27420	Roosevelt County, Montana	27	Rural	0.8762	99927	Rural	0.8762
27430	Rosebud County, Montana	27	Rural	0.8762	99927	Rural	0.8762
27440	Sanders County, Montana	27	Rural	0.8762	99927	Rural	0.8762
27450	Sheridan County, Montana	27	Rural	0.8762	99927	Rural	0.8762
27460	Silver Bow County, Montana	27	Rural	0.8762	99927	Rural	0.8762
27470	Stillwater County, Montana	27	Rural	0.8762	99927	Rural	0.8762
27480	Sweet Grass County, Montana	27	Rural	0.8762	99927	Rural	0.8762
27490	Teton County, Montana	27	Rural	0.8762	99927	Rural	0.8762
27500	Toole County, Montana	27	Rural	0.8762	99927	Rural	0.8762
27510	Treasure County, Montana	27	Rural	0.8762	99927	Rural	0.8762
27520	Valley County, Montana	27	Rural	0.8762	99927	Rural	0.8762

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27530	Wheatland County, Montana	27	Rural	0.8762	99927	Rural	0.8762
27540	Wibaux County, Montana	27	Rural	0.8762	99927	Rural	0.8762
27550	Yellowstone County, Montana	0880	Urban	0.8834	13740	Urban	0.8834
28000	Adams County, Nebraska	28	Rural	0.8657	99928	Rural	0.8657
28010	Antelope County, Nebraska	28	Rural	0.8657	99928	Rural	0.8657
28020	Arthur County, Nebraska	28	Rural	0.8657	99928	Rural	0.8657
28030	Banner County, Nebraska	28	Rural	0.8657	99928	Rural	0.8657
28040	Blaine County, Nebraska	28	Rural	0.8657	99928	Rural	0.8657
28050	Boone County, Nebraska	28	Rural	0.8657	99928	Rural	0.8657
28060	Box Butte County, Nebraska	28	Rural	0.8657	99928	Rural	0.8657
28070	Boyd County, Nebraska	28	Rural	0.8657	99928	Rural	0.8657
28080	Brown County, Nebraska	28	Rural	0.8657	99928	Rural	0.8657
28090	Buffalo County, Nebraska	28	Rural	0.8657	99928	Rural	0.8657
28100	Burt County, Nebraska	28	Rural	0.8657	99928	Rural	0.8657
28110	Butler County, Nebraska	28	Rural	0.8657	99928	Rural	0.8657
28120	Cass County, Nebraska	5920	Urban	0.9560	36540	Urban	0.9560
28130	Cedar County, Nebraska	28	Rural	0.8657	99928	Rural	0.8657
28140	Chase County, Nebraska	28	Rural	0.8657	99928	Rural	0.8657
28150	Cherry County, Nebraska	28	Rural	0.8657	99928	Rural	0.8657
28160	Cheyenne County, Nebraska	28	Rural	0.8657	99928	Rural	0.8657
28170	Clay County, Nebraska	28	Rural	0.8657	99928	Rural	0.8657
28180	Colfax County, Nebraska	28	Rural	0.8657	99928	Rural	0.8657
28190	Cuming County, Nebraska	28	Rural	0.8657	99928	Rural	0.8657
28200	Custer County, Nebraska	28	Rural	0.8657	99928	Rural	0.8657
28210	Dakota County, Nebraska	7720	Urban	0.9416	43580	Urban	0.9381
28220	Dawes County, Nebraska	28	Rural	0.8657	99928	Rural	0.8657
28230	Dawson County, Nebraska	28	Rural	0.8657	99928	Rural	0.8657
28240	Deuel County, Nebraska	28	Rural	0.8657	99928	Rural	0.8657
28250	Dixon County, Nebraska	28	Rural	0.8657	43580	Urban	0.9381
28260	Dodge County, Nebraska	28	Rural	0.8657	99928	Rural	0.8657
28270	Douglas County, Nebraska	5920	Urban	0.9560	36540	Urban	0.9560
28280	Dundy County, Nebraska	28	Rural	0.8657	99928	Rural	0.8657
28290	Fillmore County, Nebraska	28	Rural	0.8657	99928	Rural	0.8657
28300	Franklin County, Nebraska	28	Rural	0.8657	99928	Rural	0.8657
28310	Frontier County, Nebraska	28	Rural	0.8657	99928	Rural	0.8657
28320	Furnas County, Nebraska	28	Rural	0.8657	99928	Rural	0.8657
28330	Gage County, Nebraska	28	Rural	0.8657	99928	Rural	0.8657
28340	Garden County, Nebraska	28	Rural	0.8657	99928	Rural	0.8657
28350	Garfield County, Nebraska	28	Rural	0.8657	99928	Rural	0.8657
28360	Gosper County, Nebraska	28	Rural	0.8657	99928	Rural	0.8657
28370	Grant County, Nebraska	28	Rural	0.8657	99928	Rural	0.8657
28380	Greeley County, Nebraska	28	Rural	0.8657	99928	Rural	0.8657
28390	Hall County, Nebraska	28	Rural	0.8657	99928	Rural	0.8657
28400	Hamilton County, Nebraska	28	Rural	0.8657	99928	Rural	0.8657
28410	Harlan County, Nebraska	28	Rural	0.8657	99928	Rural	0.8657
28420	Hayes County, Nebraska	28	Rural	0.8657	99928	Rural	0.8657
28430	Hitchcock County, Nebraska	28	Rural	0.8657	99928	Rural	0.8657
28440	Holt County, Nebraska	28	Rural	0.8657	99928	Rural	0.8657
28450	Hooker County, Nebraska	28	Rural	0.8657	99928	Rural	0.8657
28460	Howard County, Nebraska	28	Rural	0.8657	99928	Rural	0.8657
28470	Jefferson County, Nebraska	28	Rural	0.8657	99928	Rural	0.8657
28480	Johnson County, Nebraska	28	Rural	0.8657	99928	Rural	0.8657
28490	Kearney County, Nebraska	28	Rural	0.8657	99928	Rural	0.8657
28500	Keith County, Nebraska	28	Rural	0.8657	99928	Rural	0.8657
28510	Keya Paha County, Nebraska	28	Rural	0.8657	99928	Rural	0.8657
28520	Kimball County, Nebraska	28	Rural	0.8657	99928	Rural	0.8657
28530	Knox County, Nebraska	28	Rural	0.8657	99928	Rural	0.8657
28540	Lancaster County, Nebraska	4360	Urban	1.0214	30700	Urban	1.0214
28550	Lincoln County, Nebraska	28	Rural	0.8657	99928	Rural	0.8657
28560	Logan County, Nebraska	28	Rural	0.8657	99928	Rural	0.8657
28570	Loup County, Nebraska	28	Rural	0.8657	99928	Rural	0.8657
28580	Mc Pherson County, Nebraska	28	Rural	0.8657	99928	Rural	0.8657
28590	Madison County, Nebraska	28	Rural	0.8657	99928	Rural	0.8657
28600	Merrick County, Nebraska	28	Rural	0.8657	99928	Rural	0.8657
28610	Morrill County, Nebraska	28	Rural	0.8657	99928	Rural	0.8657
28620	Nance County, Nebraska	28	Rural	0.8657	99928	Rural	0.8657
28630	Nemaha County, Nebraska	28	Rural	0.8657	99928	Rural	0.8657
28640	Nuckolls County, Nebraska	28	Rural	0.8657	99928	Rural	0.8657
28650	Otoe County, Nebraska	28	Rural	0.8657	99928	Rural	0.8657
28660	Pawnee County, Nebraska	28	Rural	0.8657	99928	Rural	0.8657
28670	Perkins County, Nebraska	28	Rural	0.8657	99928	Rural	0.8657
28680	Phelps County, Nebraska	28	Rural	0.8657	99928	Rural	0.8657

SSA State/ County Code	County name	MSA No.	MSA urban/ rural	2006 MSA-based WI	CBSA No.	CBSA urban/ rural	2006 CBSA-based WI
28690	Pierce County, Nebraska	28	Rural	0.8657	99928	Rural	0.8657
28700	Platte County, Nebraska	28	Rural	0.8657	99928	Rural	0.8657
28710	Polk County, Nebraska	28	Rural	0.8657	99928	Rural	0.8657
28720	Redwillow County, Nebraska	28	Rural	0.8657	99928	Rural	0.8657
28730	Richardson County, Nebraska	28	Rural	0.8657	99928	Rural	0.8657
28740	Rock County, Nebraska	28	Rural	0.8657	99928	Rural	0.8657
28750	Saline County, Nebraska	28	Rural	0.8657	99928	Rural	0.8657
28760	Sarpy County, Nebraska	5920	Urban	0.9560	36540	Urban	0.9560
28770	Saunders County, Nebraska	28	Rural	0.8657	36540	Urban	0.9560
28780	Scotts Bluff County, Nebraska	28	Rural	0.8657	99928	Rural	0.8657
28790	Seward County, Nebraska	28	Rural	0.8657	30700	Urban	1.0214
28800	Sheridan County, Nebraska	28	Rural	0.8657	99928	Rural	0.8657
28810	Sherman County, Nebraska	28	Rural	0.8657	99928	Rural	0.8657
28820	Sioux County, Nebraska	28	Rural	0.8657	99928	Rural	0.8657
28830	Stanton County, Nebraska	28	Rural	0.8657	99928	Rural	0.8657
28840	Thayer County, Nebraska	28	Rural	0.8657	99928	Rural	0.8657
28850	Thomas County, Nebraska	28	Rural	0.8657	99928	Rural	0.8657
28860	Thurston County, Nebraska	28	Rural	0.8657	99928	Rural	0.8657
28870	Valley County, Nebraska	28	Rural	0.8657	99928	Rural	0.8657
28880	Washington County, Nebraska	5920	Urban	0.9560	36540	Urban	0.9560
28890	Wayne County, Nebraska	28	Rural	0.8657	99928	Rural	0.8657
28900	Webster County, Nebraska	28	Rural	0.8657	99928	Rural	0.8657
28910	Wheeler County, Nebraska	28	Rural	0.8657	99928	Rural	0.8657
28920	York County, Nebraska	28	Rural	0.8657	99928	Rural	0.8657
29000	Churchill County, Nevada	29	Rural	0.9687	99929	Rural	0.9065
29010	Clark County, Nevada	4120	Urban	1.1155	29820	Urban	1.1437
29020	Douglas County, Nevada	29	Rural	0.9687	99929	Rural	0.9065
29030	Elko County, Nevada	29	Rural	0.9687	99929	Rural	0.9065
29040	Esmeralda County, Nevada	29	Rural	0.9687	99929	Rural	0.9065
29050	Eureka County, Nevada	29	Rural	0.9687	99929	Rural	0.9065
29060	Humboldt County, Nevada	29	Rural	0.9687	99929	Rural	0.9065
29070	Lander County, Nevada	29	Rural	0.9687	99929	Rural	0.9065
29080	Lincoln County, Nevada	29	Rural	0.9687	99929	Rural	0.9065
29090	Lyon County, Nevada	29	Rural	0.9687	99929	Rural	0.9065
29100	Mineral County, Nevada	29	Rural	0.9687	99929	Rural	0.9065
29110	Nye County, Nevada	4120	Urban	1.1155	99929	Rural	0.9065
29120	Carson City County, Nevada	29	Rural	0.9687	16180	Urban	1.0234
29130	Pershing County, Nevada	29	Rural	0.9687	99929	Rural	0.9065
29140	Storey County, Nevada	29	Rural	0.9687	39900	Urban	1.0982
29150	Washoe County, Nevada	6720	Urban	1.0982	39900	Urban	1.0982
29160	White Pine County, Nevada	29	Rural	0.9687	99929	Rural	0.9065
30000	Belknap County, New Hampshire	30	Rural	1.0817	99930	Rural	1.0817
30010	Carroll County, New Hampshire	30	Rural	1.0817	99930	Rural	1.0817
30020	Cheshire County, New Hampshire	30	Rural	1.0817	99930	Rural	1.0817
30030	Coos County, New Hampshire	30	Rural	1.0817	99930	Rural	1.0817
30040	Grafton County, New Hampshire	30	Rural	1.0817	99930	Rural	1.0817
30050	Hillsboro County, New Hampshire	1123	Urban	1.1178	31700	Urban	1.0354
30060	Merrimack County, New Hampshire	1123	Urban	1.1178	31700	Urban	1.0354
30070	Rockingham County, New Hampshire	1123	Urban	1.1178	40484	Urban	1.0374
30080	Strafford County, New Hampshire	1123	Urban	1.1178	40484	Urban	1.0374
30090	Sullivan County, New Hampshire	30	Rural	1.0817	99930	Rural	1.0817
31000	Atlantic County, New Jersey	0560	Urban	1.1496	12100	Urban	1.1615
31100	Bergen County, New Jersey	0875	Urban	1.1651	35644	Urban	1.3188
31150	Burlington County, New Jersey	6160	Urban	1.0922	15804	Urban	1.0517
31160	Camden County, New Jersey	6160	Urban	1.0922	15804	Urban	1.0517
31180	Cape May County, New Jersey	0560	Urban	1.1496	36140	Urban	1.1011
31190	Cumberland County, New Jersey	8760	Urban	0.9827	47220	Urban	0.9827
31200	Essex County, New Jersey	5640	Urban	1.1834	35084	Urban	1.1883
31220	Gloucester County, New Jersey	6160	Urban	1.0922	15804	Urban	1.0517
31230	Hudson County, New Jersey	3640	Urban	1.1338	35644	Urban	1.3188
31250	Hunterdon County, New Jersey	5015	Urban	1.1167	35084	Urban	1.1883
31260	Mercer County, New Jersey	8480	Urban	1.0834	45940	Urban	1.0834
31270	Middlesex County, New Jersey	5015	Urban	1.1167	20764	Urban	1.1249
31290	Monmouth County, New Jersey	5190	Urban	1.1260	20764	Urban	1.1249
31300	Morris County, New Jersey	5640	Urban	1.1834	35084	Urban	1.1883
31310	Ocean County, New Jersey	5190	Urban	1.1260	20764	Urban	1.1249
31320	Passaic County, New Jersey	0875	Urban	1.1651	35644	Urban	1.3188
31340	Salem County, New Jersey	6160	Urban	1.0922	48864	Urban	1.0471
31350	Somerset County, New Jersey	5015	Urban	1.1167	20764	Urban	1.1249
31360	Sussex County, New Jersey	5640	Urban	1.1834	35084	Urban	1.1883
31370	Union County, New Jersey	5640	Urban	1.1834	35084	Urban	1.1883
31390	Warren County, New Jersey	5640	Urban	1.1834	10900	Urban	0.9818

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32000	Bernalillo County, New Mexico	0200	Urban	0.9684	10740	Urban	0.9684
32010	Catron County, New Mexico	32	Rural	0.8563	99932	Rural	0.8635
32020	Chaves County, New Mexico	32	Rural	0.8563	99932	Rural	0.8635
32025	Cibola County, New Mexico	32	Rural	0.8563	99932	Rural	0.8635
32030	Colfax County, New Mexico	32	Rural	0.8563	99932	Rural	0.8635
32040	Curry County, New Mexico	32	Rural	0.8563	99932	Rural	0.8635
32050	De Baca County, New Mexico	32	Rural	0.8563	99932	Rural	0.8635
32060	Dona Ana County, New Mexico	4100	Urban	0.8467	29740	Urban	0.8467
32070	Eddy County, New Mexico	32	Rural	0.8563	99932	Rural	0.8635
32080	Grant County, New Mexico	32	Rural	0.8563	99932	Rural	0.8635
32090	Guadalupe County, New Mexico	32	Rural	0.8563	99932	Rural	0.8635
32100	Harding County, New Mexico	32	Rural	0.8563	99932	Rural	0.8635
32110	Hidalgo County, New Mexico	32	Rural	0.8563	99932	Rural	0.8635
32120	Lea County, New Mexico	32	Rural	0.8563	99932	Rural	0.8635
32130	Lincoln County, New Mexico	32	Rural	0.8563	99932	Rural	0.8635
32131	Los Alamos County, New Mexico	7490	Urban	1.0748	99932	Rural	0.8635
32140	Luna County, New Mexico	32	Rural	0.8563	99932	Rural	0.8635
32150	Mc Kinley County, New Mexico	32	Rural	0.8563	99932	Rural	0.8635
32160	Mora County, New Mexico	32	Rural	0.8563	99932	Rural	0.8635
32170	Otero County, New Mexico	32	Rural	0.8563	99932	Rural	0.8635
32180	Quay County, New Mexico	32	Rural	0.8563	99932	Rural	0.8635
32190	Rio Arriba County, New Mexico	32	Rural	0.8563	99932	Rural	0.8635
32200	Roosevelt County, New Mexico	32	Rural	0.8563	99932	Rural	0.8635
32210	Sandoval County, New Mexico	0200	Urban	0.9684	10740	Urban	0.9684
32220	San Juan County, New Mexico	32	Rural	0.8563	22140	Urban	0.8509
32230	San Miguel County, New Mexico	32	Rural	0.8563	99932	Rural	0.8635
32240	Santa Fe County, New Mexico	7490	Urban	1.0748	42140	Urban	1.0920
32250	Sierra County, New Mexico	32	Rural	0.8563	99932	Rural	0.8635
32260	Socorro County, New Mexico	32	Rural	0.8563	99932	Rural	0.8635
32270	Taos County, New Mexico	32	Rural	0.8563	99932	Rural	0.8635
32280	Torrance County, New Mexico	32	Rural	0.8563	10740	Urban	0.9684
32290	Union County, New Mexico	32	Rural	0.8563	99932	Rural	0.8635
32300	Valencia County, New Mexico	0200	Urban	0.9684	10740	Urban	0.9684
33000	Albany County, New York	0160	Urban	0.8559	10580	Urban	0.8589
33010	Allegany County, New York	33	Rural	0.8395	99933	Rural	0.8154
33020	Bronx County, New York	5600	Urban	1.3464	35644	Urban	1.3188
33030	Broome County, New York	0960	Urban	0.8562	13780	Urban	0.8562
33040	Cattaraugus County, New York	33	Rural	0.8395	99933	Rural	0.8154
33050	Cayuga County, New York	8160	Urban	0.9492	99933	Rural	0.8154
33060	Chautauqua County, New York	3610	Urban	0.7544	99933	Rural	0.8154
33070	Chemung County, New York	2335	Urban	0.8250	21300	Urban	0.8250
33080	Chenango County, New York	33	Rural	0.8395	99933	Rural	0.8154
33090	Clinton County, New York	33	Rural	0.8395	99933	Rural	0.8154
33200	Columbia County, New York	33	Rural	0.8395	99933	Rural	0.8154
33210	Cortland County, New York	33	Rural	0.8395	99933	Rural	0.8154
33220	Delaware County, New York	33	Rural	0.8395	99933	Rural	0.8154
33230	Dutchess County, New York	2281	Urban	1.0475	39100	Urban	1.0891
33240	Erie County, New York	1280	Urban	0.9511	15380	Urban	0.9511
33260	Essex County, New York	33	Rural	0.8395	99933	Rural	0.8154
33270	Franklin County, New York	33	Rural	0.8395	99933	Rural	0.8154
33280	Fulton County, New York	33	Rural	0.8395	99933	Rural	0.8154
33290	Genesee County, New York	6840	Urban	0.9049	99933	Rural	0.8154
33300	Greene County, New York	33	Rural	0.8395	99933	Rural	0.8154
33310	Hamilton County, New York	33	Rural	0.8395	99933	Rural	0.8154
33320	Herkimer County, New York	8680	Urban	0.8358	46540	Urban	0.8358
33330	Jefferson County, New York	33	Rural	0.8395	99933	Rural	0.8154
33331	Kings County, New York	5600	Urban	1.3464	35644	Urban	1.3188
33340	Lewis County, New York	33	Rural	0.8395	99933	Rural	0.8154
33350	Livingston County, New York	6840	Urban	0.9049	40380	Urban	0.9121
33360	Madison County, New York	8160	Urban	0.9492	45060	Urban	0.9574
33370	Monroe County, New York	6840	Urban	0.9049	40380	Urban	0.9121
33380	Montgomery County, New York	0160	Urban	0.8559	99933	Rural	0.8154
33400	Nassau County, New York	5380	Urban	1.2719	35004	Urban	1.2719
33420	New York County, New York	5600	Urban	1.3464	35644	Urban	1.3188
33500	Niagara County, New York	1280	Urban	0.9511	15380	Urban	0.9511
33510	Oneida County, New York	8680	Urban	0.8358	46540	Urban	0.8358
33520	Onondaga County, New York	8160	Urban	0.9492	45060	Urban	0.9574
33530	Ontario County, New York	6840	Urban	0.9049	40380	Urban	0.9121
33540	Orange County, New York	5660	Urban	1.1207	39100	Urban	1.0891
33550	Orleans County, New York	6840	Urban	0.9049	40380	Urban	0.9121
33560	Oswego County, New York	8160	Urban	0.9492	45060	Urban	0.9574
33570	Otsego County, New York	33	Rural	0.8395	99933	Rural	0.8154

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33580	Putnam County, New York	5600	Urban	1.3464	35644	Urban	1.3188
33590	Queens County, New York	5600	Urban	1.3464	35644	Urban	1.3188
33600	Rensselaer County, New York	0160	Urban	0.8559	10580	Urban	0.8589
33610	Richmond County, New York	5600	Urban	1.3464	35644	Urban	1.3188
33620	Rockland County, New York	5600	Urban	1.3464	35644	Urban	1.3188
33630	St Lawrence County, New York	33	Rural	0.8395	99933	Rural	0.8154
33640	Saratoga County, New York	0160	Urban	0.8559	10580	Urban	0.8589
33650	Schenectady County, New York	0160	Urban	0.8559	10580	Urban	0.8589
33660	Schoharie County, New York	0160	Urban	0.8559	10580	Urban	0.8589
33670	Schuyler County, New York	33	Rural	0.8395	99933	Rural	0.8154
33680	Seneca County, New York	33	Rural	0.8395	99933	Rural	0.8154
33690	Steuben County, New York	33	Rural	0.8395	99933	Rural	0.8154
33700	Suffolk County, New York	5380	Urban	1.2719	35004	Urban	1.2719
33710	Sullivan County, New York	33	Rural	0.8395	99933	Rural	0.8154
33720	Tioga County, New York	0960	Urban	0.8562	13780	Urban	0.8562
33730	Tompkins County, New York	33	Rural	0.8395	27060	Urban	0.9793
33740	Ulster County, New York	33	Rural	0.8395	28740	Urban	0.9255
33750	Warren County, New York	2975	Urban	0.8559	24020	Urban	0.8559
33760	Washington County, New York	2975	Urban	0.8559	24020	Urban	0.8559
33770	Wayne County, New York	6840	Urban	0.9049	40380	Urban	0.9121
33800	Westchester County, New York	5600	Urban	1.3464	35644	Urban	1.3188
33900	Wyoming County, New York	33	Rural	0.8395	99933	Rural	0.8154
33910	Yates County, New York	33	Rural	0.8395	99933	Rural	0.8154
34000	Alamance County, N Carolina	3120	Urban	0.9018	15500	Urban	0.8905
34010	Alexander County, N Carolina	3290	Urban	0.8921	25860	Urban	0.8921
34020	Alleghany County, N Carolina	34	Rural	0.8462	99934	Rural	0.8540
34030	Anson County, N Carolina	34	Rural	0.8462	16740	Urban	0.9750
34040	Ashe County, N Carolina	34	Rural	0.8462	99934	Rural	0.8540
34050	Avery County, N Carolina	34	Rural	0.8462	99934	Rural	0.8540
34060	Beaufort County, N Carolina	34	Rural	0.8462	99934	Rural	0.8540
34070	Bertie County, N Carolina	34	Rural	0.8462	99934	Rural	0.8540
34080	Bladen County, N Carolina	34	Rural	0.8462	99934	Rural	0.8540
34090	Brunswick County, N Carolina	9200	Urban	0.9582	48900	Urban	0.9582
34100	Buncombe County, N Carolina	0480	Urban	0.9737	11700	Urban	0.9285
34110	Burke County, N Carolina	3290	Urban	0.8921	25860	Urban	0.8921
34120	Cabarrus County, N Carolina	1520	Urban	0.9715	16740	Urban	0.9750
34130	Caldwell County, N Carolina	3290	Urban	0.8921	25860	Urban	0.8921
34140	Camden County, N Carolina	34	Rural	0.8462	99934	Rural	0.8540
34150	Carteret County, N Carolina	34	Rural	0.8462	99934	Rural	0.8540
34160	Caswell County, N Carolina	34	Rural	0.8462	99934	Rural	0.8540
34170	Catawba County, N Carolina	3290	Urban	0.8921	25860	Urban	0.8921
34180	Chatham County, N Carolina	6640	Urban	1.0034	20500	Urban	1.0244
34190	Cherokee County, N Carolina	34	Rural	0.8462	99934	Rural	0.8540
34200	Chowan County, N Carolina	34	Rural	0.8462	99934	Rural	0.8540
34210	Clay County, N Carolina	34	Rural	0.8462	99934	Rural	0.8540
34220	Cleveland County, N Carolina	34	Rural	0.8462	99934	Rural	0.8540
34230	Columbus County, N Carolina	34	Rural	0.8462	99934	Rural	0.8540
34240	Craven County, N Carolina	34	Rural	0.8462	99934	Rural	0.8540
34250	Cumberland County, N Carolina	2560	Urban	0.9416	22180	Urban	0.9416
34251	Currituck County, N Carolina	5720	Urban	0.8799	47260	Urban	0.8799
34270	Dare County, N Carolina	34	Rural	0.8462	99934	Rural	0.8540
34280	Davidson County, N Carolina	3120	Urban	0.9018	99934	Rural	0.8540
34290	Davie County, N Carolina	3120	Urban	0.9018	49180	Urban	0.8944
34300	Duplin County, N Carolina	34	Rural	0.8462	99934	Rural	0.8540
34310	Durham County, N Carolina	6640	Urban	1.0034	20500	Urban	1.0244
34320	Edgecombe County, N Carolina	6895	Urban	0.8915	40580	Urban	0.8915
34330	Forsyth County, N Carolina	3120	Urban	0.9018	49180	Urban	0.8944
34340	Franklin County, N Carolina	6640	Urban	1.0034	39580	Urban	0.9691
34350	Gaston County, N Carolina	1520	Urban	0.9715	16740	Urban	0.9750
34360	Gates County, N Carolina	34	Rural	0.8462	99934	Rural	0.8540
34370	Graham County, N Carolina	34	Rural	0.8462	99934	Rural	0.8540
34380	Granville County, N Carolina	34	Rural	0.8462	99934	Rural	0.8540
34390	Greene County, N Carolina	34	Rural	0.8462	24780	Urban	0.9425
34400	Guilford County, N Carolina	3120	Urban	0.9018	24660	Urban	0.9104
34410	Halifax County, N Carolina	34	Rural	0.8462	99934	Rural	0.8540
34420	Harnett County, N Carolina	34	Rural	0.8462	99934	Rural	0.8540
34430	Haywood County, N Carolina	34	Rural	0.8462	11700	Urban	0.9285
34440	Henderson County, N Carolina	34	Rural	0.8462	11700	Urban	0.9285
34450	Hertford County, N Carolina	34	Rural	0.8462	99934	Rural	0.8540
34460	Hoke County, N Carolina	34	Rural	0.8462	22180	Urban	0.9416
34470	Hyde County, N Carolina	34	Rural	0.8462	99934	Rural	0.8540
34480	Iredell County, N Carolina	34	Rural	0.8462	99934	Rural	0.8540

SSA State/ County Code	County name	MSA No.	MSA urban/ rural	2006 MSA-based WI	CBSA No.	CBSA urban/ rural	2006 CBSA-based WI
34490	Jackson County, N Carolina	34	Rural	0.8462	99934	Rural	0.8540
34500	Johnston County, N Carolina	6640	Urban	1.0034	39580	Urban	0.9691
34510	Jones County, N Carolina	34	Rural	0.8462	99934	Rural	0.8540
34520	Lee County, N Carolina	34	Rural	0.8462	99934	Rural	0.8540
34530	Lenoir County, N Carolina	34	Rural	0.8462	99934	Rural	0.8540
34540	Lincoln County, N Carolina	1520	Urban	0.9715	99934	Rural	0.8540
34550	Mc Dowell County, N Carolina	34	Rural	0.8462	99934	Rural	0.8540
34560	Macon County, N Carolina	34	Rural	0.8462	99934	Rural	0.8540
34570	Madison County, N Carolina	0480	Urban	0.9737	11700	Urban	0.9285
34580	Martin County, N Carolina	34	Rural	0.8462	99934	Rural	0.8540
34590	Mecklenburg County, N Carolina	1520	Urban	0.9715	16740	Urban	0.9750
34600	Mitchell County, N Carolina	34	Rural	0.8462	99934	Rural	0.8540
34610	Montgomery County, N Carolina	34	Rural	0.8462	99934	Rural	0.8540
34620	Moore County, N Carolina	34	Rural	0.8462	99934	Rural	0.8540
34630	Nash County, N Carolina	6895	Urban	0.8915	40580	Urban	0.8915
34640	New Hanover County, N Carolina	9200	Urban	0.9582	48900	Urban	0.9582
34650	Northampton County, N Carolina	34	Rural	0.8462	99934	Rural	0.8540
34660	Onslow County, N Carolina	3605	Urban	0.8236	27340	Urban	0.8236
34670	Orange County, N Carolina	6640	Urban	1.0034	20500	Urban	1.0244
34680	Pamlico County, N Carolina	34	Rural	0.8462	99934	Rural	0.8540
34690	Pasquotank County, N Carolina	34	Rural	0.8462	99934	Rural	0.8540
34700	Pender County, N Carolina	34	Rural	0.8462	48900	Urban	0.9582
34710	Perquimans County, N Carolina	34	Rural	0.8462	99934	Rural	0.8540
34720	Person County, N Carolina	34	Rural	0.8462	20500	Urban	1.0244
34730	Pitt County, N Carolina	3150	Urban	0.9425	24780	Urban	0.9425
34740	Polk County, N Carolina	34	Rural	0.8462	99934	Rural	0.8540
34750	Randolph County, N Carolina	3120	Urban	0.9018	24660	Urban	0.9104
34760	Richmond County, N Carolina	34	Rural	0.8462	99934	Rural	0.8540
34770	Robeson County, N Carolina	34	Rural	0.8462	99934	Rural	0.8540
34780	Rockingham County, N Carolina	34	Rural	0.8462	24660	Urban	0.9104
34790	Rowan County, N Carolina	1520	Urban	0.9715	99934	Rural	0.8540
34800	Rutherford County, N Carolina	34	Rural	0.8462	99934	Rural	0.8540
34810	Sampson County, N Carolina	34	Rural	0.8462	99934	Rural	0.8540
34820	Scotland County, N Carolina	34	Rural	0.8462	99934	Rural	0.8540
34830	Stanly County, N Carolina	34	Rural	0.8462	99934	Rural	0.8540
34840	Stokes County, N Carolina	3120	Urban	0.9018	49180	Urban	0.8944
34850	Surry County, N Carolina	34	Rural	0.8462	99934	Rural	0.8540
34860	Swain County, N Carolina	34	Rural	0.8462	99934	Rural	0.8540
34870	Transylvania County, N Carolina	34	Rural	0.8462	99934	Rural	0.8540
34880	Tyrrell County, N Carolina	34	Rural	0.8462	99934	Rural	0.8540
34890	Union County, N Carolina	1520	Urban	0.9715	16740	Urban	0.9750
34900	Vance County, N Carolina	34	Rural	0.8462	99934	Rural	0.8540
34910	Wake County, N Carolina	6640	Urban	1.0034	39580	Urban	0.9691
34920	Warren County, N Carolina	34	Rural	0.8462	99934	Rural	0.8540
34930	Washington County, N Carolina	34	Rural	0.8462	99934	Rural	0.8540
34940	Watauga County, N Carolina	34	Rural	0.8462	99934	Rural	0.8540
34950	Wayne County, N Carolina	2980	Urban	0.8775	24140	Urban	0.8775
34960	Wilkes County, N Carolina	34	Rural	0.8462	99934	Rural	0.8540
34970	Wilson County, N Carolina	34	Rural	0.8462	99934	Rural	0.8540
34980	Yadkin County, N Carolina	3120	Urban	0.9018	49180	Urban	0.8944
34981	Yancey County, N Carolina	34	Rural	0.8462	99934	Rural	0.8540
35000	Adams County, N Dakota	35	Rural	0.7261	99935	Rural	0.7261
35010	Barnes County, N Dakota	35	Rural	0.7261	99935	Rural	0.7261
35020	Benson County, N Dakota	35	Rural	0.7261	99935	Rural	0.7261
35030	Billings County, N Dakota	35	Rural	0.7261	99935	Rural	0.7261
35040	Bottineau County, N Dakota	35	Rural	0.7261	99935	Rural	0.7261
35050	Bowman County, N Dakota	35	Rural	0.7261	99935	Rural	0.7261
35060	Burke County, N Dakota	35	Rural	0.7261	99935	Rural	0.7261
35070	Burleigh County, N Dakota	1010	Urban	0.7574	13900	Urban	0.7574
35080	Cass County, N Dakota	2520	Urban	0.8486	22020	Urban	0.8486
35090	Cavalier County, N Dakota	35	Rural	0.7261	99935	Rural	0.7261
35100	Dickey County, N Dakota	35	Rural	0.7261	99935	Rural	0.7261
35110	Divide County, N Dakota	35	Rural	0.7261	99935	Rural	0.7261
35120	Dunn County, N Dakota	35	Rural	0.7261	99935	Rural	0.7261
35130	Eddy County, N Dakota	35	Rural	0.7261	99935	Rural	0.7261
35140	Emmons County, N Dakota	35	Rural	0.7261	99935	Rural	0.7261
35150	Foster County, N Dakota	35	Rural	0.7261	99935	Rural	0.7261
35160	Golden Valley County, N Dakota	35	Rural	0.7261	99935	Rural	0.7261
35170	Grand Forks County, N Dakota	2985	Urban	0.7901	24220	Urban	0.7901
35180	Grant County, N Dakota	35	Rural	0.7261	99935	Rural	0.7261
35190	Griggs County, N Dakota	35	Rural	0.7261	99935	Rural	0.7261
35200	Hettinger County, N Dakota	35	Rural	0.7261	99935	Rural	0.7261

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35210	Kidder County, N Dakota	35	Rural	0.7261	99935	Rural	0.7261
35220	La Moure County, N Dakota	35	Rural	0.7261	99935	Rural	0.7261
35230	Logan County, N Dakota	35	Rural	0.7261	99935	Rural	0.7261
35240	Mc Henry County, N Dakota	35	Rural	0.7261	99935	Rural	0.7261
35250	Mc Intosh County, N Dakota	35	Rural	0.7261	99935	Rural	0.7261
35260	Mc Kenzie County, N Dakota	35	Rural	0.7261	99935	Rural	0.7261
35270	Mc Lean County, N Dakota	35	Rural	0.7261	99935	Rural	0.7261
35280	Mercer County, N Dakota	35	Rural	0.7261	99935	Rural	0.7261
35290	Morton County, N Dakota	1010	Urban	0.7574	13900	Urban	0.7574
35300	Mountrail County, N Dakota	35	Rural	0.7261	99935	Rural	0.7261
35310	Nelson County, N Dakota	35	Rural	0.7261	99935	Rural	0.7261
35320	Oliver County, N Dakota	35	Rural	0.7261	99935	Rural	0.7261
35330	Pembina County, N Dakota	35	Rural	0.7261	99935	Rural	0.7261
35340	Pierce County, N Dakota	35	Rural	0.7261	99935	Rural	0.7261
35350	Ramsey County, N Dakota	35	Rural	0.7261	99935	Rural	0.7261
35360	Ransom County, N Dakota	35	Rural	0.7261	99935	Rural	0.7261
35370	Renville County, N Dakota	35	Rural	0.7261	99935	Rural	0.7261
35380	Richland County, N Dakota	35	Rural	0.7261	99935	Rural	0.7261
35390	Rolette County, N Dakota	35	Rural	0.7261	99935	Rural	0.7261
35400	Sargent County, N Dakota	35	Rural	0.7261	99935	Rural	0.7261
35410	Sheridan County, N Dakota	35	Rural	0.7261	99935	Rural	0.7261
35420	Sioux County, N Dakota	35	Rural	0.7261	99935	Rural	0.7261
35430	Slope County, N Dakota	35	Rural	0.7261	99935	Rural	0.7261
35440	Stark County, N Dakota	35	Rural	0.7261	99935	Rural	0.7261
35450	Steele County, N Dakota	35	Rural	0.7261	99935	Rural	0.7261
35460	Stutsman County, N Dakota	35	Rural	0.7261	99935	Rural	0.7261
35470	Towner County, N Dakota	35	Rural	0.7261	99935	Rural	0.7261
35480	Traill County, N Dakota	35	Rural	0.7261	99935	Rural	0.7261
35490	Walsh County, N Dakota	35	Rural	0.7261	99935	Rural	0.7261
35500	Ward County, N Dakota	35	Rural	0.7261	99935	Rural	0.7261
35510	Wells County, N Dakota	35	Rural	0.7261	99935	Rural	0.7261
35520	Williams County, N Dakota	35	Rural	0.7261	99935	Rural	0.7261
36000	Adams County, Ohio	36	Rural	0.8921	99936	Rural	0.8826
36010	Allen County, Ohio	4320	Urban	0.9119	30620	Urban	0.9225
36020	Ashland County, Ohio	36	Rural	0.8921	99936	Rural	0.8826
36030	Ashtabula County, Ohio	1680	Urban	0.9183	99936	Rural	0.8826
36040	Athens County, Ohio	36	Rural	0.8921	99936	Rural	0.8826
36050	Auglaize County, Ohio	4320	Urban	0.9119	99936	Rural	0.8826
36060	Belmont County, Ohio	9000	Urban	0.7161	48540	Urban	0.7161
36070	Brown County, Ohio	1640	Urban	0.9734	17140	Urban	0.9615
36080	Butler County, Ohio	3200	Urban	0.8951	17140	Urban	0.9615
36090	Carroll County, Ohio	1320	Urban	0.8935	15940	Urban	0.8935
36100	Champaign County, Ohio	36	Rural	0.8921	99936	Rural	0.8826
36110	Clark County, Ohio	2000	Urban	0.8980	44220	Urban	0.8396
36120	Clermont County, Ohio	1640	Urban	0.9734	17140	Urban	0.9615
36130	Clinton County, Ohio	36	Rural	0.8921	99936	Rural	0.8826
36140	Columbiana County, Ohio	9320	Urban	0.8848	99936	Rural	0.8826
36150	Coshocton County, Ohio	36	Rural	0.8921	99936	Rural	0.8826
36160	Crawford County, Ohio	4800	Urban	0.9891	99936	Rural	0.8826
36170	Cuyahoga County, Ohio	1680	Urban	0.9183	17460	Urban	0.9213
36190	Darke County, Ohio	36	Rural	0.8921	99936	Rural	0.8826
36200	Defiance County, Ohio	36	Rural	0.8921	99936	Rural	0.8826
36210	Delaware County, Ohio	1840	Urban	0.9874	18140	Urban	0.9860
36220	Erie County, Ohio	36	Rural	0.8921	41780	Urban	0.9019
36230	Fairfield County, Ohio	1840	Urban	0.9874	18140	Urban	0.9860
36240	Fayette County, Ohio	36	Rural	0.8921	99936	Rural	0.8826
36250	Franklin County, Ohio	1840	Urban	0.9874	18140	Urban	0.9860
36260	Fulton County, Ohio	8400	Urban	0.9574	45780	Urban	0.9574
36270	Gallia County, Ohio	36	Rural	0.8921	99936	Rural	0.8826
36280	Geauga County, Ohio	1680	Urban	0.9183	17460	Urban	0.9213
36290	Greene County, Ohio	2000	Urban	0.8980	19380	Urban	0.9064
36300	Guernsey County, Ohio	36	Rural	0.8921	99936	Rural	0.8826
36310	Hamilton County, Ohio	1640	Urban	0.9734	17140	Urban	0.9615
36330	Hancock County, Ohio	36	Rural	0.8921	99936	Rural	0.8826
36340	Hardin County, Ohio	36	Rural	0.8921	99936	Rural	0.8826
36350	Harrison County, Ohio	36	Rural	0.8921	99936	Rural	0.8826
36360	Henry County, Ohio	36	Rural	0.8921	99936	Rural	0.8826
36370	Highland County, Ohio	36	Rural	0.8921	99936	Rural	0.8826
36380	Hocking County, Ohio	36	Rural	0.8921	99936	Rural	0.8826
36390	Holmes County, Ohio	36	Rural	0.8921	99936	Rural	0.8826
36400	Huron County, Ohio	36	Rural	0.8921	99936	Rural	0.8826
36410	Jackson County, Ohio	36	Rural	0.8921	99936	Rural	0.8826

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36420	Jefferson County, Ohio	8080	Urban	0.7819	48260	Urban	0.7819
36430	Knox County, Ohio	36	Rural	0.8921	99936	Rural	0.8826
36440	Lake County, Ohio	1680	Urban	0.9183	17460	Urban	0.9213
36450	Lawrence County, Ohio	3400	Urban	0.9477	26580	Urban	0.9477
36460	Licking County, Ohio	1840	Urban	0.9874	18140	Urban	0.9860
36470	Logan County, Ohio	36	Rural	0.8921	99936	Rural	0.8826
36480	Lorain County, Ohio	1680	Urban	0.9183	17460	Urban	0.9213
36490	Lucas County, Ohio	8400	Urban	0.9574	45780	Urban	0.9574
36500	Madison County, Ohio	1840	Urban	0.9874	18140	Urban	0.9860
36510	Mahoning County, Ohio	9320	Urban	0.8848	49660	Urban	0.8603
36520	Marion County, Ohio	36	Rural	0.8921	99936	Rural	0.8826
36530	Medina County, Ohio	1680	Urban	0.9183	17460	Urban	0.9213
36540	Meigs County, Ohio	36	Rural	0.8921	99936	Rural	0.8826
36550	Mercer County, Ohio	36	Rural	0.8921	99936	Rural	0.8826
36560	Miami County, Ohio	2000	Urban	0.8980	19380	Urban	0.9064
36570	Monroe County, Ohio	36	Rural	0.8921	99936	Rural	0.8826
36580	Montgomery County, Ohio	2000	Urban	0.8980	19380	Urban	0.9064
36590	Morgan County, Ohio	36	Rural	0.8921	99936	Rural	0.8826
36600	Morrow County, Ohio	36	Rural	0.8921	18140	Urban	0.9860
36610	Muskingum County, Ohio	36	Rural	0.8921	99936	Rural	0.8826
36620	Noble County, Ohio	36	Rural	0.8921	99936	Rural	0.8826
36630	Ottawa County, Ohio	36	Rural	0.8921	45780	Urban	0.9574
36640	Paulding County, Ohio	36	Rural	0.8921	99936	Rural	0.8826
36650	Perry County, Ohio	36	Rural	0.8921	99936	Rural	0.8826
36660	Pickaway County, Ohio	1840	Urban	0.9874	18140	Urban	0.9860
36670	Pike County, Ohio	36	Rural	0.8921	99936	Rural	0.8826
36680	Portage County, Ohio	0080	Urban	0.8982	10420	Urban	0.8982
36690	Preble County, Ohio	36	Rural	0.8921	19380	Urban	0.9064
36700	Putnam County, Ohio	36	Rural	0.8921	99936	Rural	0.8826
36710	Richland County, Ohio	4800	Urban	0.9891	31900	Urban	0.9891
36720	Ross County, Ohio	36	Rural	0.8921	99936	Rural	0.8826
36730	Sandusky County, Ohio	36	Rural	0.8921	99936	Rural	0.8826
36740	Scioto County, Ohio	36	Rural	0.8921	99936	Rural	0.8826
36750	Seneca County, Ohio	36	Rural	0.8921	99936	Rural	0.8826
36760	Shelby County, Ohio	36	Rural	0.8921	99936	Rural	0.8826
36770	Stark County, Ohio	1320	Urban	0.8935	15940	Urban	0.8935
36780	Summit County, Ohio	0080	Urban	0.8982	10420	Urban	0.8982
36790	Trumbull County, Ohio	9320	Urban	0.8848	49660	Urban	0.8603
36800	Tuscarawas County, Ohio	36	Rural	0.8921	99936	Rural	0.8826
36810	Union County, Ohio	36	Rural	0.8921	18140	Urban	0.9860
36820	Van Wert County, Ohio	36	Rural	0.8921	99936	Rural	0.8826
36830	Vinton County, Ohio	36	Rural	0.8921	99936	Rural	0.8826
36840	Warren County, Ohio	1640	Urban	0.9734	17140	Urban	0.9615
36850	Washington County, Ohio	6020	Urban	0.8270	37620	Urban	0.8270
36860	Wayne County, Ohio	36	Rural	0.8921	99936	Rural	0.8826
36870	Williams County, Ohio	36	Rural	0.8921	99936	Rural	0.8826
36880	Wood County, Ohio	8400	Urban	0.9574	45780	Urban	0.9574
36890	Wyandot County, Ohio	36	Rural	0.8921	99936	Rural	0.8826
37000	Adair County, Oklahoma	37	Rural	0.7442	99937	Rural	0.7581
37010	Alfalfa County, Oklahoma	37	Rural	0.7442	99937	Rural	0.7581
37020	Atoka County, Oklahoma	37	Rural	0.7442	99937	Rural	0.7581
37030	Beaver County, Oklahoma	37	Rural	0.7442	99937	Rural	0.7581
37040	Beckham County, Oklahoma	37	Rural	0.7442	99937	Rural	0.7581
37050	Blaine County, Oklahoma	37	Rural	0.7442	99937	Rural	0.7581
37060	Bryan County, Oklahoma	37	Rural	0.7442	99937	Rural	0.7581
37070	Caddo County, Oklahoma	37	Rural	0.7442	99937	Rural	0.7581
37080	Canadian County, Oklahoma	5880	Urban	0.9025	36420	Urban	0.9031
37090	Carter County, Oklahoma	37	Rural	0.7442	99937	Rural	0.7581
37100	Cherokee County, Oklahoma	37	Rural	0.7442	99937	Rural	0.7581
37110	Choctaw County, Oklahoma	37	Rural	0.7442	99937	Rural	0.7581
37120	Cimarron County, Oklahoma	37	Rural	0.7442	99937	Rural	0.7581
37130	Cleveland County, Oklahoma	5880	Urban	0.9025	36420	Urban	0.9031
37140	Coal County, Oklahoma	37	Rural	0.7442	99937	Rural	0.7581
37150	Comanche County, Oklahoma	4200	Urban	0.7872	30020	Urban	0.7872
37160	Cotton County, Oklahoma	37	Rural	0.7442	99937	Rural	0.7581
37170	Craig County, Oklahoma	37	Rural	0.7442	99937	Rural	0.7581
37180	Creek County, Oklahoma	8560	Urban	0.8587	46140	Urban	0.8543
37190	Custer County, Oklahoma	37	Rural	0.7442	99937	Rural	0.7581
37200	Delaware County, Oklahoma	37	Rural	0.7442	99937	Rural	0.7581
37210	Dewey County, Oklahoma	37	Rural	0.7442	99937	Rural	0.7581
37220	Ellis County, Oklahoma	37	Rural	0.7442	99937	Rural	0.7581
37230	Garfield County, Oklahoma	2340	Urban	0.8666	99937	Rural	0.7581

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37240	Garvin County, Oklahoma	37	Rural	0.7442	99937	Rural	0.7581
37250	Grady County, Oklahoma	37	Rural	0.7442	36420	Urban	0.9031
37260	Grant County, Oklahoma	37	Rural	0.7442	99937	Rural	0.7581
37270	Greer County, Oklahoma	37	Rural	0.7442	99937	Rural	0.7581
37280	Harmon County, Oklahoma	37	Rural	0.7442	99937	Rural	0.7581
37290	Harper County, Oklahoma	37	Rural	0.7442	99937	Rural	0.7581
37300	Haskell County, Oklahoma	37	Rural	0.7442	99937	Rural	0.7581
37310	Hughes County, Oklahoma	37	Rural	0.7442	99937	Rural	0.7581
37320	Jackson County, Oklahoma	37	Rural	0.7442	99937	Rural	0.7581
37330	Jefferson County, Oklahoma	37	Rural	0.7442	99937	Rural	0.7581
37340	Johnston County, Oklahoma	37	Rural	0.7442	99937	Rural	0.7581
37350	Kay County, Oklahoma	37	Rural	0.7442	99937	Rural	0.7581
37360	Kingfisher County, Oklahoma	37	Rural	0.7442	99937	Rural	0.7581
37370	Kiowa County, Oklahoma	37	Rural	0.7442	99937	Rural	0.7581
37380	Latimer County, Oklahoma	37	Rural	0.7442	99937	Rural	0.7581
37390	Le Flore County, Oklahoma	37	Rural	0.7442	22900	Urban	0.8230
37400	Lincoln County, Oklahoma	37	Rural	0.7442	36420	Urban	0.9031
37410	Logan County, Oklahoma	5880	Urban	0.9025	36420	Urban	0.9031
37420	Love County, Oklahoma	37	Rural	0.7442	99937	Rural	0.7581
37430	Mc Clain County, Oklahoma	5880	Urban	0.9025	36420	Urban	0.9031
37440	Mc Curtain County, Oklahoma	37	Rural	0.7442	99937	Rural	0.7581
37450	Mc Intosh County, Oklahoma	37	Rural	0.7442	99937	Rural	0.7581
37460	Major County, Oklahoma	37	Rural	0.7442	99937	Rural	0.7581
37470	Marshall County, Oklahoma	37	Rural	0.7442	99937	Rural	0.7581
37480	Mayes County, Oklahoma	37	Rural	0.7442	99937	Rural	0.7581
37490	Murray County, Oklahoma	37	Rural	0.7442	99937	Rural	0.7581
37500	Muskogee County, Oklahoma	37	Rural	0.7442	99937	Rural	0.7581
37510	Noble County, Oklahoma	37	Rural	0.7442	99937	Rural	0.7581
37520	Nowata County, Oklahoma	37	Rural	0.7442	99937	Rural	0.7581
37530	Okfuskee County, Oklahoma	37	Rural	0.7442	99937	Rural	0.7581
37540	Oklahoma County, Oklahoma	5880	Urban	0.9025	36420	Urban	0.9031
37550	Okmulgee County, Oklahoma	37	Rural	0.7442	46140	Urban	0.8543
37560	Osage County, Oklahoma	8560	Urban	0.8587	46140	Urban	0.8543
37570	Ottawa County, Oklahoma	37	Rural	0.7442	99937	Rural	0.7581
37580	Pawnee County, Oklahoma	37	Rural	0.7442	46140	Urban	0.8543
37590	Payne County, Oklahoma	37	Rural	0.7442	99937	Rural	0.7581
37600	Pittsburg County, Oklahoma	37	Rural	0.7442	99937	Rural	0.7581
37610	Pontotoc County, Oklahoma	37	Rural	0.7442	99937	Rural	0.7581
37620	Pottawatomie County, Oklahoma	5880	Urban	0.9025	99937	Rural	0.7581
37630	Pushmataha County, Oklahoma	37	Rural	0.7442	99937	Rural	0.7581
37640	Roger Mills County, Oklahoma	37	Rural	0.7442	99937	Rural	0.7581
37650	Rogers County, Oklahoma	8560	Urban	0.8587	46140	Urban	0.8543
37660	Seminole County, Oklahoma	37	Rural	0.7442	99937	Rural	0.7581
37670	Sequoyah County, Oklahoma	2720	Urban	0.8246	22900	Urban	0.8230
37680	Stephens County, Oklahoma	37	Rural	0.7442	99937	Rural	0.7581
37690	Texas County, Oklahoma	37	Rural	0.7442	99937	Rural	0.7581
37700	Tillman County, Oklahoma	37	Rural	0.7442	99937	Rural	0.7581
37710	Tulsa County, Oklahoma	8560	Urban	0.8587	46140	Urban	0.8543
37720	Wagoner County, Oklahoma	8560	Urban	0.8587	46140	Urban	0.8543
37730	Washington County, Oklahoma	37	Rural	0.7442	99937	Rural	0.7581
37740	Washita County, Oklahoma	37	Rural	0.7442	99937	Rural	0.7581
37750	Woods County, Oklahoma	37	Rural	0.7442	99937	Rural	0.7581
37760	Woodward County, Oklahoma	37	Rural	0.7442	99937	Rural	0.7581
38000	Baker County, Oregon	38	Rural	1.0052	99938	Rural	0.9826
38010	Benton County, Oregon	1890	Urban	1.0729	18700	Urban	1.0729
38020	Clackamas County, Oregon	6440	Urban	1.1266	38900	Urban	1.1266
38030	Clatsop County, Oregon	38	Rural	1.0052	99938	Rural	0.9826
38040	Columbia County, Oregon	6440	Urban	1.1266	38900	Urban	1.1266
38050	Coos County, Oregon	38	Rural	1.0052	99938	Rural	0.9826
38060	Crook County, Oregon	38	Rural	1.0052	99938	Rural	0.9826
38070	Curry County, Oregon	38	Rural	1.0052	99938	Rural	0.9826
38080	Deschutes County, Oregon	38	Rural	1.0052	13460	Urban	1.0786
38090	Douglas County, Oregon	38	Rural	1.0052	99938	Rural	0.9826
38100	Gilliam County, Oregon	38	Rural	1.0052	99938	Rural	0.9826
38110	Grant County, Oregon	38	Rural	1.0052	99938	Rural	0.9826
38120	Harney County, Oregon	38	Rural	1.0052	99938	Rural	0.9826
38130	Hood River County, Oregon	38	Rural	1.0052	99938	Rural	0.9826
38140	Jackson County, Oregon	4890	Urban	1.0225	32780	Urban	1.0225
38150	Jefferson County, Oregon	38	Rural	1.0052	99938	Rural	0.9826
38160	Josephine County, Oregon	38	Rural	1.0052	99938	Rural	0.9826
38170	Klamath County, Oregon	38	Rural	1.0052	99938	Rural	0.9826
38180	Lake County, Oregon	38	Rural	1.0052	99938	Rural	0.9826

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38190	Lane County, Oregon	2400	Urban	1.0818	21660	Urban	1.0818
38200	Lincoln County, Oregon	38	Rural	1.0052	99938	Rural	0.9826
38210	Linn County, Oregon	38	Rural	1.0052	99938	Rural	0.9826
38220	Malheur County, Oregon	38	Rural	1.0052	99938	Rural	0.9826
38230	Marion County, Oregon	7080	Urban	1.0442	41420	Urban	1.0442
38240	Morrow County, Oregon	38	Rural	1.0052	99938	Rural	0.9826
38250	Multnomah County, Oregon	6440	Urban	1.1266	38900	Urban	1.1266
38260	Polk County, Oregon	7080	Urban	1.0442	41420	Urban	1.0442
38270	Sherman County, Oregon	38	Rural	1.0052	99938	Rural	0.9826
38280	Tillamook County, Oregon	38	Rural	1.0052	99938	Rural	0.9826
38290	Umatilla County, Oregon	38	Rural	1.0052	99938	Rural	0.9826
38300	Union County, Oregon	38	Rural	1.0052	99938	Rural	0.9826
38310	Wallowa County, Oregon	38	Rural	1.0052	99938	Rural	0.9826
38320	Wasco County, Oregon	38	Rural	1.0052	99938	Rural	0.9826
38330	Washington County, Oregon	6440	Urban	1.1266	38900	Urban	1.1266
38340	Wheeler County, Oregon	38	Rural	1.0052	99938	Rural	0.9826
38350	Yamhill County, Oregon	6440	Urban	1.1266	38900	Urban	1.1266
39000	Adams County, Pennsylvania	39	Rural	0.8319	99939	Rural	0.8291
39010	Allegheny County, Pennsylvania	6280	Urban	0.8860	38300	Urban	0.8845
39070	Armstrong County, Pennsylvania	39	Rural	0.8319	38300	Urban	0.8845
39080	Beaver County, Pennsylvania	6280	Urban	0.8860	38300	Urban	0.8845
39100	Bedford County, Pennsylvania	39	Rural	0.8319	99939	Rural	0.8291
39110	Berks County, Pennsylvania	6680	Urban	0.9686	39740	Urban	0.9686
39120	Blair County, Pennsylvania	0280	Urban	0.8944	11020	Urban	0.8944
39130	Bradford County, Pennsylvania	39	Rural	0.8319	99939	Rural	0.8291
39140	Bucks County, Pennsylvania	6160	Urban	1.0922	37964	Urban	1.1038
39150	Butler County, Pennsylvania	6280	Urban	0.8860	38300	Urban	0.8845
39160	Cambria County, Pennsylvania	3680	Urban	0.8086	27780	Urban	0.8354
39180	Cameron County, Pennsylvania	39	Rural	0.8319	99939	Rural	0.8291
39190	Carbon County, Pennsylvania	0240	Urban	0.9845	10900	Urban	0.9818
39200	Centre County, Pennsylvania	8050	Urban	0.8356	44300	Urban	0.8356
39210	Chester County, Pennsylvania	6160	Urban	1.0922	37964	Urban	1.1038
39220	Clarion County, Pennsylvania	39	Rural	0.8319	99939	Rural	0.8291
39230	Clearfield County, Pennsylvania	39	Rural	0.8319	99939	Rural	0.8291
39240	Clinton County, Pennsylvania	39	Rural	0.8319	99939	Rural	0.8291
39250	Columbia County, Pennsylvania	7560	Urban	0.8524	99939	Rural	0.8291
39260	Crawford County, Pennsylvania	39	Rural	0.8319	99939	Rural	0.8291
39270	Cumberland County, Pennsylvania	3240	Urban	0.9233	25420	Urban	0.9313
39280	Dauphin County, Pennsylvania	3240	Urban	0.9233	25420	Urban	0.9313
39290	Delaware County, Pennsylvania	6160	Urban	1.0922	37964	Urban	1.1038
39310	Elk County, Pennsylvania	39	Rural	0.8319	99939	Rural	0.8291
39320	Erie County, Pennsylvania	2360	Urban	0.8737	21500	Urban	0.8737
39330	Fayette County, Pennsylvania	6280	Urban	0.8860	38300	Urban	0.8845
39340	Forest County, Pennsylvania	39	Rural	0.8319	99939	Rural	0.8291
39350	Franklin County, Pennsylvania	39	Rural	0.8319	99939	Rural	0.8291
39360	Fulton County, Pennsylvania	39	Rural	0.8319	99939	Rural	0.8291
39370	Greene County, Pennsylvania	39	Rural	0.8319	99939	Rural	0.8291
39380	Huntingdon County, Pennsylvania	39	Rural	0.8319	99939	Rural	0.8291
39390	Indiana County, Pennsylvania	39	Rural	0.8319	99939	Rural	0.8291
39400	Jefferson County, Pennsylvania	39	Rural	0.8319	99939	Rural	0.8291
39410	Juniata County, Pennsylvania	39	Rural	0.8319	99939	Rural	0.8291
39420	Lackawanna County, Pennsylvania	7560	Urban	0.8524	42540	Urban	0.8540
39440	Lancaster County, Pennsylvania	4000	Urban	0.9694	29540	Urban	0.9694
39450	Lawrence County, Pennsylvania	39	Rural	0.8319	99939	Rural	0.8291
39460	Lebanon County, Pennsylvania	3240	Urban	0.9233	30140	Urban	0.8459
39470	Lehigh County, Pennsylvania	0240	Urban	0.9845	10900	Urban	0.9818
39480	Luzerne County, Pennsylvania	7560	Urban	0.8524	42540	Urban	0.8540
39510	Lycoming County, Pennsylvania	9140	Urban	0.8364	48700	Urban	0.8364
39520	Mc Kean County, Pennsylvania	39	Rural	0.8319	99939	Rural	0.8291
39530	Mercer County, Pennsylvania	7610	Urban	0.7793	49660	Urban	0.8603
39540	Mifflin County, Pennsylvania	39	Rural	0.8319	99939	Rural	0.8291
39550	Monroe County, Pennsylvania	39	Rural	0.8319	99939	Rural	0.8291
39560	Montgomery County, Pennsylvania	6160	Urban	1.0922	37964	Urban	1.1038
39580	Montour County, Pennsylvania	39	Rural	0.8319	99939	Rural	0.8291
39590	Northampton County, Pennsylvania	0240	Urban	0.9845	10900	Urban	0.9818
39600	Northumberland County, Pennsylvania	39	Rural	0.8319	99939	Rural	0.8291
39610	Perry County, Pennsylvania	3240	Urban	0.9233	25420	Urban	0.9313
39620	Philadelphia County, Pennsylvania	6160	Urban	1.0922	37964	Urban	1.1038
39630	Pike County, Pennsylvania	5660	Urban	1.1207	35084	Urban	1.1883
39640	Potter County, Pennsylvania	39	Rural	0.8319	99939	Rural	0.8291
39650	Schuylkill County, Pennsylvania	39	Rural	0.8319	99939	Rural	0.8291
39670	Snyder County, Pennsylvania	39	Rural	0.8319	99939	Rural	0.8291

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39680	Somerset County, Pennsylvania	3680	Urban	0.8086	99939	Rural	0.8291
39690	Sullivan County, Pennsylvania	39	Rural	0.8319	99939	Rural	0.8291
39700	Susquehanna County, Pennsylvania	39	Rural	0.8319	99939	Rural	0.8291
39710	Tioga County, Pennsylvania	39	Rural	0.8319	99939	Rural	0.8291
39720	Union County, Pennsylvania	39	Rural	0.8319	99939	Rural	0.8291
39730	Venango County, Pennsylvania	39	Rural	0.8319	99939	Rural	0.8291
39740	Warren County, Pennsylvania	39	Rural	0.8319	99939	Rural	0.8291
39750	Washington County, Pennsylvania	6280	Urban	0.8860	38300	Urban	0.8845
39760	Wayne County, Pennsylvania	39	Rural	0.8319	99939	Rural	0.8291
39770	Westmoreland County, Pennsylvania	6280	Urban	0.8860	38300	Urban	0.8845
39790	Wyoming County, Pennsylvania	7560	Urban	0.8524	42540	Urban	0.8540
39800	York County, Pennsylvania	9280	Urban	0.9347	49620	Urban	0.9347
40010	Adjuntas County, Puerto Rico	40	Rural	0.3604	99940	Rural	0.4047
40020	Aguada County, Puerto Rico	0060	Urban	0.4876	10380	Urban	0.4738
40030	Aguadilla County, Puerto Rico	0060	Urban	0.4876	10380	Urban	0.4738
40040	Aguas Buenas County, Puerto Rico	7440	Urban	0.4752	41980	Urban	0.4621
40050	Aibonito County, Puerto Rico	40	Rural	0.3604	41980	Urban	0.4621
40060	Anasco County, Puerto Rico	4840	Urban	0.4243	10380	Urban	0.4738
40070	Arecibo County, Puerto Rico	0470	Urban	0.4112	41980	Urban	0.4621
40080	Arroyo County, Puerto Rico	40	Rural	0.3604	25020	Urban	0.3181
40090	Barceloneta County, Puerto Rico	7440	Urban	0.4752	41980	Urban	0.4621
40100	Barranquitas County, Puerto Rico	40	Rural	0.3604	41980	Urban	0.4621
40110	Bayamon County, Puerto Rico	7440	Urban	0.4752	41980	Urban	0.4621
40120	Cabo Rojo County, Puerto Rico	4840	Urban	0.4243	41900	Urban	0.4650
40130	Caguas County, Puerto Rico	1310	Urban	0.4120	41980	Urban	0.4621
40140	Camuy County, Puerto Rico	0470	Urban	0.4112	41980	Urban	0.4621
40145	Canovanas County, Puerto Rico	7440	Urban	0.4752	41980	Urban	0.4621
40150	Carolina County, Puerto Rico	7440	Urban	0.4752	41980	Urban	0.4621
40160	Catano County, Puerto Rico	7440	Urban	0.4752	41980	Urban	0.4621
40170	Cayey County, Puerto Rico	1310	Urban	0.4120	41980	Urban	0.4621
40180	Ceiba County, Puerto Rico	7440	Urban	0.4752	21940	Urban	0.4153
40190	Ciales County, Puerto Rico	40	Rural	0.3604	41980	Urban	0.4621
40200	Cidra County, Puerto Rico	1310	Urban	0.4120	41980	Urban	0.4621
40210	Coamo County, Puerto Rico	40	Rural	0.3604	99940	Rural	0.4047
40220	Comerio County, Puerto Rico	7440	Urban	0.4752	41980	Urban	0.4621
40230	Corozal County, Puerto Rico	7440	Urban	0.4752	41980	Urban	0.4621
40240	Culebra County, Puerto Rico	40	Rural	0.3604	99940	Rural	0.4047
40250	Dorado County, Puerto Rico	7440	Urban	0.4752	41980	Urban	0.4621
40260	Fajardo County, Puerto Rico	7440	Urban	0.4752	21940	Urban	0.4153
40265	Florida County, Puerto Rico	7440	Urban	0.4752	41980	Urban	0.4621
40270	Guanica County, Puerto Rico	40	Rural	0.3604	49500	Urban	0.4408
40280	Guayama County, Puerto Rico	40	Rural	0.3604	25020	Urban	0.3181
40290	Guayanilla County, Puerto Rico	6360	Urban	0.4881	49500	Urban	0.4408
40300	Guaynabo County, Puerto Rico	7440	Urban	0.4752	41980	Urban	0.4621
40310	Gurabo County, Puerto Rico	1310	Urban	0.4120	41980	Urban	0.4621
40320	Hatillo County, Puerto Rico	0470	Urban	0.4112	41980	Urban	0.4621
40330	Hormigueros County, Puerto Rico	4840	Urban	0.4243	32420	Urban	0.4020
40340	Humacao County, Puerto Rico	7440	Urban	0.4752	41980	Urban	0.4621
40350	Isabela County, Puerto Rico	40	Rural	0.3604	10380	Urban	0.4738
40360	Jayuya County, Puerto Rico	40	Rural	0.3604	99940	Rural	0.4047
40370	Juana Diaz County, Puerto Rico	6360	Urban	0.4881	38660	Urban	0.4939
40380	Juncos County, Puerto Rico	7440	Urban	0.4752	41980	Urban	0.4621
40390	Lajas County, Puerto Rico	40	Rural	0.3604	41900	Urban	0.4650
40400	Lares County, Puerto Rico	40	Rural	0.3604	10380	Urban	0.4738
40410	Las Marias County, Puerto Rico	40	Rural	0.3604	99940	Rural	0.4047
40420	Las Piedras County, Puerto Rico	7440	Urban	0.4752	41980	Urban	0.4621
40430	Loiza County, Puerto Rico	7440	Urban	0.4752	41980	Urban	0.4621
40440	Luquillo County, Puerto Rico	7440	Urban	0.4752	21940	Urban	0.4153
40450	Manati County, Puerto Rico	7440	Urban	0.4752	41980	Urban	0.4621
40460	Maricao County, Puerto Rico	40	Rural	0.3604	99940	Rural	0.4047
40470	Maunabo County, Puerto Rico	40	Rural	0.3604	41980	Urban	0.4621
40480	Mayaguez County, Puerto Rico	4840	Urban	0.4243	32420	Urban	0.4020
40490	Moca County, Puerto Rico	0060	Urban	0.4876	10380	Urban	0.4738
40500	Morovis County, Puerto Rico	7440	Urban	0.4752	41980	Urban	0.4621
40510	Naguabo County, Puerto Rico	7440	Urban	0.4752	41980	Urban	0.4621
40520	Naranjito County, Puerto Rico	7440	Urban	0.4752	41980	Urban	0.4621
40530	Orocovis County, Puerto Rico	40	Rural	0.3604	41980	Urban	0.4621
40540	Patillas County, Puerto Rico	40	Rural	0.3604	25020	Urban	0.3181
40550	Penuelas County, Puerto Rico	6360	Urban	0.4881	49500	Urban	0.4408
40560	Ponce County, Puerto Rico	6360	Urban	0.4881	38660	Urban	0.4939
40570	Quebradillas County, Puerto Rico	40	Rural	0.3604	41980	Urban	0.4621
40580	Rincon County, Puerto Rico	40	Rural	0.3604	10380	Urban	0.4738

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40590	Rio Grande County, Puerto Rico	7440	Urban	0.4752	41980	Urban	0.4621
40610	Sabana Grande County, Puerto Rico	4840	Urban	0.4243	41900	Urban	0.4650
40620	Salinas County, Puerto Rico	40	Rural	0.3604	99940	Rural	0.4047
40630	San German County, Puerto Rico	4840	Urban	0.4243	41900	Urban	0.4650
40640	San Juan County, Puerto Rico	7440	Urban	0.4752	41980	Urban	0.4621
40650	San Lorenzo County, Puerto Rico	1310	Urban	0.4120	41980	Urban	0.4621
40660	San Sebastian County, Puerto Rico	40	Rural	0.3604	10380	Urban	0.4738
40670	Santa Isabel County, Puerto Rico	40	Rural	0.3604	99940	Rural	0.4047
40680	Toa Alta County, Puerto Rico	7440	Urban	0.4752	41980	Urban	0.4621
40690	Toa Baja County, Puerto Rico	7440	Urban	0.4752	41980	Urban	0.4621
40700	Trujillo Alto County, Puerto Rico	7440	Urban	0.4752	41980	Urban	0.4621
40710	Utuado County, Puerto Rico	40	Rural	0.3604	99940	Rural	0.4047
40720	Vega Alta County, Puerto Rico	7440	Urban	0.4752	41980	Urban	0.4621
40730	Vega Baja County, Puerto Rico	7440	Urban	0.4752	41980	Urban	0.4621
40740	Vieques County, Puerto Rico	40	Rural	0.3604	99940	Rural	0.4047
40750	Villalba County, Puerto Rico	6360	Urban	0.4881	38660	Urban	0.4939
40760	Yabucoa County, Puerto Rico	7440	Urban	0.4752	41980	Urban	0.4621
40770	Yauco County, Puerto Rico	6360	Urban	0.4881	49500	Urban	0.4408
41000	Bristol County, Rhode Island	6483	Urban	1.1058	39300	Urban	1.0966
41010	Kent County, Rhode Island	6483	Urban	1.1058	39300	Urban	1.0966
41020	Newport County, Rhode Island	6483	Urban	1.1058	39300	Urban	1.0966
41030	Providence County, Rhode Island	6483	Urban	1.1058	39300	Urban	1.0966
41050	Washington County, Rhode Island	6483	Urban	1.1058	39300	Urban	1.0966
42000	Abbeville County, S Carolina	42	Rural	0.8631	99942	Rural	0.8638
42010	Aiken County, S Carolina	0600	Urban	0.9808	12260	Urban	0.9748
42020	Allendale County, S Carolina	42	Rural	0.8631	99942	Rural	0.8638
42030	Anderson County, S Carolina	3160	Urban	0.9615	11340	Urban	0.8997
42040	Bamberg County, S Carolina	42	Rural	0.8631	99942	Rural	0.8638
42050	Barnwell County, S Carolina	42	Rural	0.8631	99942	Rural	0.8638
42060	Beaufort County, S Carolina	42	Rural	0.8631	99942	Rural	0.8638
42070	Berkeley County, S Carolina	1440	Urban	0.9245	16700	Urban	0.9245
42080	Calhoun County, S Carolina	42	Rural	0.8631	17900	Urban	0.9057
42090	Charleston County, S Carolina	1440	Urban	0.9245	16700	Urban	0.9245
42100	Cherokee County, S Carolina	3160	Urban	0.9615	99942	Rural	0.8638
42110	Chester County, S Carolina	42	Rural	0.8631	99942	Rural	0.8638
42120	Chesterfield County, S Carolina	42	Rural	0.8631	99942	Rural	0.8638
42130	Clarendon County, S Carolina	42	Rural	0.8631	99942	Rural	0.8638
42140	Colleton County, S Carolina	42	Rural	0.8631	99942	Rural	0.8638
42150	Darlington County, S Carolina	42	Rural	0.8631	22500	Urban	0.8947
42160	Dillon County, S Carolina	42	Rural	0.8631	99942	Rural	0.8638
42170	Dorchester County, S Carolina	1440	Urban	0.9245	16700	Urban	0.9245
42180	Edgefield County, S Carolina	0600	Urban	0.9808	12260	Urban	0.9748
42190	Fairfield County, S Carolina	42	Rural	0.8631	17900	Urban	0.9057
42200	Florence County, S Carolina	2655	Urban	0.9042	22500	Urban	0.8947
42210	Georgetown County, S Carolina	42	Rural	0.8631	99942	Rural	0.8638
42220	Greenville County, S Carolina	3160	Urban	0.9615	24860	Urban	1.0027
42230	Greenwood County, S Carolina	42	Rural	0.8631	99942	Rural	0.8638
42240	Hampton County, S Carolina	42	Rural	0.8631	99942	Rural	0.8638
42250	Horry County, S Carolina	5330	Urban	0.8934	34820	Urban	0.8934
42260	Jasper County, S Carolina	42	Rural	0.8631	99942	Rural	0.8638
42270	Kershaw County, S Carolina	42	Rural	0.8631	17900	Urban	0.9057
42280	Lancaster County, S Carolina	42	Rural	0.8631	99942	Rural	0.8638
42290	Laurens County, S Carolina	42	Rural	0.8631	24860	Urban	1.0027
42300	Lee County, S Carolina	42	Rural	0.8631	99942	Rural	0.8638
42310	Lexington County, S Carolina	1760	Urban	0.9082	17900	Urban	0.9057
42320	Mc Cormick County, S Carolina	42	Rural	0.8631	99942	Rural	0.8638
42330	Marion County, S Carolina	42	Rural	0.8631	99942	Rural	0.8638
42340	Marlboro County, S Carolina	42	Rural	0.8631	99942	Rural	0.8638
42350	Newberry County, S Carolina	42	Rural	0.8631	99942	Rural	0.8638
42360	Oconee County, S Carolina	42	Rural	0.8631	99942	Rural	0.8638
42370	Orangeburg County, S Carolina	42	Rural	0.8631	99942	Rural	0.8638
42380	Pickens County, S Carolina	3160	Urban	0.9615	24860	Urban	1.0027
42390	Richland County, S Carolina	1760	Urban	0.9082	17900	Urban	0.9057
42400	Saluda County, S Carolina	42	Rural	0.8631	17900	Urban	0.9057
42410	Spartanburg County, S Carolina	3160	Urban	0.9615	43900	Urban	0.9172
42420	Sumter County, S Carolina	8140	Urban	0.8377	44940	Urban	0.8377
42430	Union County, S Carolina	42	Rural	0.8631	99942	Rural	0.8638
42440	Williamsburg County, S Carolina	42	Rural	0.8631	99942	Rural	0.8638
42450	York County, S Carolina	1520	Urban	0.9715	16740	Urban	0.9750
43010	Aurora County, S Dakota	43	Rural	0.8551	99943	Rural	0.8560
43020	Beadle County, S Dakota	43	Rural	0.8551	99943	Rural	0.8560
43030	Bennett County, S Dakota	43	Rural	0.8551	99943	Rural	0.8560

SSA State/ County Code	County name	MSA No.	MSA urban/ rural	2006 MSA-based WI	CBSA No.	CBSA urban/ rural	2006 CBSA-based WI
43040	Bon Homme County, S Dakota	43	Rural	0.8551	99943	Rural	0.8560
43050	Brookings County, S Dakota	43	Rural	0.8551	99943	Rural	0.8560
43060	Brown County, S Dakota	43	Rural	0.8551	99943	Rural	0.8560
43070	Brule County, S Dakota	43	Rural	0.8551	99943	Rural	0.8560
43080	Buffalo County, S Dakota	43	Rural	0.8551	99943	Rural	0.8560
43090	Butte County, S Dakota	43	Rural	0.8551	99943	Rural	0.8560
43100	Campbell County, S Dakota	43	Rural	0.8551	99943	Rural	0.8560
43110	Charles Mix County, S Dakota	43	Rural	0.8551	99943	Rural	0.8560
43120	Clark County, S Dakota	43	Rural	0.8551	99943	Rural	0.8560
43130	Clay County, S Dakota	43	Rural	0.8551	99943	Rural	0.8560
43140	Codington County, S Dakota	43	Rural	0.8551	99943	Rural	0.8560
43150	Corson County, S Dakota	43	Rural	0.8551	99943	Rural	0.8560
43160	Custer County, S Dakota	43	Rural	0.8551	99943	Rural	0.8560
43170	Davison County, S Dakota	43	Rural	0.8551	99943	Rural	0.8560
43180	Day County, S Dakota	43	Rural	0.8551	99943	Rural	0.8560
43190	Deuel County, S Dakota	43	Rural	0.8551	99943	Rural	0.8560
43200	Dewey County, S Dakota	43	Rural	0.8551	99943	Rural	0.8560
43210	Douglas County, S Dakota	43	Rural	0.8551	99943	Rural	0.8560
43220	Edmunds County, S Dakota	43	Rural	0.8551	99943	Rural	0.8560
43230	Fall River County, S Dakota	43	Rural	0.8551	99943	Rural	0.8560
43240	Faulk County, S Dakota	43	Rural	0.8551	99943	Rural	0.8560
43250	Grant County, S Dakota	43	Rural	0.8551	99943	Rural	0.8560
43260	Gregory County, S Dakota	43	Rural	0.8551	99943	Rural	0.8560
43270	Haakon County, S Dakota	43	Rural	0.8551	99943	Rural	0.8560
43280	Hamlin County, S Dakota	43	Rural	0.8551	99943	Rural	0.8560
43290	Hand County, S Dakota	43	Rural	0.8551	99943	Rural	0.8560
43300	Hanson County, S Dakota	43	Rural	0.8551	99943	Rural	0.8560
43310	Harding County, S Dakota	43	Rural	0.8551	99943	Rural	0.8560
43320	Hughes County, S Dakota	43	Rural	0.8551	99943	Rural	0.8560
43330	Hutchinson County, S Dakota	43	Rural	0.8551	99943	Rural	0.8560
43340	Hyde County, S Dakota	43	Rural	0.8551	99943	Rural	0.8560
43350	Jackson County, S Dakota	43	Rural	0.8551	99943	Rural	0.8560
43360	Jerauld County, S Dakota	43	Rural	0.8551	99943	Rural	0.8560
43370	Jones County, S Dakota	43	Rural	0.8551	99943	Rural	0.8560
43380	Kingsbury County, S Dakota	43	Rural	0.8551	99943	Rural	0.8560
43390	Lake County, S Dakota	43	Rural	0.8551	99943	Rural	0.8560
43400	Lawrence County, S Dakota	43	Rural	0.8551	99943	Rural	0.8560
43410	Lincoln County, S Dakota	7760	Urban	0.9635	43620	Urban	0.9635
43420	Lyman County, S Dakota	43	Rural	0.8551	99943	Rural	0.8560
43430	Mc Cook County, S Dakota	43	Rural	0.8551	43620	Urban	0.9635
43440	Mc Pherson County, S Dakota	43	Rural	0.8551	99943	Rural	0.8560
43450	Marshall County, S Dakota	43	Rural	0.8551	99943	Rural	0.8560
43460	Meade County, S Dakota	43	Rural	0.8551	39660	Urban	0.8987
43470	Mellette County, S Dakota	43	Rural	0.8551	99943	Rural	0.8560
43480	Miner County, S Dakota	43	Rural	0.8551	99943	Rural	0.8560
43490	Minnehaha County, S Dakota	7760	Urban	0.9635	43620	Urban	0.9635
43500	Moody County, S Dakota	43	Rural	0.8551	99943	Rural	0.8560
43510	Pennington County, S Dakota	6660	Urban	0.8987	39660	Urban	0.8987
43520	Perkins County, S Dakota	43	Rural	0.8551	99943	Rural	0.8560
43530	Potter County, S Dakota	43	Rural	0.8551	99943	Rural	0.8560
43540	Roberts County, S Dakota	43	Rural	0.8551	99943	Rural	0.8560
43550	Sanborn County, S Dakota	43	Rural	0.8551	99943	Rural	0.8560
43560	Shannon County, S Dakota	43	Rural	0.8551	99943	Rural	0.8560
43570	Spink County, S Dakota	43	Rural	0.8551	99943	Rural	0.8560
43580	Stanley County, S Dakota	43	Rural	0.8551	99943	Rural	0.8560
43590	Sully County, S Dakota	43	Rural	0.8551	99943	Rural	0.8560
43600	Todd County, S Dakota	43	Rural	0.8551	99943	Rural	0.8560
43610	Tripp County, S Dakota	43	Rural	0.8551	99943	Rural	0.8560
43620	Turner County, S Dakota	43	Rural	0.8551	43620	Urban	0.9635
43630	Union County, S Dakota	43	Rural	0.8551	43580	Urban	0.9381
43640	Walworth County, S Dakota	43	Rural	0.8551	99943	Rural	0.8560
43650	Washabaugh County, S Dakota	43	Rural	0.8551	99943	Rural	0.8560
43670	Yankton County, S Dakota	43	Rural	0.8551	99943	Rural	0.8560
43680	Ziebach County, S Dakota	43	Rural	0.8551	99943	Rural	0.8560
44000	Anderson County, Tennessee	3840	Urban	0.8397	28940	Urban	0.8441
44010	Bedford County, Tennessee	44	Rural	0.7935	99944	Rural	0.7895
44020	Benton County, Tennessee	44	Rural	0.7935	99944	Rural	0.7895
44030	Bledsoe County, Tennessee	44	Rural	0.7935	99944	Rural	0.7895
44040	Blount County, Tennessee	3840	Urban	0.8397	28940	Urban	0.8441
44050	Bradley County, Tennessee	44	Rural	0.7935	17420	Urban	0.8139
44060	Campbell County, Tennessee	44	Rural	0.7935	99944	Rural	0.7895
44070	Cannon County, Tennessee	44	Rural	0.7935	34980	Urban	0.9790

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44080	Carroll County, Tennessee	44	Rural	0.7935	99944	Rural	0.7895
44090	Carter County, Tennessee	3660	Urban	0.8007	27740	Urban	0.7937
44100	Cheatham County, Tennessee	5360	Urban	0.9808	34980	Urban	0.9790
44110	Chester County, Tennessee	3580	Urban	0.8964	27180	Urban	0.8964
44120	Claiborne County, Tennessee	44	Rural	0.7935	99944	Rural	0.7895
44130	Clay County, Tennessee	44	Rural	0.7935	99944	Rural	0.7895
44140	Cocke County, Tennessee	44	Rural	0.7935	99944	Rural	0.7895
44150	Coffee County, Tennessee	44	Rural	0.7935	99944	Rural	0.7895
44160	Crockett County, Tennessee	44	Rural	0.7935	99944	Rural	0.7895
44170	Cumberland County, Tennessee	44	Rural	0.7935	99944	Rural	0.7895
44180	Davidson County, Tennessee	5360	Urban	0.9808	34980	Urban	0.9790
44190	Decatur County, Tennessee	44	Rural	0.7935	99944	Rural	0.7895
44200	De Kalb County, Tennessee	44	Rural	0.7935	99944	Rural	0.7895
44210	Dickson County, Tennessee	5360	Urban	0.9808	34980	Urban	0.9790
44220	Dyer County, Tennessee	44	Rural	0.7935	99944	Rural	0.7895
44230	Fayette County, Tennessee	4920	Urban	0.9416	32820	Urban	0.9397
44240	Fentress County, Tennessee	44	Rural	0.7935	99944	Rural	0.7895
44250	Franklin County, Tennessee	44	Rural	0.7935	99944	Rural	0.7895
44260	Gibson County, Tennessee	44	Rural	0.7935	99944	Rural	0.7895
44270	Giles County, Tennessee	44	Rural	0.7935	99944	Rural	0.7895
44280	Grainger County, Tennessee	44	Rural	0.7935	34100	Urban	0.7961
44290	Greene County, Tennessee	44	Rural	0.7935	99944	Rural	0.7895
44300	Grundy County, Tennessee	44	Rural	0.7935	99944	Rural	0.7895
44310	Hamblen County, Tennessee	44	Rural	0.7935	34100	Urban	0.7961
44320	Hamilton County, Tennessee	1560	Urban	0.9088	16860	Urban	0.9088
44330	Hancock County, Tennessee	44	Rural	0.7935	99944	Rural	0.7895
44340	Hardeman County, Tennessee	44	Rural	0.7935	99944	Rural	0.7895
44350	Hardin County, Tennessee	44	Rural	0.7935	99944	Rural	0.7895
44360	Hawkins County, Tennessee	3660	Urban	0.8007	28700	Urban	0.8054
44370	Haywood County, Tennessee	44	Rural	0.7935	99944	Rural	0.7895
44380	Henderson County, Tennessee	44	Rural	0.7935	99944	Rural	0.7895
44390	Henry County, Tennessee	44	Rural	0.7935	99944	Rural	0.7895
44400	Hickman County, Tennessee	44	Rural	0.7935	34980	Urban	0.9790
44410	Houston County, Tennessee	44	Rural	0.7935	99944	Rural	0.7895
44420	Humphreys County, Tennessee	44	Rural	0.7935	99944	Rural	0.7895
44430	Jackson County, Tennessee	44	Rural	0.7935	99944	Rural	0.7895
44440	Jefferson County, Tennessee	44	Rural	0.7935	34100	Urban	0.7961
44450	Johnson County, Tennessee	44	Rural	0.7935	99944	Rural	0.7895
44460	Knox County, Tennessee	3840	Urban	0.8397	28940	Urban	0.8441
44470	Lake County, Tennessee	44	Rural	0.7935	99944	Rural	0.7895
44480	Lauderdale County, Tennessee	44	Rural	0.7935	99944	Rural	0.7895
44490	Lawrence County, Tennessee	44	Rural	0.7935	99944	Rural	0.7895
44500	Lewis County, Tennessee	44	Rural	0.7935	99944	Rural	0.7895
44510	Lincoln County, Tennessee	44	Rural	0.7935	99944	Rural	0.7895
44520	Loudon County, Tennessee	3840	Urban	0.8397	28940	Urban	0.8441
44530	Mc Minn County, Tennessee	44	Rural	0.7935	99944	Rural	0.7895
44540	Mc Nairy County, Tennessee	44	Rural	0.7935	99944	Rural	0.7895
44550	Macon County, Tennessee	44	Rural	0.7935	34980	Urban	0.9790
44560	Madison County, Tennessee	3580	Urban	0.8964	27180	Urban	0.8964
44570	Marion County, Tennessee	1560	Urban	0.9088	16860	Urban	0.9088
44580	Marshall County, Tennessee	44	Rural	0.7935	99944	Rural	0.7895
44590	Maury County, Tennessee	44	Rural	0.7935	99944	Rural	0.7895
44600	Meigs County, Tennessee	44	Rural	0.7935	99944	Rural	0.7895
44610	Monroe County, Tennessee	44	Rural	0.7935	99944	Rural	0.7895
44620	Montgomery County, Tennessee	1660	Urban	0.8284	17300	Urban	0.8284
44630	Moore County, Tennessee	44	Rural	0.7935	99944	Rural	0.7895
44640	Morgan County, Tennessee	44	Rural	0.7935	99944	Rural	0.7895
44650	Obion County, Tennessee	44	Rural	0.7935	99944	Rural	0.7895
44660	Overton County, Tennessee	44	Rural	0.7935	99944	Rural	0.7895
44670	Perry County, Tennessee	44	Rural	0.7935	99944	Rural	0.7895
44680	Pickett County, Tennessee	44	Rural	0.7935	99944	Rural	0.7895
44690	Polk County, Tennessee	44	Rural	0.7935	17420	Urban	0.8139
44700	Putnam County, Tennessee	44	Rural	0.7935	99944	Rural	0.7895
44710	Rhea County, Tennessee	44	Rural	0.7935	99944	Rural	0.7895
44720	Roane County, Tennessee	44	Rural	0.7935	99944	Rural	0.7895
44730	Robertson County, Tennessee	5360	Urban	0.9808	34980	Urban	0.9790
44740	Rutherford County, Tennessee	5360	Urban	0.9808	34980	Urban	0.9790
44750	Scott County, Tennessee	44	Rural	0.7935	99944	Rural	0.7895
44760	Sequatchie County, Tennessee	44	Rural	0.7935	16860	Urban	0.9088
44770	Sevier County, Tennessee	3840	Urban	0.8397	99944	Rural	0.7895
44780	Shelby County, Tennessee	4920	Urban	0.9416	32820	Urban	0.9397
44790	Smith County, Tennessee	44	Rural	0.7935	34980	Urban	0.9790

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44800	Stewart County, Tennessee	44	Rural	0.7935	17300	Urban	0.8284
44810	Sullivan County, Tennessee	3660	Urban	0.8007	28700	Urban	0.8054
44820	Sumner County, Tennessee	5360	Urban	0.9808	34980	Urban	0.9790
44830	Tipton County, Tennessee	4920	Urban	0.9416	32820	Urban	0.9397
44840	Trousdale County, Tennessee	44	Rural	0.7935	34980	Urban	0.9790
44850	Unicoi County, Tennessee	3660	Urban	0.8007	27740	Urban	0.7937
44860	Union County, Tennessee	3840	Urban	0.8397	28940	Urban	0.8441
44870	Van Buren County, Tennessee	44	Rural	0.7935	99944	Rural	0.7895
44880	Warren County, Tennessee	44	Rural	0.7935	99944	Rural	0.7895
44890	Washington County, Tennessee	3660	Urban	0.8007	27740	Urban	0.7937
44900	Wayne County, Tennessee	44	Rural	0.7935	99944	Rural	0.7895
44910	Weakley County, Tennessee	44	Rural	0.7935	99944	Rural	0.7895
44920	White County, Tennessee	44	Rural	0.7935	99944	Rural	0.7895
44930	Williamson County, Tennessee	5360	Urban	0.9808	34980	Urban	0.9790
44940	Wilson County, Tennessee	5360	Urban	0.9808	34980	Urban	0.9790
45000	Anderson County, Texas	45	Rural	0.7931	99945	Rural	0.8003
45010	Andrews County, Texas	45	Rural	0.7931	99945	Rural	0.8003
45020	Angelina County, Texas	45	Rural	0.7931	99945	Rural	0.8003
45030	Aransas County, Texas	45	Rural	0.7931	18580	Urban	0.8550
45040	Archer County, Texas	9080	Urban	0.8365	48660	Urban	0.8285
45050	Armstrong County, Texas	45	Rural	0.7931	11100	Urban	0.9156
45060	Atascosa County, Texas	45	Rural	0.7931	41700	Urban	0.8980
45070	Austin County, Texas	45	Rural	0.7931	26420	Urban	0.9996
45080	Bailey County, Texas	45	Rural	0.7931	99945	Rural	0.8003
45090	Bandera County, Texas	45	Rural	0.7931	41700	Urban	0.8980
45100	Bastrop County, Texas	0640	Urban	0.9437	12420	Urban	0.9437
45110	Baylor County, Texas	45	Rural	0.7931	99945	Rural	0.8003
45113	Bee County, Texas	45	Rural	0.7931	99945	Rural	0.8003
45120	Bell County, Texas	3810	Urban	0.8526	28660	Urban	0.8526
45130	Bexar County, Texas	7240	Urban	0.8984	41700	Urban	0.8980
45140	Blanco County, Texas	45	Rural	0.7931	99945	Rural	0.8003
45150	Borden County, Texas	45	Rural	0.7931	99945	Rural	0.8003
45160	Bosque County, Texas	45	Rural	0.7931	99945	Rural	0.8003
45170	Bowie County, Texas	8360	Urban	0.8283	45500	Urban	0.8283
45180	Brazoria County, Texas	1145	Urban	0.8563	26420	Urban	0.9996
45190	Brazos County, Texas	1260	Urban	0.8900	17780	Urban	0.8900
45200	Brewster County, Texas	45	Rural	0.7931	99945	Rural	0.8003
45201	qBriscoe County, Texas	45	Rural	0.7931	99945	Rural	0.8003
45210	Brooks County, Texas	45	Rural	0.7931	99945	Rural	0.8003
45220	Brown County, Texas	45	Rural	0.7931	99945	Rural	0.8003
45221	Burleson County, Texas	45	Rural	0.7931	17780	Urban	0.8900
45222	Burnet County, Texas	45	Rural	0.7931	99945	Rural	0.8003
45223	Caldwell County, Texas	0640	Urban	0.9437	12420	Urban	0.9437
45224	Calhoun County, Texas	45	Rural	0.7931	47020	Urban	0.8160
45230	Callahan County, Texas	45	Rural	0.7931	10180	Urban	0.7896
45240	Cameron County, Texas	1240	Urban	0.9804	15180	Urban	0.9804
45250	Camp County, Texas	45	Rural	0.7931	99945	Rural	0.8003
45251	Carson County, Texas	45	Rural	0.7931	11100	Urban	0.9156
45260	Cass County, Texas	45	Rural	0.7931	99945	Rural	0.8003
45270	Castro County, Texas	45	Rural	0.7931	99945	Rural	0.8003
45280	Chambers County, Texas	3360	Urban	1.0091	26420	Urban	0.9996
45281	Cherokee County, Texas	45	Rural	0.7931	99945	Rural	0.8003
45290	Childress County, Texas	45	Rural	0.7931	99945	Rural	0.8003
45291	Clay County, Texas	45	Rural	0.7931	48660	Urban	0.8285
45292	Cochran County, Texas	45	Rural	0.7931	99945	Rural	0.8003
45300	Coke County, Texas	45	Rural	0.7931	99945	Rural	0.8003
45301	Coleman County, Texas	45	Rural	0.7931	99945	Rural	0.8003
45310	Collin County, Texas	1920	Urban	1.0205	19124	Urban	1.0228
45311	Collingsworth County, Texas	45	Rural	0.7931	99945	Rural	0.8003
45312	Colorado County, Texas	45	Rural	0.7931	99945	Rural	0.8003
45320	Comal County, Texas	7240	Urban	0.8984	41700	Urban	0.8980
45321	Comanche County, Texas	45	Rural	0.7931	99945	Rural	0.8003
45330	Concho County, Texas	45	Rural	0.7931	99945	Rural	0.8003
45340	Cooke County, Texas	45	Rural	0.7931	99945	Rural	0.8003
45341	Coryell County, Texas	3810	Urban	0.8526	28660	Urban	0.8526
45350	Cottle County, Texas	45	Rural	0.7931	99945	Rural	0.8003
45360	Crane County, Texas	45	Rural	0.7931	99945	Rural	0.8003
45361	Crockett County, Texas	45	Rural	0.7931	99945	Rural	0.8003
45362	Crosby County, Texas	45	Rural	0.7931	31180	Urban	0.8783
45370	Culberson County, Texas	45	Rural	0.7931	99945	Rural	0.8003
45380	Dallam County, Texas	45	Rural	0.7931	99945	Rural	0.8003
45390	Dallas County, Texas	1920	Urban	1.0205	19124	Urban	1.0228

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45391	Dawson County, Texas	45	Rural	0.7931	99945	Rural	0.8003
45392	Deaf Smith County, Texas	45	Rural	0.7931	99945	Rural	0.8003
45400	Delta County, Texas	45	Rural	0.7931	19124	Urban	1.0228
45410	Denton County, Texas	1920	Urban	1.0205	19124	Urban	1.0228
45420	De Witt County, Texas	45	Rural	0.7931	99945	Rural	0.8003
45421	Dickens County, Texas	45	Rural	0.7931	99945	Rural	0.8003
45430	Dimmit County, Texas	45	Rural	0.7931	99945	Rural	0.8003
45431	Donley County, Texas	45	Rural	0.7931	99945	Rural	0.8003
45440	Duval County, Texas	45	Rural	0.7931	99945	Rural	0.8003
45450	Eastland County, Texas	45	Rural	0.7931	99945	Rural	0.8003
45451	Ector County, Texas	5800	Urban	0.9741	36220	Urban	0.9884
45460	Edwards County, Texas	45	Rural	0.7931	99945	Rural	0.8003
45470	Ellis County, Texas	1920	Urban	1.0205	19124	Urban	1.0228
45480	El Paso County, Texas	2320	Urban	0.8977	21340	Urban	0.8977
45490	Erath County, Texas	45	Rural	0.7931	99945	Rural	0.8003
45500	Falls County, Texas	45	Rural	0.7931	99945	Rural	0.8003
45510	Fannin County, Texas	45	Rural	0.7931	99945	Rural	0.8003
45511	Fayette County, Texas	45	Rural	0.7931	99945	Rural	0.8003
45520	Fisher County, Texas	45	Rural	0.7931	99945	Rural	0.8003
45521	Floyd County, Texas	45	Rural	0.7931	99945	Rural	0.8003
45522	Foard County, Texas	45	Rural	0.7931	99945	Rural	0.8003
45530	Fort Bend County, Texas	3360	Urban	1.0091	26420	Urban	0.9996
45531	Franklin County, Texas	45	Rural	0.7931	99945	Rural	0.8003
45540	Freestone County, Texas	45	Rural	0.7931	99945	Rural	0.8003
45541	Frio County, Texas	45	Rural	0.7931	99945	Rural	0.8003
45542	Gaines County, Texas	45	Rural	0.7931	99945	Rural	0.8003
45550	Galveston County, Texas	2920	Urban	0.9635	26420	Urban	0.9996
45551	Garza County, Texas	45	Rural	0.7931	99945	Rural	0.8003
45552	Gillespie County, Texas	45	Rural	0.7931	99945	Rural	0.8003
45560	Glasscock County, Texas	45	Rural	0.7931	99945	Rural	0.8003
45561	Goliad County, Texas	45	Rural	0.7931	47020	Urban	0.8160
45562	Gonzales County, Texas	45	Rural	0.7931	99945	Rural	0.8003
45563	Gray County, Texas	45	Rural	0.7931	99945	Rural	0.8003
45564	Grayson County, Texas	7640	Urban	0.9507	43300	Urban	0.9507
45570	Gregg County, Texas	4420	Urban	0.8888	30980	Urban	0.8730
45580	Grimes County, Texas	45	Rural	0.7931	99945	Rural	0.8003
45581	Guadaloupe County, Texas	7240	Urban	0.8984	41700	Urban	0.8980
45582	Hale County, Texas	45	Rural	0.7931	99945	Rural	0.8003
45583	Hall County, Texas	45	Rural	0.7931	99945	Rural	0.8003
45590	Hamilton County, Texas	45	Rural	0.7931	99945	Rural	0.8003
45591	Hansford County, Texas	45	Rural	0.7931	99945	Rural	0.8003
45592	Hardeman County, Texas	45	Rural	0.7931	99945	Rural	0.8003
45600	Hardin County, Texas	0840	Urban	0.8412	13140	Urban	0.8412
45610	Harris County, Texas	3360	Urban	1.0091	26420	Urban	0.9996
45620	Harrison County, Texas	4420	Urban	0.8888	99945	Rural	0.8003
45621	Hartley County, Texas	45	Rural	0.7931	99945	Rural	0.8003
45630	Haskell County, Texas	45	Rural	0.7931	99945	Rural	0.8003
45631	Hays County, Texas	0640	Urban	0.9437	12420	Urban	0.9437
45632	Hemphill County, Texas	45	Rural	0.7931	99945	Rural	0.8003
45640	Henderson County, Texas	1920	Urban	1.0205	99945	Rural	0.8003
45650	Hidalgo County, Texas	4880	Urban	0.8934	32580	Urban	0.8934
45651	Hill County, Texas	45	Rural	0.7931	99945	Rural	0.8003
45652	Hockley County, Texas	45	Rural	0.7931	99945	Rural	0.8003
45653	Hood County, Texas	2800	Urban	0.9522	99945	Rural	0.8003
45654	Hopkins County, Texas	45	Rural	0.7931	99945	Rural	0.8003
45660	Houston County, Texas	45	Rural	0.7931	99945	Rural	0.8003
45661	Howard County, Texas	45	Rural	0.7931	99945	Rural	0.8003
45662	Hudspeth County, Texas	45	Rural	0.7931	99945	Rural	0.8003
45670	Hunt County, Texas	1920	Urban	1.0205	19124	Urban	1.0228
45671	Hutchinson County, Texas	45	Rural	0.7931	99945	Rural	0.8003
45672	Irion County, Texas	45	Rural	0.7931	41660	Urban	0.8271
45680	Jack County, Texas	45	Rural	0.7931	99945	Rural	0.8003
45681	Jackson County, Texas	45	Rural	0.7931	99945	Rural	0.8003
45690	Jasper County, Texas	45	Rural	0.7931	99945	Rural	0.8003
45691	Jeff Davis County, Texas	45	Rural	0.7931	99945	Rural	0.8003
45700	Jefferson County, Texas	0840	Urban	0.8412	13140	Urban	0.8412
45710	Jim Hogg County, Texas	45	Rural	0.7931	99945	Rural	0.8003
45711	Jim Wells County, Texas	45	Rural	0.7931	99945	Rural	0.8003
45720	Johnson County, Texas	2800	Urban	0.9522	23104	Urban	0.9486
45721	Jones County, Texas	45	Rural	0.7931	10180	Urban	0.7896
45722	Karnes County, Texas	45	Rural	0.7931	99945	Rural	0.8003
45730	Kaufman County, Texas	1920	Urban	1.0205	19124	Urban	1.0228

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45731	Kendall County, Texas	45	Rural	0.7931	41700	Urban	0.8980
45732	Kenedy County, Texas	45	Rural	0.7931	99945	Rural	0.8003
45733	Kent County, Texas	45	Rural	0.7931	99945	Rural	0.8003
45734	Kerr County, Texas	45	Rural	0.7931	99945	Rural	0.8003
45740	Kimble County, Texas	45	Rural	0.7931	99945	Rural	0.8003
45741	King County, Texas	45	Rural	0.7931	99945	Rural	0.8003
45742	Kinney County, Texas	45	Rural	0.7931	99945	Rural	0.8003
45743	Kleberg County, Texas	45	Rural	0.7931	99945	Rural	0.8003
45744	Knox County, Texas	45	Rural	0.7931	99945	Rural	0.8003
45750	Lamar County, Texas	45	Rural	0.7931	99945	Rural	0.8003
45751	Lamb County, Texas	45	Rural	0.7931	99945	Rural	0.8003
45752	Lampasas County, Texas	45	Rural	0.7931	28660	Urban	0.8526
45753	La Salle County, Texas	45	Rural	0.7931	99945	Rural	0.8003
45754	Lavaca County, Texas	45	Rural	0.7931	99945	Rural	0.8003
45755	Lee County, Texas	45	Rural	0.7931	99945	Rural	0.8003
45756	Leon County, Texas	45	Rural	0.7931	99945	Rural	0.8003
45757	Liberty County, Texas	3360	Urban	1.0091	26420	Urban	0.9996
45758	Limestone County, Texas	45	Rural	0.7931	99945	Rural	0.8003
45759	Lipscomb County, Texas	45	Rural	0.7931	99945	Rural	0.8003
45760	Live Oak County, Texas	45	Rural	0.7931	99945	Rural	0.8003
45761	Llano County, Texas	45	Rural	0.7931	99945	Rural	0.8003
45762	Loving County, Texas	45	Rural	0.7931	99945	Rural	0.8003
45770	Lubbock County, Texas	4600	Urban	0.8783	31180	Urban	0.8783
45771	Lynn County, Texas	45	Rural	0.7931	99945	Rural	0.8003
45772	Mc Culloch County, Texas	45	Rural	0.7931	99945	Rural	0.8003
45780	Mc Lennan County, Texas	8800	Urban	0.8518	47380	Urban	0.8518
45781	Mc Mullen County, Texas	45	Rural	0.7931	99945	Rural	0.8003
45782	Madison County, Texas	45	Rural	0.7931	99945	Rural	0.8003
45783	Marion County, Texas	45	Rural	0.7931	99945	Rural	0.8003
45784	Martin County, Texas	45	Rural	0.7931	99945	Rural	0.8003
45785	Mason County, Texas	45	Rural	0.7931	99945	Rural	0.8003
45790	Matagorda County, Texas	45	Rural	0.7931	99945	Rural	0.8003
45791	Maverick County, Texas	45	Rural	0.7931	99945	Rural	0.8003
45792	Medina County, Texas	45	Rural	0.7931	41700	Urban	0.8980
45793	Menard County, Texas	45	Rural	0.7931	99945	Rural	0.8003
45794	Midland County, Texas	5800	Urban	0.9741	33260	Urban	0.9514
45795	Milam County, Texas	45	Rural	0.7931	99945	Rural	0.8003
45796	Mills County, Texas	45	Rural	0.7931	99945	Rural	0.8003
45797	Mitchell County, Texas	45	Rural	0.7931	99945	Rural	0.8003
45800	Montague County, Texas	45	Rural	0.7931	99945	Rural	0.8003
45801	Montgomery County, Texas	3360	Urban	1.0091	26420	Urban	0.9996
45802	Moore County, Texas	45	Rural	0.7931	99945	Rural	0.8003
45803	Morris County, Texas	45	Rural	0.7931	99945	Rural	0.8003
45804	Motley County, Texas	45	Rural	0.7931	99945	Rural	0.8003
45810	Nacogdoches County, Texas	45	Rural	0.7931	99945	Rural	0.8003
45820	Navarro County, Texas	45	Rural	0.7931	99945	Rural	0.8003
45821	Newton County, Texas	45	Rural	0.7931	99945	Rural	0.8003
45822	Nolan County, Texas	45	Rural	0.7931	99945	Rural	0.8003
45830	Nueces County, Texas	1880	Urban	0.8550	18580	Urban	0.8550
45831	Ochiltree County, Texas	45	Rural	0.7931	99945	Rural	0.8003
45832	Oldham County, Texas	45	Rural	0.7931	99945	Rural	0.8003
45840	Orange County, Texas	0840	Urban	0.8412	13140	Urban	0.8412
45841	Palo Pinto County, Texas	45	Rural	0.7931	99945	Rural	0.8003
45842	Panola County, Texas	45	Rural	0.7931	99945	Rural	0.8003
45843	Parker County, Texas	2800	Urban	0.9522	23104	Urban	0.9486
45844	Parmer County, Texas	45	Rural	0.7931	99945	Rural	0.8003
45845	Pecos County, Texas	45	Rural	0.7931	99945	Rural	0.8003
45850	Polk County, Texas	45	Rural	0.7931	99945	Rural	0.8003
45860	Potter County, Texas	0320	Urban	0.9156	11100	Urban	0.9156
45861	Presidio County, Texas	45	Rural	0.7931	99945	Rural	0.8003
45870	Rains County, Texas	45	Rural	0.7931	99945	Rural	0.8003
45871	Randall County, Texas	0320	Urban	0.9156	11100	Urban	0.9156
45872	Reagan County, Texas	45	Rural	0.7931	99945	Rural	0.8003
45873	Real County, Texas	45	Rural	0.7931	99945	Rural	0.8003
45874	Red River County, Texas	45	Rural	0.7931	99945	Rural	0.8003
45875	Reeves County, Texas	45	Rural	0.7931	99945	Rural	0.8003
45876	Refugio County, Texas	45	Rural	0.7931	99945	Rural	0.8003
45877	Roberts County, Texas	45	Rural	0.7931	99945	Rural	0.8003
45878	Robertson County, Texas	45	Rural	0.7931	17780	Urban	0.8900
45879	Rockwall County, Texas	1920	Urban	1.0205	19124	Urban	1.0228
45880	Runnels County, Texas	45	Rural	0.7931	99945	Rural	0.8003
45881	Rusk County, Texas	45	Rural	0.7931	30980	Urban	0.8730

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45882	Sabine County, Texas	45	Rural	0.7931	99945	Rural	0.8003
45883	San Augustine County, Texas	45	Rural	0.7931	99945	Rural	0.8003
45884	San Jacinto County, Texas	45	Rural	0.7931	26420	Urban	0.9996
45885	San Patricio County, Texas	1880	Urban	0.8550	18580	Urban	0.8550
45886	San Saba County, Texas	45	Rural	0.7931	99945	Rural	0.8003
45887	Schleicher County, Texas	45	Rural	0.7931	99945	Rural	0.8003
45888	Scurry County, Texas	45	Rural	0.7931	99945	Rural	0.8003
45889	Shackelford County, Texas	45	Rural	0.7931	99945	Rural	0.8003
45890	Shelby County, Texas	45	Rural	0.7931	99945	Rural	0.8003
45891	Sherman County, Texas	45	Rural	0.7931	99945	Rural	0.8003
45892	Smith County, Texas	8640	Urban	0.9168	46340	Urban	0.9168
45893	Somervell County, Texas	45	Rural	0.7931	99945	Rural	0.8003
45900	Starr County, Texas	45	Rural	0.7931	99945	Rural	0.8003
45901	Stephens County, Texas	45	Rural	0.7931	99945	Rural	0.8003
45902	Sterling County, Texas	45	Rural	0.7931	99945	Rural	0.8003
45903	Stonewall County, Texas	45	Rural	0.7931	99945	Rural	0.8003
45904	Sutton County, Texas	45	Rural	0.7931	99945	Rural	0.8003
45905	Swisher County, Texas	45	Rural	0.7931	99945	Rural	0.8003
45910	Tarrant County, Texas	2800	Urban	0.9522	23104	Urban	0.9486
45911	Taylor County, Texas	0040	Urban	0.8054	10180	Urban	0.7896
45912	Terrell County, Texas	45	Rural	0.7931	99945	Rural	0.8003
45913	Terry County, Texas	45	Rural	0.7931	99945	Rural	0.8003
45920	Throckmorton County, Texas	45	Rural	0.7931	99945	Rural	0.8003
45921	Titus County, Texas	45	Rural	0.7931	99945	Rural	0.8003
45930	Tom Green County, Texas	7200	Urban	0.8271	41660	Urban	0.8271
45940	Travis County, Texas	0640	Urban	0.9437	12420	Urban	0.9437
45941	Trinity County, Texas	45	Rural	0.7931	99945	Rural	0.8003
45942	Tyler County, Texas	45	Rural	0.7931	99945	Rural	0.8003
45943	Upshur County, Texas	4420	Urban	0.8888	30980	Urban	0.8730
45944	Upton County, Texas	45	Rural	0.7931	99945	Rural	0.8003
45945	Uvalde County, Texas	45	Rural	0.7931	99945	Rural	0.8003
45946	Val Verde County, Texas	45	Rural	0.7931	99945	Rural	0.8003
45947	Van Zandt County, Texas	45	Rural	0.7931	99945	Rural	0.8003
45948	Victoria County, Texas	8750	Urban	0.8160	47020	Urban	0.8160
45949	Walker County, Texas	45	Rural	0.7931	99945	Rural	0.8003
45950	Waller County, Texas	3360	Urban	1.0091	26420	Urban	0.9996
45951	Ward County, Texas	45	Rural	0.7931	99945	Rural	0.8003
45952	Washington County, Texas	45	Rural	0.7931	99945	Rural	0.8003
45953	Webb County, Texas	4080	Urban	0.8068	29700	Urban	0.8068
45954	Wharton County, Texas	45	Rural	0.7931	99945	Rural	0.8003
45955	Wheeler County, Texas	45	Rural	0.7931	99945	Rural	0.8003
45960	Wichita County, Texas	9080	Urban	0.8365	48660	Urban	0.8285
45961	Wilbarger County, Texas	45	Rural	0.7931	99945	Rural	0.8003
45962	Willacy County, Texas	45	Rural	0.7931	99945	Rural	0.8003
45970	Williamson County, Texas	0640	Urban	0.9437	12420	Urban	0.9437
45971	Wilson County, Texas	7240	Urban	0.8984	41700	Urban	0.8980
45972	Winkler County, Texas	45	Rural	0.7931	99945	Rural	0.8003
45973	Wise County, Texas	45	Rural	0.7931	23104	Urban	0.9486
45974	Wood County, Texas	45	Rural	0.7931	99945	Rural	0.8003
45980	Yoakum County, Texas	45	Rural	0.7931	99945	Rural	0.8003
45981	Young County, Texas	45	Rural	0.7931	99945	Rural	0.8003
45982	Zapata County, Texas	45	Rural	0.7931	99945	Rural	0.8003
45983	Zavala County, Texas	45	Rural	0.7931	99945	Rural	0.8003
46000	Beaver County, Utah	46	Rural	0.8762	99946	Rural	0.8118
46010	Box Elder County, Utah	46	Rural	0.8762	99946	Rural	0.8118
46020	Cache County, Utah	46	Rural	0.8762	30860	Urban	0.9164
46030	Carbon County, Utah	46	Rural	0.8762	99946	Rural	0.8118
46040	Daggett County, Utah	46	Rural	0.8762	99946	Rural	0.8118
46050	Davis County, Utah	7160	Urban	0.9340	36260	Urban	0.9029
46060	Duchesne County, Utah	46	Rural	0.8762	99946	Rural	0.8118
46070	Emery County, Utah	46	Rural	0.8762	99946	Rural	0.8118
46080	Garfield County, Utah	46	Rural	0.8762	99946	Rural	0.8118
46090	Grand County, Utah	46	Rural	0.8762	99946	Rural	0.8118
46100	Iron County, Utah	46	Rural	0.8762	99946	Rural	0.8118
46110	Juab County, Utah	46	Rural	0.8762	39340	Urban	0.9500
46120	Kane County, Utah	2620	Urban	1.1845	99946	Rural	0.8118
46130	Millard County, Utah	46	Rural	0.8762	99946	Rural	0.8118
46140	Morgan County, Utah	46	Rural	0.8762	36260	Urban	0.9029
46150	Piute County, Utah	46	Rural	0.8762	99946	Rural	0.8118
46160	Rich County, Utah	46	Rural	0.8762	99946	Rural	0.8118
46170	Salt Lake County, Utah	7160	Urban	0.9340	41620	Urban	0.9421
46180	San Juan County, Utah	46	Rural	0.8762	99946	Rural	0.8118

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46190	Sanpete County, Utah	46	Rural	0.8762	99946	Rural	0.8118
46200	Sevier County, Utah	46	Rural	0.8762	99946	Rural	0.8118
46210	Summit County, Utah	46	Rural	0.8762	41620	Urban	0.9421
46220	Tooele County, Utah	46	Rural	0.8762	41620	Urban	0.9421
46230	Uintah County, Utah	46	Rural	0.8762	99946	Rural	0.8118
46240	Utah County, Utah	6520	Urban	0.9500	39340	Urban	0.9500
46250	Wasatch County, Utah	46	Rural	0.8762	99946	Rural	0.8118
46260	Washington County, Utah	46	Rural	0.8762	41100	Urban	0.9392
46270	Wayne County, Utah	46	Rural	0.8762	99946	Rural	0.8118
46280	Weber County, Utah	7160	Urban	0.9340	36260	Urban	0.9029
47000	Addison County, Vermont	47	Rural	0.9830	99947	Rural	0.9830
47010	Bennington County, Vermont	47	Rural	0.9830	99947	Rural	0.9830
47020	Caledonia County, Vermont	47	Rural	0.9830	99947	Rural	0.9830
47030	Chittenden County, Vermont	1303	Urban	0.9410	15540	Urban	0.9410
47040	Essex County, Vermont	47	Rural	0.9830	99947	Rural	0.9830
47050	Franklin County, Vermont	1303	Urban	0.9410	15540	Urban	0.9410
47060	Grand Isle County, Vermont	1303	Urban	0.9410	15540	Urban	0.9410
47070	Lamoille County, Vermont	47	Rural	0.9830	99947	Rural	0.9830
47080	Orange County, Vermont	47	Rural	0.9830	99947	Rural	0.9830
47090	Orleans County, Vermont	47	Rural	0.9830	99947	Rural	0.9830
47100	Rutland County, Vermont	47	Rural	0.9830	99947	Rural	0.9830
47110	Washington County, Vermont	47	Rural	0.9830	99947	Rural	0.9830
47120	Windham County, Vermont	47	Rural	0.9830	99947	Rural	0.9830
47130	Windsor County, Vermont	47	Rural	0.9830	99947	Rural	0.9830
48010	St Croix County, Virgin Islands	48	Rural	0.7615	99948	Rural	0.7615
48020	St Thomas-John County, Virgin Islands	48	Rural	0.7615	99948	Rural	0.7615
49000	Accomack County, Virginia	49	Rural	0.8417	99949	Rural	0.8013
49010	Albemarle County, Virginia	1540	Urban	1.0187	16820	Urban	1.0187
49011	Alexandria City County, Virginia	8840	Urban	1.0976	47894	Urban	1.0926
49020	Alleghany County, Virginia	49	Rural	0.8417	99949	Rural	0.8013
49030	Amelia County, Virginia	49	Rural	0.8417	40060	Urban	0.9328
49040	Amherst County, Virginia	4640	Urban	0.8691	31340	Urban	0.8691
49050	Appomattox County, Virginia	49	Rural	0.8417	31340	Urban	0.8691
49060	Arlington County, Virginia	8840	Urban	1.0976	47894	Urban	1.0926
49070	Augusta County, Virginia	49	Rural	0.8417	99949	Rural	0.8013
49080	Bath County, Virginia	49	Rural	0.8417	99949	Rural	0.8013
49088	Bedford City County, Virginia	4640	Urban	0.8691	31340	Urban	0.8691
49090	Bedford County, Virginia	4640	Urban	0.8691	31340	Urban	0.8691
49100	Bland County, Virginia	49	Rural	0.8417	99949	Rural	0.8013
49110	Botetourt County, Virginia	6800	Urban	0.8387	40220	Urban	0.8374
49111	Bristol City County, Virginia	3660	Urban	0.8007	28700	Urban	0.8054
49120	Brunswick County, Virginia	49	Rural	0.8417	99949	Rural	0.8013
49130	Buchanan County, Virginia	49	Rural	0.8417	99949	Rural	0.8013
49140	Buckingham County, Virginia	49	Rural	0.8417	99949	Rural	0.8013
49141	Buena Vista City County, Virginia	49	Rural	0.8417	99949	Rural	0.8013
49150	Campbell County, Virginia	4640	Urban	0.8691	31340	Urban	0.8691
49160	Caroline County, Virginia	49	Rural	0.8417	40060	Urban	0.9328
49170	Carroll County, Virginia	49	Rural	0.8417	99949	Rural	0.8013
49180	Charles City County, Virginia	6760	Urban	0.9328	40060	Urban	0.9328
49190	Charlotte County, Virginia	49	Rural	0.8417	99949	Rural	0.8013
49191	Charlottesville City County, Virginia	1540	Urban	1.0187	16820	Urban	1.0187
49194	Chesapeake County, Virginia	5720	Urban	0.8799	47260	Urban	0.8799
49200	Chesterfield County, Virginia	6760	Urban	0.9328	40060	Urban	0.9328
49210	Clarke County, Virginia	8840	Urban	1.0976	47894	Urban	1.0926
49211	Clifton Forge City County, Virginia	49	Rural	0.8417	99949	Rural	0.8013
49212	Colonial Heights County, Virginia	6760	Urban	0.9328	40060	Urban	0.9328
49213	Covington City County, Virginia	49	Rural	0.8417	99949	Rural	0.8013
49220	Craig County, Virginia	49	Rural	0.8417	40220	Urban	0.8374
49230	Culpeper County, Virginia	8840	Urban	1.0976	99949	Rural	0.8013
49240	Cumberland County, Virginia	49	Rural	0.8417	40060	Urban	0.9328
49241	Danville City County, Virginia	1950	Urban	0.8489	19260	Urban	0.8489
49250	Dickenson County, Virginia	49	Rural	0.8417	99949	Rural	0.8013
49260	Dinniddie County, Virginia	6760	Urban	0.9328	40060	Urban	0.9328
49270	Emporia County, Virginia	49	Rural	0.8417	99949	Rural	0.8013
49280	Essex County, Virginia	49	Rural	0.8417	99949	Rural	0.8013
49288	Fairfax City County, Virginia	8840	Urban	1.0976	47894	Urban	1.0926
49290	Fairfax County, Virginia	8840	Urban	1.0976	47894	Urban	1.0926
49291	Falls Church City County, Virginia	8840	Urban	1.0976	47894	Urban	1.0926
49300	Fauquier County, Virginia	8840	Urban	1.0976	47894	Urban	1.0926
49310	Floyd County, Virginia	49	Rural	0.8417	99949	Rural	0.8013
49320	Fluvanna County, Virginia	1540	Urban	1.0187	16820	Urban	1.0187
49328	Franklin City County, Virginia	49	Rural	0.8417	99949	Rural	0.8013

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49330	Franklin County, Virginia	49	Rural	0.8417	40220	Urban	0.8374
49340	Frederick County, Virginia	49	Rural	0.8417	49020	Urban	1.0214
49342	Fredericksburg City County, Virginia	8840	Urban	1.0976	47894	Urban	1.0926
49343	Galax City County, Virginia	49	Rural	0.8417	99949	Rural	0.8013
49350	Giles County, Virginia	49	Rural	0.8417	13980	Urban	0.7954
49360	Gloucester County, Virginia	5720	Urban	0.8799	47260	Urban	0.8799
49370	Goochland County, Virginia	6760	Urban	0.9328	40060	Urban	0.9328
49380	Grayson County, Virginia	49	Rural	0.8417	99949	Rural	0.8013
49390	Greene County, Virginia	1540	Urban	1.0187	16820	Urban	1.0187
49400	Greensville County, Virginia	49	Rural	0.8417	99949	Rural	0.8013
49410	Halifax County, Virginia	49	Rural	0.8417	99949	Rural	0.8013
49411	Hampton City County, Virginia	5720	Urban	0.8799	47260	Urban	0.8799
49420	Hanover County, Virginia	6760	Urban	0.9328	40060	Urban	0.9328
49421	Harrisonburg City County, Virginia	49	Rural	0.8417	25500	Urban	0.9088
49430	Henrico County, Virginia	6760	Urban	0.9328	40060	Urban	0.9328
49440	Henry County, Virginia	49	Rural	0.8417	99949	Rural	0.8013
49450	Highland County, Virginia	49	Rural	0.8417	99949	Rural	0.8013
49451	Hopewell City County, Virginia	6760	Urban	0.9328	40060	Urban	0.9328
49460	Isle Of Wight County, Virginia	5720	Urban	0.8799	47260	Urban	0.8799
49470	James City Co County, Virginia	5720	Urban	0.8799	47260	Urban	0.8799
49480	King And Queen County, Virginia	49	Rural	0.8417	40060	Urban	0.9328
49490	King George County, Virginia	8840	Urban	1.0976	99949	Rural	0.8013
49500	King William County, Virginia	49	Rural	0.8417	40060	Urban	0.9328
49510	Lancaster County, Virginia	49	Rural	0.8417	99949	Rural	0.8013
49520	Lee County, Virginia	49	Rural	0.8417	99949	Rural	0.8013
49522	Lexington County, Virginia	49	Rural	0.8417	99949	Rural	0.8013
49530	Loudoun County, Virginia	8840	Urban	1.0976	47894	Urban	1.0926
49540	Louisa County, Virginia	49	Rural	0.8417	40060	Urban	0.9328
49550	Lunenburg County, Virginia	49	Rural	0.8417	99949	Rural	0.8013
49551	Lynchburg City County, Virginia	4640	Urban	0.8691	31340	Urban	0.8691
49560	Madison County, Virginia	49	Rural	0.8417	99949	Rural	0.8013
49561	Martinsville City County, Virginia	49	Rural	0.8417	99949	Rural	0.8013
49563	Manassas City County, Virginia	8840	Urban	1.0976	47894	Urban	1.0926
49565	Manassas Park City County, Virginia	8840	Urban	1.0976	47894	Urban	1.0926
49570	Mathews County, Virginia	5720	Urban	0.8799	47260	Urban	0.8799
49580	Mecklenburg County, Virginia	49	Rural	0.8417	99949	Rural	0.8013
49590	Middlesex County, Virginia	49	Rural	0.8417	99949	Rural	0.8013
49600	Montgomery County, Virginia	49	Rural	0.8417	13980	Urban	0.7954
49610	Nansemond County, Virginia	49	Rural	0.8417	99949	Rural	0.8013
49620	Nelson County, Virginia	49	Rural	0.8417	16820	Urban	1.0187
49621	New Kent County, Virginia	6760	Urban	0.9328	40060	Urban	0.9328
49622	Newport News City County, Virginia	5720	Urban	0.8799	47260	Urban	0.8799
49641	Norfolk City County, Virginia	5720	Urban	0.8799	47260	Urban	0.8799
49650	Northampton County, Virginia	49	Rural	0.8417	99949	Rural	0.8013
49660	Northumberland County, Virginia	49	Rural	0.8417	99949	Rural	0.8013
49661	Norton City County, Virginia	49	Rural	0.8417	99949	Rural	0.8013
49670	Nottoway County, Virginia	49	Rural	0.8417	99949	Rural	0.8013
49680	Orange County, Virginia	49	Rural	0.8417	99949	Rural	0.8013
49690	Page County, Virginia	49	Rural	0.8417	99949	Rural	0.8013
49700	Patrick County, Virginia	49	Rural	0.8417	99949	Rural	0.8013
49701	Petersburg City County, Virginia	6760	Urban	0.9328	40060	Urban	0.9328
49710	Pittsylvania County, Virginia	1950	Urban	0.8489	19260	Urban	0.8489
49711	Portsmouth City County, Virginia	5720	Urban	0.8799	47260	Urban	0.8799
49712	Poquoson City County, Virginia	5720	Urban	0.8799	47260	Urban	0.8799
49720	Powhatan County, Virginia	6760	Urban	0.9328	40060	Urban	0.9328
49730	Prince Edward County, Virginia	49	Rural	0.8417	99949	Rural	0.8013
49740	Prince George County, Virginia	6760	Urban	0.9328	40060	Urban	0.9328
49750	Prince William County, Virginia	8840	Urban	1.0976	47894	Urban	1.0926
49770	Pulaski County, Virginia	49	Rural	0.8417	13980	Urban	0.7954
49771	Radford City County, Virginia	49	Rural	0.8417	13980	Urban	0.7954
49780	Rappahannock County, Virginia	49	Rural	0.8417	99949	Rural	0.8013
49790	Richmond County, Virginia	49	Rural	0.8417	99949	Rural	0.8013
49791	Richmond City County, Virginia	6760	Urban	0.9328	40060	Urban	0.9328
49800	Roanoke County, Virginia	6800	Urban	0.8387	40220	Urban	0.8374
49801	Roanoke City County, Virginia	6800	Urban	0.8387	40220	Urban	0.8374
49810	Rockbridge County, Virginia	49	Rural	0.8417	99949	Rural	0.8013
49820	Rockingham County, Virginia	49	Rural	0.8417	25500	Urban	0.9088
49830	Russell County, Virginia	49	Rural	0.8417	99949	Rural	0.8013
49838	Salem County, Virginia	6800	Urban	0.8387	40220	Urban	0.8374
49840	Scott County, Virginia	3660	Urban	0.8007	28700	Urban	0.8054
49850	Shenandoah County, Virginia	49	Rural	0.8417	99949	Rural	0.8013
49860	Smyth County, Virginia	49	Rural	0.8417	99949	Rural	0.8013

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49867	South Boston City County, Virginia	49	Rural	0.8417	99949	Rural	0.8013
49870	Southampton County, Virginia	49	Rural	0.8417	99949	Rural	0.8013
49880	Spotsylvania County, Virginia	8840	Urban	1.0976	47894	Urban	1.0926
49890	Stafford County, Virginia	8840	Urban	1.0976	47894	Urban	1.0926
49891	Staunton City County, Virginia	49	Rural	0.8417	99949	Rural	0.8013
49892	Suffolk City County, Virginia	5720	Urban	0.8799	47260	Urban	0.8799
49900	Surry County, Virginia	49	Rural	0.8417	47260	Urban	0.8799
49910	Sussex County, Virginia	49	Rural	0.8417	40060	Urban	0.9328
49920	Tazewell County, Virginia	49	Rural	0.8417	99949	Rural	0.8013
49921	Virginia Beach City County, Virginia	5720	Urban	0.8799	47260	Urban	0.8799
49930	Warren County, Virginia	8840	Urban	1.0976	47894	Urban	1.0926
49950	Washington County, Virginia	3660	Urban	0.8007	28700	Urban	0.8054
49951	Waynesboro City County, Virginia	49	Rural	0.8417	99949	Rural	0.8013
49960	Westmoreland County, Virginia	49	Rural	0.8417	99949	Rural	0.8013
49961	Williamsburg City County, Virginia	5720	Urban	0.8799	47260	Urban	0.8799
49962	Winchester City County, Virginia	49	Rural	0.8417	49020	Urban	1.0214
49970	Wise County, Virginia	49	Rural	0.8417	99949	Rural	0.8013
49980	Wythe County, Virginia	49	Rural	0.8417	99949	Rural	0.8013
49981	York County, Virginia	5720	Urban	0.8799	47260	Urban	0.8799
50000	Adams County, Washington	50	Rural	1.0217	99950	Rural	1.0510
50010	Asotin County, Washington	50	Rural	1.0217	30300	Urban	0.9886
50020	Benton County, Washington	6740	Urban	1.0619	28420	Urban	1.0619
50030	Chelan County, Washington	50	Rural	1.0217	48300	Urban	1.0070
50040	Clallam County, Washington	50	Rural	1.0217	99950	Rural	1.0510
50050	Clark County, Washington	6440	Urban	1.1266	38900	Urban	1.1266
50060	Columbia County, Washington	50	Rural	1.0217	99950	Rural	1.0510
50070	Cowlitz County, Washington	50	Rural	1.0217	31020	Urban	0.9579
50080	Douglas County, Washington	50	Rural	1.0217	48300	Urban	1.0070
50090	Ferry County, Washington	50	Rural	1.0217	99950	Rural	1.0510
50100	Franklin County, Washington	6740	Urban	1.0619	28420	Urban	1.0619
50110	Garfield County, Washington	50	Rural	1.0217	99950	Rural	1.0510
50120	Grant County, Washington	50	Rural	1.0217	99950	Rural	1.0510
50130	Grays Harbor County, Washington	50	Rural	1.0217	99950	Rural	1.0510
50140	Island County, Washington	7600	Urban	1.1567	99950	Rural	1.0510
50150	Jefferson County, Washington	50	Rural	1.0217	99950	Rural	1.0510
50160	King County, Washington	7600	Urban	1.1567	42644	Urban	1.1577
50170	Kitsap County, Washington	1150	Urban	1.0675	14740	Urban	1.0675
50180	Kittitas County, Washington	50	Rural	1.0217	99950	Rural	1.0510
50190	Klickitat County, Washington	50	Rural	1.0217	99950	Rural	1.0510
50200	Lewis County, Washington	50	Rural	1.0217	99950	Rural	1.0510
50210	Lincoln County, Washington	50	Rural	1.0217	99950	Rural	1.0510
50220	Mason County, Washington	50	Rural	1.0217	99950	Rural	1.0510
50230	Okanogan County, Washington	50	Rural	1.0217	99950	Rural	1.0510
50240	Pacific County, Washington	50	Rural	1.0217	99950	Rural	1.0510
50250	Pend Oreille County, Washington	50	Rural	1.0217	99950	Rural	1.0510
50260	Pierce County, Washington	8200	Urban	1.0742	45104	Urban	1.0742
50270	San Juan County, Washington	50	Rural	1.0217	99950	Rural	1.0510
50280	Skagit County, Washington	50	Rural	1.0217	34580	Urban	1.0454
50290	Skamania County, Washington	50	Rural	1.0217	38900	Urban	1.1266
50300	Snohomish County, Washington	7600	Urban	1.1567	42644	Urban	1.1577
50310	Spokane County, Washington	7840	Urban	1.0905	44060	Urban	1.0905
50320	Stevens County, Washington	50	Rural	1.0217	99950	Rural	1.0510
50330	Thurston County, Washington	5910	Urban	1.0927	36500	Urban	1.0927
50340	Wahkiakum County, Washington	50	Rural	1.0217	99950	Rural	1.0510
50350	Walla Walla County, Washington	50	Rural	1.0217	99950	Rural	1.0510
50360	Whatcom County, Washington	0860	Urban	1.1731	13380	Urban	1.1731
50370	Whitman County, Washington	50	Rural	1.0217	99950	Rural	1.0510
50380	Yakima County, Washington	9260	Urban	1.0155	49420	Urban	1.0155
51000	Barbour County, W Virginia	51	Rural	0.7900	99951	Rural	0.7717
51010	Berkeley County, W Virginia	8840	Urban	1.0976	25180	Urban	0.9489
51020	Boone County, W Virginia	51	Rural	0.7900	16620	Urban	0.8445
51030	Braxton County, W Virginia	51	Rural	0.7900	99951	Rural	0.7717
51040	Brooke County, W Virginia	8080	Urban	0.7819	48260	Urban	0.7819
51050	Cabell County, W Virginia	3400	Urban	0.9477	26580	Urban	0.9477
51060	Calhoun County, W Virginia	51	Rural	0.7900	99951	Rural	0.7717
51070	Clay County, W Virginia	51	Rural	0.7900	16620	Urban	0.8445
51080	Doddridge County, W Virginia	51	Rural	0.7900	99951	Rural	0.7717
51090	Fayette County, W Virginia	51	Rural	0.7900	99951	Rural	0.7717
51100	Gilmer County, W Virginia	51	Rural	0.7900	99951	Rural	0.7717
51110	Grant County, W Virginia	51	Rural	0.7900	99951	Rural	0.7717
51120	Greenbrier County, W Virginia	51	Rural	0.7900	99951	Rural	0.7717
51130	Hampshire County, W Virginia	51	Rural	0.7900	49020	Urban	1.0214

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51140	Hancock County, W Virginia	8080	Urban	0.7819	48260	Urban	0.7819
51150	Hardy County, W Virginia	51	Rural	0.7900	99951	Rural	0.7717
51160	Harrison County, W Virginia	51	Rural	0.7900	99951	Rural	0.7717
51170	Jackson County, W Virginia	51	Rural	0.7900	99951	Rural	0.7717
51180	Jefferson County, W Virginia	8840	Urban	1.0976	47894	Urban	1.0926
51190	Kanawha County, W Virginia	1480	Urban	0.8445	16620	Urban	0.8445
51200	Lewis County, W Virginia	51	Rural	0.7900	99951	Rural	0.7717
51210	Lincoln County, W Virginia	51	Rural	0.7900	16620	Urban	0.8445
51220	Logan County, W Virginia	51	Rural	0.7900	99951	Rural	0.7717
51230	Mc Dowell County, W Virginia	51	Rural	0.7900	99951	Rural	0.7717
51240	Marion County, W Virginia	51	Rural	0.7900	99951	Rural	0.7717
51250	Marshall County, W Virginia	9000	Urban	0.7161	48540	Urban	0.7161
51260	Mason County, W Virginia	51	Rural	0.7900	99951	Rural	0.7717
51270	Mercer County, W Virginia	51	Rural	0.7900	99951	Rural	0.7717
51280	Mineral County, W Virginia	1900	Urban	0.9317	19060	Urban	0.9317
51290	Mingo County, W Virginia	51	Rural	0.7900	99951	Rural	0.7717
51300	Monongalia County, W Virginia	51	Rural	0.7900	34060	Urban	0.8420
51310	Monroe County, W Virginia	51	Rural	0.7900	99951	Rural	0.7717
51320	Morgan County, W Virginia	51	Rural	0.7900	25180	Urban	0.9489
51330	Nicholas County, W Virginia	51	Rural	0.7900	99951	Rural	0.7717
51340	Ohio County, W Virginia	9000	Urban	0.7161	48540	Urban	0.7161
51350	Pendleton County, W Virginia	51	Rural	0.7900	99951	Rural	0.7717
51360	Pleasants County, W Virginia	51	Rural	0.7900	37620	Urban	0.8270
51370	Pocahontas County, W Virginia	51	Rural	0.7900	99951	Rural	0.7717
51380	Preston County, W Virginia	51	Rural	0.7900	34060	Urban	0.8420
51390	Putnam County, W Virginia	1480	Urban	0.8445	16620	Urban	0.8445
51400	Raleigh County, W Virginia	51	Rural	0.7900	99951	Rural	0.7717
51410	Randolph County, W Virginia	51	Rural	0.7900	99951	Rural	0.7717
51420	Ritchie County, W Virginia	51	Rural	0.7900	99951	Rural	0.7717
51430	Roane County, W Virginia	51	Rural	0.7900	99951	Rural	0.7717
51440	Summers County, W Virginia	51	Rural	0.7900	99951	Rural	0.7717
51450	Taylor County, W Virginia	51	Rural	0.7900	99951	Rural	0.7717
51460	Tucker County, W Virginia	51	Rural	0.7900	99951	Rural	0.7717
51470	Tyler County, W Virginia	51	Rural	0.7900	99951	Rural	0.7717
51480	Upshur County, W Virginia	51	Rural	0.7900	99951	Rural	0.7717
51490	Wayne County, W Virginia	3400	Urban	0.9477	26580	Urban	0.9477
51500	Webster County, W Virginia	51	Rural	0.7900	99951	Rural	0.7717
51510	Wetzel County, W Virginia	51	Rural	0.7900	99951	Rural	0.7717
51520	Wirt County, W Virginia	51	Rural	0.7900	37620	Urban	0.8270
51530	Wood County, W Virginia	6020	Urban	0.8270	37620	Urban	0.8270
51540	Wyoming County, W Virginia	51	Rural	0.7900	99951	Rural	0.7717
52000	Adams County, Wisconsin	52	Rural	0.9478	99952	Rural	0.9509
52010	Ashland County, Wisconsin	52	Rural	0.9478	99952	Rural	0.9509
52020	Barron County, Wisconsin	52	Rural	0.9478	99952	Rural	0.9509
52030	Bayfield County, Wisconsin	52	Rural	0.9478	99952	Rural	0.9509
52040	Brown County, Wisconsin	3080	Urban	0.9483	24580	Urban	0.9483
52050	Buffalo County, Wisconsin	52	Rural	0.9478	99952	Rural	0.9509
52060	Burnett County, Wisconsin	52	Rural	0.9478	99952	Rural	0.9509
52070	Calumet County, Wisconsin	0460	Urban	0.9239	11540	Urban	0.9288
52080	Chippewa County, Wisconsin	2290	Urban	0.9201	20740	Urban	0.9201
52090	Clark County, Wisconsin	52	Rural	0.9478	99952	Rural	0.9509
52100	Columbia County, Wisconsin	52	Rural	0.9478	31540	Urban	1.0659
52110	Crawford County, Wisconsin	52	Rural	0.9478	99952	Rural	0.9509
52120	Dane County, Wisconsin	4720	Urban	1.0754	31540	Urban	1.0659
52130	Dodge County, Wisconsin	52	Rural	0.9478	99952	Rural	0.9509
52140	Door County, Wisconsin	52	Rural	0.9478	99952	Rural	0.9509
52150	Douglas County, Wisconsin	2240	Urban	1.0213	20260	Urban	1.0213
52160	Dunn County, Wisconsin	52	Rural	0.9478	99952	Rural	0.9509
52170	Eau Claire County, Wisconsin	2290	Urban	0.9201	20740	Urban	0.9201
52180	Florence County, Wisconsin	52	Rural	0.9478	99952	Rural	0.9509
52190	Fond Du Lac County, Wisconsin	52	Rural	0.9478	22540	Urban	0.9640
52200	Forest County, Wisconsin	52	Rural	0.9478	99952	Rural	0.9509
52210	Grant County, Wisconsin	52	Rural	0.9478	99952	Rural	0.9509
52220	Green County, Wisconsin	52	Rural	0.9478	99952	Rural	0.9509
52230	Green Lake County, Wisconsin	52	Rural	0.9478	99952	Rural	0.9509
52240	Iowa County, Wisconsin	52	Rural	0.9478	31540	Urban	1.0659
52250	Iron County, Wisconsin	52	Rural	0.9478	99952	Rural	0.9509
52260	Jackson County, Wisconsin	52	Rural	0.9478	99952	Rural	0.9509
52270	Jefferson County, Wisconsin	52	Rural	0.9478	99952	Rural	0.9509
52280	Juneau County, Wisconsin	52	Rural	0.9478	99952	Rural	0.9509
52290	Kenosha County, Wisconsin	3800	Urban	0.9760	29404	Urban	1.0429
52300	Kewaunee County, Wisconsin	52	Rural	0.9478	24580	Urban	0.9483

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52310	La Crosse County, Wisconsin	3870	Urban	0.9564	29100	Urban	0.9564
52320	Lafayette County, Wisconsin	52	Rural	0.9478	99952	Rural	0.9509
52330	Langlade County, Wisconsin	52	Rural	0.9478	99952	Rural	0.9509
52340	Lincoln County, Wisconsin	52	Rural	0.9478	99952	Rural	0.9509
52350	Manitowoc County, Wisconsin	52	Rural	0.9478	99952	Rural	0.9509
52360	Marathon County, Wisconsin	8940	Urban	0.9590	48140	Urban	0.9590
52370	Marinette County, Wisconsin	52	Rural	0.9478	99952	Rural	0.9509
52380	Marquette County, Wisconsin	52	Rural	0.9478	99952	Rural	0.9509
52381	Menominee County, Wisconsin	52	Rural	0.9478	99952	Rural	0.9509
52390	Milwaukee County, Wisconsin	5080	Urban	1.0146	33340	Urban	1.0146
52400	Monroe County, Wisconsin	52	Rural	0.9478	99952	Rural	0.9509
52410	Oconto County, Wisconsin	52	Rural	0.9478	24580	Urban	0.9483
52420	Oneida County, Wisconsin	52	Rural	0.9478	99952	Rural	0.9509
52430	Outagamie County, Wisconsin	0460	Urban	0.9239	11540	Urban	0.9288
52440	Ozaukee County, Wisconsin	5080	Urban	1.0146	33340	Urban	1.0146
52450	Pepin County, Wisconsin	52	Rural	0.9478	99952	Rural	0.9509
52460	Pierce County, Wisconsin	5120	Urban	1.1075	33460	Urban	1.1075
52470	Polk County, Wisconsin	52	Rural	0.9478	99952	Rural	0.9509
52480	Portage County, Wisconsin	52	Rural	0.9478	99952	Rural	0.9509
52490	Price County, Wisconsin	52	Rural	0.9478	99952	Rural	0.9509
52500	Racine County, Wisconsin	6600	Urban	0.8997	39540	Urban	0.8997
52510	Richland County, Wisconsin	52	Rural	0.9478	99952	Rural	0.9509
52520	Rock County, Wisconsin	3620	Urban	0.9538	27500	Urban	0.9538
52530	Rusk County, Wisconsin	52	Rural	0.9478	99952	Rural	0.9509
52540	St Croix County, Wisconsin	5120	Urban	1.1075	33460	Urban	1.1075
52550	Sauk County, Wisconsin	52	Rural	0.9478	99952	Rural	0.9509
52560	Sawyer County, Wisconsin	52	Rural	0.9478	99952	Rural	0.9509
52570	Shawano County, Wisconsin	52	Rural	0.9478	99952	Rural	0.9509
52580	Sheboygan County, Wisconsin	7620	Urban	0.8911	43100	Urban	0.8911
52590	Taylor County, Wisconsin	52	Rural	0.9478	99952	Rural	0.9509
52600	Trempealeau County, Wisconsin	52	Rural	0.9478	99952	Rural	0.9509
52610	Vernon County, Wisconsin	52	Rural	0.9478	99952	Rural	0.9509
52620	Vilas County, Wisconsin	52	Rural	0.9478	99952	Rural	0.9509
52630	Walworth County, Wisconsin	52	Rural	0.9478	99952	Rural	0.9509
52640	Washburn County, Wisconsin	52	Rural	0.9478	99952	Rural	0.9509
52650	Washington County, Wisconsin	5080	Urban	1.0146	33340	Urban	1.0146
52660	Waukesha County, Wisconsin	5080	Urban	1.0146	33340	Urban	1.0146
52670	Waupaca County, Wisconsin	52	Rural	0.9478	99952	Rural	0.9509
52680	Waushara County, Wisconsin	52	Rural	0.9478	99952	Rural	0.9509
52690	Winnebago County, Wisconsin	0460	Urban	0.9239	36780	Urban	0.9183
52700	Wood County, Wisconsin	52	Rural	0.9478	99952	Rural	0.9509
53000	Albany County, Wyoming	53	Rural	0.9257	99953	Rural	0.9257
53010	Big Horn County, Wyoming	53	Rural	0.9257	99953	Rural	0.9257
53020	Campbell County, Wyoming	53	Rural	0.9257	99953	Rural	0.9257
53030	Carbon County, Wyoming	53	Rural	0.9257	99953	Rural	0.9257
53040	Converse County, Wyoming	53	Rural	0.9257	99953	Rural	0.9257
53050	Crook County, Wyoming	53	Rural	0.9257	99953	Rural	0.9257
53060	Fremont County, Wyoming	53	Rural	0.9257	99953	Rural	0.9257
53070	Goshen County, Wyoming	53	Rural	0.9257	99953	Rural	0.9257
53080	Hot Springs County, Wyoming	53	Rural	0.9257	99953	Rural	0.9257
53090	Johnson County, Wyoming	53	Rural	0.9257	99953	Rural	0.9257
53100	Laramie County, Wyoming	1580	Urban	0.8775	16940	Urban	0.8775
53110	Lincoln County, Wyoming	53	Rural	0.9257	99953	Rural	0.9257
53120	Natrona County, Wyoming	1350	Urban	0.9026	16220	Urban	0.9026
53130	Niobrara County, Wyoming	53	Rural	0.9257	99953	Rural	0.9257
53140	Park County, Wyoming	53	Rural	0.9257	99953	Rural	0.9257
53150	Platte County, Wyoming	53	Rural	0.9257	99953	Rural	0.9257
53160	Sheridan County, Wyoming	53	Rural	0.9257	99953	Rural	0.9257
53170	Sublette County, Wyoming	53	Rural	0.9257	99953	Rural	0.9257
53180	Sweetwater County, Wyoming	53	Rural	0.9257	99953	Rural	0.9257
53190	Teton County, Wyoming	53	Rural	0.9257	99953	Rural	0.9257
53200	Uinta County, Wyoming	53	Rural	0.9257	99953	Rural	0.9257
53210	Washakie County, Wyoming	53	Rural	0.9257	99953	Rural	0.9257
53220	Weston County, Wyoming	53	Rural	0.9257	99953	Rural	0.9257
65010	Agana County, Guam	65	Rural	0.9611	99965	Rural	0.9611
65020	Agana Heights County, Guam	65	Rural	0.9611	99965	Rural	0.9611
65030	Agat County, Guam	65	Rural	0.9611	99965	Rural	0.9611
65040	Asan County, Guam	65	Rural	0.9611	99965	Rural	0.9611
65050	Barrigada County, Guam	65	Rural	0.9611	99965	Rural	0.9611
65060	Chalan Pago County, Guam	65	Rural	0.9611	99965	Rural	0.9611
65070	Dededo County, Guam	65	Rural	0.9611	99965	Rural	0.9611
65080	Inarajan County, Guam	65	Rural	0.9611	99965	Rural	0.9611

SSA State/ County Code	County name	MSA No.	MSA urban/ rural	2006 MSA-based WI	CBSA No.	CBSA urban/ rural	2006 CBSA-based WI
65090	Maite County, Guam	65	Rural	0.9611	99965	Rural	0.9611
65100	Mangilao County, Guam	65	Rural	0.9611	99965	Rural	0.9611
65110	Merizo County, Guam	65	Rural	0.9611	99965	Rural	0.9611
65120	Mongmong County, Guam	65	Rural	0.9611	99965	Rural	0.9611
65130	Ordot County, Guam	65	Rural	0.9611	99965	Rural	0.9611
65140	Piti County, Guam	65	Rural	0.9611	99965	Rural	0.9611
65150	Santa Rita County, Guam	65	Rural	0.9611	99965	Rural	0.9611
65160	Sinajana County, Guam	65	Rural	0.9611	99965	Rural	0.9611
65170	Talofofo County, Guam	65	Rural	0.9611	99965	Rural	0.9611
65180	Tamuning County, Guam	65	Rural	0.9611	99965	Rural	0.9611
65190	Toto County, Guam	65	Rural	0.9611	99965	Rural	0.9611
65200	Umatac County, Guam	65	Rural	0.9611	99965	Rural	0.9611
65210	Yigo County, Guam	65	Rural	0.9611	99965	Rural	0.9611
65220	Yona County, Guam	65	Rural	0.9611	99965	Rural	0.9611

[1] At this time, there are no hospitals located in these CBSA-based urban areas on which to base a wage index. Therefore, the wage index value is based on the average wage index for all urban areas within the state.

Addendum C—Wage Index Tables

In this addendum, we provide the tables referred to throughout the preamble in this final rule. Tables 1 and 2 below provide the CBSA-based wage index values for urban and rural providers.

TABLE 1.—PROPOSED WAGE INDEX FOR URBAN AREAS BASED ON CBSA LABOR MARKET AREAS

CBSA code	Urban area (constituent counties)	Wage index
10180	Abilene, TX	0.7896
	Callahan County, TX.	
	Jones County, TX.	
	Taylor County, TX.	
10380	Aguadilla-Isabela-San Sebastián, PR	0.4738
	Aguada Municipio, PR.	
	Aguadilla Municipio, PR.	
	Añasco Municipio, PR.	
	Isabela Municipio, PR.	
	Lares Municipio, PR.	
	Moca Municipio, PR.	
	Rincón Municipio, PR.	
	San Sebastiă≤n Municipio, PR.	
10420	Akron, OH	0.8982
	Portage County, OH.	
	Summit County, OH.	
10500	Albany, GA	0.8628
	Baker County, GA.	
	Dougherty County, GA.	
	Lee County, GA.	
	Terrell County, GA.	
	Worth County, GA.	
10580	Albany-Schenectady-Troy, NY	0.8589
	Albany County, NY.	
	Rensselaer County, NY.	
	Saratoga County, NY.	
	Schenectady County, NY.	
	Schoharie County, NY.	
10740	Albuquerque, NM	0.9684
	Bernalillo County, NM.	
	Sandoval County, NM.	
	Torrance County, NM.	
	Valencia County, NM.	
10780	Alexandria, LA	0.8033
	Grant Parish, LA.	
	Rapides Parish, LA.	
10900	Allentown-Bethlehem-Easton, PA-NJ	0.9818
	Warren County, NJ.	
	Carbon County, PA.	
	Lehigh County, PA.	
	Northampton County, PA.	
11020	Altoona, PA	0.8944
	Blair County, PA.	
11100	Amarillo, TX	0.9156

TABLE 1.—PROPOSED WAGE INDEX FOR URBAN AREAS BASED ON CBSA LABOR MARKET AREAS—Continued

CBSA code	Urban area (constituent counties)	Wage index
	Armstrong County, TX.	
	Carson County, TX.	
	Potter County, TX.	
	Randall County, TX.	
11180	Ames, IA	0.9536
	Story County, IA.	
11260	Anchorage, AK	1.1895
	Anchorage Municipality, AK.	
	Matanuska-Susitna Borough, AK.	
11300	Anderson, IN	0.8586
	Madison County, IN.	
11340	Anderson, SC	0.8997
	Anderson County, SC.	
11460	Ann Arbor, MI	1.0859
	Washtenaw County, MI.	
11500	Anniston-Oxford, AL	0.7682
	Calhoun County, AL.	
11540	Appleton, WI	0.9288
	Calumet County, WI.	
	Outagamie County, WI.	
11700	Asheville, NC	0.9285
	Buncombe County, NC.	
	Haywood County, NC.	
	Henderson County, NC.	
	Madison County, NC.	
12020	Athens-Clarke County, GA	0.9855
	Clarke County, GA.	
	Madison County, GA.	
	Oconee County, GA.	
	Oglethorpe County, GA.	
12060	Atlanta-Sandy Springs-Marietta, GA	0.9793
	Barrow County, GA.	
	Bartow County, GA.	
	Butts County, GA.	
	Carroll County, GA.	
	Cherokee County, GA.	
	Clayton County, GA.	
	Cobb County, GA.	
	Coweta County, GA.	
	Dawson County, GA.	
	DeKalb County, GA.	
	Douglas County, GA.	
	Fayette County, GA.	
	Forsyth County, GA.	
	Fulton County, GA.	
	Gwinnett County, GA.	
	Haralson County, GA.	
	Heard County, GA.	
	Henry County, GA.	
	Jasper County, GA.	
	Lamar County, GA.	
	Meriwether County, GA.	
	Newton County, GA.	
	Paulding County, GA.	
	Pickens County, GA.	
	Pike County, GA.	
	Rockdale County, GA.	
	Spalding County, GA.	
	Walton County, GA.	
12100	Atlantic City, NJ	1.1615
	Atlantic County, NJ.	
12220	Auburn-Opelika, AL	0.8100
	Lee County, AL.	
12260	Augusta-Richmond County, GA-SC	0.9748
	Burke County, GA.	
	Columbia County, GA.	
	McDuffie County, GA.	
	Richmond County, GA.	
	Aiken County, SC.	
	Edgefield County, SC.	
12420	Austin-Round Rock, TX	0.9437

TABLE 1.—PROPOSED WAGE INDEX FOR URBAN AREAS BASED ON CBSA LABOR MARKET AREAS—Continued

CBSA code	Urban area (constituent counties)	Wage index
	Bastrop County, TX.	
	Caldwell County, TX.	
	Hays County, TX.	
	Travis County, TX.	
	Williamson County, TX.	
12540	Bakersfield, CA	1.0470
	Kern County, CA.	
12580	Baltimore-Towson, MD	0.9897
	Anne Arundel County, MD.	
	Baltimore County, MD.	
	Carroll County, MD.	
	Harford County, MD.	
	Howard County, MD.	
	Queen Anne's County, MD.	
	Baltimore City, MD.	
12620	Bangor, ME	0.9993
	Penobscot County, ME.	
12700	Barnstable Town, MA	1.2600
	Barnstable County, MA.	
12940	Baton Rouge, LA	0.8593
	Ascension Parish, LA.	
	East Baton Rouge Parish, LA.	
	East Feliciana Parish, LA.	
	Iberville Parish, LA.	
	Livingston Parish, LA.	
	Pointe Coupee Parish, LA.	
	St. Helena Parish, LA.	
	West Baton Rouge Parish, LA.	
	West Feliciana Parish, LA.	
12980	Battle Creek, MI	0.9508
	Calhoun County, MI.	
13020	Bay City, MI	0.9343
	Bay County, MI.	
13140	Beaumont-Port Arthur, TX	0.8412
	Hardin County, TX.	
	Jefferson County, TX.	
	Orange County, TX.	
13380	Bellingham, WA	1.1731
	Whatcom County, WA.	
13460	Bend, OR	1.0786
	Deschutes County, OR.	
13644	Bethesda-Gaithersburg-Frederick, MD	1.1483
	Frederick County, MD.	
	Montgomery County, MD.	
13740	Billings, MT	0.8834
	Carbon County, MT.	
	Yellowstone County, MT.	
13780	Binghamton, NY	0.8562
	Broome County, NY.	
	Tioga County, NY.	
13820	Birmingham-Hoover, AL	0.8959
	Bibb County, AL.	
	Blount County, AL.	
	Chilton County, AL.	
	Jefferson County, AL.	
	St. Clair County, AL.	
	Shelby County, AL.	
	Walker County, AL.	
13900	Bismarck, ND	0.7574
	Burleigh County, ND.	
	Morton County, ND.	
13980	Blacksburg-Christiansburg-Radford, VA	0.7954
	Giles County, VA.	
	Montgomery County, VA.	
	Pulaski County, VA.	
	Radford City, VA.	
14020	Bloomington, IN	0.8447
	Greene County, IN.	
	Monroe County, IN.	
	Owen County, IN.	
14060	Bloomington-Normal, IL	0.9075

TABLE 1.—PROPOSED WAGE INDEX FOR URBAN AREAS BASED ON CBSA LABOR MARKET AREAS—Continued

CBSA code	Urban area (constituent counties)	Wage index
	McLean County, IL.	
14260	Boise City-Nampa, ID	0.9052
	Ada County, ID.	
	Boise County, ID.	
	Canyon County, ID.	
	Gem County, ID.	
	Owyhee County, ID.	
14484	Boston-Quincy, MA	1.1558
	Norfolk County, MA.	
	Plymouth County, MA.	
	Suffolk County, MA.	
14500	Boulder, CO	0.9734
	Boulder County, CO.	
14540	Bowling Green, KY	0.8211
	Edmonson County, KY.	
	Warren County, KY.	
14740	Bremerton-Silverdale, WA	1.0675
	Kitsap County, WA.	
14860	Bridgeport-Stamford-Norwalk, CT	1.2592
	Fairfield County, CT.	
15180	Brownsville-Harlingen, TX	0.9804
	Cameron County, TX.	
15260	Brunswick, GA	0.9311
	Brantley County, GA.	
	Glynn County, GA.	
	McIntosh County, GA.	
15380	Buffalo-Niagara Falls, NY	0.9511
	Erie County, NY.	
	Niagara County, NY.	
15500	Burlington, NC	0.8905
	Alamance County, NC.	
15540	Burlington-South Burlington, VT	0.9410
	Chittenden County, VT.	
	Franklin County, VT.	
	Grand Isle County, VT.	
15764	Cambridge-Newton-Framingham, MA	1.1172
	Middlesex County, MA.	
15804	Camden, NJ	1.0517
	Burlington County, NJ.	
	Camden County, NJ.	
	Gloucester County, NJ.	
15940	Canton-Massillon, OH	0.8935
	Carroll County, OH.	
	Stark County, OH.	
15980	Cape Coral-Fort Myers, FL	0.9356
	Lee County, FL.	
16180	Carson City, NV	1.0234
	Carson City, NV.	
16220	Casper, WY	0.9026
	Natrona County, WY.	
16300	Cedar Rapids, IA	0.8825
	Benton County, IA.	
	Jones County, IA.	
	Linn County, IA.	
16580	Champaign-Urbana, IL	0.9594
	Champaign County, IL.	
	Ford County, IL.	
	Piatt County, IL.	
16620	Charleston, WV	0.8445
	Boone County, WV.	
	Clay County, WV.	
	Kanawha County, WV.	
	Lincoln County, WV.	
	Putnam County, WV.	
16700	Charleston-North Charleston, SC	0.9245
	Berkeley County, SC.	
	Charleston County, SC.	
	Dorchester County, SC.	
16740	Charlotte-Gastonia-Concord, NC-SC	0.9750
	Anson County, NC.	
	Cabarrus County, NC.	

TABLE 1.—PROPOSED WAGE INDEX FOR URBAN AREAS BASED ON CBSA LABOR MARKET AREAS—Continued

CBSA code	Urban area (constituent counties)	Wage index
	Gaston County, NC.	
	Mecklenburg County, NC.	
	Union County, NC.	
	York County, SC.	
16820	Charlottesville, VA	1.0187
	Albemarle County, VA.	
	Fluvanna County, VA.	
	Greene County, VA.	
	Nelson County, VA.	
	Charlottesville City, VA.	
16860	Chattanooga, TN-GA	0.9088
	Catoosa County, GA.	
	Dade County, GA.	
	Walker County, GA.	
	Hamilton County, TN.	
	Marion County, TN.	
	Sequatchie County, TN.	
16940	Cheyenne, WY	0.8775
	Laramie County, WY.	
16974	Chicago-Naperville-Joliet, IL	1.0790
	Cook County, IL.	
	DeKalb County, IL.	
	DuPage County, IL.	
	Grundy County, IL.	
	Kane County, IL.	
	Kendall County, IL.	
	McHenry County, IL.	
	Will County, IL.	
17020	Chico, CA	1.0511
	Butte County, CA.	
17140	Cincinnati-Middletown, OH-KY-IN	0.9615
	Dearborn County, IN.	
	Franklin County, IN.	
	Ohio County, IN.	
	Boone County, KY.	
	Bracken County, KY.	
	Campbell County, KY.	
	Gallatin County, KY.	
	Grant County, KY.	
	Kenton County, KY.	
	Pendleton County, KY.	
	Brown County, OH.	
	Butler County, OH.	
	Clermont County, OH.	
	Hamilton County, OH.	
	Warren County, OH.	
17300	Clarksville, TN-KY	0.8284
	Christian County, KY.	
	Trigg County, KY.	
	Montgomery County, TN.	
	Stewart County, TN.	
17420	Cleveland, TN	0.8139
	Bradley County, TN.	
	Polk County, TN.	
17460	Cleveland-Elyria-Mentor, OH	0.9213
	Cuyahoga County, OH.	
	Geauga County, OH.	
	Lake County, OH.	
	Lorain County, OH.	
	Medina County, OH.	
17660	Coeur d'Alene, ID	0.9647
	Kootenai County, ID.	
17780	College Station-Bryan, TX	0.8900
	Brazos County, TX.	
	Burleson County, TX.	
	Robertson County, TX.	
17820	Colorado Springs, CO	0.9468
	El Paso County, CO.	
	Teller County, CO.	
17860	Columbia, MO	0.8345
	Boone County, MO.	

TABLE 1.—PROPOSED WAGE INDEX FOR URBAN AREAS BASED ON CBSA LABOR MARKET AREAS—Continued

CBSA code	Urban area (constituent counties)	Wage index
	Howard County, MO.	
17900	Columbia, SC	0.9057
	Calhoun County, SC.	
	Fairfield County, SC.	
	Kershaw County, SC.	
	Lexington County, SC.	
	Richland County, SC.	
	Saluda County, SC.	
17980	Columbus, GA-AL	0.8560
	Russell County, AL.	
	Chattahoochee County, GA.	
	Harris County, GA.	
	Marion County, GA.	
	Muscogee County, GA.	
18020	Columbus, IN	0.9588
	Bartholomew County, IN.	
18140	Columbus, OH	0.9860
	Delaware County, OH.	
	Fairfield County, OH.	
	Franklin County, OH.	
	Licking County, OH.	
	Madison County, OH.	
	Morrow County, OH.	
	Pickaway County, OH.	
	Union County, OH.	
18580	Corpus Christi, TX	0.8550
	Aransas County, TX.	
	Nueces County, TX.	
	San Patricio County, TX.	
18700	Corvallis, OR	1.0729
	Benton County, OR.	
19060	Cumberland, MD-WV	0.9317
	Allegany County, MD.	
	Mineral County, WV.	
19124	Dallas-Plano-Irving, TX	1.0228
	Collin County, TX.	
	Dallas County, TX.	
	Delta County, TX.	
	Denton County, TX.	
	Ellis County, TX.	
	Hunt County, TX.	
	Kaufman County, TX.	
	Rockwall County, TX.	
19140	Dalton, GA	0.9079
	Murray County, GA.	
	Whitfield County, GA.	
19180	Danville, IL	0.9028
	Vermilion County, IL.	
19260	Danville, VA	0.8489
	Pittsylvania County, VA.	
	Danville City, VA.	
19340	Davenport-Moline-Rock Island, IA-IL	0.8724
	Henry County, IL.	
	Mercer County, IL.	
	Rock Island County, IL.	
	Scott County, IA.	
19380	Dayton, OH	0.9064
	Greene County, OH.	
	Miami County, OH.	
	Montgomery County, OH.	
	Preble County, OH.	
19460	Decatur, AL	0.8469
	Lawrence County, AL.	
	Morgan County, AL.	
19500	Decatur, IL	0.8067
	Macon County, IL.	
19660	Deltona-Daytona Beach-Ormond Beach, FL	0.9299
	Volusia County, FL.	
19740	Denver-Aurora, CO	1.0723
	Adams County, CO.	
	Arapahoe County, CO.	

TABLE 1.—PROPOSED WAGE INDEX FOR URBAN AREAS BASED ON CBSA LABOR MARKET AREAS—Continued

CBSA code	Urban area (constituent counties)	Wage index
	Broomfield County, CO.	
	Clear Creek County, CO.	
	Denver County, CO.	
	Douglas County, CO.	
	Elbert County, CO.	
	Gilpin County, CO.	
	Jefferson County, CO.	
	Park County, CO.	
19780	Des Moines-West Des Moines, IA	0.9669
	Dallas County, IA.	
	Guthrie County, IA.	
	Madison County, IA.	
	Polk County, IA.	
	Warren County, IA.	
19804	Detroit-Livonia-Dearborn, MI	1.0424
	Wayne County, MI.	
20020	Dothan, AL	0.7721
	Geneva County, AL.	
	Henry County, AL.	
	Houston County, AL.	
20100	Dover, DE	0.9776
	Kent County, DE.	
20220	Dubuque, IA	0.9024
	Dubuque County, IA.	
20260	Duluth, MN-WI	1.0213
	Carlton County, MN.	
	St. Louis County, MN.	
	Douglas County, WI.	
20500	Durham, NC	1.0244
	Chatham County, NC.	
	Durham County, NC.	
	Orange County, NC.	
	Person County, NC.	
20740	Eau Claire, WI	0.9201
	Chippewa County, WI.	
	Eau Claire County, WI.	
20764	Edison, NJ	1.1249
	Middlesex County, NJ.	
	Monmouth County, NJ.	
	Ocean County, NJ.	
	Somerset County, NJ.	
20940	El Centro, CA	0.8906
	Imperial County, CA.	
21060	Elizabethtown, KY	0.8802
	Hardin County, KY.	
	Larue County, KY.	
21140	Elkhart-Goshen, IN	0.9627
	Elkhart County, IN.	
21300	Elmira, NY	0.8250
	Chemung County, NY.	
21340	El Paso, TX	0.8977
	El Paso County, TX.	
21500	Erie, PA	0.8737
	Erie County, PA.	
21604	Essex County, MA	1.0538
	Essex County, MA.	
21660	Eugene-Springfield, OR	1.0818
	Lane County, OR.	
21780	Evansville, IN-KY	0.8713
	Gibson County, IN.	
	Posey County, IN.	
	Vanderburgh County, IN.	
	Warrick County, IN.	
	Henderson County, KY.	
	Webster County, KY.	
21820	Fairbanks, AK	1.1408
	Fairbanks North Star Borough, AK.	
21940	Fajardo, PR	0.4153
	Ceiba Municipio, PR.	
	Fajardo Municipio, PR.	
	Luquillo Municipio, PR.	

TABLE 1.—PROPOSED WAGE INDEX FOR URBAN AREAS BASED ON CBSA LABOR MARKET AREAS—Continued

CBSA code	Urban area (constituent counties)	Wage index
22020	Fargo, ND-MN	0.8486
	Cass County, ND.	
	Clay County, MN.	
22140	Farmington, NM	0.8509
	San Juan County, NM.	
22180	Fayetteville, NC	0.9416
	Cumberland County, NC.	
	Hoke County, NC.	
22220	Fayetteville-Springdale-Rogers, AR-MO	0.8661
	Benton County, AR.	
	Madison County, AR.	
	Washington County, AR.	
	McDonald County, MO.	
22380	Flagstaff, AZ	1.2092
	Coconino County, AZ.	
22420	Flint, MI	1.0655
	Genesee County, MI.	
22500	Florence, SC	0.8947
	Darlington County, SC.	
	Florence County, SC.	
22520	Florence-Muscle Shoals, AL	0.8272
	Colbert County, AL.	
	Lauderdale County, AL.	
22540	Fond du Lac, WI	0.9640
	Fond du Lac County, WI.	
22660	Fort Collins-Loveland, CO	1.0122
	Larimer County, CO.	
22744	Fort Lauderdale-Pompano Beach-Deerfield Beach, FL	1.0432
	Broward County, FL.	
22900	Fort Smith, AR-OK	0.8230
	Crawford County, AR.	
	Franklin County, AR.	
	Sebastian County, AR.	
	Le Flore County, OK.	
	Sequoyah County, OK.	
23020	Fort Walton Beach-Crestview-Destin, FL	0.8872
	Okaloosa County, FL.	
23060	Fort Wayne, IN	0.9793
	Allen County, IN.	
	Wells County, IN.	
	Whitley County, IN.	
23104	Fort Worth-Arlington, TX	0.9486
	Johnson County, TX.	
	Parker County, TX.	
	Tarrant County, TX.	
	Wise County, TX.	
23420	Fresno, CA	1.0538
	Fresno County, CA.	
23460	Gadsden, AL	0.7938
	Etowah County, AL.	
23540	Gainesville, FL	0.9388
	Alachua County, FL.	
	Gilchrist County, FL.	
23580	Gainesville, GA	0.8874
	Hall County, GA.	
23844	Gary, IN	0.9395
	Jasper County, IN.	
	Lake County, IN.	
	Newton County, IN.	
	Porter County, IN.	
24020	Glens Falls, NY	0.8559
	Warren County, NY.	
	Washington County, NY.	
24140	Goldsboro, NC	0.8775
	Wayne County, NC.	
24220	Grand Forks, ND-MN	0.7901
	Polk County, MN.	
	Grand Forks County, ND.	
24300	Grand Junction, CO	0.9550
	Mesa County, CO.	
24340	Grand Rapids-Wyoming, MI	0.9390

TABLE 1.—PROPOSED WAGE INDEX FOR URBAN AREAS BASED ON CBSA LABOR MARKET AREAS—Continued

CBSA code	Urban area (constituent counties)	Wage index
	Barry County, MI.	
	Ionia County, MI.	
	Kent County, MI.	
	Newaygo County, MI.	
24500	Great Falls, MT	0.9052
	Cascade County, MT.	
24540	Greeley, CO	0.9570
	Weld County, CO.	
24580	Green Bay, WI	0.9483
	Brown County, WI.	
	Kewaunee County, WI.	
	Oconto County, WI.	
24660	Greensboro-High Point, NC	0.9104
	Guilford County, NC.	
	Randolph County, NC.	
	Rockingham County, NC.	
24780	Greenville, NC	0.9425
	Greene County, NC.	
	Pitt County, NC.	
24860	Greenville, SC	1.0027
	Greenville County, SC.	
	Laurens County, SC.	
	Pickens County, SC.	
25020	Guayama, PR	0.3181
	Arroyo Municipio, PR.	
	Guayama Municipio, PR.	
	Patillas Municipio, PR.	
25060	Gulfport-Biloxi, MS	0.8929
	Hancock County, MS.	
	Harrison County, MS.	
	Stone County, MS.	
25180	Hagerstown-Martinsburg, MD-WV	0.9489
	Washington County, MD.	
	Berkeley County, WV.	
	Morgan County, WV.	
25260	Hanford-Corcoran, CA	1.0036
	Kings County, CA.	
25420	Harrisburg-Carlisle, PA	0.9313
	Cumberland County, PA.	
	Dauphin County, PA.	
	Perry County, PA.	
25500	Harrisonburg, VA	0.9088
	Rockingham County, VA.	
	Harrisonburg City, VA.	
25540	Hartford-West Hartford-East Hartford, CT	1.1073
	Hartford County, CT.	
	Litchfield County, CT.	
	Middlesex County, CT.	
	Tolland County, CT.	
25620	Hattiesburg, MS	0.7601
	Forrest County, MS.	
	Lamar County, MS.	
	Perry County, MS.	
25860	Hickory-Lenoir-Morganton, NC	0.8921
	Alexander County, NC.	
	Burke County, NC.	
	Caldwell County, NC.	
	Catawba County, NC.	
25980	Hinesville-Fort Stewart, GA1	0.9198
	Liberty County, GA.	
	Long County, GA.	
26100	Holland-Grand Haven, MI	0.9055
	Ottawa County, MI.	
26180	Honolulu, HI	1.1214
	Honolulu County, HI.	
26300	Hot Springs, AR	0.9005
	Garland County, AR.	
26380	Houma-Bayou Cane-Thibodaux, LA	0.7894
	Lafourche Parish, LA.	
	Terrebonne Parish, LA.	
26420	Houston-Sugar Land-Baytown, TX	0.9996

TABLE 1.—PROPOSED WAGE INDEX FOR URBAN AREAS BASED ON CBSA LABOR MARKET AREAS—Continued

CBSA code	Urban area (constituent counties)	Wage index
	Austin County, TX.	
	Brazoria County, TX.	
	Chambers County, TX.	
	Fort Bend County, TX.	
	Galveston County, TX.	
	Harris County, TX.	
	Liberty County, TX.	
	Montgomery County, TX.	
	San Jacinto County, TX.	
	Waller County, TX.	
26580	Huntington-Ashland, WV-KY-OH	0.9477
	Boyd County, KY.	
	Greenup County, KY.	
	Lawrence County, OH.	
	Cabell County, WV.	
	Wayne County, WV.	
26620	Huntsville, AL	0.9146
	Limestone County, AL.	
	Madison County, AL.	
26820	Idaho Falls, ID	0.9420
	Bonneville County, ID.	
	Jefferson County, ID.	
26900	Indianapolis-Carmel, IN	0.9920
	Boone County, IN.	
	Brown County, IN.	
	Hamilton County, IN.	
	Hancock County, IN.	
	Hendricks County, IN.	
	Johnson County, IN.	
	Marion County, IN.	
	Morgan County, IN.	
	Putnam County, IN.	
	Shelby County, IN.	
26980	Iowa City, IA	0.9747
	Johnson County, IA.	
	Washington County, IA.	
27060	Ithaca, NY	0.9793
	Tompkins County, NY.	
27100	Jackson, MI	0.9304
	Jackson County, MI.	
27140	Jackson, MS	0.8311
	Copiah County, MS.	
	Hinds County, MS.	
	Madison County, MS.	
	Rankin County, MS.	
	Simpson County, MS.	
27180	Jackson, TN	0.8964
	Chester County, TN.	
	Madison County, TN.	
27260	Jacksonville, FL	0.9290
	Baker County, FL.	
	Clay County, FL.	
	Duval County, FL.	
	Nassau County, FL.	
	St. Johns County, FL.	
27340	Jacksonville, NC	0.8236
	Onslow County, NC.	
27500	Janesville, WI	0.9538
	Rock County, WI.	
27620	Jefferson City, MO	0.8387
	Callaway County, MO.	
	Cole County, MO.	
	Moniteau County, MO.	
	Osage County, MO.	
27740	Johnson City, TN	0.7937
	Carter County, TN.	
	Unicoi County, TN.	
	Washington County, TN.	
27780	Johnstown, PA	0.8354
	Cambria County, PA.	
27860	Jonesboro, AR	0.7911

TABLE 1.—PROPOSED WAGE INDEX FOR URBAN AREAS BASED ON CBSA LABOR MARKET AREAS—Continued

CBSA code	Urban area (constituent counties)	Wage index
	Craighead County, AR.	
	Poinsett County, AR.	
27900	Joplin, MO	0.8582
	Jasper County, MO.	
	Newton County, MO.	
28020	Kalamazoo-Portage, MI	1.0381
	Kalamazoo County, MI.	
	Van Buren County, MI.	
28100	Kankakee-Bradley, IL	1.0721
	Kankakee County, IL.	
28140	Kansas City, MO-KS	0.9476
	Franklin County, KS.	
	Johnson County, KS.	
	Leavenworth County, KS.	
	Linn County, KS.	
	Miami County, KS.	
	Wyandotte County, KS.	
	Bates County, MO.	
	Caldwell County, MO.	
	Cass County, MO.	
	Clay County, MO.	
	Clinton County, MO.	
	Jackson County, MO.	
	Lafayette County, MO.	
	Platte County, MO.	
	Ray County, MO.	
28420	Kennewick-Richland-Pasco, WA	1.0619
	Benton County, WA.	
	Franklin County, WA.	
28660	Killeen-Temple-Fort Hood, TX	0.8526
	Bell County, TX.	
	Coryell County, TX.	
	Lampasas County, TX.	
28700	Kingsport-Bristol-Bristol, TN-VA	0.8054
	Hawkins County, TN.	
	Sullivan County, TN.	
	Bristol City, VA.	
	Scott County, VA.	
	Washington County, VA.	
28740	Kingston, NY	0.9255
	Ulster County, NY.	
28940	Knoxville, TN	0.8441
	Anderson County, TN.	
	Blount County, TN.	
	Knox County, TN.	
	Loudon County, TN.	
	Union County, TN.	
29020	Kokomo, IN	0.9508
	Howard County, IN.	
	Tipton County, IN.	
29100	La Crosse, WI-MN	0.9564
	Houston County, MN.	
	La Crosse County, WI.	
29140	Lafayette, IN	0.8736
	Benton County, IN.	
	Carroll County, IN.	
	Tippecanoe County, IN.	
29180	Lafayette, LA	0.8428
	Lafayette Parish, LA.	
	St. Martin Parish, LA.	
29340	Lake Charles, LA	0.7833
	Calcasieu Parish, LA.	
	Cameron Parish, LA.	
29404	Lake County-Kenosha County, IL-WI	1.0429
	Lake County, IL.	
	Kenosha County, WI.	
29460	Lakeland, FL	0.8912
	Polk County, FL.	
29540	Lancaster, PA	0.9694
	Lancaster County, PA.	
29620	Lansing-East Lansing, MI	0.9794

TABLE 1.—PROPOSED WAGE INDEX FOR URBAN AREAS BASED ON CBSA LABOR MARKET AREAS—Continued

CBSA code	Urban area (constituent counties)	Wage index
	Clinton County, MI.	
	Eaton County, MI.	
	Ingham County, MI.	
29700	Laredo, TX	0.8068
	Webb County, TX.	
29740	Las Cruces, NM	0.8467
	Dona Ana County, NM.	
29820	Las Vegas-Paradise, NV	1.1437
	Clark County, NV.	
29940	Lawrence, KS	0.8537
	Douglas County, KS.	
30020	Lawton, OK	0.7872
	Comanche County, OK.	
30140	Lebanon, PA	0.8459
	Lebanon County, PA.	
30300	Lewiston, ID-WA	0.9886
	Nez Perce County, ID.	
	Asotin County, WA.	
30340	Lewiston-Auburn, ME	0.9331
	Androscoggin County, ME.	
30460	Lexington-Fayette, KY	0.9075
	Bourbon County, KY.	
	Clark County, KY.	
	Fayette County, KY.	
	Jessamine County, KY.	
	Scott County, KY.	
	Woodford County, KY.	
30620	Lima, OH	0.9225
	Allen County, OH.	
30700	Lincoln, NE	1.0214
	Lancaster County, NE.	
	Seward County, NE.	
30780	Little Rock-North Little Rock, AR	0.8747
	Faulkner County, AR.	
	Grant County, AR.	
	Lonoke County, AR.	
	Perry County, AR.	
	Pulaski County, AR.	
	Saline County, AR.	
30860	Logan, UT-ID	0.9164
	Franklin County, ID.	
	Cache County, UT.	
30980	Longview, TX	0.8730
	Gregg County, TX.	
	Rusk County, TX.	
	Upshur County, TX.	
31020	Longview, WA	0.9579
	Cowlitz County, WA.	
31084	Los Angeles-Long Beach-Glendale, CA	1.1783
	Los Angeles County, CA.	
31140	Louisville-Jefferson County, KY-IN	0.9251
	Clark County, IN.	
	Floyd County, IN.	
	Harrison County, IN.	
	Washington County, IN.	
	Bullitt County, KY.	
	Henry County, KY.	
	Jefferson County, KY.	
	Meade County, KY.	
	Nelson County, KY.	
	Oldham County, KY.	
	Shelby County, KY.	
	Spencer County, KY.	
	Trimble County, KY.	
31180	Lubbock, TX	0.8783
	Crosby County, TX.	
	Lubbock County, TX.	
31340	Lynchburg, VA	0.8691
	Amherst County, VA.	
	Appomattox County, VA.	
	Bedford County, VA.	

TABLE 1.—PROPOSED WAGE INDEX FOR URBAN AREAS BASED ON CBSA LABOR MARKET AREAS—Continued

CBSA code	Urban area (constituent counties)	Wage index
	Campbell County, VA.	
	Bedford City, VA.	
	Lynchburg City, VA.	
31420	Macon, GA	0.9443
	Bibb County, GA.	
	Crawford County, GA.	
	Jones County, GA.	
	Monroe County, GA.	
	Twiggs County, GA.	
31460	Madera, CA	0.8713
	Madera County, CA.	
31540	Madison, WI	1.0659
	Columbia County, WI.	
	Dane County, WI.	
	Iowa County, WI.	
31700	Manchester-Nashua, NH	1.0354
	Hillsborough County, NH.	
	Merrimack County, NH.	
31900	Mansfield, OH	0.9891
	Richland County, OH.	
32420	Mayagüez, PR	0.4020
	Hormigueros Municipio, PR.	
	Mayagüez Municipio, PR.	
32580	McAllen-Edinburg-Mission, TX	0.8934
	Hidalgo County, TX.	
32780	Medford, OR	1.0225
	Jackson County, OR.	
32820	Memphis, TN-MS-AR	0.9397
	Crittenden County, AR.	
	DeSoto County, MS.	
	Marshall County, MS.	
	Tate County, MS.	
	Tunica County, MS.	
	Fayette County, TN.	
	Shelby County, TN.	
	Tipton County, TN.	
32900	Merced, CA	1.1109
	Merced County, CA.	
33124	Miami-Miami Beach-Kendall, FL	0.9750
	Miami-Dade County, FL.	
33140	Michigan City-La Porte, IN	0.9399
	LaPorte County, IN.	
33260	Midland, TX	0.9514
	Midland County, TX.	
33340	Milwaukee-Waukesha-West Allis, WI	1.0146
	Milwaukee County, WI.	
	Ozaukee County, WI.	
	Washington County, WI.	
	Waukesha County, WI.	
33460	Minneapolis-St. Paul-Bloomington, MN-WI	1.1075
	Anoka County, MN.	
	Carver County, MN.	
	Chisago County, MN.	
	Dakota County, MN.	
	Hennepin County, MN.	
	Isanti County, MN.	
	Ramsey County, MN.	
	Scott County, MN.	
	Sherburne County, MN.	
	Washington County, MN.	
	Wright County, MN.	
	Pierce County, WI.	
	St. Croix County, WI.	
33540	Missoula, MT	0.9473
	Missoula County, MT.	
33660	Mobile, AL	0.7891
	Mobile County, AL.	
33700	Modesto, CA	1.1885
	Stanislaus County, CA.	
33740	Monroe, LA	0.8031
	Ouachita Parish, LA.	

TABLE 1.—PROPOSED WAGE INDEX FOR URBAN AREAS BASED ON CBSA LABOR MARKET AREAS—Continued

CBSA code	Urban area (constituent counties)	Wage index
	Union Parish, LA.	
33780	Monroe, MI	0.9468
	Monroe County, MI.	
33860	Montgomery, AL	0.8618
	Autauga County, AL.	
	Elmore County, AL.	
	Lowndes County, AL.	
	Montgomery County, AL.	
34060	Morgantown, WV	0.8420
	Monongalia County, WV.	
	Preston County, WV.	
34100	Morristown, TN	0.7961
	Grainger County, TN.	
	Hamblen County, TN.	
	Jefferson County, TN.	
34580	Mount Vernon-Anacortes, WA	1.0454
	Skagit County, WA.	
34620	Muncie, IN	0.8930
	Delaware County, IN.	
34740	Muskegon-Norton Shores, MI	0.9664
	Muskegon County, MI.	
34820	Myrtle Beach-Conway-North Myrtle Beach, SC	0.8934
	Horry County, SC.	
34900	Napa, CA	1.2643
	Napa County, CA.	
34940	Naples-Marco Island, FL	1.0139
	Collier County, FL.	
34980	Nashville-Davidson--Murfreesboro, TN	0.9790
	Cannon County, TN.	
	Cheatham County, TN.	
	Davidson County, TN.	
	Dickson County, TN.	
	Hickman County, TN.	
	Macon County, TN.	
	Robertson County, TN.	
	Rutherford County, TN.	
	Smith County, TN.	
	Sumner County, TN.	
	Trousdale County, TN.	
	Williamson County, TN.	
	Wilson County, TN.	
35004	Nassau-Suffolk, NY	1.2719
	Nassau County, NY.	
	Suffolk County, NY.	
35084	Newark-Union, NJ-PA	1.1883
	Essex County, NJ.	
	Hunterdon County, NJ.	
	Morris County, NJ.	
	Sussex County, NJ.	
	Union County, NJ.	
	Pike County, PA.	
35300	New Haven-Milford, CT	1.1887
	New Haven County, CT.	
35380	New Orleans-Metairie-Kenner, LA	0.8995
	Jefferson Parish, LA.	
	Orleans Parish, LA.	
	Plaquemines Parish, LA.	
	St. Bernard Parish, LA.	
	St. Charles Parish, LA.	
	St. John the Baptist Parish, LA.	
	St. Tammany Parish, LA.	
35644	New York-White Plains-Wayne, NY-NJ	1.3188
	Bergen County, NJ.	
	Hudson County, NJ.	
	Passaic County, NJ.	
	Bronx County, NY.	
	Kings County, NY.	
	New York County, NY.	
	Putnam County, NY.	
	Queens County, NY.	
	Richmond County, NY.	

TABLE 1.—PROPOSED WAGE INDEX FOR URBAN AREAS BASED ON CBSA LABOR MARKET AREAS—Continued

CBSA code	Urban area (constituent counties)	Wage index
	Rockland County, NY.	
	Westchester County, NY.	
35660	Niles-Benton Harbor, MI	0.8879
	Berrien County, MI.	
35980	Norwich-New London, CT	1.1345
	New London County, CT.	
36084	Oakland-Fremont-Hayward, CA	1.5346
	Alameda County, CA.	
	Contra Costa County, CA.	
36100	Ocala, FL	0.8925
	Marion County, FL.	
36140	Ocean City, NJ	1.1011
	Cape May County, NJ.	
36220	Odessa, TX	0.9884
	Ector County, TX.	
36260	Ogden-Clearfield, UT	0.9029
	Davis County, UT.	
	Morgan County, UT.	
	Weber County, UT.	
36420	Oklahoma City, OK	0.9031
	Canadian County, OK.	
	Cleveland County, OK.	
	Grady County, OK.	
	Lincoln County, OK.	
	Logan County, OK.	
	McClain County, OK.	
	Oklahoma County, OK.	
36500	Olympia, WA	1.0927
	Thurston County, WA.	
36540	Omaha-Council Bluffs, NE-IA	0.9560
	Harrison County, IA.	
	Mills County, IA.	
	Pottawattamie County, IA.	
	Cass County, NE.	
	Douglas County, NE.	
	Sarpy County, NE.	
	Saunders County, NE.	
	Washington County, NE.	
36740	Orlando-Kissimmee, FL	0.9464
	Lake County, FL.	
	Orange County, FL.	
	Osceola County, FL.	
	Seminole County, FL.	
36780	Oshkosh-Neenah, WI	0.9183
	Winnebago County, WI.	
36980	Owensboro, KY	0.8780
	Daviess County, KY.	
	Hancock County, KY.	
	McLean County, KY.	
37100	Oxnard-Thousand Oaks-Ventura, CA	1.1622
	Ventura County, CA.	
37340	Palm Bay-Melbourne-Titusville, FL	0.9839
	Brevard County, FL.	
37460	Panama City-Lynn Haven, FL	0.8005
	Bay County, FL.	
37620	Parkersburg-Marietta-Vienna, WV-OH	0.8270
	Washington County, OH.	
	Pleasants County, WV.	
	Wirt County, WV.	
	Wood County, WV.	
37700	Pascagoula, MS	0.8156
	George County, MS.	
	Jackson County, MS.	
37860	Pensacola-Ferry Pass-Brent, FL	0.8096
	Escambia County, FL.	
	Santa Rosa County, FL.	
37900	Peoria, IL	0.8870
	Marshall County, IL.	
	Peoria County, IL.	
	Stark County, IL.	
	Tazewell County, IL.	

TABLE 1.—PROPOSED WAGE INDEX FOR URBAN AREAS BASED ON CBSA LABOR MARKET AREAS—Continued

CBSA code	Urban area (constituent counties)	Wage index
	Woodford County, IL.	
37964	Philadelphia, PA	1.1038
	Bucks County, PA.	
	Chester County, PA.	
	Delaware County, PA.	
	Montgomery County, PA.	
	Philadelphia County, PA.	
38060	Phoenix-Mesa-Scottsdale, AZ	1.0127
	Maricopa County, AZ.	
	Pinal County, AZ.	
38220	Pine Bluff, AR	0.8680
	Cleveland County, AR.	
	Jefferson County, AR.	
	Lincoln County, AR.	
38300	Pittsburgh, PA	0.8845
	Allegheny County, PA.	
	Armstrong County, PA.	
	Beaver County, PA.	
	Butler County, PA.	
	Fayette County, PA.	
	Washington County, PA.	
	Westmoreland County, PA.	
38340	Pittsfield, MA	1.0181
	Berkshire County, MA.	
38540	Pocatello, ID	0.9351
	Bannock County, ID.	
	Power County, ID.	
38660	Ponce, PR	0.4939
	Juana Díaz Municipio, PR.	
	Ponce Municipio, PR.	
	Villalba Municipio, PR.	
38860	Portland-South Portland-Biddeford, ME	1.0382
	Cumberland County, ME.	
	Sagadahoc County, ME.	
	York County, ME.	
38900	Portland-Vancouver-Beaverton, OR-WA	1.1266
	Clackamas County, OR.	
	Columbia County, OR.	
	Multnomah County, OR.	
	Washington County, OR.	
	Yamhill County, OR.	
	Clark County, WA.	
	Skamania County, WA.	
38940	Port St. Lucie-Fort Pierce, FL	1.0123
	Martin County, FL.	
	St. Lucie County, FL.	
39100	Poughkeepsie-Newburgh-Middletown, NY	1.0891
	Dutchess County, NY.	
	Orange County, NY.	
39140	Prescott, AZ	0.9869
	Yavapai County, AZ.	
39300	Providence-New Bedford-Fall River, RI-MA	1.0966
	Bristol County, MA.	
	Bristol County, RI.	
	Kent County, RI.	
	Newport County, RI.	
	Providence County, RI.	
	Washington County, RI.	
39340	Provo-Orem, UT	0.9500
	Juab County, UT.	
	Utah County, UT.	
39380	Pueblo, CO	0.8623
	Pueblo County, CO.	
39460	Punta Gorda, FL	0.9255
	Charlotte County, FL.	
39540	Racine, WI	0.8997
	Racine County, WI.	
39580	Raleigh-Cary, NC	0.9691
	Franklin County, NC.	
	Johnston County, NC.	
	Wake County, NC.	

TABLE 1.—PROPOSED WAGE INDEX FOR URBAN AREAS BASED ON CBSA LABOR MARKET AREAS—Continued

CBSA code	Urban area (constituent counties)	Wage index
39660	Rapid City, SD	0.8987
	Meade County, SD.	
	Pennington County, SD.	
39740	Reading, PA	0.9686
	Berks County, PA.	
39820	Redding, CA	1.2203
	Shasta County, CA.	
39900	Reno-Sparks, NV	1.0982
	Storey County, NV.	
	Washoe County, NV.	
40060	Richmond, VA	0.9328
	Amelia County, VA.	
	Caroline County, VA.	
	Charles City County, VA.	
	Chesterfield County, VA.	
	Cumberland County, VA.	
	Dinwiddie County, VA.	
	Goochland County, VA.	
	Hanover County, VA.	
	Henrico County, VA.	
	King and Queen County, VA.	
	King William County, VA.	
	Louisa County, VA.	
	New Kent County, VA.	
	Powhatan County, VA.	
	Prince George County, VA.	
	Sussex County, VA.	
	Colonial Heights City, VA.	
	Hopewell City, VA.	
	Petersburg City, VA.	
	Richmond City, VA.	
40140	Riverside-San Bernardino-Ontario, CA	1.1027
	Riverside County, CA.	
	San Bernardino County, CA.	
40220	Roanoke, VA	0.8374
	Botetourt County, VA.	
	Craig County, VA.	
	Franklin County, VA.	
	Roanoke County, VA.	
	Roanoke City, VA.	
	Salem City, VA.	
40340	Rochester, MN	1.1131
	Dodge County, MN.	
	Olmsted County, MN.	
	Wabasha County, MN.	
40380	Rochester, NY	0.9121
	Livingston County, NY.	
	Monroe County, NY.	
	Ontario County, NY.	
	Orleans County, NY.	
	Wayne County, NY.	
40420	Rockford, IL	0.9984
	Boone County, IL.	
	Winnebago County, IL.	
40484	Rockingham County-Strafford County, NH	1.0374
	Rockingham County, NH.	
	Strafford County, NH.	
40580	Rocky Mount, NC	0.8915
	Edgecombe County, NC.	
	Nash County, NC.	
40660	Rome, GA	0.9414
	Floyd County, GA.	
40900	Sacramento—Arden-Arcade—Roseville, CA	1.2969
	El Dorado County, CA.	
	Placer County, CA.	
	Sacramento County, CA.	
	Yolo County, CA.	
40980	Saginaw-Saginaw Township North, MI	0.9088
	Saginaw County, MI.	
41060	St. Cloud, MN	0.9965
	Benton County, MN.	

TABLE 1.—PROPOSED WAGE INDEX FOR URBAN AREAS BASED ON CBSA LABOR MARKET AREAS—Continued

CBSA code	Urban area (constituent counties)	Wage index
	Stearns County, MN.	
41100	St. George, UT	0.9392
	Washington County, UT.	
41140	St. Joseph, MO-KS	0.9519
	Doniphan County, KS.	
	Andrew County, MO.	
	Buchanan County, MO.	
	DeKalb County, MO.	
41180	St. Louis, MO-IL	0.8954
	Bond County, IL.	
	Calhoun County, IL.	
	Clinton County, IL.	
	Jersey County, IL.	
	Macoupin County, IL.	
	Madison County, IL.	
	Monroe County, IL.	
	St. Clair County, IL.	
	Crawford County, MO.	
	Franklin County, MO.	
	Jefferson County, MO.	
	Lincoln County, MO.	
	St. Charles County, MO.	
	St. Louis County, MO.	
	Warren County, MO.	
	Washington County, MO.	
	St. Louis City, MO.	
41420	Salem, OR	1.0442
	Marion County, OR.	
	Polk County, OR.	
41500	Salinas, CA	1.4128
	Monterey County, CA.	
41540	Salisbury, MD	0.9064
	Somerset County, MD.	
	Wicomico County, MD.	
41620	Salt Lake City, UT	0.9421
	Salt Lake County, UT.	
	Summit County, UT.	
	Tooele County, UT.	
41660	San Angelo, TX	0.8271
	Irion County, TX.	
	Tom Green County, TX.	
41700	San Antonio, TX	0.8980
	Atascosa County, TX.	
	Bandera County, TX.	
	Bexar County, TX.	
	Comal County, TX.	
	Guadalupe County, TX.	
	Kendall County, TX.	
	Medina County, TX.	
	Wilson County, TX.	
41740	San Diego-Carlsbad-San Marcos, CA	1.1413
	San Diego County, CA.	
41780	Sandusky, OH	0.9019
	Erie County, OH.	
41884	San Francisco-San Mateo-Redwood City, CA	1.4994
	Marin County, CA.	
	San Francisco County, CA.	
	San Mateo County, CA.	
41900	San Germán-Cabo Rojo, PR	0.4650
	Cabo Rojo Municipio, PR.	
	Lajas Municipio, PR.	
	Sabana Grande Municipio, PR.	
	San Germán Municipio, PR.	
41940	San Jose-Sunnyvale-Santa Clara, CA	1.5099
	San Benito County, CA.	
	Santa Clara County, CA.	
41980	San Juan-Caguas-Guaynabo, PR	0.4621
	Aguas Buenas Municipio, PR.	
	Aibonito Municipio, PR.	
	Arecibo Municipio, PR.	
	Barceloneta Municipio, PR.	

TABLE 1.—PROPOSED WAGE INDEX FOR URBAN AREAS BASED ON CBSA LABOR MARKET AREAS—Continued

CBSA code	Urban area (constituent counties)	Wage index
	Barranquitas Municipio, PR. Bayamón Municipio, PR. Caguas Municipio, PR. Camuy Municipio, PR. Canóvanas Municipio, PR. Carolina Municipio, PR. Cataño Municipio, PR. Cayey Municipio, PR. Ciales Municipio, PR. Cidra Municipio, PR. Comerío Municipio, PR. Corozal Municipio, PR. Dorado Municipio, PR. Florida Municipio, PR. Guaynabo Municipio, PR. Gurabo Municipio, PR. Hatillo Municipio, PR. Humacao Municipio, PR. Juncos Municipio, PR. Las Piedras Municipio, PR. Loíza Municipio, PR. Manatí Municipio, PR. Maunabo Municipio, PR. Morovis Municipio, PR. Naguabo Municipio, PR. Naranjito Municipio, PR. Orocovis Municipio, PR. Quebradillas Municipio, PR. Río Grande Municipio, PR. San Juan Municipio, PR. San Lorenzo Municipio, PR. Toa Alta Municipio, PR. Toa Baja Municipio, PR. Trujillo Alto Municipio, PR. Vega Alta Municipio, PR. Vega Baja Municipio, PR. Yabucoa Municipio, PR.	
42020	San Luis Obispo-Paso Robles, CA San Luis Obispo County, CA.	1.1349
42044	Santa Ana-Anaheim-Irvine, CA Orange County, CA.	1.1559
42060	Santa Barbara-Santa Maria, CA Santa Barbara County, CA.	1.1694
42100	Santa Cruz-Watsonville, CA Santa Cruz County, CA.	1.5166
42140	Santa Fe, NM Santa Fe County, NM.	1.0920
42220	Santa Rosa-Petaluma, CA Sonoma County, CA.	1.3493
42260	Sarasota-Bradenton-Venice, FL Manatee County, FL. Sarasota County, FL.	0.9639
42340	Savannah, GA Bryan County, GA. Chatham County, GA. Effingham County, GA.	0.9461
42540	Scranton-Wilkes-Barre, PA Lackawanna County, PA. Luzerne County, PA. Wyoming County, PA.	0.8540
42644	Seattle-Bellevue-Everett, WA	1.1577
42680	Sebastian-Vero Beach, FL Indian River County, FL.	0.9434
43100	Sheboygan, WI Sheboygan County, WI.	0.8911
43300	Sherman-Denison, TX Grayson County, TX.	0.9507
43340	Shreveport-Bossier City, LA Bossier Parish, LA. Caddo Parish, LA. De Soto Parish, LA.	0.8760

TABLE 1.—PROPOSED WAGE INDEX FOR URBAN AREAS BASED ON CBSA LABOR MARKET AREAS—Continued

CBSA code	Urban area (constituent counties)	Wage index
43580	Sioux City, IA-NE-SD	0.9381
	Woodbury County, IA.	
	Dakota County, NE.	
	Dixon County, NE.	
	Union County, SD.	
43620	Sioux Falls, SD	0.9635
	Lincoln County, SD.	
	McCook County, SD.	
	Minnehaha County, SD.	
	Turner County, SD.	
43780	South Bend-Mishawaka, IN-MI	0.9788
	St. Joseph County, IN.	
	Cass County, MI.	
43900	Spartanburg, SC	0.9172
	Spartanburg County, SC.	
44060	Spokane, WA	1.0905
	Spokane County, WA.	
44100	Springfield, IL	0.8792
	Menard County, IL.	
	Sangamon County, IL.	
44140	Springfield, MA	1.0248
	Franklin County, MA.	
	Hampden County, MA.	
	Hampshire County, MA.	
44180	Springfield, MO	0.8237
	Christian County, MO.	
	Dallas County, MO.	
	Greene County, MO.	
	Polk County, MO.	
	Webster County, MO.	
44220	Springfield, OH	0.8396
	Clark County, OH.	
44300	State College, PA	0.8356
	Centre County, PA.	
44700	Stockton, CA	1.1307
	San Joaquin County, CA.	
44940	Sumter, SC	0.8377
	Sumter County, SC.	
45060	Syracuse, NY	0.9574
	Madison County, NY.	
	Onondaga County, NY.	
	Oswego County, NY.	
45104	Tacoma, WA	1.0742
	Pierce County, WA.	
45220	Tallahassee, FL	0.8688
	Gadsden County, FL.	
	Jefferson County, FL.	
	Leon County, FL.	
	Wakulla County, FL.	
45300	Tampa-St. Petersburg-Clearwater, FL	0.9233
	Hernando County, FL.	
	Hillsborough County, FL.	
	Pasco County, FL.	
	Pinellas County, FL.	
45460	Terre Haute, IN	0.8304
	Clay County, IN.	
	Sullivan County, IN.	
	Vermillion County, IN.	
	Vigo County, IN.	
45500	Texarkana, TX-Texarkana, AR	0.8283
	Miller County, AR.	
	Bowie County, TX.	
45780	Toledo, OH	0.9574
	Fulton County, OH.	
	Lucas County, OH.	
	Ottawa County, OH.	
	Wood County, OH.	
45820	Topeka, KS	0.8920
	Jackson County, KS.	
	Jefferson County, KS.	
	Osage County, KS.	

TABLE 1.—PROPOSED WAGE INDEX FOR URBAN AREAS BASED ON CBSA LABOR MARKET AREAS—Continued

CBSA code	Urban area (constituent counties)	Wage index
	Shawnee County, KS.	
	Wabaunsee County, KS.	
45940	Trenton-Ewing, NJ	1.0834
	Mercer County, NJ.	
46060	Tucson, AZ	0.9007
	Pima County, AZ.	
46140	Tulsa, OK	0.8543
	Creek County, OK.	
	Okmulgee County, OK.	
	Osage County, OK.	
	Pawnee County, OK.	
	Rogers County, OK.	
	Tulsa County, OK.	
	Wagoner County, OK.	
46220	Tuscaloosa, AL	0.8645
	Greene County, AL.	
	Hale County, AL.	
	Tuscaloosa County, AL.	
46340	Tyler, TX	0.9168
	Smith County, TX.	
46540	Utica-Rome, NY	0.8358
	Herkimer County, NY.	
	Oneida County, NY.	
46660	Valdosta, GA	0.8866
	Brooks County, GA.	
	Echols County, GA.	
	Lanier County, GA.	
	Lowndes County, GA.	
46700	Vallejo-Fairfield, CA	1.4936
	Solano County, CA.	
47020	Victoria, TX	0.8160
	Calhoun County, TX.	
	Goliad County, TX.	
	Victoria County, TX.	
47220	Vineland-Millville-Bridgeton, NJ	0.9827
	Cumberland County, NJ.	
47260	Virginia Beach-Norfolk-Newport News, VA-NC	0.8799
	Currituck County, NC.	
	Gloucester County, VA.	
	Isle of Wight County, VA.	
	James City County, VA.	
	Mathews County, VA.	
	Surry County, VA.	
	York County, VA.	
	Chesapeake City, VA.	
	Hampton City, VA.	
	Newport News City, VA.	
	Norfolk City, VA.	
	Poquoson City, VA.	
	Portsmouth City, VA.	
	Suffolk City, VA.	
	Virginia Beach City, VA.	
	Williamsburg City, VA.	
47300	Visalia-Porterville, CA	1.0123
	Tulare County, CA.	
47380	Waco, TX	0.8518
	McLennan County, TX.	
47580	Warner Robins, GA	0.8645
	Houston County, GA.	
47644	Warren-Troy-Farmington Hills, MI	0.9871
	Lapeer County, MI.	
	Livingston County, MI.	
	Macomb County, MI.	
	Oakland County, MI.	
	St. Clair County, MI.	
47894	Washington-Arlington-Alexandria, DC-VA-MD-WV	1.0926
	District of Columbia, DC.	
	Calvert County, MD.	
	Charles County, MD.	
	Prince George's County, MD.	
	Arlington County, VA.	

TABLE 1.—PROPOSED WAGE INDEX FOR URBAN AREAS BASED ON CBSA LABOR MARKET AREAS—Continued

CBSA code	Urban area (constituent counties)	Wage index
	Clarke County, VA.	
	Fairfax County, VA.	
	Fauquier County, VA.	
	Loudoun County, VA.	
	Prince William County, VA.	
	Spotsylvania County, VA.	
	Stafford County, VA.	
	Warren County, VA.	
	Alexandria City, VA.	
	Fairfax City, VA.	
	Falls Church City, VA.	
	Fredericksburg City, VA.	
	Manassas City, VA.	
	Manassas Park City, VA.	
	Jefferson County, WV.	
47940	Waterloo-Cedar Falls, IA	0.8557
	Black Hawk County, IA.	
	Bremer County, IA.	
	Grundy County, IA.	
48140	Wausau, WI	0.9590
	Marathon County, WI.	
48260	Weirton-Steubenville, WV-OH	0.7819
	Jefferson County, OH.	
	Brooke County, WV.	
	Hancock County, WV.	
48300	Wenatchee, WA	1.0070
	Chelan County, WA.	
	Douglas County, WA.	
48424	West Palm Beach-Boca Raton-Boynton Beach, FL	1.0067
	Palm Beach County, FL.	
48540	Wheeling, WV-OH	0.7161
	Belmont County, OH.	
	Marshall County, WV.	
	Ohio County, WV.	
48620	Wichita, KS	0.9153
	Butler County, KS.	
	Harvey County, KS.	
	Sedgwick County, KS.	
	Sumner County, KS.	
48660	Wichita Falls, TX	0.8285
	Archer County, TX.	
	Clay County, TX.	
	Wichita County, TX.	
48700	Williamsport, PA	0.8364
	Lycoming County, PA.	
48864	Wilmington, DE-MD-NJ	1.0471
	New Castle County, DE.	
	Cecil County, MD.	
	Salem County, NJ.	
48900	Wilmington, NC	0.9582
	Brunswick County, NC.	
	New Hanover County, NC.	
	Pender County, NC.	
49020	Winchester, VA-WV	1.0214
	Frederick County, VA.	
	Winchester City, VA.	
	Hampshire County, WV.	
49180	Winston-Salem, NC	0.8944
	Davie County, NC.	
	Forsyth County, NC.	
	Stokes County, NC.	
	Yadkin County, NC.	
49340	Worcester, MA	1.1028
	Worcester County, MA.	
49420	Yakima, WA	1.0155
	Yakima County, WA.	
49500	Yauco, PR	0.4408
	Guă≤nica Municipio, PR.	
	Guayanilla Municipio, PR.	
	Peñuelas Municipio, PR.	
	Yauco Municipio, PR.	

TABLE 1.—PROPOSED WAGE INDEX FOR URBAN AREAS BASED ON CBSA LABOR MARKET AREAS—Continued

CBSA code	Urban area (constituent counties)	Wage index
49620	York-Hanover, PA York County, PA.	0.9347
49660	Youngstown-Warren-Boardman, OH-PA Mahoning County, OH. Trumbull County, OH. Mercer County, PA.	0.8603
49700	Yuba City, CA Sutter County, CA. Yuba County, CA.	1.0921
49740	Yuma, AZ Yuma County, AZ.	0.9126

[1] At this time, there are no hospitals located in this urban area on which to base a wage index. Therefore, the urban wage index value is based on the average wage index for all urban areas within the State.

TABLE 2.—PROPOSED WAGE INDEX BASED ON CBSA LABOR MARKET AREAS FOR RURAL AREAS

CBSA code	Nonurban	Wage Index
01	Alabama	0.7446
02	Alaska	1.1977
03	Arizona	0.8768
04	Arkansas	0.7466
05	California	1.1054
06	Colorado	0.9380
07	Connecticut	1.1730
08	Delaware	0.9579
10	Florida	0.8568
11	Georgia	0.7662
12	Hawaii	1.0551
13	Idaho	0.8037
14	Illinois	0.8271
15	Indiana	0.8624
16	Iowa	0.8509
17	Kansas	0.8035
18	Kentucky	0.7766
19	Louisiana	0.7411
20	Maine	0.8843
21	Maryland	0.9353
22	Massachusetts [1]	1.0216
23	Michigan	0.8895
24	Minnesota	0.9132
25	Mississippi	0.7674
26	Missouri	0.7900
27	Montana	0.8762
28	Nebraska	0.8657
29	Nevada	0.9065
30	New Hampshire	1.0817
31	New Jersey [1]	.....

TABLE 2.—PROPOSED WAGE INDEX BASED ON CBSA LABOR MARKET AREAS FOR RURAL AREAS—Continued

CBSA code	Nonurban	Wage Index
32	New Mexico	0.8635
33	New York	0.8154
34	North Carolina	0.8540
35	North Dakota	0.7261
36	Ohio	0.8826
37	Oklahoma	0.7581
38	Oregon	0.9826
39	Pennsylvania	0.8291
40	Puerto Rico [1]	0.4047
41	Rhode Island [1]	.....
42	South Carolina	0.8638
43	South Dakota	0.8560
44	Tennessee	0.7895
45	Texas	0.8003
46	Utah	0.8118
47	Vermont	0.9830
48	Virginia	0.8013
50	Washington	1.0510
51	West Virginia	0.7717
52	Wisconsin	0.9509
53	Wyoming	0.9257

TABLE 2.—PROPOSED WAGE INDEX BASED ON CBSA LABOR MARKET AREAS FOR RURAL AREAS—Continued

CBSA code	Nonurban	Wage Index
65	Guam	0.9611

[1] All counties within the State are classified as urban, with the exception of Massachusetts and Puerto Rico. Massachusetts and Puerto Rico have areas designated as rural, however, no short-term, acute care hospitals are located in the area(s) for FY 2006. Because more recent data is not available for those areas, we are using last year's wage index value.

[FR Doc. 06–4202 Filed 5–1–06; 4:00 pm]

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Federal Register

Tuesday,
May 9, 2006

Part III

Department of Energy

10 CFR Parts 600 and 603
Assistance Regulations; Final Rule

DEPARTMENT OF ENERGY

10 CFR Parts 600 and 603

RIN 1991–AB72

Assistance Regulations

AGENCY: Department of Energy.

ACTION: Final rule.

SUMMARY: The Department of Energy (DOE) is adopting, with minor changes, the interim final rule published on November 15, 2005, that established a new part to the DOE assistance regulations and revised 10 CFR part 600, subpart A to conform with the new part. The new part establishes policies and procedures to implement the ''other transactions'' authority granted to the Secretary of Energy by Section 1007 of the Energy Policy Act of 2005. DOE is implementing this new authority through the award and administration of technology investment agreements (TIAs).

DATES: *Effective Date:* This final rule is effective on July 10, 2006.

FOR FURTHER INFORMATION CONTACT: Ms. Trudy Wood, Office of Procurement and Assistance Policy, Department of Energy, at 202–287–1336.

SUPPLEMENTARY INFORMATION:

I. Background
II. Discussion of Public Comments
III. Revisions Incorporated in This Final Rule
IV. Procedural Requirements
A. Review Under Executive Order 12866
B. Review Under the Regulatory Flexibility Act
C. Review Under the Paperwork Reduction Act
D. Review Under the National Environmental Policy Act
E. Review Under Executive Order 13132
F. Review Under Executive Order 12988
G. Review Under the Unfunded Mandates Reform Act of 1995
H. Review Under the Treasury and General Government Appropriations Act, 1999
I. Review Under the Treasury and General Government Appropriations Act, 2001
J. Review Under Executive Order 13211
K. Review Under the Small Business Regulatory Enforcement Fairness Act
V. Approval of the Office of the Secretary of Energy

I. Background

Section 1007 of the Energy Policy Act of 2005 (Public Law 109–58) amends section 646 of the Department of Energy (DOE) Organization Act by adding a subsection (g) which authorizes the Secretary of Energy to enter into transactions other than contracts, cooperative agreements, and grants (''other transactions'') subject to the same terms and conditions as the Secretary of Defense under section 2371 of title 10, United States Code. On November 15, 2005 (70 FR 69250), DOE published an interim final rule to establish policies and procedures for technology investment agreements (TIAs) to implement the Department's ''other transactions'' authority. These regulations were developed on an expedited basis in order to comply with the statutory requirement to issue guidance within 90 days of enactment of the Energy Policy Act of 2005. In addition to considering public comments, DOE continued to evaluate transactions authorized and carried out by other Federal agencies under similar authority. This evaluation has been considered in formulating the final rule and in developing internal guidance on training and experience requirements for contracting officers, tracking of transactions, audit guidance for for-profit organizations and independent public accountants (IPA), and reporting to Congress.

DOE used the DoD TIA regulation as the basis for developing the new part 603, but tailored the regulation to fit DOE requirements and procedures. Today's final rule permits DOE to enter into a TIA, a special type of assistance instrument, with a for-profit firm or a consortium that includes a for-profit firm after a determination is made that a contract, grant, or cooperative agreement is not feasible or appropriate. A TIA can be either a type of cooperative agreement with more flexible provisions tailored to accommodate the financial management, property management, and purchasing systems of commercial firms, but with standard intellectual property provisions, or an ''other transaction'' if the intellectual property requirements vary from the Bayh-Dole statute (Chapter 18 of Title 35, U.S.C.) and the DOE patent statutes (42 U.S.C. 5908 and 42 U.S.C 2182). The two types of TIAs have similar requirements except for the intellectual property requirements.

II. Discussion of Public Comments

The majority of the commenters supported the creation of the new part 603 and considered it an important step forward for the Department. The following paragraphs summarize the significant comments, grouped by subject, and DOE's responses. Where appropriate, the responses explain how we have changed part 603 in the final rule.

General Comments

Comment: The proposed use of TIAs allows for little discretion on the part of the contracting officer. Lack of flexibility will deter non-traditional sources from participating.

Response: The rule establishes minimum requirements for proper stewardship of federal funds, including audits, financial systems that comply with Generally Accepted Accounting Principles and effectively control project funds, and reporting requirements. These requirements are similar to the requirements established by the Department of Defense for TIAs. Contracting officers have considerable latitude to negotiate TIA terms and conditions as long as they comply with the minimum requirements established by the rule.

Comment: The use of an ''other transaction'' may require substantial and burdensome negotiations since standard government administrative and financial requirements and terms and conditions may not apply.

Response: We understand that a TIA that is an ''other transaction,'' may require additional negotiations because the standard provisions do not automatically apply. The point of the ''other transactions'' authority is to permit DOE to enter into agreements that are not burdened by standard provisions that would serve as a disincentive to non-traditional Government contractors. While these agreements may require additional negotiations, the flexibility of the other transaction instrument will out weigh the burden of the additional negotiations. The ''other transactions'' authority granted to the Secretary requires that a written determination be made that a contract, grant, or cooperative agreement is not feasible or appropriate for a particular project. DOE will award a TIA only after such a determination is made.

Cost Sharing

Comment: No guidance is provided as to whether current independent research and development (IR&D) costs may be used for the cost share portion.

Response: We have added a paragraph to § 603.530(f) to explain that current IR&D costs may be used for cost sharing if they meet the criteria in paragraphs (a) through (e) of § 603.530.

Cost Accounting Standards

Comment: The goal of using a TIA is to attract ''non-traditional contractors'' which generally do not have United States Government contracts under the Federal Acquisition Regulations (FAR). ''Non-traditional contractors'' will likely not have cost accounting or CAS-compliant systems.

Response: For the purposes of a TIA, a non-traditional contractor is not

required to have CAS-compliant systems. The rule specifies in § 603.615(b) that a contracting officer is to allow and encourage each for-profit participant that does not currently perform under expenditure-based Federal procurement contracts or assistance awards (other than a TIA) to use its existing financial management system as long as the system complies with Generally Accepted Accounting Principles, effectively controls all project funds, and, if advance payments are authorized, includes procedures to minimize the time elapsing between the payment of funds by the Government and the firm's disbursement of the funds.

Flowdown Requirements for DOE FFRDC Contractors

Comment: DOE should require that any funds provided to a DOE FFRDC emanating from a TIA, be via a ''Funds-in-CRADA'' or ''Work for Others'' agreement and, notwithstanding any ''flowdown'' requirements contained in the TIA, the existing property, procurement, finance, accounting and audit systems in place for the FFRDC Prime Contract be used for performing work under a TIA.

Response: In accordance with § 603.650, the general policy for an expenditure-based TIA is to avoid requirements that force participants, including FFRDC contractors, to use different financial management, property management, and purchasing systems than they currently use for expenditure-based Federal procurement contracts and assistance awards. We have revised § 603.610 to identify the flowdown requirements for GOCO and FFRDC contractors. We have also revised § 603.650 to clarify that the Federal cognizant agency would perform audits of GOCO and FFRDC contractors. If a DOE FFRDC contractor is a member of a consortium or a subrecipient under a TIA award, the FFRDC work would normally be authorized under the DOE Work Authorization System for M&O contractors or other appropriate instrument that would specify the terms and conditions of the award.

Intellectual Property

Comment: Anticipated development costs to be paid by the contractor should be considered by the contracting officer in deciding appropriate invention rights arrangements.

Response: Section 603.860(b) has been modified to instruct the contracting officer to consider anticipated future investments of recipient to the development of the technology.

Comment: Regarding rights to inventions, it is recommended that model outcomes be provided to help guide the contracting officer in deciding what best represents a ''reasonable arrangement.''

Response: The regulation, at § 603.860(c)(2), addresses some typical ''outcomes'' for a TIA that is an ''other transaction.'' These include the retention by recipient/participant of title to subject inventions or the elimination or modification of a paid up government license in subject inventions. Section 603.865 addresses modification, or possible elimination, of march-in rights. Section 603.875(c) allows for waiver or modification of ''substantial U.S. manufacture'' requirements. Contracting officers will be guided by these provisions, and the requirement in § 603.860(b) that any changes to the standard patent rights provision must be approved by intellectual property counsel. Specifying ''model outcomes'' in more detail would result in less flexibility to accommodate a wide variety of anticipated or unforeseen circumstances.

Comment: It is unclear as to the need for the use of march-in rights, as the U.S. Government has yet to invoke this clause, and the use of march-in rights will likely deter non-traditional contractors. The example provided is not very specific.

Response: Preserving ''march-in rights'' is important as a safeguard against non-use of important technology made with U.S. Government assistance. We continue to believe that its elimination should be limited to relatively rare circumstances. However, DOE intends to be flexible in considering modifications to the Bayh-Dole ''march-in'' language.

Comment: No process is provided for the waiver of the requirement for substantial manufacture in the U.S. of products embodying subject inventions.

Response: DOE has not specified in the past, nor is it specifying in this regulation, a formal process for waiver of the ''substantial U.S. manufacture'' requirement. Instead, a written request for such a waiver may be made directly to the contracting officer, with reasons therefor, addressing one or more of the specified grounds for such a waiver or modification. DOE has used this approach for many years as part of its patent waiver process, and has demonstrated ample flexibility on this issue.

Comment: Only three reasons are specified as acceptable for granting a waiver of the ''substantial U.S. manufacture'' requirement. The ''alternative benefits'' requirement appears to be more stringent than that previously required by DOE, and more onerous than that of DoD.

Response: While three alternate reasons are specified, they can be applied very flexibly, in accordance with the ''informal'' procedure mentioned in response to the previous comment. The third specified reason, that under the circumstances domestic manufacture is not commercially feasible, is very broad and could accommodate a wide variety of circumstances, including unforeseen circumstances. As to the contention that this requirement is more stringent than previously, it is consistent with DOE's practice under its patent waiver authority at 10 CFR part 784, which allows DOE to include additional terms and conditions in its patent waiver determinations. DOE's programmatic mission and statutory authority, including patent waiver authority, are different from that of DoD. DOE has included, for many years, provisions addressing substantial U.S. manufacture that may be more comprehensive than those used by DoD.

Comment: Use of ''other transactions'' may erode the essential Bayh-Dole Act balancing of incentives and obligations, and public and private interests in rights to federally supported inventions. DoD policies provide that a TIA generally would include the patent rights clause (37 CFR 401.14) that implements Bayh-Dole requirements. There is no indication that the normal default should be to include Bayh-Dole rights.

Response: Unlike DoD, which is generally subject only to Bayh-Dole and ''other transactions'' authority regarding rights to federally supported inventions, DOE is also subject to 42 U.S.C. 2182 and 5908, which require title to inventions in Government, unless a patent waiver is approved. Therefore, DOE cannot simply follow the DoD practice of having a TIA generally include the Bayh-Dole government-wide patent rights clause at 37 CFR 401.14. However, for a TIA that is an ''other transaction'' as set forth in § 603.860(c)(2), the normal clause would be a patent waiver clause as required by 10 CFR 784, which provides for recipient to retain title to subject inventions in a fashion similar to that of 37 CFR 401.14.

Comments: In federally-funded university industry collaborations supported by ''other transactions,'' there is no requirement to flow down ''Bayh-Dole rights'' to nonprofit subcontractors. If a consortium includes nonprofits,

normal ''Bayh-Dole rights'' should be required to be flowed down to these nonprofit recipients.

Response: DOE anticipates that in most cases of TIAs involving nonprofits or small businesses, ''Bayh-Dole rights'' will be applicable. However, for situations involving industry-university collaborations such as consortia or teaming arrangements, DOE believes it is important to retain flexibility to vary normal ''Bayh-Dole rights.'' This would be the case, for example, in order to harmonize licensing rights to inventions among collaborating parties when some are nonprofits and others are large for-profit businesses who are providing substantial cost-sharing, or otherwise demonstrating a compelling reason for mutual access to license rights to inventions of a collaborating partner. This type of ''harmonization'' of rights among team members may serve to foster, rather than inhibit, the formation of effective industry-university collaborations. However, to address these concerns, DOE has included an additional paragraph at § 603.860(d) to provide further guidance for a subaward under a TIA that is an ''other transaction.''

Comment: It is unclear if FFRDC/GOCO's are to negotiate intellectual property rights based on the terms of the TIA, or on the terms of the FFRDC/GOCO's prime contract. We recommend that the invention rights requirements in the FFRDC/GOCO prime contract apply to a TIA subaward.

Response: DOE does not believe it is appropriate, or in keeping with the intent of the ''other transactions'' authority, to require that the terms of the FFRDC/GOCO prime contract dictate the terms of a FFRDC/GOCO subaward under a TIA that is an ''other transaction.'' However, as described in the response to the previous comment, DOE has added language at § 603.860(d) that provides flexibility to a contracting officer to consider circumstances where a FFRDC/GOCO subawardee (or other subawardee) may obtain title to, or other disposition of, inventions they make.

Reporting Requirements

Comment: Section 603.890 states that a TIA must require a final performance report that addresses all major accomplishments under the TIA. This requirement is in conflict with § 603.900, which begins, ''If a final report is required. . .''

Response: We have amended § 603.900 to delete the words, ''If a final report is required.''

Comment: Section 603.870, Marking of documents related to inventions, implies that contractors are required to report inventions, yet in § 603.880 there is no mention of disclosure of inventions only program performance and business/financial status.

Response: Section 603.880 states that a TIA must include requirements that, *as a minimum*, provide for periodic reports addressing program performance and, if it is an expenditure-based award, business/financial status. The DOE standard financial assistance patent invention provisions already include a requirement to report subject inventions. While § 603.860 allows the contracting officer to negotiate patent rights requirements that vary from that which the Bayh-Dole statute requires, such requirements will most likely include reporting subject inventions. The TIA award will identify all required reports and the submittal process for these reports.

III. Revisions Incorporated in This Final Rule

In addition to the changes made in response to public comments, we have:

1. Deleted the first sentence in § 603.405, which required the use of the government-wide standard format for program announcements, since a TIA may also be awarded under a broad agency announcement (BAA) or other similar announcement.

2. Revised § 603.515 by reordering the paragraphs and adding language to clarify that a consortium, which is not formally incorporated, must provide a collaboration agreement.

3. Revised § 603.860 by adding a new paragraph (e) that states ''Consortium members may allocate in their collaboration agreement invention rights, subject to the review of the contracting officer.''

4. Added the designation § 603.1200 to the paragraph immediately following the Subpart J heading.

IV. Procedural Requirements

A. Review Under Executive Order 12866

Today's regulatory action has been determined not to be ''a significant regulatory action'' under Executive Order 12866, ''Regulatory Planning and Review,'' 58 FR 51735 (October 4, 1993). Accordingly, this action is not subject to review under that Executive Order by the Office of Information and Regulatory Affairs (OIRA) of the Office of Management and Budget (OMB).

B. Review Under Regulatory Flexibility Act of 1980

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires preparation of an initial regulatory flexibility analysis for any rule that by law must be proposed for public comment, unless the agency certifies that the rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. As required by Executive Order 13272, ''Proper Consideration of Small Entities in Agency Rulemaking'' (67 FR 53461, August 16, 2002), DOE published procedures and policies to ensure that the potential impacts of its draft rules on small entities are properly considered during the rulemaking process (68 FR 7990, February 19, 2003), and has made them available on the Office of General Counsel's Web site: *http://www.gc.doe.gov.* DOE has reviewed today's rule under the provisions of the Regulatory Flexibility Act and the procedures and policies published on February 19, 2003. This regulatory action will not have a significant adverse impact on a substantial number of small entities because under part 603, small entities are subject either to requirements that parallel government wide requirements that OMB Circular A–110 establishes for other assistance awards, or to less burdensome requirements that enable firms from the commercial marketplace to participate in DOE research, development, and demonstration. On the basis of the foregoing, DOE certifies that the rule does not have a significant economic impact on a substantial number of small entities. DOE did not prepare a regulatory flexibility analysis for this rulemaking.

C. Review Under the Paperwork Reduction Act of 1995

This regulatory action will not impose any additional reporting or recordkeeping requirements subject to approval under the Paperwork Reduction Act. Participant reporting and recordkeeping requirements in part 603 either are parallel to, or less burdensome than, government wide requirements already established in OMB Circular A–110.

D. Review Under the National Environmental Policy Act

DOE has concluded that promulgation of this rule falls into a class of actions that would not individually or cumulatively have a significant impact on the human environment, as determined by DOE's regulations implementing the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*). Specifically, this rule establishes guidelines and procedures for application and review, administration, audit and closeout of assistance instruments, and, therefore, is covered under the Categorical Exclusion

in paragraph A6 to subpart D, 10 CFR part 1021. Accordingly, neither an environmental assessment nor an environmental impact statement is required.

E. Review Under Executive Order 13132

Executive Order 13132, 64 FR 43255 (August 4, 1999), imposes certain requirements on agencies formulating and implementing policies or regulations that preempt State law or that have federalism implications. Agencies are required to examine the constitutional and statutory authority supporting any action that would limit the policymaking discretion of the States and carefully assess the necessity for such actions. The Executive Order also requires agencies to have an accountable process to ensure meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications. On March 14, 2000, DOE published a statement of policy describing the intergovernmental consultation process it will follow in the development of such regulations (65 FR 13735). DOE has examined today's rule and has determined that it does not preempt State law and does 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. No further action is required by Executive Order 13132.

F. Review Under Executive Order 12988

With respect to the review of existing regulations and the promulgation of new regulations, section 3(a) of Executive Order 12988, ''Civil Justice Reform,'' 61 FR 4729 (February 7, 1996), imposes on Federal agencies the general duty to adhere to the following requirements: (1) Eliminate drafting errors and ambiguity; (2) write regulations to minimize litigation; and (3) provide a clear legal standard for affected conduct rather than a general standard and promote simplification and burden reduction. Section 3(b) of Executive Order 12988 specifically requires that Executive agencies make every reasonable effort to ensure that the regulation: (1) Clearly specifies the preemptive effect, if any; (2) clearly specifies any effect on existing Federal law or regulation; (3) provides a clear legal standard for affected conduct while promoting simplification and burden reduction; (4) specifies the retroactive effect, if any; (5) adequately defines key terms; and (6) addresses other important issues affecting clarity and general draftsmanship under any guidelines issued by the Attorney General. Section 3(c) of Executive Order 12988 requires Executive agencies to review regulations in light of applicable standards in section 3(a) and section 3(b) to determine whether they are met or it is unreasonable to meet one or more of them. DOE has completed the required review and determined that, to the extent permitted by law, this rule meets the relevant standards of Executive Order 12988.

G. Review Under the Unfunded Mandates Act of 1995

This regulatory action does not contain a Federal mandate that will 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.

H. Review Under the Treasury and General Government Appropriations Act, 1999

Section 654 of the Treasury and General Government Appropriations Act, 1999 (Pub. L. 105–277) requires Federal agencies to issue a Family Policymaking Assessment for any proposed rule or policy that may affect family well-being. Today's rule will not have any impact on the autonomy or integrity of the family as an institution. Accordingly, DOE has concluded that it is not necessary to prepare a Family Policymaking Assessment.

I. Review Under the Treasury and General Government Appropriations Act, 2001

The Treasury and General Government Appropriations Act, 2001, 44 U.S.C. 3516 note, provides for agencies to review most disseminations of information to the public under implementing guidelines established by each agency pursuant to general guidelines issued by OMB. OMB's guidelines were published at 67 FR 8452 (February 22, 2002), and DOE's guidelines were published at 67 FR 62446 (October 7, 2002). DOE has reviewed today's rule under the OMB and DOE guidelines and has concluded that it is consistent with applicable policies in those guidelines.

J. Review Under Executive Order 13211

Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use, 66 FR 28355 (May 22, 2001), requires Federal agencies to prepare and submit to OIRA a Statement of Energy Effects for any proposed significant energy action. A ''significant energy action'' is defined as any action by an agency that promulgated or is expected to lead to promulgation of a final rule, and that: (1) Is a significant regulatory action under Executive Order 12866, or any successor order and (2) is likely to have a significant adverse effect on the supply, distribution, or use of energy, or (3) is designated by the Administrator of OIRA as a significant energy action. For any proposed significant energy action, the agency must give a detailed statement of any adverse effects on energy supply, distribution, or use should the proposal be implemented, and of reasonable alternatives to the action and their expected benefits on energy supply, distribution, and use. Today's regulatory action is not a significant energy action. Accordingly, DOE has not prepared a Statement of Energy Effects.

K. Review Under the Small Business Regulatory Enforcement Fairness Act

As required by 5 U.S.C. 801, DOE will report to Congress on the promulgation of today's rule prior to its effective date. The report will state that it has been determined that the rule is not a ''major rule'' as defined by 5 U.S.C. 801(2).

V. Approval of the Office of the Secretary of Energy

The Office of the Secretary has approved the issuance of this rule.

List of Subjects

10 CFR Part 600

Administrative practice and procedure, Assistance programs.

10 CFR Part 603

Accounting, Administrative practice and procedure, Financial assistance programs, Grant programs, Reporting and recordkeeping requirements, Technology investments.

Issued in Washington, DC on April 26, 2006.

Edward R. Simpson,

Director, Office of Procurement and Assistance Management, Office of Management, Department of Energy.

Robert C. Braden,

Director, Office of Acquisition and Supply Management, National Nuclear Security Administration, Department of Energy.

■ Accordingly, the interim final rule amending part 600 of chapter II, title 10 of the Code of Federal Regulations and adding part 603 of chapter II, title 10 of the Code of Federal Regulations, which was published at 70 FR 69250 on November 15, 2005, is adopted as a final rule, with the following changes:

■ 1. Part 603 is revised to read as follows:

PART 603—TECHNOLOGY INVESTMENT AGREEMENTS

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Appendix A to Part 603—Applicable Federal Statutes, Executive Orders, and Government-wide Regulations
Appendix B to Part 603—Flow Down Requirements for Purchases of Goods and Services

Authority: 42 U.S.C. 7101 *et seq.*; 31 U.S.C. 6301–6308; 50 U.S.C. 2401 *et seq.*, unless otherwise noted.

Subpart A—General

§ 603.100 Purpose.

This part establishes uniform policies and procedures for the implementation of DOE's ''other transactions'' authority and for award and administration of a technology investment agreement (TIA).

§ 603.105 Description.

(a) A TIA is a special type of assistance instrument used to increase involvement of commercial firms in the Department of Energy's (DOE) research, development and demonstration (RD&D) programs. A TIA, like a cooperative agreement, requires substantial Federal involvement in the technical or management aspects of the project. A TIA may be either a type of cooperative agreement or a type of assistance transaction other than a cooperative agreement, depending on the intellectual property provisions. A TIA is either:

(1) A type of cooperative agreement with more flexible provisions tailored for commercial firms (as distinct from a cooperative agreement subject to all of the requirements in 10 CFR 600), but with intellectual property provisions in full compliance with the DOE intellectual property statutes (*i.e.*, Bayh-Dole statute and 42 U.S.C. 2182 and 5908, as implemented in 10 CFR 600.325). The authority to award this type of TIA is 42 U.S.C. 7256(a), as well as any program-specific statute that provides authority to award cooperative agreements; or

(2) An assistance transaction other than a cooperative agreement, if its intellectual property provisions vary from the Bayh-Dole statute and 42 U.S.C. 2182 and 5908, which require the Government to retain certain intellectual property rights and require differing treatment between large businesses and nonprofit organizations or small businesses. The authority to award this type of TIA is 42 U.S.C. 7256(g), as well as any program-specific statute that provides authority to award assistance agreements.

(b) The two types of TIAs have similar requirements, except for the intellectual property requirements. If the contracting officer determines there is a unique, exceptional need to vary from the standard intellectual property requirements in 10 CFR 600.325, the TIA becomes an assistance transaction other than a cooperative agreement.

§ 603.110 Use of TIAs.

The ultimate goal for using a TIA is to broaden the technology base available to meet DOE mission requirements and foster within the technology base new relationships and practices to advance the national economic and energy security of the United States, to promote scientific and technological innovation in support of that mission, and to ensure the environmental cleanup of the national nuclear weapons complex. A TIA therefore is designed to:

(a) Reduce barriers to participation in RD&D programs by commercial firms that deal primarily in the commercial marketplace. A TIA allows contracting officers to tailor Government requirements and lower or remove barriers if it can be done with proper stewardship of Federal funds.

(b) Promote new relationships among performers in the technology base. Collaborations among commercial firms that deal primarily in the commercial marketplace, firms that regularly perform on the DOE RD&D programs and nonprofit organizations can enhance overall quality and productivity.

(c) Stimulate performers to develop and use new business practices and disseminate best practices throughout the technology base.

§ 603.115 Approval requirements.

An officer of the Department who has been appointed by the President by and with the advice and consent of the Senate and who has been delegated the authority from the Secretary must approve the award of a TIA and may perform other functions of the Secretary as set forth in 42 U.S.C. 7256(g). This authority may not be re-delegated. The DOE or National Nuclear Security Administration (NNSA) Senior Procurement Executive also must concur in the award of a TIA.

§ 603.120 Contracting officer warrant requirements.

A contracting officer may award or administer a TIA only if the contracting officer's warrant authorizes the award or administration of a TIA.

§ 603.125 Applicability of other parts of the DOE Assistance Regulations.

(a) TIAs are explicitly covered in this part and 10 CFR part 600, subpart A—General. 10 CFR part 600, subpart A, addresses general matters that relate to assistance instruments.

(b) Three additional parts of the DOE Assistance Regulations apply to TIAs, although they do not mention a TIA explicitly. They are:

(1) 10 CFR part 601—lobbying restrictions apply by law (31 U.S.C. 1352) to a TIA that is a cooperative agreement and as a matter of DOE policy to a TIA that is an assistance transaction other than a cooperative agreement.

(2) 10 CFR part 606—debarment and suspension requirements apply because they cover nonprocurement instruments in general; and

(3) 10 CFR part 607—drug-free workplace (financial assistance) requirements apply because they cover all assistance instruments.

(c) Other portions of 10 CFR part 600 apply to a TIA as referenced in part 603.

Subpart B—Appropriate Use of Technology Investment Agreements

§ 603.200 Contracting officer se acquisition responsibilities.

Contracting officers may use a TIA only in appropriate situations. To do so, the use of a TIA must be justified based on:

(a) The nature of the project, as discussed in § 603.205;

(b) The type of recipient, addressed in § 603.210;

(c) The recipient's commitment and cost sharing, as described in § 603.215;

(d) The degree of involvement of the Government program official, as discussed in § 603.220; and

(e) The contracting officer's judgment that the use of a TIA could benefit the RD&D objectives in ways that likely would not happen if another type of instrument were used (i.e., a contract, grant or cooperative agreement is not feasible or appropriate). Answers to the four questions in § 603.225 form the basis for the contracting officer's judgment.

§ 603.205 Nature of the project.

Judgments relating to the nature of the project include:

(a) The principal purpose of the project is to carry out a public purpose of support or stimulation of RD&D (i.e., assistance), rather than acquiring goods or services for the benefit of the Government (i.e., acquisition);

(b) To the maximum extent practicable, the TIA does not support RD&D that duplicates other RD&D being conducted under existing programs carried out by the DOE; and

(c) The use of a standard contract, grant or cooperative agreement for the project is not feasible or appropriate (see questions in § 603.225).

§ 603.210 Recipients.

(a) A TIA requires one or more for-profit firms, not acting in their capacity

as the contractor of a FFRDC, to be involved either in the:

(1) Performance of the RD&D project; or

(2) The commercial application of the results.

(i) In those cases where there is only a non-profit performer or a consortium of non-profit performers or non-profit performers and FFRDC contractors, if and as authorized, the performers must have at least a tentative agreement with a specific for-profit partner or partners who plan on being involved in the commercial application of the results.

(ii) In consultation with legal counsel, the contracting officer should review the agreement between the performers and their for-profit partner to ensure that the for-profit partner is committed to being involved in the commercial application of the results.

(b) A TIA may be particularly useful for awards to consortia (a consortium may include one or more for-profit firms, as well as State or local government agencies, institutions of higher education, other nonprofit organizations, or FFRDC contractors, if and as authorized) because:

(1) If multiple performers are participating as a consortium, they may be more equal partners in the performance of the project than usually is the case with a prime recipient and subrecipients. All of the performers are more likely to be directly involved in developing and revising plans for the RD&D effort, reviewing technical progress, and overseeing financial and other business matters. That feature makes consortia well suited to building new relationships among performers in the technology base, a principal objective for the use of a TIA.

(2) In addition, interactions among the participants within a consortium potentially provide a self-governance mechanism. The potential for additional self-governance is particularly good when a consortium includes multiple for-profit participants that normally are competitors within an industry.

(c) A TIA may be used for carrying out RD&D performed by single firms or multiple performers (e.g., a teaming arrangement) in prime award-subaward relationships. In awarding a TIA in those cases, however, consideration should be given to providing for greater involvement of the program official or a way to increase self-governance (e.g., a prime award with multiple subawards arranged so as to give the subrecipients more insight into and authority and responsibility for the programmatic and business aspects of the overall project than they usually have).

§ 603.215 Recipient's commitment and cost sharing.

(a) The contracting officer should evaluate whether the recipient has a strong commitment to and self-interest in the success of the project and incorporating the technology into products and processes for the commercial marketplace. Evidence of that commitment and interest should be found in the proposal, in the recipient's management plan, or through other means.

(b) The contracting officer must seek cost sharing. The purpose of cost sharing is to ensure that the recipient incurs real risk that gives it a vested interest in the project's success; the willingness to commit to meaningful cost sharing is a good indicator of a recipient's self-interest. The requirements are that:

(1) To the maximum extent practicable, the non-Federal parties carrying out a RD&D project under a TIA are to provide at least half of the costs of the project; and

(2) The parties must provide the cost sharing from non-Federal resources unless otherwise provided by law.

(c) The contracting officer may consider whether cost sharing is impracticable in a given case, unless there is a statutory requirement for cost sharing that applies to the particular program under which the award is to be made. Before deciding that cost sharing is impracticable, the contracting officer should carefully consider if there are other factors that demonstrate the recipient's self-interest in the success of the current project.

§ 603.220 Government participation.

A TIA is used to carry out cooperative relationships between the Federal Government and the recipient(s) which require substantial involvement of the Government in the execution of the RD&D. For example, program officials will participate in recipients' periodic reviews of progress and may be substantially involved with the recipients in the resulting revisions of plans for future effort.

§ 603.225 Benefits of using a TIA.

Before deciding that a TIA is appropriate, the contracting officer also must judge that using a TIA could benefit the RD&D objectives in ways that likely would not happen if another type of assistance instrument were used (e.g., a cooperative agreement subject to all of the requirements of 10 CFR part 600). The contracting officer, in conjunction with Government program officials, must consider the questions in paragraphs (a) through (d) of this section, to help identify the benefits that may justify using a TIA and reducing some of the usual requirements. The contracting officer must report the answers to these questions to help the DOE measure the benefits of using a TIA. Note full concise answers are required only to questions that relate to the benefits perceived for using the TIA, rather than another type of funding instrument, for the particular project. A simple ''no'' or ''not applicable'' is a sufficient response for other questions. The questions are:

(a) Will the use of a TIA permit the involvement of any commercial firms or business units of firms that would not otherwise participate in the project? If so:

(1) What are the expected benefits of those firms' or divisions' participation (e.g., is there a specific technology that could be better, more readily available, or less expensive)?

(2) Why would they not participate if an instrument other than a TIA were used? The contracting officer should identify specific provisions of the TIA or features of the TIA award process that enable their participation. For example, if the RD&D effort is based substantially on a for-profit firm's privately developed technology and the Government may be a major user of any commercial product developed as a result of the award, a for-profit firm may not participate unless the Government's intellectual property rights in the technology are modified.

(b) Will the use of a TIA allow the creation of new relationships among participants in a consortium, at the prime or subtier levels, among business units of the same firm, or between non-Federal participants and the Federal Government that will foster better technology? If so:

(1) Why do these new relationships have the potential for fostering technology that is better, more affordable, or more readily available?

(2) Are there provisions of the TIA or features of the TIA award process that enable these relationships to form? If so, the contracting officer should be able to identify specifically what they are. If not, the contracting officer should be able to explain specifically why the relationships could not be created if another type of assistance instrument were used. For example, a large business firm may not be willing to participate in a consortium or teaming arrangement with small business firms and nonprofit firms under a standard cooperative agreement because those entities have invention rights under the Bayh-Dole statute that are not available to large businesses. A large business

firm may be willing to participate in a consortium or teaming arrangement only if all partners are substantially equal with regard to the allocation of intellectual property rights.

(c) Will the use of a TIA allow firms or business units of firms that traditionally accept Government awards to use new business practices in the execution of the RD&D project that will foster better technology, new technology more quickly or less expensively, or facilitate partnering with commercial firms? If so:

(1) What specific benefits result from the use of these new practices? The contracting officer should be able to explain specifically the potential for those benefits.

(2) Are there provisions of the TIA or features of the TIA award process that enable the use of the new practices? If so, the contracting officer should be able to identify those provisions or features and explain why the practices could not be used if the award were made using another type of assistance instrument.

(d) Are there any other benefits of the use of a TIA that could help DOE meet its objectives in carrying out the project? If so, the contracting officer should be able to identify specifically what they are, how they can help meet the objectives, what features of the TIA or award process enable DOE to realize them, and why the benefits likely would not be realized if an assistance instrument other than a TIA were used.

§ 603.230 Fee or profit.

The contracting officer may not use a TIA if any participant is to receive fee or profit. Note that this policy extends to all performers of the project, including any subawards for substantive program performance, but it does not preclude participants' or subrecipients' payment of reasonable fee or profit when making purchases from suppliers of goods (e.g., supplies and equipment) or services needed to carry out the RD&D.

Subpart C—Requirements for Expenditure-Based and Fixed-Support Technology Investment Agreements

§ 603.300 Difference between an expenditure-based and a fixed-support TIA.

The contracting officer may negotiate expenditure-based or fixed-support award terms for either types of TIA subject to the requirements in this subpart. The fundamental difference between an expenditure-based and a fixed-support TIA is:

(a) For an expenditure-based TIA, the amounts of interim payments or the total amount ultimately paid to the recipient are based on the amounts the recipient expends on project costs. If a recipient completes the project specified at the time of award before it expends all of the agreed-upon Federal funding and recipient cost sharing, the Federal Government may recover its share of the unexpended balance of funds or, by mutual agreement with the recipient, amend the agreement to expand the scope of the RD&D project. An expenditure-based TIA, therefore, is analogous to a cost-type procurement contract or grant.

(b) For a fixed-support TIA, the amount of assistance is established at the time of award and is not meant to be adjusted later. In that sense, a fixed-support TIA is somewhat analogous to a fixed-price procurement contract.

§ 603.305 Use a fixed-support TIA.

The contracting officer may use a fixed-support TIA if:

(a) The agreement is to support or stimulate RD&D with outcomes that are well defined, observable, and verifiable;

(b) The resources required to achieve the outcomes can be estimated well enough to ensure the desired level of cost sharing (see example in § 603.560(b)); and

(c) The agreement does not require a specific amount or percentage of recipient cost sharing. In cases where the agreement does require a specific amount or percentage of cost sharing, a fixed-support TIA is not practicable because the agreement has to specify cost principles or standards for costs that may be charged to the project; require the recipient to track the costs of the project; and provide access for audit to allow verification of the recipient's compliance with the mandatory cost sharing. A fixed-support TIA may not be used if there is:

(1) A requirement (e.g., in statute or policy determination) for a specific amount or percentage of recipient cost sharing; or

(2) The contracting officer, in consultation with the program official, otherwise elects to include in the TIA a requirement for a specific amount or percentage of cost sharing.

§ 603.310 Use of an expenditure-based TIA.

In general, the contracting officer must use an expenditure-based TIA under conditions other than those described in § 603.305. Reasons for any exceptions to this general rule must be documented in the award file and must be consistent with the policy in § 603.230 that precludes payment of fee or profit to participants.

§ 603.315 Advantages of a fixed-support TIA.

In situations where the use of a fixed-support TIA is permissible (see §§ 603.305 and 603.310), its use may encourage some commercial firms' participation in the RD&D. With a fixed-support TIA, the contracting officer can eliminate or reduce some post-award requirements that sometimes are cited as disincentives for those firms to participate. For example, a fixed-support TIA need not:

(a) Specify minimum standards for the recipient's financial management system;

(b) Specify cost principles or standards stating the types of costs the recipient may charge to the project;

(c) Provide for financial audits by Federal auditors or independent public accountants of the recipient's books and records;

(d) Set minimum standards for the recipient's purchasing system; or

(e) Require the recipient to prepare financial reports for submission to the Federal Government.

Subpart D—Competition Phase

§ 603.400 Competitive procedures.

DOE policy is to award a TIA using competitive procedures and a merit-based selection process, as described in 10 CFR 600.6 and 600.13, respectively:

(a) In every case where required by statute; and

(b) To the maximum extent feasible, in all other cases. If it is not feasible to use competitive procedures, the contracting officer must comply with the requirements in 10 CFR 600.6(c).

§ 603.405 Announcement format.

If the contracting officer, in consultation with the program official, decides that a TIA is among the types of instruments that may be awarded, the additional elements described in §§ 603.410 through 603.420 should be included in the announcement.

§ 603.410 Announcement content.

Once the contracting officer, in consultation with the program official, considers the factors described in Subpart B of this part and decides that a TIA is among the types of instruments that may be awarded pursuant to a program announcement, it is important to state that fact in the announcement. The announcement also should state that a TIA is more flexible than a traditional financial assistance agreement and that requirements are negotiable in areas such as audits and intellectual property rights that may cause concern for commercial firms.

Doing so should increase the likelihood that commercial firms will be willing to submit proposals.

§ 603.415 Cost sharing.

To help ensure a competitive process that is fair and equitable to all potential proposers, the announcement should state clearly:

(a) That, to the maximum extent practicable, the non-Federal parties carrying out a RD&D project under a TIA are to provide at least half of the costs of the project (see § 603.215(b));

(b) The types of cost sharing that are acceptable;

(c) How any in-kind contributions will be valued, in accordance with §§ 603.530 through 603.555; and

(d) Whether any consideration will be given to alternative approaches a proposer may offer to demonstrate its strong commitment to and self-interest in the project's success, in accordance with § 603.215.

§ 603.420 Disclosure of information.

The announcement should tell potential proposers that:

(a) For all TIAs, information described in paragraph (b) of this section is exempt from disclosure requirements of the Freedom of Information Act (FOIA)(codified at 5 U.S.C. 552) for a period of five years after the date on which the DOE receives the information from them; and

(b) As provided in 42 U.S.C. 7256(g) incorporating certain provisions of 10 U.S.C. 2371, disclosure is not required, and may not be compelled, under FOIA during that period if:

(1) A proposer submits the information in a competitive or noncompetitive process that could result in the award of a TIA; and

(2) The type of information is among the following types that are exempt:

(i) Proposals, proposal abstracts, and supporting documents; and

(ii) Business plans and technical information submitted on a confidential basis.

(c) If proposers desire to protect business plans and technical information for five years from FOIA disclosure requirements, they must mark them with a legend identifying them as documents submitted on a confidential basis. After the five-year period, information may be protected for longer periods if it meets any of the criteria in 5 U.S.C. 552(b) (as implemented by the DOE in 10 CFR part 1004) for exemption from FOIA disclosure requirements.

Subpart E—Pre-Award Business Evaluation

§ 603.500 Pre-award business evaluation.

(a) The contracting officer must determine the qualification of the recipient, as described in §§ 603.510 and 603.515.

(b) As the business expert working with the program official, the contracting officer also must address the financial aspects of the proposed agreement. The contracting officer must:

(1) Determine that the total amount of funding for the proposed effort is reasonable, as addressed in § 603.520.

(2) Assess the value and determine the reasonableness of the recipient's proposed cost sharing contribution, as discussed in §§ 603.525 through 603.555.

(3) If contemplating the use of a fixed-support rather than expenditure-based TIA, ensure that its use is justified, as explained in §§ 603.560 and 603.565.

(4) Determine amounts for milestone payments, if used, as discussed in § 603.570.

§ 603.505 Program resources.

Program officials can be a source of information for determining the reasonableness of proposed funding (e.g., on labor rates, as discussed in § 603.520) or establishing observable and verifiable technical milestones for payments (see § 603.570).

Recipient Qualification

§ 603.510 Recipient qualifications.

Prior to award of a TIA, the contracting officer's responsibilities for determining that the recipient is qualified are the same as those for awarding a grant or cooperative agreement. If the recipient is a consortium that is not formally incorporated, the contracting officer has the additional responsibility described in § 603.515.

§ 603.515 Qualification of a consortium.

(a) A consortium that is not formally incorporated must provide a collaboration agreement, commonly referred to as the articles of collaboration, which sets out the rights and responsibilities of each consortium member. This agreement binds the individual consortium members together and should discuss, among other things, the consortium's

(1) Management structure;

(2) Method of making payments to consortium members;

(3) Means of ensuring and overseeing members' efforts on the project;

(4) Provisions for members' cost sharing contributions; and

(5) Provisions for ownership and rights in intellectual property developed previously or under the agreement.

(b) If the prospective recipient of a TIA is a consortium that is not formally incorporated, the contracting officer must, in consultation with legal counsel, review the management plan in the consortium's collaboration agreement to ensure that the management plan is sound and that it adequately addresses the elements necessary for an effective working relationship among the consortium members. An effective working relationship is essential to increase the project's chances of success.

Total Funding

§ 603.520 Reasonableness of total project funding.

In cooperation with the program official, the contracting officer must assess the reasonableness of the total estimated budget to perform the RD&D that will be supported by the agreement.

(a) *Labor.* Much of the budget likely will involve direct labor and associated indirect costs, which may be represented together as a ''loaded'' labor rate. The program official is an essential advisor on reasonableness of the overall level of effort and its composition by labor category. The contracting officer also may rely on experience with other awards as the basis for determining reasonableness.

(b) *Real property and equipment.* In almost all cases, the project costs should normally include only depreciation or use charges for real property and equipment of for-profit participants, in accordance with § 603.680. Remember that the budget for an expenditure-based TIA may not include depreciation of a participant's property as a direct cost of the project if that participant's practice is to charge the depreciation of that type of property as an indirect cost, as many organizations do.

Cost Sharing

§ 603.525 Value and reasonableness of the recipient's cost sharing contribution.

The contracting officer must:

(a) Determine that the recipient's cost sharing contributions meet the criteria for cost sharing and determine values for them, in accordance with §§ 603.530 through 603.555. In doing so, the contracting officer must:

(1) Ensure that there are affirmative statements from any third parties identified as sources of cash contributions, and

(2) Include in the award file an evaluation that documents how the values of the recipient's contributions to

the funding of the project were determined.

(b) Judge that the recipient's cost sharing contribution, as a percentage of the total budget, is reasonable. To the maximum extent practicable, the recipient must provide at least half of the costs of the project, in accordance with § 603.215.

§ 603.530 Acceptable cost sharing.

The contracting officer may accept any cash or in-kind contributions that meet all of the following criteria.

(a) In the contracting officer's judgment, they represent meaningful cost sharing that demonstrates the recipient's commitment to the success of the RD&D project. Cash contributions clearly demonstrate commitment and they are strongly preferred over in-kind contributions.

(b) They are necessary and reasonable for accomplishment of the RD&D project's objectives.

(c) They are costs that may be charged to the project under § 603.625 and § 603.635, as applicable to the participant making the contribution.

(d) They are verifiable from the recipient's records.

(e) They are not included as cost sharing contributions for any other Federal award.

(f) They are not paid by the Federal Government under another award, except:

(1) Costs that are authorized by Federal statute to be used for cost sharing.

(2) Independent research and development (IR&D) costs, as described in 48 CFR part 31.208–18, that meet all of the criteria in paragraphs (a) through (e) of this section. IR&D is acceptable as cost sharing, even though it may be reimbursed by the Government through other awards. It is standard business practice for all for-profit firms, including commercial firms, to recover their IR&D costs through prices charged to their customers. Thus, the cost principles at 48 CFR part 31 allow a for-profit firm that has expenditure-based, Federal procurement contracts to recover through those procurement contracts the allocable portion of its research and development costs associated with a technology investment agreement. Contracting officers should note that in accordance with section 603.545, they may not count participant's costs of prior research, including IR&D, as a cost sharing contribution.

§ 603.535 Value of proposed real property or equipment.

The contracting officer rarely should accept values for cost sharing contributions of real property or equipment that are in excess of depreciation or reasonable use charges, as discussed in § 603.680 for for-profit participants. The contracting officer may accept the full value of a donated capital asset if the real property or equipment is to be dedicated to the project and the contracting officer expects that it will have a fair market value that is less than $5,000 at the project's end. In those cases, the contracting officer should value the donation at the lesser of:

(a) The value of the property as shown in the recipient's accounting records (*i.e.*, purchase price less accumulated depreciation); and

(b) The current fair market value. The contracting officer may accept the use of any reasonable basis for determining the fair market value of the property. If there is a justification to do so, the contracting officer may accept the current fair market value even if it exceeds the value in the recipient's records.

§ 603.540 Acceptability of fully depreciated real property or equipment.

The contracting officer should limit the value of any contribution of a fully depreciated asset to a reasonable use charge. In determining what is reasonable, the contracting officer must consider:

(a) The original cost of the asset;

(b) Its estimated remaining useful life at the time of the negotiations;

(c) The effect of any increased maintenance charges or decreased performance due to age; and

(d) The amount of depreciation that the participant previously charged to Federal awards.

§ 603.545 Acceptability of costs of prior RD&D.

The contracting officer may not count any participant's costs of prior RD&D as a cost sharing contribution. Only the additional resources that the recipient will provide to carry out the current project (which may include pre-award costs for the current project, as described in § 603.830) are to be counted.

§ 603.550 Acceptability of intellectual property.

(a) In most instances, the contracting officer should not count costs of patents and other intellectual property (*e.g.*, copyrighted material, including software) as cost sharing because:

(1) It is difficult to assign values to these intangible contributions;

(2) Their value usually is a manifestation of prior research costs, which are not allowed as cost share under § 603.545; and

(3) Contributions of intellectual property rights generally do not represent the same cost of lost opportunity to a recipient as contributions of cash or tangible assets. The purpose of cost share is to ensure that the recipient incurs real risk that gives it a vested interest in the project's success.

(b) The contracting officer may include costs associated with intellectual property if the costs are based on sound estimates of market value of the contribution. For example, a for-profit firm may offer the use of commercially available software for which there is an established license fee for use of the product. The costs of the development of the software would not be a reasonable basis for valuing its use.

§ 603.555 Value of other contributions.

For types of participant contributions other than those addressed in §§ 603.535 through 603.550, the general rule is that the contracting officer is to value each contribution consistently with the cost principles or standards in § 603.625 and § 603.635 that apply to the participant making the contribution. When valuing services and property donated by parties other than the participants, the contracting officer may use as guidance the provisions of 10 CFR 600.313(b)(2) through (b)(5).

Fixed-Support or Expenditure-Based Approach

§ 603.560 Estimate of project expenditures.

(a) To use a fixed-support TIA, rather than an expenditure-based TIA, the contracting officer must have confidence in the estimate of the expenditures required to achieve well-defined outcomes. Therefore, the contracting officer must work carefully with program officials to select outcomes that, when the recipient achieves them, are reliable indicators of the amount of effort the recipient expended. However, the estimate of the required expenditures need not be a precise dollar amount, as illustrated by the example in paragraph (b) of this section, if:

(1) The recipient is contributing a substantial share of the costs of achieving the outcomes, which must meet the criteria in § 603.305(a); and

(2) The contracting officer is confident that the costs of achieving the outcomes will be at least a minimum amount that can be specified and the recipient is willing to accept the possibility that its cost sharing percentage ultimately will

be higher if the costs exceed that minimum amount.

(b) To illustrate the approach, consider a project for which the contracting officer is confident that the recipient will have to expend at least $800,000 to achieve the specified outcomes. The contracting officer must determine, in conjunction with program officials, the minimum level of recipient cost sharing required to demonstrate the recipient's commitment to the success of the project. For purposes of this illustration, let that minimum recipient cost sharing be 60% of the total project costs. In that case, the Federal share should be no more than 40% and the contracting officer could set a fixed level of Federal support at $320,000 (40% of $800,000). With that fixed level of Federal support, the recipient would be responsible for the balance of the costs needed to complete the project.

(c) Note, however, that the level of recipient cost sharing negotiated should be based solely on the level needed to demonstrate the recipient's commitment. The contracting officer may not use a shortage of Federal Government funding for the program as a reason to try to persuade a recipient to accept a fixed-support TIA, rather than an expenditure-based instrument, or to accept responsibility for a greater share of the total project costs than it otherwise is willing to offer. If there is insufficient funding to provide an appropriate Federal Government share for the entire project, the contracting officer should re-scope the effort covered by the agreement to match the available funding.

§ 603.565 Use of a hybrid instrument.

For a RD&D project that is to be carried out by a number of participants, the contracting officer may award a TIA that provides for some participants to perform under fixed-support arrangements and others to perform under expenditure-based arrangements. This approach may be useful, for example, if a commercial firm that is a participant will not accept an agreement with all of the post-award requirements of an expenditure-based award. Before using a fixed-support arrangement for that firm's portion of the project, the agreement must meet the criteria in § 603.305.

Accounting, Payments, and Recovery of Funds

§ 603.570 Determining milestone payment amounts.

(a) If the contracting officer selects the milestone payment method (see § 603.805), the contracting officer must assess the reasonableness of the estimated amount for reaching each milestone. This assessment enables the contracting officer to set the amount of each milestone payment to approximate the Federal share of the anticipated resource needs for carrying out that phase of the RD&D effort.

(b) The Federal share at each milestone need not be the same as the Federal share of the total project. For example, the contracting officer might deliberately set payment amounts with a larger Federal share for early milestones if a project involves a start-up company with limited resources.

(c) For an expenditure-based TIA, if the contracting officer establishes minimum cost sharing percentages for each milestone, those percentages should be indicated in the agreement.

(d) For a fixed-support TIA, the milestone payments should be associated with the well-defined, observable, and verifiable technical outcomes (*e.g.*, demonstrations, tests, or data analysis) that are established for the project in accordance with §§ 603.305(a) and 603.560(a).

§ 603.575 Repayment of Federal cost share.

In accordance with the Energy Policy Act of 2005 (Public Law 109–58), section 988(e), the contracting officer may not require repayment of the Federal share of a cost-shared TIA as a condition of making an award, unless otherwise authorized by statute.

Subpart F—Award Terms Affecting Participants' Financial, Property, and Purchasing Systems

§ 603.600 Administrative matters.

This subpart addresses ''systemic'' administrative matters that place requirements on the operation of a participant's financial management, property management, or purchasing system. Each participant's systems are organization-wide and do not vary with each agreement. Therefore, a TIA should address systemic requirements in a uniform way for each type of participant organization.

§ 603.605 General policy.

The general policy for an expenditure-based TIA is to avoid requirements that would force participants to use different financial management, property management, and purchasing systems than they currently use for:

(a) Expenditure-based Federal procurement contracts and assistance awards in general, if they receive them; or

(b) Commercial business, if they have no expenditure-based Federal procurement contracts and assistance awards.

§ 603.610 Flow down requirements.

If it is an expenditure-based award, the TIA must require participants to provide the same financial management, property management, and purchasing systems requirements to a subrecipient that would apply if the subrecipient were a participant. For example, a for-profit participant would require a university subrecipient to comply with requirements that apply to a university participant and would require a GOCO or FFRDC subrecipient to comply with standards that conform as much as practicable with the requirements in the GOCO/FFRDC procurement contract. Note that this policy applies to subawards for substantive performance of portions of the RD&D project supported by the TIA and not to participants' purchases of goods or services needed to carry out the RD&D.

Financial Matters

§ 603.615 Financial management standards for-profit firms.

(a) To avoid causing needless changes in participants' financial management systems, an expenditure-based TIA will make for-profit participants that currently perform under other expenditure-based Federal procurement contracts or assistance awards subject to the same standards for financial management systems that apply to those other awards. Therefore, if a for-profit participant has expenditure-based DOE assistance awards other than a TIA, the TIA must apply the standards in 10 CFR 600.311. The contracting officer may grant an exception and allow a for-profit participant that has other expenditure-based Federal Government awards to use an alternative set of standards that meets the minimum criteria in paragraph (b) of this section, if there is a compelling programmatic or business reason to do so. For each case in which an exception is granted, the contracting officer must document the reason in the award file.

(b) For an expenditure-based TIA, the contracting officer is to allow and encourage each for-profit participant that does not currently perform under expenditure-based Federal procurement contracts or assistance awards (other than a TIA) to use its existing financial management system as long as the system, as a minimum:

(1) Complies with Generally Accepted Accounting Principles.

(2) Effectively controls all project funds, including Federal funds and any required cost share. The system must have complete, accurate, and current

records that document the sources of funds and the purposes for which they are disbursed. It also must have procedures for ensuring that project funds are used only for purposes permitted by the agreement (see § 603.625).

(3) Includes, if advance payments are authorized under § 603.805, procedures to minimize the time elapsing between the payment of funds by the Government and the firm's disbursement of the funds for program purposes.

§ 603.620 Financial management standards for nonprofit participants.

So as not to force system changes for any State, local government, institution of higher education, or other nonprofit organization, expenditure-based TIA requirements for the financial management system of any nonprofit participant are to be the same as those that apply to the participant's other Federal assistance awards. Specifically, the requirements are those in:

(a) 10 CFR 600.220 for State and local governments; and

(b) 10 CFR 600.121(b) for other nonprofit organizations, with the exception of nonprofit Government-owned, contractor-operated (GOCO) facilities and Federally Funded Research and Development Centers (FFRDCs) that are excepted from the definition of ''recipient'' in 10 CFR 600.101. If a GOCO or FFRDC is a participant, the contracting officer must specify appropriate standards that conform as much as practicable with requirements in their procurement contract.

§ 603.625 Cost principles or standards applicable to for-profit participants.

(a) So as not to require any firm to needlessly change its cost accounting system, an expenditure-based TIA is to apply the Government cost principles in 48 CFR part 31 to for-profit participants that currently perform under expenditure-based Federal procurement contracts or assistance awards (other than a TIA) and therefore have existing systems for identifying allowable costs under those principles. If there are programmatic or business reasons to do otherwise, the contracting officer may grant an exception from this requirement and use alternative standards as long as the alternative satisfies the conditions described in paragraph (b) of this section; if an exception is granted the reasons must be documented in the award file.

(b) For other for-profit participants, the contracting officer may establish alternative standards in the agreement as long as that alternative provides, as a minimum, that Federal funds and funds counted as recipients' cost sharing will be used only for costs that:

(1) A reasonable and prudent person would incur in carrying out the RD&D project contemplated by the agreement. Generally, elements of cost that appropriately are charged are those identified with RD&D activities under the Generally Accepted Accounting Principles (see Statement of Financial Accounting Standards Number 2, ''Accounting for Research and Development Costs,'' October 1974). Moreover, costs must be allocated to DOE and other projects in accordance with the relative benefits the projects receive. Costs charged to DOE projects must be given consistent treatment with costs allocated to the participants' other RD&D activities (e.g., activities supported by the participants themselves or by non-Federal sponsors).

(2) Are consistent with the purposes stated in the governing Congressional authorizations and appropriations. The contracting officer is responsible for ensuring that provisions in the award document address any requirements that result from authorizations and appropriations.

§ 603.630 Use Federally approved indirect cost rates for for-profit firms.

In accordance with the general policy in § 603.605, the contracting officer must require a for-profit participant that has federally approved indirect cost rates for its Federal procurement contracts to use those rates to accumulate and report costs under an expenditure-based TIA. This includes both provisional and final rates that are approved up until the time that the TIA is closed out.

§ 603.635 Cost principles for nonprofit participants.

So as not to force financial system changes for any nonprofit participant, an expenditure-based TIA will provide that costs to be charged to the RD&D project by any nonprofit participant must be determined to be allowable in accordance with:

(a) OMB Circular A–87, if the participant is a State or local governmental organization;

(b) OMB Circular A–21, if the participant is an institution of higher education;

(c) 45 CFR Part 74, Appendix E, if the participant is a hospital; or

(d) OMB Circular A–122, if the participant is any other type of nonprofit organization (the cost principles in 48 CFR parts 31 and 231 are to be used by any nonprofit organization that is identified in Circular A–122 as being subject to those cost principles).

§ 603.640 Audits of for-profit participants.

If the TIA is an expenditure-based award, the contracting officer must include in it an audit provision that addresses, for each for-profit participant:

(a) Whether the for-profit participant must have periodic audits, in addition to any award-specific audits, as described in § 603.645;

(b) Whether the Defense Contract Audit Agency (DCAA) or an independent public accountant (IPA) will perform required audits, as discussed in § 603.650;

(c) How frequently any periodic audits are to be performed, addressed in § 603.655; and

(d) Other matters described in § 603.660, such as audit coverage, allowability of audit costs, auditing standards, and remedies for noncompliance.

§ 603.645 Periodic audits and award-specific audits of for-profit participants.

The contracting officer needs to consider requirements for both periodic audits and award-specific audits (as defined in § 603.1295 and § 603.1220, respectively). The way that an expenditure-based TIA addresses the two types of audits will vary, depending upon the type of for-profit participant.

(a) For for-profit participants that are audited by the DCAA or other Federal auditors, as described in §§ 603.650(b) and 603.655, specific requirements for periodic audits need not be added because the Federal audits should be sufficient to address whatever may be needed. The inclusion in the TIA of the standard access-to-records provision for those for-profit participants, as discussed in § 603.910(a), gives the necessary access in the event that the contracting officer later needs to request audits to address award-specific issues that arise.

(b) For each other for-profit participant, the contracting officer:

(1) Should require that the participant have an independent auditor (i.e., the DCAA or an independent public accountant (IPA)) conduct periodic audits of its systems if it expends $500,000 or more per year in TIAs and other Federal assistance awards. A prime reason for including this requirement is that the Federal Government, for an expenditure-based award, necessarily relies on amounts reported by the participant's systems when it sets payment amounts or adjusts performance outcomes. The

periodic audit provides some assurance that the reported amounts are reliable.

(2) Must ensure that the award provides an independent auditor the access needed for award-specific audits, to be performed at the request of the contracting officer if issues arise that require audit support. However, consistent with the government-wide policies on single audits that apply to nonprofit participants (see § 603.665), the contracting officer should rely on periodic audits to the maximum extent possible to resolve any award-specific issues.

§ 603.650 Designation of auditor for for-profit participants.

The auditor identified in an expenditure-based TIA to perform periodic and award-specific audits of a for-profit participant depends on the circumstances, as follows:

(a) The Federal cognizant agency or an IPA will be the auditor for a for-profit participant that does not meet the criteria in paragraph (b) of this section. Note that the allocable portion of the costs of the IPA's audit may be reimbursable under the TIA, as described in § 603.660(b). The IPA should be the one that the participant uses to perform other audits (e.g., of its financial statement), to minimize added burdens and costs.

(b) Except as provided in paragraph (c) of this section, the Federal cognizant agency (e.g., DCAA) must be identified as the auditor for a GOCO or FFRDC and for any for-profit participant that is subject to Federal audits because it is currently performing under a Federal award that is subject to the:

(1) Cost principles in 48 CFR part 31 of the Federal Acquisition Regulation (FAR); or

(2) Cost Accounting Standards in 48 CFR Chapter 99.

(c) If there are programmatic or business reasons that justify the use of an auditor other than the Federal cognizant agency for a for-profit participant that meets the criteria in paragraph (b) of this section, the contracting officer may provide that an IPA will be the auditor for that participant in which case the reasons for this decision must be documented in the award file.

§ 603.655 Frequency of periodic audits of for-profit participants.

If an expenditure-based TIA provides for periodic audits of a for-profit participant by an IPA, the contracting officer must specify the frequency for those audits. The contracting officer should consider having an audit performed during the first year of the award, when the participant has its IPA do its next financial statement audit, unless the participant already had a systems audit due to other Federal awards within the past two years. The frequency thereafter may vary depending upon the dollars the participant is expending annually under the award, but it is not unreasonable to require an updated audit every two to three years to verify that the participant's systems continue to be reliable (the audit then would cover the two or three-year period between audits).

§ 603.660 Other audit requirements.

If an expenditure-based TIA provides for audits of a for-profit participant by an IPA, the contracting officer also must specify:

(a) What periodic audits are to cover. It is important to specify audit coverage that is only as broad as needed to provide reasonable assurance of the participant's compliance with award terms that have a direct and material effect on the RD&D project.

(b) Who will pay for periodic and award-specific audits. The allocable portion of the costs of any audits by IPAs may be reimbursable under the TIA. The costs may be direct charges or allocated indirect costs, consistent with the participant's accounting system and practices.

(c) The auditing standards that the IPA will use. The contracting officer must provide that the IPA will perform the audits in accordance with the Generally Accepted Government Auditing Standards.

(d) The available remedies for noncompliance. The agreement must provide that the participant may not charge costs to the award for any audit that the contracting officer determines was not performed in accordance with the Generally Accepted Government Auditing Standards or other terms of the agreement. It also must provide that the Government has the right to require the participant to have the IPA take corrective action and, if corrective action is not taken, that the agreements officer has recourse to any of the remedies for noncompliance identified in 10 CFR 600.352(a).

(e) Where the IPA is to send audit reports. The agreement must provide that the IPA is to submit audit reports to the contracting officer. It also must require that the IPA report instances of fraud directly to the Office of Inspector General (OIG), DOE.

(f) The retention period for the IPA's working papers. The contracting officer must specify that the IPA is to retain working papers for a period of at least three years after the final payment, unless the working papers relate to an audit whose findings are not fully resolved within that period or to an unresolved claim or dispute (in which case, the IPA must keep the working papers until the matter is resolved and final action taken).

(g) Who will have access to the IPA's working papers. The agreement must provide for Government access to working papers.

§ 603.665 Periodic audits of nonprofit participants.

An expenditure-based TIA is an assistance instrument subject to the Single Audit Act (31 U.S.C. 7501–7507), so nonprofit participants are subject to the requirements under that Act and OMB Circular A–133. Specifically, the requirements are those in:

(a) 10 CFR 600.226 for State and local governments; and

(b) 10 CFR 600.126 for other nonprofit organizations.

§ 603.670 Flow down audit requirements to subrecipients.

(a) In accordance with § 603.610, an expenditure-based TIA must require participants to flow down the same audit requirements to a subrecipient that would apply if the subrecipient were a participant.

(b) For example, a for-profit participant that is audited by the DCAA:

(1) Would flow down to a university subrecipient the Single Audit Act requirements that apply to a university participant;

(2) Could enter into a subaward allowing a for-profit participant, under the circumstances described in § 603.650(a), to use an IPA to do its audits.

(c) This policy applies to subawards for substantive performance of portions of the RD&D project supported by the TIA, and not to participants' purchases of goods or services needed to carry out the RD&D.

§ 603.675 Reporting use of IPA for subawards.

An expenditure-based TIA should require participants to report to the contracting officer when they enter into any subaward allowing a for-profit subawardee to use an IPA, as described in § 603.670(b)(2).

Property

§ 603.680 Purchase of real property and equipment by for-profit firms.

(a) With the two exceptions described in paragraph (b) of this section, the contracting officer must require a for-profit firm to purchase real property or

equipment with its own funds that are separate from the RD&D project. The contracting officer should allow the firm to charge to an expenditure-based TIA only depreciation or use charges for real property or equipment (and the cost estimate for a fixed-support TIA only would include those costs). Note that the firm must charge depreciation consistently with its usual accounting practice. Many firms treat depreciation as an indirect cost. Any firm that usually charges depreciation indirectly for a particular type of property must not charge depreciation for that property as a direct cost to the TIA.

(b) In two situations, the contracting officer may grant an exception and allow a for-profit firm to use project funds, which includes both the Federal Government and recipient shares, to purchase real property or equipment (i.e., to charge to the project the full acquisition cost of the property). The two circumstances, which should be infrequent for equipment and extremely rare for real property, are those in which either:

(1) The real property or equipment will be dedicated to the project and has a current fair market value that is less than $5,000 by the time the project ends; or

(2) The contracting officer gives prior approval for the firm to include the full acquisition cost of the real property or equipment as part of the cost of the project (see § 603.535).

(c) If the contracting officer grants an exception in either of the circumstances described in paragraphs (b)(1) and (2) of this section, the real property or equipment must be subject to the property management standards in 10 CFR 600.321(b) through (e). As provided in those standards, the title to the real property or equipment will vest conditionally in the for-profit firm upon acquisition. A TIA, whether it is a fixed-support or expenditure-based award, must specify that any item of equipment that has a fair market value of $5,000 or more at the conclusion of the project also will be subject to the disposition process in 10 CFR 600.321(f), whereby the Federal Government will recover its interest in the property at that time.

§ 603.685 Management of real property and equipment by nonprofit participants.

For nonprofit participants, a TIA's requirements for vesting of title, use, management, and disposition of real property or equipment acquired under the award are the same as those that apply to the participant's other Federal assistance awards. Specifically, the requirements are those in:

(a) 10 CFR 600.231 and 600.232, for participants that are States and local governmental organizations; and

(b) 10 CFR 600.132 and 600.134, for other nonprofit participants, with the exception of nonprofit GOCOs and FFRDCs that are exempted from the definition of ''recipient'' in 10 CFR 600.101. If a GOCO or FFRDC is a participant, the contracting officer must specify appropriate standards that conform as much as practicable with the requirements in its procurement contract. Note also that:

(1) If the TIA is a cooperative agreement, 31 U.S.C. 6306 provides authority to vest title to tangible personal property in a nonprofit institution of higher education or in a nonprofit organization whose primary purpose is conducting scientific research, without further obligation to the Federal Government; and

(2) A TIA therefore must specify any conditions on the vesting of title to real property or equipment acquired by any such nonprofit participant.

§ 603.690 Requirements for Federally-owned property.

If DOE provides Federally-owned property to any participant for the performance of RD&D under a TIA, the contracting officer must require that participant to account for, use, and dispose of the property in accordance with:

(a) 10 CFR 600.322, if the participant is a for-profit firm.

(b) 10 CFR 600.232(f), if the participant is a State or local governmental organization. Note that 10 CFR 600.232(f) contains additional requirements for managing the property.

(c) 10 CFR 600.133(a) and 600.134(f), if the participant is a nonprofit organization other than a GOCO or FFRDC (requirements for GOCOs and FFRDCs should conform with the property standards in their procurement contracts).

§ 603.695 Requirements for supplies.

An expenditure-based TIA's provisions should permit participants to use their existing procedures to account for and manage supplies. A fixed-support TIA should not include requirements to account for or manage supplies.

Purchasing

§ 603.700 Standards for purchasing systems of for-profit firms.

(a) If the TIA is an expenditure-based award, it should require for-profit participants that currently perform under DOE assistance instruments subject to the purchasing standards in 10 CFR 600.331 to use the same requirements for the TIA, unless there are programmatic or business reasons to do otherwise (in which case the reasons must be documented in the award file).

(b) Other for-profit participants under an expenditure-based TIA should be allowed to use their existing purchasing systems, as long as they flow down the applicable requirements in Federal statutes, Executive Orders or Government-wide regulations (see Appendices A and B to this part for a list of those requirements).

§ 603.705 Standards for purchasing systems of nonprofit organizations.

So as not to force system changes for any nonprofit participant, an expenditure-based TIA should provide that each nonprofit participant's purchasing system comply with:

(a) 10 CFR 600.236, if the participant is a State or local governmental organization.

(b) 10 CFR 600.140 through 10 CFR 600.149, if the participant is a nonprofit organization other than a GOCO or FFRDC that is excepted from the definition of ''recipient'' in 10 CFR 600.101. If a GOCO or FFRDC is a participant, the TIA must specify appropriate standards that conform as much as practicable with requirements in its procurement contract.

Subpart G—Award Terms Related to Other Administrative Matters

§ 603.800 Scope.

This subpart addresses administrative matters that do not impose organization-wide requirements on a participant's financial management, property management, or purchasing system. Because an organization does not have to redesign its systems to accommodate award-to-award variations in these requirements, TIAs may differ in the requirements that they specify for a given participant, based on the circumstances of the particular RD&D project. To eliminate needless administrative complexity, the contracting officer should handle some requirements, such as the payment method, in a uniform way for the agreement as a whole.

Payments

§ 603.805 Payment methods.

A TIA may provide for:

(a) *Reimbursement,* as described in 10 CFR 600.312(a)(1), if it is an expenditure-based award.

(b) *Advance payments,* as described in 10 CFR 600.312(a)(2), subject to the conditions in 10 CFR 600.312(b)(2)(i) through (iii).

(c) *Payments based on payable milestones.* These are payments made according to a schedule that is based on predetermined measures of technical progress or other payable milestones. This approach relies upon the fact that, as the RD&D progresses throughout the term of the agreement, observable activity will be taking place. The recipient is paid upon the accomplishment of a predetermined measure of progress. A fixed-support TIA must use this payment method (this does not preclude use of an initial advance payment, if there is no alternative to meeting immediate cash needs). Payments based on payable milestones is the preferred method of payment for an expenditure-based TIA if well-defined outcomes can be identified.

§ 603.810 Method and frequency of payment requests.

The procedure and frequency for payment requests depend upon the payment method, as follows:

(a) For either reimbursements or advance payments, the TIA must allow recipients to submit requests for payment at least monthly. The contracting officer may authorize the recipients to use the forms or formats described in 10 CFR 600.312(d).

(b) If the payments are based on payable milestones, the recipient will submit a report or other evidence of accomplishment to the program official at the completion of each predetermined activity. If the award is an expenditure-based TIA that includes minimum cost sharing percentages for milestones (see 10 CFR 603.570(c)), the recipient must certify in the report that the minimum cost sharing requirement has been met. The contracting officer may approve payment to the recipient after receiving validation from the program manager that the milestone was successfully reached.

§ 603.815 Withholding payments.

A TIA must provide that the contracting officer may withhold payments in the circumstances described in 10 CFR 600.312(g), but not otherwise.

§ 603.820 Interest on advance payments.

If an expenditure-based TIA provides for either advance payments or payable milestones, the agreement must require the recipient to:

(a) Maintain in an interest-bearing account any advance payments or milestone payment amounts received in advance of needs to disburse the funds for program purposes unless:

(1) The recipient receives less than $120,000 in Federal grants, cooperative agreements, and TIAs per year;

(2) The best reasonably available interest-bearing account would not be expected to earn interest in excess of $1,000 per year on the advance or milestone payments; or

(3) The depository would require an average or minimum balance so high that it would not be feasible within the expected Federal and non-Federal cash resources for the project.

(b) Remit annually the interest earned to the contracting officer.

Revision of Budget and Program Plans

§ 603.825 Government approval of changes in plans.

If it is an expenditure-based award, a TIA must require the recipient to obtain the contracting officer's prior approval if there is to be a change in plans that may result in a need for additional Federal funding (this is unnecessary for a fixed-support TIA because the recipient is responsible for additional costs of achieving the outcomes). Other than that, the program official's substantial involvement in the project should ensure that the Government has advance notice of changes in plans.

§ 603.830 Pre-award costs.

Pre-award costs, as long as they are otherwise allowable costs of the project, may be charged to an expenditure-based TIA only with the specific approval of the contracting officer. All pre-award costs are incurred at the recipient's risk (e.g., DOE is not obligated to reimburse the costs if, for any reason, the recipient does not receive an award, or if the award is less than anticipated and inadequate to cover the costs).

Program Income

§ 603.835 Program income requirements.

A TIA must apply the standards of 10 CFR 600.314 for program income that may be generated. The TIA must also specify if the recipient is to have any obligation to the Federal Government with respect to program income generated after the end of the project period (i.e., the period, as established in the award document, during which Federal support is provided).

Intellectual Property

§ 603.840 Negotiating data and patent rights.

(a) The contracting officer must confer with program officials and assigned intellectual property counsel to develop an overall strategy for intellectual property that takes into account inventions and data that may result from the project and future needs the Government may have for rights in them. The strategy should take into account program mission requirements and any special circumstances that would support modification of standard patent and data terms, and should include considerations such as the extent of the recipient's contribution to the development of the technology; expected Government or commercial use of the technology; the need to provide equitable treatment among consortium or team members; and the need for the DOE to engage non-traditional Government contractors with unique capabilities.

(b) Because a TIA entails substantial cost sharing by recipients, the contracting officer must use discretion in negotiating Government rights to data and patentable inventions resulting from the RD&D under the agreements. The considerations in §§ 603.845 through 603.875 are intended to serve as guidelines, within which there is considerable latitude to negotiate provisions appropriate to a wide variety of circumstances that may arise.

§ 603.845 Data rights requirements.

(a) If the TIA is a cooperative agreement, the requirements at 10 CFR 600.325(d), Rights in data-general rule, apply. The ''Rights in Data—General'' provision in Appendix A to Subpart D of 10 CFR 600 normally applies. This provision provides the Government with unlimited rights in data first produced in the performance of the agreement, except as provided in paragraph (c) Copyright. However, in certain circumstances, the ''Rights in Data—Programs Covered Under Special Protected Data Statutes'' provision in Appendix A may apply.

(b) If the TIA is an assistance transaction other than a cooperative agreement, the requirements at 10 CFR 600.325(e), Rights in data—programs covered under special protected data statutes, normally apply. The ''Rights in Data—Programs Covered Under Special Data Statutes'' provision in Appendix A to Subpart D of 10 CFR 600 may be modified to accommodate particular circumstances (e.g., access to or expanded use rights in protected data among consortium or team members), or to list data or categories of data that the recipient must make available to the public. In unique cases, the contracting officer may negotiate special data rights requirements that vary from those in 10 CFR 600.325. Modifications to the standard data provisions must be approved by intellectual property counsel.

§ 603.850 Marking of data.

To protect the recipient's interests in data, the TIA should require the recipient to mark any particular data that it wishes to protect from disclosure with a specific legend specified in the agreement identifying the data as data subject to use, release, or disclosure restrictions.

§ 603.855 Protected data.

In accordance with law and regulation, the contracting officer must not release or disclose data marked with a restrictive legend (as specified in 603.850) to third parties, unless they are parties authorized by the award agreement or the terms of the legend to receive the data and are subject to a written obligation to treat the data in accordance with the marking.

§ 603.860 Rights to inventions.

(a) The contracting officer should negotiate rights in inventions that represent an appropriate balance between the Government's interests and the recipient's interests.

(1) The contracting officer has the flexibility to negotiate patent rights requirements that vary from that which the Bayh-Dole statute (Chapter 18 of Title 35, U.S.C.) and 42 U.S.C. 2182 and 5908 require. A TIA becomes an assistance transaction other than a cooperative agreement if its patent rights requirements vary from those required by these statutes.

(2) If the TIA is a cooperative agreement, the patent rights provision of 10 CFR 600.325(b) or (c) or 10 CFR 600.136 applies, depending on the type of recipient. Unless a class waiver has been issued under 10 CFR 784.7, it will be necessary for a large, for-profit business to request a patent waiver to obtain title to subject inventions.

(b) The contracting officer may negotiate Government rights that vary from the statutorily-required patent rights requirements described in paragraph (a)(2) of this section when necessary to accomplish program objectives and foster the Government's interests. Doing so would make the TIA an assistance transaction other than a cooperative agreement. The contracting officer must decide, with the help of the program manager and assigned intellectual property counsel, what best represents a reasonable arrangement considering the circumstances, including past investments and anticipated future investments of the recipient to the development of the technology, contributions under the current TIA, and potential commercial and Government markets. Any change to the standard patent rights provisions must be approved by assigned intellectual property counsel.

(c) Taking past investments as an example, the contracting officer should consider whether the Government or the recipient has contributed more substantially to the prior RD&D that provides the foundation for the planned effort. If the predominant past contributor to the particular technology has been:

(1) The Government, then the TIA's patent rights provision should be the standard provision as set forth in 10 CFR 600.325(b) or (c), or 10 CFR 600.136, as applicable.

(2) The recipient, then less restrictive patent requirements may be appropriate, which would make the TIA an assistance transaction other than a cooperative agreement. The contracting officer normally would, with the concurrence of intellectual property counsel, allow the recipient to retain title to subject inventions without going through the process of obtaining a patent waiver as required by 10 CFR 784. For example, with the concurrence of intellectual property counsel, the contracting officer also could eliminate or modify the nonexclusive paid-up license for practice by or on behalf of the Government to allow the recipient to benefit more directly from its investments.

(d) For subawards under a TIA that is other than a cooperative agreement, the TIA should normally specify that subrecipients' invention rights are to be negotiated between recipient and subrecipient; that subrecipients will get title to inventions they make; or some other disposition of invention rights. Factors to be considered by the contracting officer in addressing subrecipient's invention rights include: the extent of cost sharing by parties at all tiers; a subrecipient's status as a small business, nonprofit, or FFRDC; and whether an appropriate field of use licensing requirement would meet the needs of the parties.

(e) Consortium members may allocate invention rights in their collaboration agreement, subject to the review of the contracting officer (See § 603.515). The contracting officer, in performing such review, should consider invention rights to be retained by the Government and rights that may be obtained by small business, nonprofit or FFRDC consortium members.

§ 603.865 March-in rights.

A TIA's patent rights provision should include the Bayh-Dole march-in rights set out in paragraph (j) of the Patent Rights (Small Business Firms and Nonprofit Organization) provision in Appendix A to subpart D of 10 CFR 600, or an equivalent clause, concerning actions that the Government may take to obtain the right to use subject inventions, if the recipient fails to take effective steps to achieve practical application of the subject inventions within a reasonable time. The march-in provision may be modified to best meet the needs of the program. However, only infrequently should the march-in provision be entirely removed (*e.g.*, if a recipient is providing most of the funding for a RD&D project, with the Government providing a much smaller share).

§ 603.870 Marking of documents related to inventions.

To protect the recipient's interest in inventions, the TIA should require the recipient to mark documents disclosing inventions it desires to protect by obtaining a patent. The recipient should mark the documents with a legend identifying them as intellectual property subject to public release or public disclosure restrictions, as provided in 35 U.S.C. 205.

§ 603.875 Foreign access to technology and U.S. competitiveness provisions.

(a) Consistent with the objective of enhancing national security and United States competitiveness by increasing the public's reliance on the United States commercial technology, the contracting officer must include provisions in a TIA that addresses foreign access to technology developed under the TIA.

(b) A provision must provide, as a minimum, that any transfer of the technology must be consistent with the U.S. export laws, regulations and the Department of Commerce Export Regulation at Chapter VII, Subchapter C, Title 15 of the CFR (15 CFR parts 730–774), as applicable.

(c) A provision should also provide that any products embodying, or produced through the use of, any created intellectual property, will be manufactured substantially in the United States, and that any transfer of the right to use or sell the products must, unless the Government grants a waiver, require that the products will be manufactured substantially in the United States. In individual cases, the contracting officer, with the approval of the program official and intellectual property counsel, may waive or modify the requirement of substantial manufacture in the United States at the time of award, or subsequent thereto, upon a showing by the recipient that:

(1) Alternative benefits are being secured for the United States taxpayer

(*e.g.*, increased domestic jobs notwithstanding foreign manufacture);

(2) Reasonable but unsuccessful efforts have been made to transfer the technology under similar terms to those likely to manufacture substantially in the United States; or

(3) Under the circumstances domestic manufacture is not commercially feasible.

Financial and Programmatic Reporting

§ 603.880 Reports requirements.

A TIA must include requirements that, as a minimum, provide for periodic reports addressing program performance and, if it is an expenditure-based award, business/financial status. The contracting officer must require submission of the reports at least annually, and may require submission as frequently as quarterly (this does not preclude a recipient from electing to submit more frequently than quarterly the financial information that is required to process payment requests if the award is an expenditure-based TIA that uses reimbursement or advance payments under § 603.810(a)). The requirements for the content of the reports are as follows:

(a) The program portions of the reports must address progress toward achieving performance goals and milestones, including current issues, problems, or developments.

(b) The business/financial portions of the reports, applicable only to expenditure-based awards, must provide summarized details on the status of resources (federal funds and non-federal cost sharing), including an accounting of expenditures for the period covered by the report. The report should compare the resource status with any payment and expenditure schedules or plans provided in the original award; explain any major deviations from those schedules; and discuss actions that will be taken to address the deviations. The contracting officer may require a recipient to separately identify in these reports the expenditures for each participant in a consortium and for each programmatic milestone or task, if the contracting officer, after consulting with the program official, judges that those additional details are needed for good stewardship.

§ 603.885 Updated program plans and budgets.

In addition to reports on progress to date, a TIA may include a provision requiring the recipient to annually prepare an updated technical plan for future conduct of the research effort and a revised budget if there is a significant change from the initial budget.

§ 603.890 Final performance report.

A TIA must require a final performance report that addresses all major accomplishments under the TIA.

§ 603.895 Protection of information in programmatic reports.

If a TIA is awarded under the authority of 42 U.S.C. 7256(g) (*i.e.*, it is a type of assistance transaction ''other than'' a contract, grant or a cooperative agreement), the contracting officer may inform a participant that the award is covered by a special protected data statute, which provides for the protection from public disclosure, for a period of up to 5 years after the date on which the information is developed, any information developed pursuant to this transaction that would be trade secret, or commercial or financial information that is privileged or confidential, if the information had been obtained from a non-Federal party.

§ 603.900 Receipt of final performance report.

The TIA should make receipt of the final report a condition for final payment. If the payments are based on payable milestones, the submission and acceptance of the final report by the Government representative will be incorporated as an event that is a prerequisite for one of the payable milestones.

Records Retention and Access Requirements

§ 603.905 Record retention requirements

A TIA must require participants to keep records related to the TIA (for which the agreement provides Government access under § 603.910) for a period of three years after submission of the final financial status report for an expenditure-based TIA or final program performance report for a fixed-support TIA, with the following exceptions:

(a) The participant must keep records longer than three years after submission of the final financial status report if the records relate to an audit, claim, or dispute that begins but does not reach its conclusion within the 3-year period. In that case, the participant must keep the records until the matter is resolved and final action taken.

(b) Records for any real property or equipment acquired with project funds under the TIA must be kept for three years after final disposition.

§ 603.910 Access to a for-profit participant's records.

(a) If a for-profit participant currently grants access to its records to the DCAA or other Federal Government auditors, the TIA must include for that participant the standard access-to-records requirements at 10 CFR 600.342(e). If the agreement is a fixed-support TIA, the language in 10 CFR 600.342(e) may be modified to provide access to records concerning the recipient's technical performance, without requiring access to the recipient's financial or other records. Note that any need to address access to technical records in this way is in addition to, not in lieu of, the need to address rights in data (see § 603.845).

(b) For other for-profit participants that do not currently give the Federal Government direct access to their records and are not willing to grant full access to records pertinent to the award, the contracting officer may negotiate limited access to the recipient's financial records. For example, if the audit provision of an expenditure-based TIA gives an IPA access to the recipient's financial records for audit purposes, the Federal Government must have access to the IPA's reports and working papers and the contracting officer need not include a provision requiring direct Government access to the recipient's financial records. For both fixed-support and expenditure-based TIAs, the TIA must include the access-to-records requirements at 10 CFR 600.342(e) for records relating to technical performance.

§ 603.915 Access to a nonprofit participant's records.

A TIA must include for any nonprofit participant the standard access-to-records requirement at:

(a) 10 CFR 600.242(e), for a participant that is a State or local governmental organization;

(b) 10 CFR 600.153(e), for a participant that is a nonprofit organization. The same requirement applies to any GOCO or FFRDC, even though nonprofit GOCOs and FFRDCs are exempted from the definition of ''recipient'' in 10 CFR 600.101.

Termination and Enforcement

§ 603.920 Termination and enforcement requirements.

(a) *Termination.* A TIA must include the following conditions for termination:

(1) An award may be terminated in whole or in part by the contracting officer, if a recipient materially fails to comply with the terms and conditions of the award.

(2) Subject to a reasonable determination by either party that the project will not produce beneficial results commensurate with the expenditure of resources, that party may terminate in whole or in part the

agreement by providing at least 30 days advance written notice to the other party, provided such notice is preceded by consultation between the parties. The two parties will negotiate the termination conditions, including the effective date and, in the case of partial termination, the portion to be terminated. If either party determines in the case of partial termination that the reduced or modified portion of the award will not accomplish the purpose for which the award was made, the award may be terminated in its entirety.

(3) Unless otherwise negotiated, for terminations of an expenditure based TIA, DOE's maximum liability is the lesser of:

(i) DOE's share of allowable costs incurred up to the date of termination, or

(ii) The amount of DOE funds obligated to the TIA.

(4) Unless otherwise negotiated, for terminations of a fixed-support based TIA, DOE shall pay the recipient a proportionate share of DOE's financial commitment to the project based on the percent of project completion as of the date of termination.

(5) Notwithstanding paragraphs (3) and (4) of this section, if the award includes milestone payments, the Government has no obligation to pay the recipient beyond the last completed and paid milestone if the recipient decides to terminate.

(b) Enforcement. The standards of 10 CFR 600.352 (for enforcement) and the procedures in 10 CFR 600.22 (for disputes and appeals) apply.

Subpart H—Executing the Award

§ 603.1000 Contracting officer's responsibilities at time of award.

At the time of the award, the contracting officer must:

(a) Ensure that the award document contains the appropriate terms and conditions and is signed by the appropriate parties, in accordance with §§ 603.1005 through 603.1015.

(b) Document the analysis of the agreement in the award file, as discussed in § 603.1020.

(c) Provide information about the award to the office responsible for reporting on TIAs.

The Award Document

§ 603.1005 General responsibilities.

The contracting officer is responsible for ensuring that the award document is complete and accurate. The document should:

(a) Address all issues;

(b) State requirements directly. It is not helpful to readers to incorporate statutes or rules by reference, without sufficient explanation of the requirements. The contracting officer generally should not incorporate clauses from the Federal Acquisition Regulation (48 CFR parts 1–53) or Department of Energy Acquisition Regulation (48 CFR parts 901–970) because those provisions are designed for procurement contracts that are used to acquire goods and services, rather than for a TIA or other assistance instruments.

(c) Be written in clear and concise language, to minimize potential ambiguity.

§ 603.1010 Substantive issues.

Each TIA is designed and negotiated individually to meet the specific requirements of the particular project, so the list of substantive issues that will be addressed in the award document may vary. Every award document must address:

(a) *Project scope.* The scope is an overall vision statement for the project, including a discussion of the project's purpose, objectives, and detailed commercial goals. It is a critical provision because it provides a context for resolving issues that may arise during post-award administration. In a fixed-support TIA, the well-defined outcomes that reliably indicate the amount of effort expended and serve as the basis for the level of the fixed support must be clearly specified (see §§ 603.305 and 603.560(a)).

(b) *Project management.* The TIA should describe the nature of the relationship between the Federal Government and the recipient; the relationship among the participants, if the recipient is an unincorporated consortium; and the overall technical and administrative management of the project. A TIA is used to carry out collaborative relationships between the Federal Government and the recipient. Consequently, there must be substantial involvement of the DOE program official (see § 603.220) and usually the contracting officer. The program official provides technical insight, which differs from the usual technical oversight of a project. The management provision also should discuss how modifications to the TIA are made.

(c) *Termination, enforcement, and disputes.* A TIA must provide for termination, enforcement remedies, and disputes and appeals procedures, in accordance with § 603.920.

(d) *Funding.* The TIA must:

(1) Show the total amount of the agreement and the total period of performance.

(2) If the TIA is an expenditure-based award, state the Government's and recipient's agreed-upon cost shares for the project period and for each budget period. The award document should identify values for any in-kind contributions, determined in accordance with §§ 603.530 through 603.555, to preclude later disagreements about them.

(3) Specify the amount of Federal funds obligated and the performance period for those obligated funds.

(4) State, if the agreement is to be incrementally funded, that the Government's obligation for additional funding is contingent upon the availability of funds and that no legal obligation on the part of the Government exists until additional funds are made available and the agreement is amended. The TIA also must include a prior approval requirement for changes in plans requiring additional Government funding, in accordance with § 603.825.

(e) *Payment.* The TIA must identify the payment method and tell the recipient how, when, and where to submit payment requests, as discussed in §§ 603.805 through 603.815. The payment method must take into account sound cash management practices by avoiding unwarranted cash advances. For an expenditure-based TIA, the payment provision must require the return of interest should excess cash balances occur, in accordance with § 603.820. For any TIA using the milestone payment method described in § 603.805(c), the TIA must include language notifying the recipient that the contracting officer may adjust amounts of future milestone payments if a project's expenditures fall too far below the projections that were the basis for setting the amounts (see § 603.575(c) and § 603.1105(c)).

(f) *Records retention and access to records.* The TIA must include the records retention requirement at § 603.910. The TIA also must provide for access to for-profit and nonprofit participants' records, in accordance with § 603.915 and § 603.920.

(g) *Patents and data rights.* In designing the patents and data rights provision, the TIA must set forth the minimum required Federal Government rights in intellectual property generated under the award and address related matters, as provided in §§ 603.840 through 603.875. It is important to define all essential terms in the patent rights provision.

(h) *Foreign access to technology and U.S. competitiveness.* The TIA must include provisions, in accordance with § 603.875, concerning foreign access and domestic manufacture of products using technology generated under the award.

(i) *Title to, management of, and disposition of tangible property.* The property provisions for for-profit and nonprofit participants must be in accordance with §§ 603.685 through 603.700.

(j) *Financial management systems.* For an expenditure-based award, the TIA must specify the minimum standards for financial management systems of both for-profit and nonprofit participants, in accordance with §§ 603.615 and 603.620.

(k) *Allowable costs.* If the TIA is an expenditure-based award, it must specify the standards that both for-profit and nonprofit participants are to use to determine which costs may be charged to the project, in accordance with §§ 603.625 through 603.635, as well as § 603.830.

(l) *Audits.* If a TIA is an expenditure-based award, it must include an audit provision for both for-profit and nonprofit participants and subrecipients, in accordance with §§ 603.640 through 603.670 and § 603.675.

(m) *Purchasing system standards.* The TIA should include a provision specifying the standards in §§ 603.700 and 603.705 for purchasing systems of for-profit and nonprofit participants, respectively.

(n) *Program income.* The TIA should specify requirements for program income, in accordance with § 603.835.

(o) *Financial and programmatic reporting.* The TIA must specify the reports that the recipient is required to submit and tell the recipient when and where to submit them, in accordance with §§ 603.880 through 603.900.

(p) *Assurances for applicable national policy requirements.* The TIA must incorporate assurances of compliance with applicable requirements in Federal statutes, Executive Orders, or regulations (except for national policies that require certifications). Appendix A to this part contains a list of commonly applicable requirements that should be augmented with any specific requirements that apply to a particular TIA (e.g., general provisions in the appropriations act for the specific funds that are being obligating).

(q) *Other matters.* The agreement should address any other issues that need clarification, including the name of the contracting officer who will be responsible for post-award administration and the statutory authority or authorities for entering into the TIA. In addition, the agreement must specify that it takes precedence over any inconsistent terms and conditions in collateral documents such as attachments to the TIA or the recipient's articles of collaboration.

§ 603.1015 Execution.

(a) If the recipient is a consortium that is not formally incorporated and the consortium members prefer to have the agreement signed by all of them individually, the agreement may be executed in that manner.

(b) If they wish to designate one consortium member to sign the agreement on behalf of the consortium as a whole, the determination whether to execute the agreement in that way should not be made until the contracting officer reviews the consortium's articles of collaboration with legal counsel.

(1) The purposes of the review are to:

(i) Determine whether the articles properly authorize one participant to sign on behalf of the other participants and are binding on all consortium members with respect to the RD&D project; and

(ii) Assess the risk that otherwise could exist when entering into an agreement signed by a single member on behalf of a consortium that is not a legal entity. For example, the contracting officer should assess whether the articles of collaboration adequately address consortium members' future liabilities related to the RD&D project (e.g., whether they will have joint and severable liability).

(2) After the review, in consultation with legal counsel, the contracting officer should determine whether it is better to have all of the consortium members sign the agreement individually or to allow them to designate one member to sign on all members' behalf.

Reporting Information About the Award

§ 603.1020 File documents.

The award file should include an analysis which:

(a) Briefly describes the program and details the specific commercial benefits that should result from the project supported by the TIA. If the recipient is a consortium that is not formally incorporated, a copy of the signed articles of collaboration should be attached.

(b) Describes the process that led to the award of the TIA, including how DOE solicited and evaluated proposals and selected the one supported through the TIA.

(c) Explains the basis for the decision that a TIA was the most appropriate instrument, in accordance with the factors in Subpart B of this part. The explanation must include the answers to the relevant questions in § 603.225(a) through (d).

(d) Explains how the recipient's cost sharing contributions was valued in accordance with §§ 603.530 through 603.555. For a fixed-support TIA, the file must document the analysis required (see § 603.560) to set the fixed level of Federal support; the documentation must explain how the recipient's minimum cost share was determined and how the expenditures required to achieve the project outcomes were estimated.

(e) Documents the results of the negotiation, addressing all significant issues in the TIA's provisions.

Subpart I—Post-Award Administration

§ 603.1100 Contracting officer's post-award responsibilities.

Generally, the contracting officer's post-award responsibilities are the same responsibilities as those for any cooperative agreement. Responsibilities for a TIA include:

(a) Participating as the business partner to the DOE program official to ensure the Government's substantial involvement in the RD&D project. This may involve attendance with program officials at kickoff meetings or post-award conferences with recipients. It also may involve attendance at the consortium management's periodic meetings to review technical progress, financial status, and future program plans.

(b) Tracking and processing of reports required by the award terms and conditions, including periodic business status reports, programmatic progress reports, and patent reports.

(c) Handling payment requests and related matters. For a TIA using advance payments, that includes reviews of progress to verify that there is continued justification for advancing funds, as discussed in § 603.1105(b). For a TIA using milestone payments, it includes making any needed adjustments in future milestone payment amounts, as discussed in § 603.1105(c).

(d) Making continuation awards for subsequent budget periods, if the agreement includes separate budget periods. See 10 CFR 600.26(b). Any continuation award is contingent on availability of funds, satisfactory progress towards meeting the performance goals and milestones, submittal of required reports, and compliance with the terms and conditions of the award.

(e) Coordinating audit requests and reviewing audit reports for both single audits of participants' systems and any award-specific audits that may be

needed, as discussed in §§ 603.1115 and 603.1120.

(f) Responding, after coordination with program officials and intellectual property counsel, to recipient requests for permission to assign or license intellectual property to entities that do not agree to manufacture substantially in the United States, as described in § 603.875(b). Before granting approval for any technology, the contracting officer must secure assurance that any such assignment is consistent with license rights for Government use of the technology, and that other conditions for any such transfer are met.

§ 603.1105 Advance payments or payable milestones.

The contracting officer must:

(a) For any expenditure-based TIA with advance payments or payable milestones, forward to the responsible payment office any interest that the recipient remits in accordance with § 603.820(b). The payment office will return the amounts to the Department of the Treasury's miscellaneous receipts account.

(b) For any expenditure-based TIA with advance payments, consult with the program official and consider whether program progress reported in periodic reports, in relation to reported expenditures, is sufficient to justify the continued authorization of advance payments under § 603.805(b).

(c) For any expenditure-based TIA using milestone payments, work with the program official at the completion of each payable milestone or upon receipt of the next business status report to:

(1) Compare the total amount of project expenditures, as recorded in the payable milestone report or business status report, with the projected budget for completing the milestone; and

(2) Adjust future payable milestones, as needed, if expenditures lag substantially behind what was originally projected and the contracting officer judges that the recipient is receiving Federal funds sooner than necessary for program purposes. Before making adjustments, the contracting officer should consider how large a deviation is acceptable at the time of the milestone. For example, suppose that the first milestone payment for a TIA is $50,000, and that the awarding official set the amount based on a projection that the recipient would have to expend $100,000 to reach the milestone (*i.e.*, the original plan was for the recipient's share at that milestone to be 50% of project expenditures). If the milestone payment report shows $90,000 in expenditures, the recipient's share at this point is 44% ($40,000 out of the total $90,000 expended, with the balance provided by the $50,000 milestone payment of Federal funds). For this example, the contracting officer should adjust future milestones if a 6% difference in the recipient's share at the first milestone is judged to be too large, but not otherwise. Remember that milestone payment amounts are not meant to track expenditures precisely at each milestone and that a recipient's share will increase as it continues to perform RD&D and expend funds, until it completes another milestone to trigger the next Federal payment.

§ 603.1110 Other payment responsibilities.

Regardless of the payment method, the contracting officer should ensure that:

(a) The request complies with the award terms;

(b) Available funds are adequate to pay the request;

(c) The recipient will not have excess cash on hand, based on expenditure patterns; and

(d) Payments are not withheld, except in one of the circumstances described in 10 CFR 600.312(g).

§ 603.1115 Single audits.

For audits of for-profit participant's systems, under §§ 603.640 through 603.660, the contracting officer is the focal point for ensuring that participants submit audit reports and for resolving any findings in those reports. The contracting officer's responsibilities regarding single audits of nonprofit participant's systems are identified in the DOE ''Guide to Financial Assistance.''

§ 603.1120 Award-specific audits.

Guidance on when and how the contracting officer should request additional audits for an expenditure-based TIA is identical to the guidance in 10 CFR 600.316(d). If the contracting officer requires an award-specific examination or audit of a for-profit participant's records related to a TIA, the contracting officer must use the auditor specified in the award terms and conditions, which should be the same auditor who performs periodic audits of the participant.

Subpart J—Definitions of Terms Used in this Part

§ 603.1200 Definitions

The terms defined in 10 CFR 600.3 apply to all DOE financial assistance, including a TIA. In addition to those terms, the following terms are used in this part.

§ 603.1205 Advance.

A payment made to a recipient before the recipient disburses the funds for program purposes. Advance payments may be based upon a recipient's request or a predetermined payment schedule.

§ 603.1210 Articles of collaboration.

An agreement among the participants in a consortium that is not formally incorporated as a legal entity, by which they establish their relative rights and responsibilities (see § 603.515).

§ 603.1215 Assistance.

The transfer of a thing of value to a recipient to carry out a public purpose of support or stimulation authorized by a law of the United States (see 31 U.S.C. 6101(3)). Grants, cooperative agreements, and technology investment agreements are examples of legal instruments used to provide assistance.

§ 603.1220 Award-specific audit.

An audit of a single TIA, usually done at the cognizant contracting officer's request, to help resolve issues that arise during or after the performance of the RD&D project. An award-specific audit of an individual award differs from a periodic audit of a participant (as defined in § 603.1295).

§ 603.1225 Cash contributions.

A recipient's cash expenditures made as contributions toward cost sharing, including expenditures of money that third parties contributed to the recipient.

§ 603.1230 Commercial firm.

A for-profit firm or segment of a for-profit firm (*e.g.*, a division or other business unit) that does a substantial portion of its business in the commercial marketplace.

§ 603.1235 Consortium.

A group of RD&D-performing organizations that either is formally incorporated or that otherwise agrees to jointly carry out a RD&D project (see definition of ''articles of collaboration,'' in § 603.1210).

§ 603.1240 Cooperative agreement.

A legal instrument which, consistent with 31 U.S.C. 6305, is used to enter into the same kind of relationship as a grant (see definition of ''grant,'' in § 603.1270), except that substantial involvement is expected between the DOE and the recipient when carrying out the activity contemplated by the cooperative agreement. The term does not include ''cooperative research and development agreements'' as defined in 15 U.S.C. 3710a.

§ 603.1245 Cost sharing.

A portion of project costs from non-Federal sources that are borne by the recipient or non-Federal third parties on behalf of the recipient, rather than by the Federal Government.

§ 603.1250 Data.

Recorded information, regardless of form or the media on which it may be recorded. The term includes technical data and computer software. It does not include information incidental to administration, such as financial, administrative, cost or pricing, or other management information related to the administration of a TIA.

§ 603.1255 Equipment.

Tangible property, other than real property, that has a useful life of more than one year and an acquisition cost of $5,000 or more per unit.

§ 603.1260 Expenditure-based award.

A Federal Government assistance award for which the amounts of interim payments or the total amount ultimately paid (*i.e.*, the sum of interim payments and final payment) are subject to redetermination or adjustment, based on the amounts expended by the recipient in carrying out the purposes for which the award was made, as long as the redetermination or adjustment does not exceed the total Government funds obligated to the award. Most Federal Government grants and cooperative agreements are expenditure-based awards.

§ 603.1265 Expenditures or outlays.

Charges made to the project or program. They may be reported either on a cash or accrual basis, as shown in the following table:

If reports are prepared on a . . .	Expenditures are the sum of . . .
(a) Cash basis	(1) Cash disbursements for direct charges for goods and services; (2) The amount of indirect expense charge; (3) The value of third party in-kind contributions applied; and (4) The amount of cash advances and payments made to any other organizations for the performance of a part of the RD&D effort.
(b) Accrual basis	(1) Cash disbursements for direct charges for goods and services; (2) The amount of indirect expense incurred; (3) The value of in-kind contributions applied; and (4) The net increase (or decrease) in the amounts owed by the recipient for goods and other property received, for services performed by employees, contractors, and other payees and other amounts becoming owed under programs for which no current services or performance are required.

§ 603.1270 Grant.

A legal instrument which, consistent with 31 U.S.C. 6304, is used to enter into a relationship:

(a) The principal purpose of which is to transfer a thing of value to the recipient to carry out a public purpose of support or stimulation authorized by a law of the United States, rather than to acquire property or services for the Department of Energy's direct benefit or use.

(b) In which substantial involvement is not expected between the DOE and the recipient when carrying out the activity contemplated by the grant.

§ 603.1275 In-kind contributions.

The value of non-cash contributions made by a recipient or non-Federal third parties toward cost sharing.

§ 603.1280 Institution of higher education.

An educational institution that:

(a) Meets the criteria in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001); and

(b) Is subject to the provisions of OMB Circular A–110, ''Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations,'' as implemented by the Department of Energy at 10 CFR 600, Subpart B.

§ 603.1285 Intellectual property.

Patents, trademarks, copyrights, mask works, protected data, and other forms of comparable property protected by Federal law and foreign counterparts.

§ 603.1290 Participant.

A consortium member or, in the case of an agreement with a single for-profit entity, the recipient. Note that a for-profit participant may be a firm or a segment of a firm (*e.g.*, a division or other business unit).

§ 603.1295 Periodic audit.

An audit of a participant, performed at an agreed-upon time (usually a regular time interval), to determine whether the participant as a whole is managing its Federal awards in compliance with the terms of those awards. Appendix A to this part describes what such an audit may cover. A periodic audit of a participant differs from an award-specific audit of an individual award (as defined in § 603.1220).

§ 603.1300 Procurement contract.

A Federal Government procurement contract. It is a legal instrument which, consistent with 31 U.S.C. 6303, reflects a relationship between the Federal Government and a State, a local government, or other non-government entity when the principal purpose of the instrument is to acquire property or services for the direct benefit or use of the Federal Government. See the more detailed definition of the term ''contract'' at 48 CFR 2.101.

§ 603.1305 Program income.

Gross income earned by the recipient or a participant that is generated by a supported activity or earned as a direct result of a TIA. Program income includes but is not limited to: income from fees for performing services; the use or rental of real property, equipment, or supplies acquired under a TIA; the sale of commodities or items fabricated under a TIA; and license fees and royalties on patents and copyrights. Interest earned on advances of Federal funds is not program income.

§ 603.1310 Program official.

A Federal Government program manager, project officer, scientific officer, or other individual who is responsible for managing the technical program being carried out through the use of a TIA.

§ 603.1315 Property.

Real property, equipment, supplies, and intellectual property, unless stated otherwise.

§ 603.1320 Real property.

Land, including land improvements, structures and appurtenances thereto, but excluding movable machinery and equipment.

§ 603.1325 Recipient.

An organization or other entity that receives a TIA from DOE. Note that a for-profit recipient may be a firm or a

segment of a firm (*e.g.*, a division or other business unit).

§ 603.1330 Supplies.

Tangible property other than real property and equipment. Supplies have a useful life of less than one year or an acquisition cost of less than $5,000 per unit.

§ 603.1335 Termination.

The cancellation of a TIA, in whole or in part, at any time prior to either:

(a) The date on which all work under the TIA is completed; or

(b) The date on which Federal sponsorship ends, as given in the award document or any supplement or amendment thereto.

§ 603.1340 Technology investment agreement.

A TIA is a special type of assistance instrument used to increase involvement of commercial firms in the DOE research, development and demonstration (RD&D) programs. A TIA, like a cooperative agreement, requires substantial Federal involvement in the technical or management aspects of the project. A TIA may be either a type of cooperative agreement or a type of assistance transaction other than a cooperative agreement, depending on the intellectual property provisions. A TIA is either:

(a) A type of cooperative agreement with more flexible provisions tailored for involving commercial firms (as distinct from a cooperative agreement subject to all of the requirements in 10 CFR Part 600), but with intellectual property provisions in full compliance with the DOE intellectual property statutes (*i.e.*, Bayh-Dole statute and 42 U.S.C. §§ 2182 and 5908, as implemented in 10 CFR 600.325); or

(b) An assistance transaction other than a cooperative agreement, if its intellectual property provisions vary from the Bayh-Dole statute and 42 U.S.C. §§ 2182 and 5908, which require the Government to retain certain intellectual property rights, and require differing treatment between large businesses and nonprofit organizations or small businesses.

Appendix A to Part 603—Applicable Federal Statutes, Executive Orders, and Government-wide Regulations

Whether the TIA is a cooperative agreement or a type of assistance transaction other than a cooperative agreement, the terms and conditions of the agreement must provide for recipients' compliance with applicable Federal statutes, Executive Orders and Government-wide regulations. This appendix lists some of the more common requirements to aid in identifying ones that apply to a specific TIA. The list is not intended to be all-inclusive, however; the contracting officer may need to consult legal counsel to verify whether there are others that apply (*e.g.*, due to a provision in the appropriations act for the specific funds in use or due to a statute or rule that applies to a particular program or type of activity).

A. Certifications

All financial assistance applicants, including applicants requesting a TIA must comply with the prohibitions concerning lobbying in a Government-wide common rule that the DOE has codified at 10 CFR part 601. The ''List of Certifications and Assurances for SF 424(R&R)'' on the DOE Applicant and Recipient page at *http://grants.pr.doe.gov* includes the Government-wide certification that must be provided with a proposal for a financial assistance award, including a TIA.

B. Assurances That Apply to a TIA

Currently the DOE approach to communicating Federal statutes, Executive Orders and Government-wide regulations is to provide potential applicants a list of ''National Policies Assurances to be Incorporated as Award Terms'' in the program announcement (This list is available on the Applicant and Recipient Page at *http://grants.pr.doe.gov* under Award Terms). The contracting officer should follow this approach for announcements that allow for the award of a TIA. The contracting officer should normally incorporate by reference or attach the list of national policy assurances to a TIA award. Of these requirements, the following four assurances apply to all TIA:

1. Prohibitions on discrimination on the basis of race, color, or national origin in Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d, *et seq.*) as implemented by DOE regulations at 10 CFR part 1040. These apply to all financial assistance. They require recipients to flow down the prohibitions to any subrecipients performing a part of the substantive RD&D program (as opposed to suppliers from whom recipients purchase goods or services).

2. Prohibitions on discrimination on the basis of age, in the Age Discrimination Act of 1975 (42 U.S.C. 6101, *et seq.*) as implemented by DOE regulations at 10 CFR part 1040. They apply to all financial assistance and require flow down to subrecipients.

3. Prohibitions on discrimination on the basis of handicap, in section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) as implemented by DOE regulations at 10 CFR part 1041. They apply to all financial assistance and require flow down to subrecipients.

4. Preferences for use of U.S.-flag air carriers in the International Air Transportation Fair Competitive Practices Act of 1974 (49 U.S.C. 40118), which apply to uses of U.S. Government funds.

C. Other Assurances

Additional assurance requirements may apply in certain circumstances, as follows:

1. If construction work is to be done under a TIA or its subawards, it is subject to the prohibitions in Executive Order 11246 on discrimination on the basis of race, color, religion, sex, or national origin.

2. If the RD&D involves human subjects or animals, it is subject to the requirements codified by the Department of Health and Human Services at 45 CFR part 46 and implemented by DOE at 10 CFR part 745 and rules on animal acquisition, transport, care, handling and use in 9 CFR parts 1 through 4, Department of Agriculture rules and rules of the Department of Interior at 50 CFR parts 10 through 24 and Commerce at 50 CFR parts 217 through 277, respectively. See item a. or b., respectively, under the heading ''Live organisms'' included on the DOE ''National Policy Assurances To Be Incorporated As Award Terms'' on the Applicant and Recipient Page.

3. If the RD&D involves actions that may affect the environment, it is subject to the National Environmental Policy Act, and may also be subject to national policy requirements for flood-prone areas, coastal zones, coastal barriers, wild and scenic rivers, and underground sources of drinking water.

4. If the project may impact a historic property, it is subject to the National Historic Preservation Act of 1966 (16 U.S.C. 470, *et seq.*).

Appendix B to Part 603—Flow Down Requirements for Purchases of Goods and Services

A. As discussed in § 603.705, the contracting officer must inform recipients of any requirements that flow down to their purchases of goods or services (e.g., supplies or equipment) under their TIA. Note that purchases of goods or services differ from subawards, which are for substantive RD&D program performance.

B. Appendix A to 10 CFR part 600, subpart D lists eight requirements that commonly apply to firms' purchases under grants or cooperative agreements. Of those eight, two that apply to all recipients' purchases under a TIA are:

1. *Byrd Anti-Lobbying Amendment (31 U.S.C. 1352).* A contractor submitting a bid to the recipient for a contract award of $100,000 or more must file a certification with the recipient that it has not and will not use Federal appropriations for certain lobbying purposes. The contractor also must disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. For further details, see 10 CFR part 601, the DOE's codification of the Government-wide common rule implementing this amendment.

2. *Debarment and suspension.* Recipients may not make contract awards that exceed the simplified acquisition threshold (currently $100,000) and certain other contract awards may not be made to parties listed on the General Services Administration (GSA) ''List of Parties Excluded from Federal Procurement and Nonprocurement Programs.'' The GSA list contains the names of parties debarred, suspended, or otherwise excluded by agencies, and parties declared ineligible under statutory or regulatory authority other than Executive Orders 12549 (3 CFR, 1986 Comp., p. 189) and 12689 (3

CFR, 1989 Comp., p. 235). For further details, see subparts A through E of 10 CFR part 606, which is the DOE's codification of the Government-wide common rule implementing Executive Orders 12549 and 12689.

C. One other requirement applies only in cases where construction work is to be performed under the TIA with Federal funds or recipient funds counted toward required cost sharing:

1. *Equal Employment Opportunity.* If the TIA includes construction work, the contracting officer should inform the recipient that Department of Labor regulations at 41 CFR 60–1.4(b) prescribe a clause that must be incorporated into construction awards and subawards. Further details are provided in Appendix B to 10 CFR 600 subpart D, item 1.

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Part IV

The President

Proclamation 8013—Mother's Day, 2006

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Presidential Documents

Title 3—

The President

Proclamation 8013 of May 4, 2006

Mother's Day, 2006

By the President of the United States of America

A Proclamation

On Mother's Day, we honor our mothers and pay tribute to their devoted work and selfless gift of love.

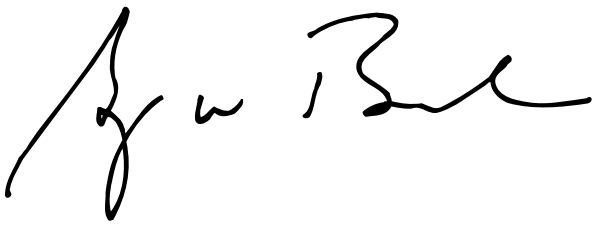
America's mothers are women of determination and vision. They serve as caregivers and guides, helping to build the foundation for our children's success and nurturing them as they grow and explore the great promise of our Nation. Through their mothers' examples, children come to understand the virtue of kindness, the blessing of compassion, and the importance of principle. A mother's support encourages children to make right choices, set high goals, and become good citizens. A mother's love inspires children to achieve their full potential and strengthens the character of our country. The commitment and love of mothers reflect the best of America.

On this special day, we remember the many mothers whose sons and daughters serve in harm's way. The determination and courage of these women demonstrate the spirit of our Nation, and America will always be grateful for their unfailing devotion. We also recognize the dedication of the many mothers who serve in America's Armed Forces. These brave women protect the safety and security of our Nation and help ensure a peaceful future for our children.

To honor mothers, the Congress, by a joint resolution approved May 8, 1914, as amended (38 Stat. 770), has designated the second Sunday in May each year as ''Mother's Day'' and has requested the President to call for its appropriate observance. May God bless all mothers across our country on this special day, and throughout the year.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, do hereby proclaim May 14, 2006, as Mother's Day. I encourage all Americans to show their gratitude and love to mothers for making a difference in the lives of their children and communities. I call upon citizens to observe this day with appropriate programs, ceremonies, and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this fourth day of May, in the year of our Lord two thousand six, and of the Independence of the United States of America the two hundred and thirtieth.



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S. 592/P.L. 109–219

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