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DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Part 2

RIN 0560–AH51

Revisions of Delegations of Authority

AGENCY: Office of the Secretary, Department of Agriculture (USDA).

ACTION: Final rule.

SUMMARY: USDA amends the delegations of authority from the Secretary of Agriculture to the Under Secretary for Farm and Foreign Agricultural Services and to the Administrator, Farm Service Agency, for technical assistance determinations for the Conservation Reserve Program.

DATES: This rule is effective June 21, 2006.

FOR FURTHER INFORMATION CONTACT: Robert Stephenson, Director, Conservation and Environmental Programs Division, Farm Service Agency, USDA/FSA/STOP 0513, 1400 Independence Avenue, SW., Washington, DC 20250–0513, (202) 720–6221.

SUPPLEMENTARY INFORMATION: The Secretary of Agriculture previously delegated authority under the Food Security Act of 1985, as amended (16 U.S.C. 1231 *et seq.*), for the Conservation Reserve Program (CRP) to the Under Secretary for Farm and Foreign Agricultural Services (FFAS) under the regulations at 7 CFR 2.16(a)(1)(xviii), and the Under Secretary, FFAS, delegated authority to the Administrator, Farm Service Agency (FSA), under the regulations at 7 CFR 2.42(a)(20).

Authority was also delegated for the administration of technical assistance for the Conservation Reserve Program to the Under Secretary for Natural Resources and the Environment (NRE) under the regulations at 7 CFR 2.20(a)(2)(xx) and 2.20(a)(3)(xiii)(B). The Under Secretary, NRE, delegated authority for the administration of technical assistance for the Conservation Reserve Program to the Chief, Forest Service, under the regulations at 7 CFR 2.60(a)(20) and to the Chief, Natural Resources Conservation Service, under the regulations at 7 CFR 2.61(a)(13)(ii).

This rule delegates from the Secretary, to the Under Secretary, FFAS, and from the Under Secretary, FFAS, to the Administrator, FSA, the authority to implement technical assistance with respect to the Conservation Reserve Program.

The delegations of authority from the Secretary to the Under Secretary, NRE, and from the Under Secretary, NRE, to the Chief, Forest Service, and to the Chief, Natural Resources Conservation Service, are not changed by this rule.

This rule relates to internal agency management. Therefore, pursuant to 5 U.S.C. 553, notice of proposed rulemaking and opportunity for comment are not required, and this rule may be made effective less than 30 days after publication in the **Federal Register**. Further, because this rule relates to internal agency management, it is exempt from the provisions of Executive Order Nos. 12291 and 12866. Finally, this action is not a rule as defined by the Regulatory Flexibility Act, Public Law 96–354 *et seq.*, and is therefore exempt from the provisions of that Act.

List of Subjects in 7 CFR Part 2

Administrative practice and procedure, Authority delegations—Government agencies.

■ Accordingly, Title 7 of the Code of Federal Regulations is amended as follows:

PART 2—DELEGATIONS OF AUTHORITY BY THE SECRETARY OF AGRICULTURE AND GENERAL OFFICERS OF THE DEPARTMENT

■ 1. The authority citation for 7 CFR part 2 continues to read as follows:

Authority: 7 U.S.C. 6912(a)(1); 5 U.S.C. 301; Reorganization Plan No. 2 of 1953; 3 CFR 1949–1953 Comp., p. 1024.

Subpart C—Delegations of Authority to the Deputy Secretary and to the Under Secretaries and Assistant Secretaries

■ 2. In § 2.16, paragraph (a)(1)(xviii) is revised to read as follows:

§ 2.16 Under Secretary for Farm and Foreign Agricultural Services.

* * * * *

(a) * * *

(1) * * *

(xviii) Formulate and carry out the Conservation Reserve Program, including the implementation of technical assistance, under the Food Security Act of 1985, as amended (16 U.S.C. 1231 *et seq.*).

* * * * *

■ 3. In § 2.42, paragraph (a)(20) is revised read as follows:

§ 2.42 Administrator, Farm Service Agency.

* * * * *

(a) * * *

(20) Formulate and carry out the Conservation Reserve Program, including the implementation of technical assistance, under the Food Security Act of 1985, as amended (16 U.S.C. 1232 *et seq.*).

* * * * *

For Part 2, Subpart C, Paragraph 2.16(a)(1)(xviii):

Dated: June 14, 2006.

Michael Johanns,

Secretary of Agriculture.

For Part 2, Subpart C, Paragraph 2.42(a)(20):

Dated: June 13, 2006.

J.B. Penn,

Under Secretary for Farm and Foreign Agricultural Services.

[FR Doc. E6–9614 Filed 6–20–06; 8:45 am]

BILLING CODE 3410–01–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket No. APHIS–2006–0081]

Japanese Beetle; Addition of Iowa to the List of Quarantined States

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule and request for comments.

SUMMARY: We are amending the Japanese beetle quarantine and regulations to add the State of Iowa to the list of quarantined States. This action is necessary to prevent the artificial spread of Japanese beetle into noninfested areas of the United States.

DATES: This interim rule is effective June 21, 2006. We will consider all comments that we receive on or before August 21, 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–2006–0081 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–2006–0081, 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–2006–0081.

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: Dr. S. Anwar Rizvi, Program Manager, Invasive Species and Pest Management, PPQ, APHIS, 4700 River Road Unit 134, Riverdale, MD 20737–1236; (301) 734–4313.

SUPPLEMENTARY INFORMATION:

Background

The Japanese beetle (*Popillia japonica*) feeds on fruits, vegetables, and ornamental plants and is capable of causing damage to over 300 potential hosts. The Japanese beetle quarantine and regulations, contained in 7 CFR 301.48 through 301.48–8 (referred to below as the regulations), quarantine the States of Alabama, Arkansas, Connecticut, Delaware, Georgia, Illinois, Indiana, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, Missouri, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, West Virginia, Wisconsin, and the District of Columbia and restrict the interstate movement of aircraft from regulated airports in these States in order to prevent the artificial spread of the Japanese beetle to noninfested States where the Japanese beetle could become established (referred to below as protected States). The list of quarantined States, as well as the list of protected States, can be found in § 301.48.

The Japanese beetle is active during daylight hours only. Under § 301.48–2 of the regulations, an inspector of the Animal and Plant Health Inspection Service (APHIS) may designate any airport within a quarantined State as a regulated airport if he or she determines that adult populations of Japanese beetle exist during daylight hours at the airport to the degree that aircraft using the airport constitute a threat of artificially spreading the Japanese beetle and aircraft destined for any of the nine protected States (Arizona, California, Colorado, Idaho, Montana, Nevada, Oregon, Utah, and Washington) may be leaving the airport.

Also, under § 301.48–4 of the regulations, aircraft from regulated airports may move interstate to a protected State only if: (1) An inspector, upon visual inspection of the airport and/or the aircraft, determines that the aircraft does not present a threat of artificially spreading the Japanese beetle because adult beetle populations are not present; or (2) the aircraft is opened and loaded only while it is enclosed in a hangar that APHIS has determined to be free of and safeguarded against Japanese beetle; or (3) the aircraft is loaded during the hours of 8 p.m. to 7 a.m. (generally non-daylight hours) only or lands and departs during those hours and, in either situation, is kept completely closed while on the ground during the hours of 7 a.m. to 8 p.m.; or (4) if opened and loaded during daylight hours, the aircraft is inspected, treated, and safeguarded in accordance with the requirements described in § 301.48–4(d).

APHIS and State plant health officials constantly monitor the Japanese beetle population in the United States. Trapping surveys indicate that the State of Iowa is now infested with the Japanese beetle. In view of this development, we have determined that the State of Iowa should be listed as a quarantined State prior to the start of the 2006 season of Japanese beetle activity, which begins in mid-June in many parts of the country. Therefore, in this interim rule we are amending the regulations in § 301.48(a) by adding Iowa to the list of quarantined States.

Emergency Action

This rulemaking is necessary on an emergency basis to prevent the spread of Japanese beetle into noninfested areas of the United States. Under these circumstances, the Administrator has determined that prior notice and opportunity for public comment are contrary to the public interest and that there is good cause under 5 U.S.C. 553 for making this rule effective less than 30 days after publication in the **Federal Register**.

We will consider comments we receive during the comment period for this interim rule (see **DATES** above). After the comment period closes, we will publish another document in the **Federal Register**. The document will include a discussion of any comments we receive and any amendments we are making to the rule.

Executive Order 12866 and Regulatory Flexibility Act

This rule has been reviewed under Executive Order 12866. For this action, the Office of Management and Budget has waived its review under Executive Order 12866.

We are amending the Japanese beetle quarantine and regulations to add the State of Iowa to the list of quarantined States. This action is necessary to prevent the artificial spread of Japanese beetle into noninfested areas of the United States.

In 2002, all agricultural crop receipts for the nine protected States (Arizona, California, Colorado, Idaho, Montana, Nevada, Oregon, Utah, and Washington) totaled $30.6 billion.[1] The majority of these agricultural producers can be classified as small entities under the Small Business Administration's (SBA) criterion of $750,000 or less in annual

[1] Source: United States Department of Agriculture, National Agricultural Statistics Service, 2002 Census of Agriculture.

receipts. Agricultural production is an important part of these nine protected States' economies. Reducing the risk of Japanese beetle introduction into protected States is worth the slight costs associated with inspection and occasional treatment for air carriers with flights to these States that originate in Iowa.

Entities affected by this action will be air carriers flying from regulated airports in Iowa to a protected State. The majority of air cargo is transported by large businesses. According to the SBA, an air carrier with more than 1,500 employees is considered large. The number of small air carriers that will be impacted is not known. We expect economic impacts of the rule may be limited because many air carriers are already treating cargo transported from other quarantined States to the protected States.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

Executive Order 12988

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule: (1) Preempts all State and local laws and regulations that are inconsistent with this rule; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

Paperwork Reduction Act

This rule contains no new information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 7 CFR Part 301

Agricultural commodities, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Transportation.

■ Accordingly, we are amending 7 CFR part 301 as follows:

PART 301—DOMESTIC QUARANTINE NOTICES

■ 1. The authority citation for part 301 continues to read as follows:

Authority: 7 U.S.C. 7701–7772 and 7781–7786; 7 CFR 2.22, 2.80, and 371.3.

Section 301.75–15 also issued under Sec. 204, Title II, Public Law 106–113, 113 Stat. 1501A–293; sections 301.75–15 and 301.75–16 also issued under Sec. 203, Title II, Public Law 106–224, 114 Stat. 400 (7 U.S.C. 1421 note).

§ 301.48 [Amended]

■ 2. In § 301.48, paragraph (a) is amended by adding the word ''Iowa,'' before the word ''Kentucky''.

Done in Washington, DC, this 15th day of June 2006.

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. E6–9728 Filed 6–20–06; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 932

[Docket No. FV06–932–1 FIR]

Olives Grown in California; Decreased Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The Department of Agriculture (USDA) is adopting, as a final rule, without change, an interim final rule that decreased the assessment rate established for the California Olive Committee (committee) for the 2006 and subsequent fiscal years from $15.68 to $11.03 per assessable ton of olives handled. The committee locally administers the marketing order that regulates the handling of olives grown in California. Assessments upon olive handlers are used by the committee to fund reasonable and necessary expenses of the program. The fiscal year began January 1 and ends December 31. The assessment rate will remain in effect indefinitely unless modified, suspended, or terminated.

DATES: *Effective Date:* July 21, 2006.

FOR FURTHER INFORMATION CONTACT: Laurel May, Marketing Specialist, or Kurt Kimmel, Regional Manager, California Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 2202 Monterey Street, Suite 102B, Fresno, CA 93721; Telephone: (559) 487–5901, Fax: (559) 487–5906.

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 Avenue, 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 No. 148 and Order No. 932, both as amended (7 CFR part 932), regulating the handling of olives grown in California, 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.''

USDA is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. Under the marketing order now in effect, California olive handlers are subject to assessments. Funds to administer the order are derived from such assessments. It is intended that the assessment rate as issued herein will be effective beginning on January 1, 2006, apply to all assessable olives from the current crop year, and will continue until amended, suspended, or terminated. 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. Such 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 the date of the entry of the ruling.

This rule continues in effect the action that decreased the assessment rate established for the committee for the 2005 and subsequent fiscal years from $15.68 to $11.03 per ton of assessable olives from the applicable crop years.

The California olive marketing order provides authority for the committee,

with the approval of USDA, to formulate an annual budget of expenses and collect assessments from handlers to administer the program. The fiscal year, which is the 12-month period between January 1 and December 31, begins after the corresponding crop year, which is the 12-month period beginning August 1 and ending July 31 of the subsequent year. Fiscal year budget and assessment recommendations are made after the corresponding crop year olive tonnage is reported. The members of the committee are producers and handlers of California olives. They are familiar with the committee's needs and with costs for goods and services in their local area and are thus in a position to formulate an appropriate budget and assessment rate. The assessment rate is discussed in a public meeting. Thus, all directly affected persons have an opportunity to participate and provide input.

For the 2005 and subsequent fiscal years, the committee recommended, and USDA approved, an assessment rate that would continue in effect from fiscal year to fiscal year unless modified, suspended, or terminated by USDA upon recommendation and information submitted by the committee or other information available to USDA.

The committee met on December 13, 2005, and made recommendations regarding their fiscal year 2006 expenditures and assessment rate. Subsequently, the committee revised its budget recommendation because it anticipated higher administrative expenses than it had originally estimated. In a mail vote completed on January 27, 2006, the committee unanimously recommended 2006 fiscal year expenditures of $1,301,121 and an assessment rate of $11.03 per ton of assessable olives. In comparison, the budgeted expenditures for fiscal year 2005 were $1,217,014. The assessment rate of $11.03 is $4.65 lower than the rate previously in effect.

The major expenditures recommended by the committee for the 2006 fiscal year include $800,700 for marketing activities, $290,421 for administration, and $210,000 for research. Budgeted expenditures for these items in 2005 were $680,000, $337,014, and $200,000, respectively.

The assessment rate recommended by the committee was derived by considering anticipated fiscal year expenses, actual olive tonnage received by handlers during the 2005–06 crop year, and additional pertinent factors. The California Agricultural Statistics Service (CASS) reported assessable olive receipts for the 2005–06 crop year at 114,761 tons, compared to 85,862 tons for the 2004–05 crop year. The increased production of assessable olives for the 2005–06 crop year is due in part to the alternate-bearing nature of olives, with heavy production in one year followed by light production the next. Although the committee's budgeted expenses for fiscal year 2006 are higher than those for 2005, the increased production would yield increased total assessment funds, even at the lower rate, covering the increased expenditures. Additionally, actual administrative expenditures in 2005 were less than the amount budgeted, enabling the committee to carry excess funds into the 2006 fiscal year and offset the assessments needed to cover budgeted expenses.

Income derived from handler assessments, along with interest income and funds from the committee's authorized reserve, will be adequate to cover budgeted expenses. Funds in the reserve will be kept within the maximum permitted by the order of approximately one fiscal year's expenses (7 CFR 932.40).

The assessable tonnage for the 2006 fiscal year is expected to be slightly less than the 2005–06 crop receipts of 114,761 tons reported by CASS because some olives may be diverted by handlers to uses that are exempt from marketing order requirements.

The assessment rate will continue in effect indefinitely unless modified, suspended, or terminated by USDA upon recommendation and information submitted by the committee or other available information.

Although this assessment rate is effective for an indefinite period, the committee will continue to meet prior to or during each fiscal year to recommend a budget of expenses and consider recommendations for modification of the assessment rate. The dates and times of committee meetings are available from the committee or USDA. Committee meetings are open to the public and interested persons may express their views at these meetings. USDA will evaluate committee recommendations and other available information to determine whether modification of the assessment rate is needed. Further rulemaking will be undertaken as necessary. The committee's 2006 budget and those for subsequent fiscal years will be reviewed and, as appropriate, approved by USDA.

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 rule on small entities. Accordingly, AMS has prepared this final 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.

There are approximately 850 producers of olives in the production area. Small agricultural producers are defined by the Small Business Administration (13 CFR 121.201) as those having annual receipts less than $750,000. Based upon information from the committee, the majority of olive producers may be classified as small entities.

There are two handlers subject to regulation under the marketing order. At the time the interim final rule was published, the definition of small agricultural service firms included those whose annual receipts were less than $6,000,000, and both handlers were classified as large entities. Subsequently, the definition of small agricultural service firms was changed to include those whose annual receipts are less than $6,500,000. Based upon information from the committee, both handlers may be classified as large entities.

This rule continues in effect the action that decreased the assessment rate established for the committee and collected from handlers for the 2006 and subsequent fiscal years from $15.68 to $11.03 per ton of assessable olives. The committee unanimously recommended 2006 expenditures of $1,301,121 and an assessment rate of $11.03 per ton. The assessment rate is $4.65 lower than the rate previously in effect.

The quantity of assessable olive receipts for the 2005–06 crop year was reported by CASS to be 114,761 tons, but the actual assessable tonnage for the 2006 fiscal year is expected to be slightly lower. This is because some of the receipts are expected to be diverted by handlers to exempt outlets on which assessments are not paid.

The $11.03 per ton assessment rate should be adequate to meet this year's expenses when combined with funds from the authorized reserve and interest income. Funds in the reserve will be kept within the maximum permitted by the order of about one fiscal year's expenses (7 CFR 932.40).

Expenditures recommended by the committee for the 2006 fiscal year

include $800,700 for marketing development, $290,421 for administration, and $210,000 for research. Budgeted expenses for these items in 2005 were $680,000, $337,014, and $200,000, respectively.

Assessable olive receipts for the 2005–06 crop year were 114,761 tons, compared to 85,862 tons for the 2004–05 crop year. The increased production of assessable olives will yield increased assessment funds, even at the lower rate. These funds, along with unused assessments from the 2005 fiscal year that have been carried into 2006, and interest income, are adequate to cover the increased expenditures.

The committee reviewed and unanimously recommended 2006 expenditures of $1,301,121. This reflects increases in the committee's research and market development budgets and a decrease in the administrative budget compared to the previous year's budget. The committee recommended a larger research budget intended to further the study of olive fly management and development of a mechanical olive harvesting method. The 2006 marketing program recommendation includes participation in media activities in conjunction with the release of a new diet plan book; translation of some of the committee's education and nutrition materials into Spanish; and continuation of several outreach activities including cookbook contributions, Web site development, and educational programs for school children. Recommended decreases in the administrative budget are due mainly to personnel changes in the committee's staff.

Prior to arriving at this budget, the committee considered information from various sources, such as the committee's Executive, Market Development, and Research Subcommittees. Alternate spending levels were discussed by these groups, based upon the relative value of various research and marketing projects to the olive industry and the anticipated olive production. The assessment rate of $11.03 per ton of assessable olives was derived by considering anticipated expenses, the volume of assessable olives, and additional pertinent factors.

A review of historical and preliminary information pertaining to the upcoming fiscal year indicates that the grower price for the 2005–06 crop year is estimated to be approximately $714 per ton for canning fruit and $314 per ton for limited-use sizes, leaving the balance as unusable cull fruit. Approximately 76 percent of a ton of olives are canning fruit sizes and 17 percent are limited use sizes, leaving the balance as unusable cull fruit. Total grower revenue on 114,761 tons would then be $73,485,966, given the percentage of canning and limited-use sizes and current grower prices for those sizes. Therefore, with an assessment rate decreased from $15.68 to $11.03, the estimated assessment revenue is expected to be approximately 1.72 percent of grower revenue.

This action continues in effect the action that decreased the assessment obligation imposed on handlers. Assessments are applied uniformly on all handlers, and some of the costs may be passed on to producers. However, decreasing the assessment rate reduces the burden on handlers, and may reduce the burden on producers. In addition, the committee's meeting was widely publicized throughout the California olive industry and all interested persons were invited to attend the meeting and participate in committee deliberations on all issues. Like all committee meetings, the December 13, 2005, meeting was a public meeting and all entities, both large and small, were able to express views on this issue.

This action imposes no additional reporting or recordkeeping requirements on either small or large California olive handlers. 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.

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.

USDA has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule.

An interim final rule concerning this action was published in the **Federal Register** on March 13, 2006 (71 FR 12614). Copies of the rule were faxed to both olive handlers. Finally, the interim rule was made available through the Internet by USDA and the Office of the Federal Register. A 60-day comment period was provided for interested persons to respond to the interim final rule. The comment period ended on May 12, 2006, and no comments were received.

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.

After consideration of all relevant material presented, including the information and recommendation submitted by the committee and other available information, it is herby found that this rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

List of Subjects in 7 CFR Part 932

Marketing agreements, Olives, Reporting and recordkeeping requirements.

PART 932—OLIVES GROWN IN CALIFORNIA

■ Accordingly, the interim final rule amending 7 CFR part 932 that was published at 71 FR 12614 on March 13, 2006, is adopted as a final rule without change.

Dated: June 15, 2006.

Lloyd C. Day,

Administrator, Agricultural Marketing Service.

[FR Doc. E6–9724 Filed 6–20–06; 8:45 am]

BILLING CODE 3410–02–P

FEDERAL HOUSING FINANCE BOARD

12 CFR Parts 900, 914, 915, 925, 950, and 955

[No. 2006–10]

RIN 3069–AB28

Data Reporting Requirements for the Federal Home Loan Banks

AGENCY: Federal Housing Finance Board.

ACTION: Final rule.

SUMMARY: The Federal Housing Finance Board (Finance Board) is reorganizing the way it imposes certain reporting requirements on the Federal Home Loan Banks (Banks) by removing the requirements from its regulations and issuing them in the Data Reporting Manual (DRM), which is an enforceable order issued pursuant to the Finance Board's investigatory powers. The Finance Board also is adding a new part 914, which addresses a Bank's obligation with respect to reporting requirements and making its books and records available to the Finance Board.

DATES: *Effective Date:* This final rule is effective on July 21, 2006.

FOR FURTHER INFORMATION CONTACT: Thomas Hearn, Senior Attorney Advisor, Office of General Counsel, by electronic mail at *hearnt@fhfb.gov* or by telephone at 202–408–2976; Scott L.

Smith, Associate Director, Office of Supervision, by electronic mail at *smiths@fhfb.gov* or by telephone at 202–408–2991; or Gary Ternullo, Associate Director, Office of Supervision, by electronic mail at *ternullog@fhfb.gov* or by telephone at 202–408–2904. You can send regular mail to the Federal Housing Finance Board, 1625 Eye Street, NW., Washington, DC 20006.

SUPPLEMENTARY INFORMATION:

I. Statutory and Regulatory Background

A. The Federal Home Loan Bank System (Bank System)

The Bank System consists of 12 Banks and the Office of Finance (OF). The Banks are instrumentalities of the United States organized under the authority of the Federal Home Loan Bank Act (Bank Act). 12 U.S.C. 1421 *et seq.* The Banks also are ''government sponsored enterprises'' (GSEs), *i.e.*, federally chartered but privately owned institutions created by Congress to support the financing of housing and community lending by their members. See 12 U.S.C. 1422a(a)(3)(B)(ii), 1430(i), and 1430(j). By virtue of their GSE status, the Banks are able to borrow in the capital markets at favorable rates. The Banks are then able to pass along that funding advantage to their members—and ultimately to consumers—by providing advances (secured loans) and other financial services to their members (principally, depository institutions) at rates that the members generally could not obtain elsewhere.

The Banks, along with the OF, operate under the supervision of the Finance Board. The primary duty of the Finance Board is to ensure that the Banks operate in a financially safe and sound manner. Consistent with that duty, the Finance Board is required to supervise the Banks, ensure that they carry out their housing finance mission, and ensure that they remain adequately capitalized and able to raise funds in the capital markets. 12 U.S.C. 1422a(a)(3)(A) and (B).

B. Finance Board Investigatory Powers

Congress has delegated to the Finance Board broad authority to fulfill its statutory mandates. Section 2B of the Bank Act states that the Finance Board has the power ''[t]o supervise the Federal Home Loan Banks and to promulgate and enforce such regulations and orders as are necessary from time to time to carry out the provisions of this chapter [*i.e.*, Chapter 11 of Title 12, codified at 12 U.S.C. 1421–1449].'' 12 U.S.C. 1422b(a)(1). Section 20 of the Bank Act provides the Finance Board with the authority to require, ''from time to time, [but] at least annually,'' examinations and reports of condition of all the Banks in such form as the Finance Board prescribes. 12 U.S.C. 1440. Section 20 also vests in Finance Board examiners ''the same powers and privileges as are vested in'' examiners under the National Bank Act and the Federal Reserve Act. These Acts, in turn, provide examiners with sweeping powers, including the power to ''make a thorough examination of all the affairs of the bank.'' 12 U.S.C. 481. Thus, the Finance Board and its examiners have been vested with broad access to the books, records, and information of the Banks in order to fulfill the statutory mission of the Finance Board.

The United States Supreme Court has recognized the importance of this broad access to the ability of financial institution regulators to perform their supervisory functions. In *United States* v. *Philadelphia National Bank,* 374 U.S. 321 (1963), the Court stated:

> *[P]erhaps the most effective weapon of federal regulation of banking is the broad visitorial power of federal bank examiners. Whenever the agencies deem it necessary, they may order 'a thorough examination of all the affairs of the bank' * * * [citation omitted]. Such examinations are frequent and intensive. In addition, the banks are required to furnish detailed periodic reports of their operations to the supervisory agencies [citation omitted].* In this way the agencies maintain virtually a day-to-day surveillance of the American banking system. And should they discover unsound banking practices, they are equipped with a formidable array of sanctions * * *. As a result of this panoply of sanctions, recommendations by the agencies concerning banking practices tend to be followed by bankers without the necessity of formal compliance proceedings. 1 Davis, Administrative Law (1958), s. 4.04.

374 U.S. at 329 (emphasis added). An agency's authority to require informational reports stems from its investigatory power, which generally is distinct from, and in addition to, its authority exercised under the Administrative Procedures Act (APA) to engage in rulemaking or to issue adjudicative orders. A principal legislative sponsor of the APA described investigative activity during floor debate in the House of Representatives as follows:

> This third type of administrative compulsory power may be incidental to either legislative or judicial powers of administrative agencies, or it may be entirely independent of either. I refer to the compulsory action of administrative agencies when they issue subpoenas, require records or reports, or undertake mandatory inspections. These functions are investigatory in nature.

92 Cong. Rec. 5648 (1948), cited in Appeal of FTC Line of Business Report Litigation, 595 F.2d 685, 695–696 (DC Cir.) (per curiam), cert. denied sub nom. *Milliken and Co.* v. *FTC,* 439 U.S. 958 (1978).

C. Reorganization of Reporting Requirements

Historically, the Finance Board has imposed reporting requirements in a variety of ways. Some requirements, such as those related to the call report, have been imposed by informal directives issued by staff. For other requirements, the Finance Board has used its rulemaking authority. 12 U.S.C. 1422b(a)(1).

On February 9, 2005, the Board of Directors approved for publication a proposed rule that would reorganize the way the Finance Board imposes reporting requirements by creating a Data Reporting Manual (DRM) that would contain certain reporting requirements currently in regulations or issued by Finance Board staff. See Resolution Number 2005–04 (Feb. 9, 2005), *published at* 770 FR 9551 (Feb. 28, 2005).[1] For each subject matter, the DRM includes instructions addressing data definitions as well as requirements concerning data elements, reporting format, reporting method, *e.g.*, electronic or paper, record retention, timeliness, reporting frequency, and certification. Going forward, changes to the reporting requirements will be made by amendments to the DRM.

The proposed rule included substantive regulatory changes that would add a new part 914, which addresses a Bank's obligation with respect to reporting requirements and making its books and records available to the Finance Board. It also would add a new section to part 917, which imposes on each Bank's board of directors the obligation to establish policies and procedures with respect to regulatory reporting. In July 2005, the Board of Directors created the DRM and located in it reporting requirements for the Call Report System. See Resolution Number 2005–14 (July 13, 2005). In August 2005, the Finance Board added to the DRM reporting requirements related to Bank members. See Resolution Number 2005–15 (Aug. 10, 2005). The Finance Board is continuing this effort by relocating from regulations to the DRM data reporting requirements

[1] Resolutions are available electronically in the FOIA Reading Room of the Finance Board Web site at: *http://www.fhfb.gov/Default.aspx?Page=59&Top=4.*

concerning: Purchases of Bank stock by member banks (12 CFR 925.20(e)); advances and commitments outstanding to each Bank member (12 CFR 950.4(e)); Acquired Member Assets (AMA) (12 CFR 955.4); and forms related to Bank director eligibility (12 CFR 915.7 and 915.12(a)).

In the proposed rule, the Finance Board considered placing in the DRM reporting requirements for a Bank's strategic business plan (12 CFR 917.5(c)); Advisory Councils (12 CFR 951.4(f)(3)); the Affordable Housing Reserve Fund (12 CFR 951.3(d) and 951.15(b)); and Community Investment Cash Advance (CICA) Programs (12 CFR 952.6(a)). Because these requirements do not involve the periodic reporting of empirical data, we have determined that these requirements are better left in Finance Board regulations.

The DRM represents an enforceable order issued pursuant to the Finance Board's investigatory powers. The reorganization of reporting requirements and the amendments to Finance Board regulations will allow the Finance Board to address problems it has experienced with the timeliness, accuracy, and completeness of data reporting by the Banks. The Bank Act gives the Finance Board enforcement authority to redress, among other things, violations of the Bank Act, or any law, order, rule, or regulation. 12 U.S.C. 1422b(a)(5). The Finance Board will deem data reporting problems as violations of an investigatory order and, where applicable, violations of the regulations being added today in 12 CFR part 914.

Reporting requirements imposed pursuant to the Finance Board's investigatory powers are not subject to the notice and comment provisions of the APA. *See Appeal of FTC Line of Business Report Litigation,* 595 F.2d at 695–696. Nevertheless, the Finance Board recognizes that changes to reporting requirements can impose regulatory burden. The Finance Board also recognizes the utility of input from the Banks and the public in determining what information is appropriate to collect. Thus, where practicable, Finance Board staff will consult with the Banks and the public with respect to significant changes in the DRM before changes are made. Moreover, information collections that are subject to the Paperwork Reduction Act (PRA), such as those related to the AMA rule, will continue to be published in the **Federal Register** for comment in accordance with the PRA.

II. Analysis of the Final Rule

A. Part 914

The Finance Board is adding a new part 914 to its regulations that addresses a Bank's obligation with respect to reporting requirements and makes its books and records available to the Finance Board. Section 914.1 contains a number of provisions directed at how a Bank reports data to the Finance Board and makes its books and records available to Finance Board examiners. Section 914.1(a) defines the term Regulatory Report to mean any report of raw or summary data required to evaluate the safe and sound condition and operations of a Bank or to determine compliance with any: (1) Provision in the Bank Act, or any law, order, rule, or regulation; (2) condition imposed in writing by the Finance Board in connection with the granting of any application or other request by a Bank; or (3) written agreement entered into by the Finance Board and a Bank. Section 914.1(b) provides examples of a *Regulatory Report,* including the call report and reports of instrument-level data submitted for risk assessment purposes. The term Regulatory Report also includes reports related to a Bank's housing mission achievement, such as reports related to AMA, a Bank's Affordable Housing Program (AHP), Community Investment Program (CIP), and other CICA programs.

Section 914.2 requires each Bank to file Regulatory Reports with the Finance Board pursuant to the Finance Board's forms and instructions for the reports. These reports must be filed no later than the deadline established by the Finance Board. In some cases, this will involve reporting at regular intervals; in other cases, it will involve responding to Finance Board requests for information that are in addition to the information submitted at regular intervals.

Section 914.3 requires each Bank to make its books and records available upon request by the Finance Board within a reasonable period at a location acceptable to the Finance Board. Section 914.3 establishes presumptions about what the Finance Board considers a reasonable period of time to respond to requests that occur during and outside of an ongoing examination as well as those that occur at other times.

C. Parts 915, 925, 950, and 955

The Finance Board is revising various reporting requirements set forth in parts 915, 925, 950, and 955 to refer the reader to forms and instructions issued pursuant to the DRM.

III. Comments on the Proposed Rule

In response to the February 2005 proposed rule, the Finance Board received four comments—three from Banks and one from a law firm representing a fourth Bank. These comments covered the following areas.

Opportunity for Notice and Comment on Reporting Changes

The four commenters expressed concern that reporting requirements could be imposed in the future without giving the Banks or the public an opportunity to comment. One commenter requested that the final rule provide procedures by which the Finance Board will determine if an amendment would impose regulatory burden or would constitute a significant change that merits input from the Banks and public through the comment process.

As discussed in the proposed rule, reporting requirements imposed pursuant to the Finance Board's investigatory powers are not subject to the notice and comment provisions of the APA.[2] In some cases, new reporting requirements or revisions to existing requirements trigger the notice and comment requirements of the PRA. Other reporting requirements, such as those related to call reports, are not covered by the PRA.

The Finance Board recognizes that changes to reporting requirements can impose regulatory burden. The Finance Board also recognizes the utility of input from the Banks and the public in determining what information is appropriate to collect and what is the most efficient way to collect needed information. Thus, as was indicated in the proposed rule, the Finance Board intends, where practicable, to consult with the Banks and the public with respect to substantial changes to reporting requirements, regardless of whether the APA or PRA apply.

Reporting Violation as Basis for Enforcement Action

Three of the four commenters expressed concern that a violation of a reporting requirement could be the basis for sanctions against a Bank without any additional due process. One commenter indicated that it believes that non-compliance with a reporting requirement alone would not suffice to cause an immediate violation resulting in sanctions. Rather, the commenter believes that non-compliance would

[2] The banking agencies have taken the position that changes to reporting requirements for the call report are not covered by the APA. 69 FR 3995, 3998 (Jan. 27, 2004).

have to go to a judicial forum to determine whether the agency was entitled to the information it was seeking.

The Bank Act authorizes the Finance Board to bring an enforcement action in the face of conduct that violates any order imposed in writing by the Finance Board. 12 U.S.C. 1422b(a)(5). The Finance Board also may bring an enforcement action if a Bank engages in an unsafe or unsound banking practice, and courts have held that frustrating a regulator's gathering of information constitutes an unsafe or unsound banking practice. *See Seidman* v. *Office of Thrift Supervision,* 37 F.3d 911, 936–937 (3rd Cir. 1994).

In any formal enforcement action by the Finance Board related to a data reporting violation, the process will guarantee all constitutional and statutory rights, including a review in a judicial forum before the enforcement action becomes final. Under Finance Board regulations, the Finance Board would initiate an enforcement action by issuing a notice of charges. 12 CFR 908.40. If the Bank, director, or executive officer disputed the charges, a presiding officer would hold a hearing and issue a recommendation to the Finance Board. 12 CFR 908.60 and 908.63. If, after receiving the presiding officer's recommendation, the Finance Board's board of directors found that the charges were sustained and issued a cease and desist order or imposed civil money penalties, the affected party would have the option of appealing the action to the United States Court of Appeals for the District of Columbia Circuit. 12 CFR 908.10.

Banking Agencies' Treatment of Reporting Violations

Two Banks commented that establishing the DRM as an enforceable order is inconsistent with the approach taken by other federal bank regulators with respect to information gathering. One Bank cited the Office of the Comptroller of the Currency (OCC) Handbook on Bank Supervisory Processes to demonstrate that, in the event of disagreements between examiners and a bank, it is the OCC's policy to resolve the dispute fairly and expeditiously in an informal, amicable manner. The Bank also made reference to similar publication by the Office of Thrift Supervision.

The examples cited by the commenters appear to relate to disagreements that arise during an examination or inquiry of a specific institution. For reporting requirements directed at all institutions within a banking agencies' purview, such as those related to the call report, the banking agencies impose reporting requirements in a manner closely similar to the way the Finance Board has exercised such powers here. For example, call report requirements for insured depository institutions and changes to such requirements are imposed by amending the forms and instructions for the call report. See 12 CFR part 304. These forms and instructions, like the DRM discussed above, represent enforceable orders issued as a proper exercise of an agency's investigatory powers. When a depository institution fails to comply with a reporting requirement, its primary banking regulator routinely imposes penalties for reporting violations including violations that might seem *de minimis*.

Another Bank commented that other federal banking regulators do not view the various manuals they promulgate as definitive statements carrying the force of law. Instead, the commenter claimed, the manuals of other federal banking regulators are not intended to be strictly binding on either the regulator or the regulated institution. The commenter appears to be confusing a basic principal of administrative law that staff policy guidance, such as those put in manuals at some agencies, ordinarily does not carry the force of law. Here, the data reporting requirements are being issued by the Finance Board's Board of Directors pursuant to statutory authority to require reports. Compiling the reporting requirements in the DRM is solely a matter of convenience and in no way diminishes the legal authority with which they were adopted and the force of law.

One Bank commented that orders usually arise in adjudicatory or investigative proceeding that is specific to a particular entity. The Bank wrote that it is doubtful that the law allows the Finance Board, as part of its regulatory process, to grant itself the power to issue an enforceable order preemptively and with application to all of the Banks particularly in view of the fact that the Banks have the right to challenge a request for privileged or confidential legal advice. Another Bank and the law firm commenter also expressed concerns that the Finance Board might include privileged or confidential material among the information it sought from all Banks or from one particular Bank. As discussed in the proposed rule, case law has long recognized Congress' authority to give a regulatory agency investigatory powers that include the power to require informational reports. There is no dispute that section 20 gives the Finance Board investigatory power to obtain information reports about the Banks.

Where Congress, as here, has given an agency investigatory powers, an agency's exercise of that power will be upheld if the request for information is ''reasonably relevant.'' *FTC* v. *Invention Submission Corp.,* 965 F.2d 1086, 1089 (D.C. Cir. 1992). Courts have said that an agency's own appraisal of relevancy must be accepted as long as it is not ''obviously wrong.'' Id. In exercising its authority to create reporting requirements, the Finance Board intends to observe all applicable privileges.

Potential for Confusion Between Reporting Requirements and Other Guidance

One commenter noted that the Finance Board already has established a process for clarifying regulatory reporting requirements through Advisory Bulletins and other supervisory guidance. The commenter claimed that nothing in the proposed rule stated that the Finance Board would stop issuing Advisory Bulletins or other supervisory letters apart from the DRM. This omission creates the potential, the commenter claimed, for discrepancies between the DRM and other supervisory guidance. The commenter recommended that the Finance Board revise the proposed rule to ensure that no such discrepancies or ambiguities are created in the reporting requirements. Another commenter made a similar comment.

A commenter noted that not all data reporting requirements will be contained in the DRM. The Bank suggested that the DRM include an appendix clearly describing which reporting requirements are not in the DRM and where such reporting requirements are located. Without guidance as to when the DRM applies and when to consult the regulations, the commenter argued, the data reporting requirements may, in practice, become more confusing for the Banks. Another commenter expressed a similar point. For reporting requirements that currently are in the Finance Board regulations, the Finance Board will leave a reference that directs a reader to the DRM. The Finance Board will adopt the recommendation of including an appendix to the DRM that lists reporting requirements by topic and indicates where they may be found.

Proposed Part 914

Two commenters opposed adopting a presumption in § 914.3 of 1 business day and 3 business days for a reasonable

period for complying with an examiner's request for documents. These commenters recommended that, when considering whether a Bank complied with an examiner's request in a reasonable period of time, the Finance Board should consider: (a) Whether the data are available and finalized; (b) whether there are any information technology issues affecting the ability to respond or analyze the response (on either the Finance Board's or a Bank's part); (c) whether the applicable business units are able to concentrate on these requests exclusively; (d) whether the applicable committees are available to review and approve the responses; and (e) whether any of the information is privileged.

The Finance Board believes that the time periods set out in the proposed rule are reasonable. Because they are only presumptions, a Bank may cite the factors listed by the commenters, or other factors, to demonstrate that in a particular instance, a reasonable period to comply with an examiner's request is longer than the time periods set out in the regulation.

Proposed Addition to Part 917

One commenter wrote that it believes that the proposal to amend part 917 to require the board of directors of a Bank to establish policies and procedures with respect to regulatory reporting was redundant given other requirements that require a Bank's board of directors to ensure compliance generally with the regulatory requirements mandated by the Finance Board.

The Finance Board acknowledges that the commenter has raised a valid concern. A Bank's obligation to provide the Finance Board with information that is accurate, timely, and complete derives from the chapters that have been added to the DRM and in the new part 914 that is recommended for the final rule. Finance Board regulations already make clear that a Bank's board of directors retains ultimate responsibility for a Bank's management (12 CFR 917.2(a)). Upon further reflection, the Finance Board believes that adding the proposed part 917 amendment may cause a Bank's board to focus on a Bank's processes for regulatory reporting at the expense of focusing on outcomes of whether such reporting is timely, accurate, and complete. Thus, the final rule does not include the proposed § 917.11.

IV. Paperwork Reduction Act

Final Rule

The final rule will have no substantive effect on any collection of information covered by the PRA. See 44 U.S.C. 3501 *et seq*. Therefore, the Finance Board did not submit the proposed regulation to the Office of Management and Budget (OMB) for review.

AMA Reporting Requirements

As part of the reorganization of reporting requirements, the Board of Directors added the AMA reporting requirements to the DRM. See Resolution Number 2006–11 (June 14, 2006). The AMA reporting requirements, which are being moved from 12 CFR part 955 (specifically, § 955.4 and Appendices A and B) to the DRM as a result of this final rule, are contained an information collection entitled ''Federal Home Loan Bank Acquired Member Assets, Core Mission Activities, Investments and Advances.'' The OMB control number for this information collection is 3069–0058, and it is due to expire on March 31, 2007. In November 2005, the Finance Board published a PRA notice soliciting comments on the changes to the AMA reporting requirements. *See* 70 FR 66413 (Nov. 2, 2005). Elsewhere in this issue of the **Federal Register**, the Finance Board is publishing the second PRA notice with respect to the AMA reporting requirements and also is submitting the entire information collection, with the AMA reporting changes, to OMB for review and approval of a 3 year extension of the control number.

V. Regulatory Flexibility Act

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

List of Subjects

12 CFR Part 900

Federal home loan banks.

12 CFR Part 914

Federal home loan banks, Reporting and recordkeeping requirements.

12 CFR Part 915

Banks, Banking, Conflicts of interest, Elections, Ethical conduct, Federal home loan banks, Financial disclosure, Reporting and recordkeeping requirements.

12 CFR Part 925

Credit, Federal home loan banks, Reporting and recordkeeping requirements.

12 CFR Part 950

Credit, Federal home loan banks, Housing, Reporting and recordkeeping requirements.

12 CFR Part 955

Credit, Federal home loan banks, Reporting and recordkeeping requirements.

■ For the reasons stated in the preamble, the Finance Board revises 12 CFR, chapter IX to read as follows:

PART 900—GENERAL DEFINITIONS APPLYING TO ALL FINANCE BOARD REGULATIONS

■ 1. The authority for part 900 continues to read as follows:

Authority: 12 U.S.C. 1422b(a).

■ 2. Amend § 900.2 by adding in alphabetical order the definition for ''Data Reporting Manual or DRM'' to read as follows:

§ 900.2 Terms relating to Bank operations, mission and supervision.

* * * * *

Data Reporting Manual or *DRM* means a manual issued by the Finance Board and amended from time to time containing reporting requirements for the Banks.

* * * * *

■ 3. Add a new part 914 to title 12, chapter IX, Subchapter C, to read as follows:

PART 914—DATA AVAILABILITY AND REPORTING

Sec.

914.1 Regulatory Report defined.
914.2 Filing Regulatory Reports.
914.3 Access to books and records.

Authority: 12 U.S.C. 1422a(a)(3), 1422b(a)(1), and 1440.

§ 914.1 Regulatory Report defined.

(a) *Definition. Regulatory Report* means any report of raw or summary data needed to evaluate the safe and sound condition and operations of a Bank or to determine compliance with any:

(1) Provision in the Act or other law, order, rule, or regulation;

(2) Condition imposed in writing by the Finance Board in connection with the granting of any application or other request by a Bank; or

(3) Written agreement entered into between the Finance Board and a Bank.

(b) *Examples.* Regulatory Report includes:

(1) Call reports and reports of instrument-level risk modeling data;

(2) Reports related to a Bank's housing mission achievement, such as reports related to AMA, AHP, CIP, and other CICA programs; and

(3) Reports submitted in response to requests to one or more Banks for information on a nonrecurring basis.

§ 914.2 Filing Regulatory Reports.

Each Bank shall file Regulatory Reports with the Finance Board in accordance with the forms, instructions, and schedules issued by the Finance Board from time to time. If no regularly scheduled reporting dates are established, Regulatory Reports shall be filed as requested by the Finance Board.

§ 914.3 Access to books and records.

Each Bank shall make its books and records readily available for inspection and other supervisory purposes within a reasonable period upon request by the Finance Board, at a location acceptable to the Finance Board. For requests for documents made during the course of an onsite examination and pursuant to the examination's scope, a reasonable period is presumed to be no longer than 1 business day. For requests for documents made outside of an onsite examination, a reasonable period is presumed to be 3 business days.

PART 915—BANK DIRECTOR ELIGIBILITY, APPOINTMENT, AND ELECTIONS

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

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

■ 5. Revise § 915.7(a) to read as follows:

§ 915.7 Eligibility requirements for elective directors.

(a) *Eligibility verification.* Based on the information provided on the director eligibility certification form prescribed in the Data Reporting Manual issued by the Finance Board, as amended from time to time, a Bank shall verify that each nominee meets all of the eligibility requirements for elective directors set forth in the Act and this part before placing that nominee on the ballot prepared by the Bank under § 915.8(a). A Bank shall not declare elected a nominee that it has reason to know is ineligible to serve, nor shall it seat a director-elect that it has reason to know is ineligible to serve.

* * * * *

■ 6. Revise § 915.12(a) to read as follows:

§ 915.12 Reporting requirements for Bank directors.

(a) *Annual reporting.* Each director shall submit to his or her Bank the appropriate executed director eligibility certification, as prescribed in the Data Reporting Manual issued by the Finance Board, as amended from time to time. The Bank shall promptly forward to the Finance Board a copy of the certification filed by each appointive director.

* * * * *

PART 925—MEMBERS OF THE BANKS

■ 7. The authority citation for part 925 continues to read as follows:

Authority: 12 U.S.C. 1422, 1422a, 1422b, 1423, 1424, 1426, 1430, and 1442.

■ 8. Revise § 925.20(e) to read as follows:

§ 925.20 Stock purchase.

* * * * *

(e) *Reports.* The Bank shall make reports to the Finance Board setting forth purchases by institutions approved for membership of their minimum stock requirement pursuant to this section in accordance with the instructions provided in the Data Reporting Manual issued by the Finance Board, as amended from time to time.

PART 950—ADVANCES

■ 9. The authority citation for part 950 continues to read as follows:

Authority: 12 U.S.C. 1422a(a)(3), 1422b(a)(1), 1426, 1429, 1430, 1430b, and 1431.

■ 10. Revise § 950.4(e) to read as follows:

§ 950.4 Limitations on access to advances.

* * * * *

(e) *Reporting.* (1) Each Bank shall provide the Finance Board with a report of the advances and commitments outstanding to each of its members in accordance with the instructions provided in the Data Reporting Manual issued by the Finance Board, as amended from time to time.

(2) Each Bank shall, upon written request from a member's appropriate federal banking agency or insurer, provide to such entity information on advances and commitments outstanding to the member.

* * * * *

PART 955—ACQUIRED MEMBER ASSETS

■ 11. The authority citation for part 955 continues to read as follows:

Authority: 12 U.S.C. 1422a(a)(3), 1422b(a), 1430, 1430b, and 1431.

■ 12. Revise § 955.4 to read as follows:

§ 955.4 Reporting requirement for acquired member assets.

Each Bank shall report information related to AMA in accordance with the instructions provided in the Data Reporting Manual issued by the Finance Board, as amended from time to time.

Appendices A and B to Part 955 [Removed]

■ 13. Remove Appendices A and B to part 955.

Dated: June 14, 2006.

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

Ronald A. Rosenfeld,

Chairman.

[FR Doc. E6–9756 Filed 6–20–06; 8:45 am]

BILLING CODE 6725–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 23

[Docket No. CE251, Special Condition 23–191–SC]

Special Conditions; Rickenbacker Avionics, EFS–50 EFIS Installation in Rockwell Twin Commander Model 690B; Protection of Systems From High Intensity Radiated Fields (HIRF)

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions; request for comments.

SUMMARY: These special conditions are issued to Rickenbacker Avionics, 2820 Bobmeyer Road, Hangar C–6, Hamilton, OH 45015, for a Supplemental Type Certificate for the Rockwell Twin Commander Model 690B airplane. This airplane will have novel and unusual design features when compared to the state of technology envisaged in the applicable airworthiness standards. This novel and unusual design feature will include the installation of a two-tube Bendix/King EFS–50 Electronic Flight Instrument System (EFIS). The installation also includes components associated with this display system. The applicable regulations do not contain adequate or appropriate airworthiness standards for the protection of these systems from the effects of high intensity radiated fields (HIRF). These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing the

airworthiness standards applicable to these airplanes.

DATES: The effective date of these special conditions is June 12, 2006. Comments must be received on or before July 21, 2006.

ADDRESSES: Comments may be mailed in duplicate to: Federal Aviation Administration, Regional Counsel, ACE–7, Attention: Rules Docket Clerk, Docket No. CE251, Room 506, 901 Locust, Kansas City, Missouri 64106. All comments must be marked: Docket No. CE251. Comments may be inspected in the Rules Docket weekdays, except Federal holidays, between 7:30 a.m. and 4 p.m.

FOR FURTHER INFORMATION CONTACT: Wes Ryan, Aerospace Engineer, Standards Office (ACE–114), Small Airplane Directorate, Aircraft Certification Service, Federal Aviation Administration, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone (816) 329–4123.

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

Comments Invited

Interested persons are invited to submit such written data, views, or arguments, as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the Administrator. The special conditions may be changed in light of the comments received. All comments received will be available in the Rules Docket for examination by interested persons, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerning this rulemaking will be filed in the docket. Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must include a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. CE251.'' The postcard will be date stamped and returned to the commenter.

Background

In early October 2005, Rickenbacker Avionics made an application to the FAA for a new Supplemental Type Certificate for the Rockwell Twin Commander 690B, which is currently approved under Type Certificate No. 2A4. The proposed modification incorporates novel or unusual design features that are vulnerable to HIRF external to the airplane.

Type Certification Basis

Under the provisions of 14 CFR, part 21, § 21.101, Rickenbacker Avionics must show that the Twin Commander 690B aircraft continues to meet the applicable provisions of the regulations incorporated by reference in the original type certification basis for each model, as listed on the Type Data Sheet 2A4, or the applicable regulations and the additional provisions in effect on the date of application for this Supplemental Type Change. The regulations incorporated by reference in the type certificate are commonly referred to as the ''original type certification basis.'' The regulations incorporated by reference and the additional systems related provisions that cover the EFIS installation include: §§ 23.1301, 23.1309, 23.1311, 23.1321, 23.1322, 23.1323, 23.1331, 23.1353, and 23.1357 at the amendment level appropriate for the application date; exemptions, if any; and the special conditions adopted by this rulemaking action. Additional information regarding the certification basis for this STC is available from the applicant.

Discussion

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

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

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

Novel or Unusual Design Features

Rickenbacker Avionics plans to incorporate certain novel and unusual design features into an airplane for which the airworthiness standards do not contain adequate or appropriate safety standards for protection from the effects of HIRF. These features include EFS–50 EFIS and associated components, potentially susceptible to the HIRF environment that were not envisaged by the existing regulations for this type of airplane.

Protection of Systems From High Intensity Radiated Fields (HIRF):

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

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

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

believed to represent the worst case to which an airplane would be exposed in the operating environment.

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

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

Frequency	Field strength (volts per meter)	
	Peak	Average
10 kHz–100 kHz	50	50
100 kHz–500 kHz	50	0
500 kHz–2 MHz	50	50
2 MHz–30 MHz	100	100
30 MHz–70 MHz	50	50
70 MHz–100 MHz	50	50
100 MHz–200 MHz	100	100
200 MHz–400 MHz	100	100
400 MHz–700 MHz	700	50
700 MHz–1 GHz	700	100
1 GHz–2 GHz	2000	200
2 GHz–4 GHz	3000	200
4 GHz–6 GHz	3000	200
6 GHz–8 GHz	1000	200
8 GHz–12 GHz	3000	300
12 GHz–18 GHz	2000	200
18 GHz–40 GHz	600	200

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

Or,

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

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

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

Applicability

As discussed above, these special conditions are applicable to the Rockwell Twin Commander Model 690B airplanes. Should Rickenbacker Avionics apply at a later date for a supplemental type certificate to modify any other model on the same type certificate, Type Certificate No. 2A4, to incorporate the same novel or unusual design feature, the special conditions would apply to that model as well under the provisions of § 21.101.

Conclusion

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

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

List of Subjects in 14 CFR Part 23

Aircraft, Aviation safety, Signs and symbols.

Citation

■ The authority citation for these special conditions is as follows:

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

The Special Conditions

■ Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued as part of the type certification basis for the Rockwell Twin Commander Model 690B airplanes modified by Rickenbacker Avionics to add EFS–50 EFIS installation.

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

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

Issued in Kansas City, Missouri, on June 12, 2006.

James E. Jackson,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. E6–9818 Filed 6–20–06; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2006–24094; Directorate Identifier 2006–CE–20–AD; Amendment 39–14656; AD 68–17–03R1]

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: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) to revise AD 68–17–03, which applies to all Pilatus Aircraft Ltd. (Pilatus) PC–6 series airplanes. AD 68–17–03 requires you to repetitively inspect the rudder end rib for cracks and replace the rudder end rib with a modified rudder end rib when you find cracks. Installing the modified rudder end rib terminates the repetitive inspection requirements of AD 68–17–03. Under a licensing agreement with Pilatus, Fairchild Republic Company (also identified as Fairchild Industries, Fairchild Heli Porter, or Fairchild-Hiller Corporation) produced Model PC–6 series airplanes (manufacturer serial numbers 2001 through 2092) in the United States. AD 68–17–03 was intended to apply to all affected serial numbers of Model PC–6 series airplanes listed on Type Certificate Data Sheet (TCDS) No. 7A15, including the Fairchild-produced airplanes. Consequently, this AD clarifies that all models of the PC–6 airplane on TCDS No. 7A15 (including those models produced under the licensing agreement by Fairchild Republic Company) are included in the applicability. We are issuing this AD to detect and correct cracks in the rudder end rib, which could result in failure of the rudder end rib. This failure could result in loss of rudder control.

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

As of August 3, 2006, the Director of the Federal Register approved the incorporation by reference of certain publications listed in the regulation.

ADDRESSES: For service information identified 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 20590–001, or on the Internet at *http://dms.dot.gov*. The docket number is FAA–2006–24094; Directorate Identifier 2006–CE–20–AD.

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:

Discussion

On April 17, 2006, we issued a proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that would apply to all Pilatus PC–6 series airplanes. This proposal was published in the **Federal Register** as a notice of proposed rulemaking (NPRM) on April 24, 2006 (71 FR 20919). The NPRM proposed to revise AD 68–17–03 with a new AD that would retain all actions currently required by AD 68–17–03 and would clarify the applicability of the affected airplanes by:

- Identifying those airplanes produced in the United States through a licensing agreement with the Fairchild Republic Company; and
- Listing all Pilatus Model PC–6 series airplanes on Type Certificate Data Sheet No. 7A15 in the applicability section.

Comments

We provided the public the opportunity to participate in developing this AD. We received one comment in favor of the proposed AD.

Conclusion

We have carefully reviewed the available data and determined that air safety and the public interest require adopting the AD as proposed except for minor editorial corrections. We have determined that these minor corrections:

- Are consistent with the intent that was proposed in the NPRM for correcting the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the NPRM.

Costs of Compliance

We estimate that this AD affects 49 airplanes in the U.S. registry.

We estimate the following costs to do the inspection:

Labor cost	Parts cost	Total cost for each airplane	Total cost on U.S. operators
1 work-hour × $80 an hour = 80.	Not applicable	$80	$80 × 49 = $3,920.

We estimate the following costs to do any necessary replacements that will be required based on the results of the inspection. We have no way of determining the number of airplanes that may need this replacement:

Labor cost	Parts cost	Total cost for each airplane
9 work-hours × $80 an hour = $720	$821	$1,541

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 AD.

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 the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and

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

We prepared a summary of the costs to comply with this AD (and other information as included in the Regulatory Evaluation) and placed it in the AD Docket. You may get a copy of this summary by sending a request to us at the address listed under **ADDRESSES.** Include ''Docket No. FAA–2006–24094; Directorate Identifier 2006–CE–20–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 part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing Airworthiness Directive (AD) 68–17–03, Amendment 39–634, and adding the following new AD:

68–17–03R1 Pilatus Aircraft LTD.: Amendment 39–14656; Docket No. FAA–2006–24094; Directorate Identifier 2006–CE–20–AD.

Effective Date

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

Affected ADs

(b) This AD revises AD 68–17–03, Amendment 39–634.

Applicability

(c) This AD affects the following airplane models, all manufacturer serial numbers (MSN), that are certificated in any category:

Note: MSNs 2001 through 2092 were manufactured by Fairchild Republic Company (also identified as Fairchild Industries, Fairchild Heli Porter, and Fairchild-Hiller Corporation) in the United States under a licensing agreement and are covered by Type Certificate Data Sheet No. 7A15.

(1) PC–6
(2) PC–6–H1
(3) PC–6–H2
(4) PC–6/350
(5) PC–6/350–H1
(6) PC–6/350–H2
(7) PC–6/A
(8) PC–6/A–H1
(9) PC–6/A–H2
(10) PC–6/B–H2
(11) PC–6/B1–H2
(12) PC–6/B2–H2
(13) PC–6/B2–H4
(14) PC–6/C–H2
(15) PC–6/C1–H2

Unsafe Condition

(d) This AD results from fatigue cracks found in the bottom nose rib on the rudders of certain PC–6 airplanes. We are issuing this AD to detect and correct cracks in the rudder end rib, which could result in failure of the rudder. This failure could lead to loss of rudder control.

Compliance

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

Actions	Compliance	Procedures
(1) With the aid of a mirror, inspect the rudder end rib, part number (P/N) 6302.27 (or FAA-approved equivalent P/N) for crack(s).	Within the next 50 hours time-in-service after August 19, 1968 (the effective date of AD 68–17–03). Repetitively inspect thereafter at intervals not to exceed 50 hours TIS.	Follow Pilatus Service Bulletin No. 80, dated April 1968.
(2) If you detect a crack or cracks during any inspection required in paragraph (e)(1) of this AD, replace the rudder end rib with a modified rudder end rib assembly, P/N 6302.26 Pos. 2, channel reinforcement, P/N 113.40.06.002, and torque tube, P/N 113.40.06.003 (or FAA-approved equivalent P/Ns).	Before further flight after any inspection required in paragraph (e)(1) of this AD in which you find cracks. Installing the modified rudder end rib terminates the repetitive inspection requirement in paragraph (e)(1) of this AD.	Follow Pilatus Service Bulletin No. 80, dated April 1968.
(3) 14 CFR 21.303 allows for replacement parts through parts manufacturer approval (PMA). The phrase ''or FAA-approved equivalent P/N'' in this AD is intended to signify those parts that are PMA parts approved through identicality to the design of the part under the type certificate and replacement parts to correct the unsafe condition under PMA (other than identicality). If parts are installed that are identical to the unsafe parts, then the corrective actions of the AD affect these parts also. In addition, equivalent replacement parts to correct the unsafe condition under PMA (other than identicality) may also be installed provided they meet current airworthiness standards, which include those actions cited in this AD.	Not applicable	Not applicable.
(4) Installing the modified rudder end rib assembly, P/N 6302.26 Pos. 2, channel reinforcement, P/N 113.40.06.002, and torque tube, P/N 113.40.06.003 (or FAA-approved equivalent P/Ns), terminates the repetitive inspection requirement in paragraph (e)(1) of this AD.	Not applicable	Not applicable.

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 68–17–03 are approved for this AD.

Related Information

(h) Swiss AD Number HB 2005–289, effective date August 23, 2005, also addresses the subject of this AD.

Material Incorporated by Reference

(i) You must do the actions required by this AD following Pilatus Service Bulletin No. 80, dated April 1968. 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. To get a copy of this service information, contact Pilatus Aircraft Ltd., Customer Liaison Manager, CH–6371 Stans, Switzerland; telephone: +41 41 619 63 19; facsimile: +41 41 619 6224. To review copies of this service information, go to the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html* or call (202) 741–6030. To view the AD docket, go to the Docket

Management Facility, U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL–401, Washington, DC 20590–001 or on the Internet at *http://dms.dot.gov.* The docket number is FAA–2006–24094; Directorate Identifier 2006–CE–20–AD.

Issued in Kansas City, Missouri, on June 12, 2006.

James E. Jackson,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 06–5532 Filed 6–20–06; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2005–22594; Directorate Identifier 2005–NE–28–AD; Amendment 39–14659; AD 2006–13–06]

RIN 2120–AA64

Airworthiness Directives; Rolls-Royce Corporation (Formerly Allison Engine Company, Allison Gas Turbine Division, and Detroit Diesel Allison) 250–B and 250–C Series Turboprop and Turboshaft Engines

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

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for Rolls-Royce Corporation 250–B and 250–C series turboprop and turboshaft engines with certain part numbers (P/Ns) of gas producer rotor assembly tie bolts manufactured by EXTEX Ltd., Pacific Sky Supply Inc., Rolls-Royce Corporation (RRC), and Superior Air Parts Inc. This AD requires operators to remove from service affected gas producer rotor assembly tie bolts, and install serviceable tie bolts. This AD results from eleven reports of RRC tie bolt failure due to high cycle fatigue. We are issuing this AD to prevent tie bolt failure that could cause loss of engine power, resulting in a first stage turbine wheel overspeed and an uncontained engine failure.

DATES: This AD becomes effective July 26, 2006.

ADDRESSES: You may examine the AD docket on the Internet at *http://dms.dot.gov* or in Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC.

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, for questions about, EXTEX Ltd., or Pacific Sky Supply Inc. gas producer rotor assembly tie bolts.

• John Tallarovic, Aerospace Engineer, Chicago Aircraft Certification Office, FAA, 2300 East Devon Avenue, Des Plaines, IL 60018–4696; telephone (847) 294–8180; fax (847) 294–7834, for questions about RRC gas producer rotor assembly tie bolts.

• Jurgen Priester, Aerospace Engineer, Rotorcraft Directorate, FAA, 2601 Meacham Blvd., Fort Worth, Texas 76137–4298, telephone (817) 222–5159, fax (817) 222–5785, for questions about Superior Air Parts Inc. gas producer rotor assembly tie bolts.

SUPPLEMENTARY INFORMATION: The FAA proposed to amend 14 CFR part 39 with a proposed AD. The proposed AD applies to Rolls-Royce Corporation 250–B and 250–C series turboprop and turboshaft engines with certain P/Ns of gas producer rotor assembly tie bolts manufactured by EXTEX Ltd., Pacific Sky Supply Inc., RRC, and Superior Air Parts Inc. We published the proposed AD in the **Federal Register** on November 10, 2005 (70 FR 68381). That action proposed to require operators to remove from service affected gas producer rotor assembly tie bolts.

Examining the AD Docket

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

Comments

We provided the public the opportunity to participate in the development of this AD. We have considered the comments received.

Request To Exclude Parts Manufacturer Approval (PMA) Tie Bolts

One commenter requests that the PMA tie bolts be excluded from the AD action, because there are no reported failures of the PMA tie bolts. Also, the commenter states that there are numerous opportunities for significant design differences between PMA tie bolts approved under Test and Computation, and the original equipment manufacturer (OEM) tie bolts.

We do not agree. Although there are no reported failures of PMA parts, the tie bolts from all four manufacturers are essentially the same and share many common features. The fact that there are no reported failures of PMA parts is statistically insignificant since the PMA parts only account for several hundred of the approximately 5,000 tie bolts in service, and there have been only 11 failures. Additionally, failures of a specific part number are not a prerequisite for declaring an unsafe condition. A failure mode's net result on the product (in this case loss of engine power, first stage turbine wheel overspeed, and an uncontained engine failure); the assumed or predicted rate of occurrence, and other factors linking affected or suspect parts to failed parts, help make that decision. While minor differences may exist between the OEM tie bolts and the PMA tie bolts, the commenter gave no justification as to how those unnamed differences should exempt the PMA parts from this AD action. Finally, we did compare design data as part of the decision making process.

Request To Withdraw the Proposed AD

The same commenter requests that we withdraw the proposed AD and not re-issue it until we are prepared to fully disclose what design features caused the tie bolt failures. The commenter further states that since the tie bolt requires a sustained preload for safe operation, one would expect that maintenance or assembly practices are more likely contributors, as the likelihood of high-cycle-fatigue failures increases if the preload is not established or maintained correctly.

We do not agree. While they may have minor differences between them, the tie bolts from all four manufacturers are essentially the same and share many common features. The commenter provides no data to support the assertion that maintenance or assembly practices are more likely contributors to the high-cycle-fatigue failures. Analysis of the failures did not find any assembly problems. We did not change the AD.

Request To Provide Instructions on How to Make the Engine Airworthy

The same commenter requests that we provide instructions on how to make the engine airworthy. The commenter states that the AD action essentially specifies an action of ''remove, and do not reinstall, tie bolt part numbers listed in Table 1.'' The commenter assumes there

will be instructions provided on how to make the engine airworthy.

We partially agree. While there is no way to make the removed tie bolts airworthy, we reworded the AD to include a statement that the removed tie bolts be replaced with tie bolts with P/Ns that are not listed in Table 1 of the AD.

Conclusion

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

Costs of Compliance

About 700 RRC 250–B and 250–C series turboprop and turboshaft engines with affected P/Ns of gas producer rotor assembly tie bolts manufactured by EXTEX Ltd., Pacific Sky Supply Inc., Rolls-Royce Corporation (RRC), and Superior Air Parts Inc., installed on aircraft of U.S. registry, will be affected by this AD. We also estimate that it will take about 20 workhours per engine to perform the actions, and that the average labor rate is $65 per workhour. Required parts will cost about $421 per engine. Based on these figures, we estimate the total cost of the AD to U.S. operators to be $1,204,700.

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 at the address listed under **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2006–13–06 Rolls-Royce Corporation (formerly Allison Engine Company, Allison Gas Turbine Division, and Detroit Diesel Allison): Amendment 39–14659. Docket No. FAA–2005–22594; Directorate Identifier 2005–NE–28–AD.

Effective Date

(a) This airworthiness directive (AD) becomes effective July 26, 2006.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Rolls-Royce Corporation (formerly Allison Engine Company, Allison Gas Turbine Division, and Detroit Diesel Allison) 250–B17, –B17B, –B17C, –B17D, –B17E, –B17F, –B17F/1, –B17F/2, 250–C18, –C20, –C20B, –C20F, –C20J, –C20R, –C20R/1, –C20R/2, –C20R/4, –C20S, and ''C20W series turboprop and turboshaft engines with the gas producer rotor assembly tie bolt part numbers (P/Ns) listed in the following Table 1, installed:

TABLE 1.—AFFECTED GAS PRODUCER ROTOR ASSEMBLY TIE BOLTS

Manufacturer	Affected part numbers
EXTEX Ltd. (EXTEX)	A23008020 and E23008020
Rolls-Royce Corporation (RRC)	23008020, 6843388 and 6876991
Superior Air Parts Inc. (SAP)	A23008020
Pacific Sky Supply Inc	23008020P

These engines are installed on, but not limited to, aircraft in the following Table 2:

TABLE 2.—APPLICABLE AIRCRAFT

Helicopter	Models
Agusta	A109, A109A, A109A II, A109C.
Arrow Falcon Exporters	OH–58A+ and OH–58C.
Bell Textron	206A, 206B, 206L.
Enstrom	TH–28, 480, 480B.
Eurocopter France	AS355E, AS355F, AS355F1, AS355F2.
Eurocopter Deutschland	BO–105A, BO–105C, BO–105S.

TABLE 2.—APPLICABLE AIRCRAFT—Continued

Helicopter	Models
FH–1100 Manufacturing Corp.	FH–1100.
Garlick	OH–58A + OH–58C.
McDonnell Douglas Company	369D, 369E, 369F, 369H, 369HM, 369HS, 369HE, 500N.
San Joaquin	OH–58A+ and OH–58C.
Schweizer	269D.
Aircraft	**Models**
B–N Group Ltd.	BN–2T and BN–2T–4R.
SIAI Marchetti s.r.l.	SF600, SF600A.

Unsafe Condition

(d) This AD results from eleven reports of RRC tie bolt failure due to high-cycle-fatigue. We are issuing this AD to prevent tie bolt failure that could cause loss of engine power, resulting in a first stage turbine wheel overspeed and an uncontained engine failure.

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.

Remove Gas Producer Rotor Assembly Tie Bolts

(f) Remove the P/N gas producer rotor assembly tie bolts listed in Table 1 of this AD from service the next time they are disassembled for any reason, or by October 31, 2011, whichever occurs first, and replace with tie bolts with P/Ns that are not listed in Table 1 of this AD.

(g) After the effective date of this AD, do not install any gas producer rotor assembly tie bolt P/Ns listed in Table 1 of this AD in any RRC 250–B and 250–C Series turboprop and turboshaft engines.

Alternative Methods of Compliance

(h) The Manager, Los Angeles Aircraft Certification Office, has the authority to approve alternative methods of compliance for EXTEX, and Pacific Sky Supply Inc. gas producer rotor assembly tie bolts addressed in this AD, if requested, using the procedures found in 14 CFR 39.19. The Manager, Chicago Aircraft Certification Office, has the authority to approve alternative methods of compliance for RRC gas producer rotor assembly tie bolts addressed in this AD, if requested, using the procedures found in 14 CFR 39.19. The Manager, Southwest Special Certification Office, has the authority to approve alternative methods of compliance for SAP gas producer rotor assembly tie bolts addressed in this AD, if requested, using the procedures found in 14 CFR 39.19.

Related Information

(i) RRC Commercial Engine Bulletin (CEB) CEB A–304, CEB A–1371, CEB A–72–4076, TP CEB A–176, TP CEB A–1319, TP CEB A–72–2027, Revision N/C, dated May 23, 2005, and EXTEX Service Bulletin T–090, Revision N/C, dated May 23, 2005, pertain to the subject of this AD.

Issued in Burlington, Massachusetts, on June 14, 2006.

Francis A. Favara,

Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 06–5547 Filed 6–20–06; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2004–19566; Directorate Identifier 2004–NM–72–AD; Amendment 39–14657; AD 2006–13–04]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A300 B2 and A300 B4 Series Airplanes; and Model A300 B4–600, B4–600R, and F4–600R Series Airplanes, and Model C4–605R Variant F Airplanes (Collectively Called A300–600 Series Airplanes)

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

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain Airbus airplanes as listed above. This AD requires repetitively inspecting for cracking in the web of nose rib 7 of the inner flap on the wings, and performing related investigative/corrective actions if necessary. This AD also requires eventual replacement of nose rib 7 with a new, improved rib, which would terminate the inspections. This AD results from reports of cracking in the web of nose rib 7 of the inner flap. We are issuing this AD to prevent cracking in the web of nose rib 7, which could result in rupture of the attachment fitting between the inner flap and flap track 2, and consequent reduced structural integrity of the flap.

DATES: This AD becomes effective July 26, 2006.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in the AD as of July 26, 2006.

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

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

FOR FURTHER INFORMATION CONTACT: Thomas Stafford, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–1622; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Examining the Docket

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

Discussion

The FAA issued a second supplemental notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to certain Airbus Model A300 B2 and A300 B4 series airplanes; and Model A300 B4–600, B4–600R, and F4–600R series airplanes, and Model C4–605R Variant F airplanes (collectively called A300–600 series airplanes). That second supplemental NPRM was published in the **Federal Register** on March 27, 2006 (71 FR 15084). The second supplemental NPRM proposed to require repetitively inspecting for

cracking in the web of nose rib 7 of the inner flap on the wings, performing related investigative/corrective actions if necessary, and eventually replacing nose rib 7 with a new, improved rib to terminate the inspections.

Comments

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

Conclusion

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

Costs of Compliance

The following table provides the estimated costs for U.S. operators to comply with this AD, at an average labor rate of $65 per hour.

ESTIMATED COSTS

Action	Work hours	Parts	Cost per airplane	Number of U.S.-registered airplanes	Fleet cost
Inspection, per inspection cycle	3	None	$195	143	$27,885, per inspection cycle.
Rib replacement	10	$10,980	11,630	143	$1,663,090.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2006–13–04 Airbus: Amendment 39–14657. Docket No. FAA–2004–19566; Directorate Identifier 2004–NM–72–AD.

Effective Date

(a) This AD becomes effective July 26, 2006.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Airbus Model A300 B2–1A, B2–1C, B2K–3C, B2–203, B4–2C, B4–103, B4–203, B4–601, B4–603, B4–605R, B4–620, B4–622, B4–622R, F4–605R, F4–622R, and C4–605R Variant F airplanes; certificated in any category; except those on which Airbus Modification 13031 or 19575 was accomplished in production.

Unsafe Condition

(d) This AD was prompted by reports of cracking in the web of nose rib 7 of the inner flap. We are issuing this AD to prevent cracking in the web of nose rib 7, which could result in rupture of the attachment fitting between the inner flap and flap track 2, and consequent reduced structural integrity of the flap.

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.

Inspections

(f) Do a detailed inspection, using a borescope or endoscope, for cracking of the vertical stiffeners, and of the horizontal flanges between the stiffeners, of nose rib 7 of the inner flap of the left- and right-hand wings; and do an eddy current inspection to detect cracking in the horizontal flanges of the attachment lug root of nose rib 7 of the inner flap of the left- and right-hand wings; in accordance with the Accomplishment Instructions of Airbus Service Bulletin A300–57–0240 or A300–57–6095, both Revision 01, both dated December 2, 2004, as applicable. Do the initial inspections at the applicable compliance time specified in paragraph (f)(1) or (f)(2) of this AD.

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

(1) For airplanes on which nose rib 7 has not been replaced in accordance with Airbus Service Bulletin A300–57–0242 or A300–57–6097, both dated December 18, 2003: Do the initial inspections at the applicable time specified in paragraph (f)(1)(i) or (f)(1)(ii) of this AD.

(i) For airplanes with 18,599 or fewer total flight cycles as of the effective date of this

AD: Prior to the accumulation of 5,000 total flight cycles, or within 1,000 flight cycles after the effective date of this AD, whichever is later.

(ii) For airplanes with 18,600 or more total flight cycles as of the effective date of this AD: Within 500 flight cycles after the effective date of this AD.

(2) For airplanes on which nose rib 7 has been replaced in accordance with Airbus Service Bulletin A300–57–0242 or A300–57–6097, both dated December 18, 2003: Do the initial inspection within 5,000 flight cycles after accomplishing the replacement, or within 1,000 flight cycles after the effective date of this AD, whichever is later.

No Crack Found: Repetitive Inspections

(g) If no crack is found during the inspection required by paragraph (f) of this AD: Repeat the inspection at intervals not to exceed 1,000 flight cycles, until the terminating action in paragraph (i) of this AD is completed.

Crack Found: Related Investigative/ Corrective Actions

(h) If any crack is found during any inspection required by paragraph (f) or (g) of this AD: Before further flight, replace nose rib 7 with a new, improved rib and do all related investigative actions and applicable corrective actions in accordance with the Accomplishment Instructions of Airbus Service Bulletin A300–57–0245, Revision 01; or A300–57–6100, Revision 01; both dated March 9, 2006; as applicable; except as provided by paragraph (j) of this AD. This terminates the repetitive inspections required by paragraph (g) of this AD for the modified flaps only.

Terminating Action

(i) Within 5,000 flight cycles or 36 months after the effective date of this AD, whichever is first: Replace nose rib 7 with a new, improved rib and do all related investigative actions and applicable corrective actions in accordance with the Accomplishment Instructions of Airbus Service Bulletin A300–57–0245, Revision 01; or A300–57–6100, Revision 01; both dated March 9, 2006; as applicable; except as provided by paragraph (j) of this AD. This terminates the repetitive inspections required by paragraph (g) of this AD.

Repairing Per the FAA or Direction Générale de l'Aviation Civile (DGAC)

(j) If any crack or damage is found for which the applicable service bulletin specifies to contact Airbus: Before further flight, repair per a method approved by either the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA; or the DGAC (or its delegated agent).

No Reporting Required

(k) Airbus Service Bulletins A300–57–0240 and A300–57–6095, both Revision 01, both dated December 2, 2004, specify to submit certain information to the manufacturer, but this AD does not include that requirement.

Actions Accomplished in Accordance With Initial Issue of Service Bulletins

(l) Actions done before the effective date of this AD in accordance with Airbus Service Bulletin A300–57–0245 or A300–57–6100, both dated August 31, 2005, are acceptable for compliance with the requirements of paragraphs (h) and (i) of this AD.

Alternative Methods of Compliance (AMOCs)

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

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

Related Information

(n) French airworthiness directive F–2005–198, dated December 7, 2005, also addresses the subject of this AD.

Material Incorporated by Reference

(o) You must use the applicable service information identified in Table 1 of this AD to perform the actions that are required by this AD, unless the AD specifies otherwise. The Director of the Federal Register approved the incorporation by reference of these documents in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Contact Airbus, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France, for a copy of this service information. You may review copies at the Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street SW., Room PL–401, Nassif Building, Washington, DC; on the Internet at *http://dms.dot.gov;* or at the National Archives and Records Administration (NARA). For information on the availability of this material at the NARA, call (202) 741–6030, or go to *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

TABLE 1.—MATERIAL INCORPORATED BY REFERENCE

Airbus Service Bulletin	Revision level	Date
A300–57–0240	01	December 2, 2004.
A300–57–0245	01	March 9, 2006.
A300–57–6095	01	December 2, 2004.
A300–57–6100	01	March 9, 2006.

Issued in Renton, Washington, on June 14, 2006.

Kalene C. Yanamura,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 06–5530 Filed 6–20–06; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2006–23579; Directorate Identifier 2006–CE–02–AD; Amendment 39–14658; AD 2006–13–05]

RIN 2120–AA64

Airworthiness Directives; Pacific Aerospace Corporation Ltd. 750XL Airplanes

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

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) that supersedes AD 2005–26–53, which applies to certain Pacific Aerospace Corporation Ltd. (PAC) 750XL airplanes. AD 2005–26–53 currently requires you to insert text into the Limitations Section of the Airplane Flight Manual (AFM) that reduces the maximum takeoff weight from 7,500 pounds to 7,125 pounds. This AD results from mandatory continuing airworthiness information (MCAI) issued by the airworthiness authority for New Zealand and the FAA's decision that the actions correct an unsafe condition. Consequently, this AD would require you to remove rivets that have not been fully age hardened and replace them

with bolts, washers, and nuts in specific locations where reduction in rivet strength affects overall structural capability. This AD retains the actions of the previous AD until the rivets are replaced with the bolts, washers, and nuts. We are issuing this AD so that wing ultimate load requirements are met. If wing ultimate load requirements are not met, wing failure could result with consequent loss of control of the airplane.

DATES: This AD becomes effective on July 31, 2006.

As of July 31, 2006, the Director of the Federal Register approved the incorporation by reference of certain publications listed in the regulation.

ADDRESSES: For service information identified in this AD, contact Pacific Aerospace Corporation Ltd., Hamilton Airport, Private Bag HN 3027, Hamilton, New Zealand; telephone: (64) 7–843–6144; facsimile: (64) 7–843–6134.

To view the AD docket, go to the Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL–401, Washington, DC 20590–001 or on the Internet at *http://dms.dot.gov*. The docket number is FAA–2006–23579; Directorate Identifier 2006–CE–02–AD.

FOR FURTHER INFORMATION CONTACT: Karl Schletzbaum, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4146; facsimile: (816) 329–4090.

SUPPLEMENTARY INFORMATION:

Discussion

On March 3, 2006, we issued a proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that would apply to certain Pacific Aerospace Corporation Ltd. (PAC) 750XL airplanes. This proposal was published in the **Federal Register** as a notice of proposed rulemaking (NPRM) on March 10, 2006 (71 FR 12305). The NPRM proposed to supersede AD 2005–26–53, Amendment 39–14451 (71 FR 2453, January 17, 2006), and require you to remove rivets that have not been fully age hardened and replace them with bolts, washers, and nuts in specific locations where reduction in rivet strength affects overall structural capability. The proposed AD would retain the airplane weight AFM Limitations requirement of AD 2005–26–53 until the rivets are replaced with the bolts, washers, and nuts.

Comments

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

Conclusion

We have carefully reviewed the available data and determined that air safety and the public interest require adopting the AD as proposed except for minor editorial corrections. We have determined that these minor corrections:

- Are consistent with the intent that was proposed in the NPRM for correcting the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the NPRM.

Costs of Compliance

We estimate that this AD affects 7 airplanes in the U.S. registry.

We estimate the following costs to do the replacement:

Labor cost	Parts cost	Total cost per airplane	Total cost on U.S. operators
32 work-hours × $80 per hour = $2,560	$519	$3,079	$21,553

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 AD.

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 the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and

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

We prepared a summary of the costs to comply with this AD (and other information as included in the Regulatory Evaluation) and placed it in the AD Docket. You may get a copy of this summary by sending a request to us at the address listed under **ADDRESSES**. Include ''Docket No. FAA–2006–23579; Directorate Identifier 2006–CE–02–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 part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing Airworthiness Directive (AD) 2005–26–53, Amendment 39–14451 (71 FR 2453, January 17, 2006), and by adding the following new airworthiness directive:

2006–13–05 Pacific Aerospace Corporation Ltd.: Amendment 39–14658; Docket No. FAA–2006–23579; Directorate Identifier 2006–CE–02–AD.

Effective Date

(a) This AD becomes effective on July 31, 2006.

Affected ADs

(b) This AD supersedes AD 2005–26–53; Amendment 39–14451.

Applicability

(c) This AD affects Model 750XL airplanes, serial numbers 101, 102, 104 through 120, and 125, that are certificated in any category.

Unsafe Condition

(d) This AD is the result of some critical rivets on the wing not being fully age-hardened and being installed in specific locations where reduction in rivet strength reduces wing strength. The actions specified in this AD are intended to ensure wing ultimate load requirements are met. If wing ultimate load requirements are not met, wing failure could result with consequent loss of control of the airplane.

Compliance

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

Actions	Compliance	Procedures
(1) Insert the following information into the Limitations Section of the Airplane Flight Manual (AFM). You may do this by inserting a copy of this AD into the Limitations Section of the AFM. "The maximum takeoff weight is reduced from 7,500 pounds to 7,125 pounds".	Before further flight after January 16, 2006 (the effective date of AD 2005–26–53), except for those who received emergency AD 2005–26–53, issued December 22, 2005, unless already done. Emergency AD 2005–26–53 continued the requirements of AD 2005–26–53 and became effective immediately upon receipt.	The owner/operator holding at least a private pilot certificate as authorized by section 43.7 of the Federal Aviation Regulations (14 CFR 43.7) may do the flight manual changes requirement of this AD. Make an entry in the aircraft records showing compliance with this portion of the AD following section 43.9 of the Federal Aviation Regulations (14 CFR 43.9).
(2) Remove rivets, part number (P/N) MS20470DD6, and replace with bolts, P/N NAS 6203–7X or NAS 6203–6X; washers, P/N AN960–10; and nuts, P/N MS21044N3.	Within 100 hours time-in-service after the effective date of this AD.	Following Pacific Aerospace Corporation Ltd. Service Bulletin PACSB/XL/018 Issue 3, issued December 23, 2005, and amended January 16, 2006.
(3) Remove the restrictive information from the Limitations Section of the AFM that you were required to insert in paragraph (e)(1) of this AD.	After doing the action required in paragraph (e)(2) of this AD.	The owner/operator holding at least a private pilot certificate as authorized by section 43.7 of the Federal Aviation Regulations (14 CFR 43.7) may do the flight manual changes requirement of this AD.

Alternative Methods of Compliance (AMOCs)

(f) The Manager, Standards Office, Small Airplane Directorate, FAA, ATTN: Karl Schletzbaum, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4146; facsimile: (816) 329–4090 has the authority to approve alternative methods of compliance (AMOCs) for this AD, if requested using the procedures found in 14 CFR 39.19.

(g) AMOCs approved for AD 2005–26–53 are approved for this AD.

Related Information

(h) New Zealand AD No. DCA/750XL/7A, dated December 24, 2005 also addresses the subject of this AD.

Material Incorporated by Reference

(i) You must do the actions required by this AD following the instructions in Pacific Aerospace Corporation Ltd. Service Bulletin No. PACSB/XL/018 Issue 3, issued December 23, 2005, amended January 16, 2006. 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. To get a copy of this service information, contact Pacific Aerospace Corporation Ltd., Hamilton Airport, Private Bag HN3027, Hamilton, New Zealand; telephone: (64) 7–843–6144; facsimile: (64) 7–843–6134. To review copies of this service information, go to the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html* or call (202) 741–6030. To view the AD docket, go to the Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL–401, Washington, DC 20590–001 or on the Internet at *http://dms.dot.gov*. The docket number is FAA–2006–23579; Directorate Identifier 2006–CE–02–AD.

Issued in Kansas City, Missouri, on June 12, 2006.

James E. Jackson,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 06–5529 Filed 6–20–06; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF LABOR

Employment and Training Administration

20 CFR Parts 601, 602, 603, 606, 609, 614, 615, 616, 617, 625, 640, 641, 650, 651, 653, 654, 655, 656, 658, 661, 662, 667, and 668

Department of Labor Regulatory Review and Update

AGENCY: Employment and Training Administration, and Employment Standards Administration, Department of Labor.

ACTION: Final rule; technical amendments.

SUMMARY: The Department of Labor (DOL) is amending existing regulations to update obsolete non-substantive or nomenclature references in the Code of Federal Regulations (CFR). This action is intended to improve the accuracy of the agency's regulations and does not impose any new regulatory or technical requirements.

DATES: *Effective Date:* June 21, 2006.

FOR FURTHER INFORMATION CONTACT: Kathleen Franks, U.S. Department of Labor, Room S–2312, 200 Constitution Avenue, NW., Washington, DC 20210, Telephone (202) 693–5959.

SUPPLEMENTARY INFORMATION: DOL's strategic outcome goal 4.2 measures the agency's success in creating a regulatory structure that promotes compliance flexibility and reduces regulatory burden. As part of this strategic goal, DOL is conducting an ongoing review of its regulations governing labor standards, pensions, health care, and worker safety to ensure that these references in the CFR are accurate and current. This final rule is the first of a series of updates to correct or remove obsolete non-substantive or nomenclature references in the CFR.

Publication of this document constitutes final action on these changes under the Administrative Procedure Act (5 U.S.C. 553). Notice of Proposed Rulemaking is unnecessary since the agency is merely updating non-substantive and nomenclature references.

Executive Order 12866

This rule has been drafted and reviewed in accordance with Executive Order 12866, section 1(b), Principles of Regulations. The agency has determined that this rule is not a ''significant

regulatory action'' under Executive Order 12866, section 3(f), Regulatory Planning and Review. Accordingly, there is no requirement for an assessment of potential costs and benefits under section 6(a)(3) of that order.

Regulatory Flexibility Act

Because no notice of proposed rulemaking is required for this rule under section 553(b) of the Administrative Procedure Act (APA), the requirements of the Regulatory Flexibility Act (5 U.S.C. 601) pertaining to regulatory flexibility do not apply to this rule. See 5 U.S.C. 601(2).

Paperwork Reduction Act

This final rule is not subject to section 350(h) of the Paperwork Reduction Act (44 U.S.C. 3501) since it does not contain any new collection of information requirements.

Publication in Final

The Department has determined that these amendments need not be published as a proposed rule, pursuant to 5 U.S.C. 553(b)(A), since several of these changes are interpretive, procedural in nature, or relate to agency organization. Because this final rule does not make substantive amendments, the Department of Labor has determined that delaying the effective date of the rule is unnecessary and good cause exists under 5 U.S.C. 553(b)(B) to make this rule effective immediately upon publication in the **Federal Register**.

Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not classified as a ''rule'' under Chapter 8 of the Small Business Regulatory Enforcement Fairness Act of 1996, because it is a rule pertaining to agency organization, procedure, or practice that does not substantially affect the rights or obligations of non-agency parties. See 5 U.S.C. 804(3)(C).

List of Subjects

20 CFR Part 601

Employment, Grant programs—labor, Reporting and recordkeeping requirements, Unemployment compensation.

20 CFR Part 602

Grant programs—labor, Reporting and recordkeeping requirements, Unemployment compensation.

20 CFR Part 603

Grant programs—labor, Privacy, Reporting and recordkeeping requirements, Unemployment compensation.

20 CFR Part 606

Employment taxes, Reporting and recordkeeping requirements, Unemployment compensation.

20 CFR Part 609

Administrative practice and procedure, Fraud, Government employees, Penalties, Reporting and recordkeeping requirements, Unemployment compensation, Virgin Islands.

20 CFR Part 614

Administrative practice and procedure, Fraud, Intergovernmental requirements, Penalties, Reporting and recordkeeping requirements, Unemployment compensation, Veterans, Virgin Islands.

20 CFR Part 615

Grant programs—labor, Reporting and recordkeeping requirements, Unemployment compensation.

20 CFR Part 616

Unemployment compensation.

20 CFR Part 617

Administrative practice and procedure, Employment, Fraud, Grant programs—labor, Manpower training programs, Relocation assistance, Reporting and recordkeeping requirements, Trade adjustment assistance, Unemployment compensation.

20 CFR Part 625

Administrative practice and procedure, Disaster assistance, Grants programs—labor, Reporting and recordkeeping requirements, Unemployment compensation.

20 CFR Part 640

Reporting and recordkeeping requirements, Unemployment compensation.

20 CFR Part 641

Aged, Employment, Government contracts, Grant programs—labor, Reporting and recordkeeping requirements.

20 CFR Part 650

Reporting and recordkeeping requirements, Unemployment compensation.

20 CFR Part 651

Employment, Grant programs—labor.

20 CFR Part 653

Agriculture, Employment, Equal employment opportunity, Grant programs—labor, Migrant labor, Reporting and recordkeeping requirements.

20 CFR Part 654

Employment, Government procurement, Housing standards, Manpower, Migrant labor, Reporting and recordkeeping requirements.

20 CFR Part 655

Administrative practice and procedure, Aliens, Employment, Forests and forest products, Health professions, Longshore and harbor workers, Migrant labor, Passports and visas, Penalties, Reporting and recordkeeping requirements, Seamen, Students, Wages.

20 CFR Part 656

Administrative practice and procedure, Aliens, Employment, Fraud, Reporting and recordkeeping requirements, Wages.

20 CFR Part 658

Administrative practice and procedure, Employment, Grant programs—labor, Reporting and recordkeeping requirements.

20 CFR Part 661

Employment, Grant programs—labor.

20 CFR Part 662

Employment, Grant programs—labor.

20 CFR Part 667

Employment, Grant programs—labor, Reporting and recordkeeping requirements.

20 CFR Part 668

Employment, Grant programs—labor, Indians, Reporting and recording requirements.

■ For the reasons set forth in the preamble, DOL amends, parts 601, 602, 603, 606, 609, 614, 615, 616, 617, 625, 640, 641, 650, 651, 653, 654, 655, 656, 658, 661, 662, 667, and 668 of title 20, Code of Federal Regulations, as follows:

PART 601—ADMINISTRATIVE PROCEDURE

■ 1. The authority citation for 20 CFR Part 601 continues to read as follows:

Authority: 5 U.S.C. 301; 26 U.S.C. Chapter 23; 29 U.S.C. 49k; 38 U.S.C. Chapters 41 and 42; 39 U.S.C. 3203(a)(1)(E) and 3202 note; 42 U.S.C. 1302; and Secretary of Labor's Order No. 4–75, 40 FR 18515.

§§ 601.1, 601.2, 601.3, 601.4, 601.5 [Amended]

■ 2. In 20 CFR Part 601, remove the words ''Internal Revenue Code of 1954'' and add, in their place, the words ''Internal Revenue Code of 1986'' in the following places:

■ a. Section 601.1(a) in four places, (b), and (c);
■ b. Section 601.2 introductory text, (c), and (d);
■ c. Section 601.3 introductory text, and (b);
■ d. Section 601.4(a) in three places; and
■ e. Section 601.5(a)(2), (a)(3), (a)(4), and (c).

§ 601.2 [Amended]

■ 3. Amend § 601.2 by removing the words ''Regional Administrator, Employment and Training Administration (RAETA) two copies'' and adding, in their place, the words ''Employment and Training Administration (ETA), one copy'' in paragraph (a); and removing paragraph (b).

§ 601.2 [Amended]

■ 4. In § 601.2(d), remove the words ''December 31'' and add, in their place, the words ''October 31''; and remove the word ''he'' and add, in its place, the words ''the Secretary''.

§ 601.3 [Amended]

■ 5. Amend § 601.3 by removing the words ''RAETA two copies'' and adding, in their place, the words ''ETA one copy'' in paragraph (a); and removing and reserving paragraph (b).

§ 601.4 [Amended]

■ 6. In § 601.4(a), remove the word ''his'' and add, in its place, the words ''the Secretary's''; remove the words ''December 31'' and add, in their place, the words ''October 31''; and remove the word ''he'' and add, in its place, the words ''the Secretary''.

§ 601.5 [Amended]

■ 7. Amend § 601.5 as follows:
■ a. Remove the words ''regional and central office'' and add, in their place, the word ''ETA'' in paragraph (b);
■ b. Remove the word ''he'' and add, in its place, the words ''he/she'' in the first instance it appears, and remove the word ''he'' in the second instance it appears and add, in its place, the words ''the Secretary'' in paragraph (c);
■ c. Remove the words ''State employment security agency'' and add, in their place, the words ''State unemployment compensation agency'' in paragraph (d) in two places; and
■ d. Remove paragraph (f).

§ 601.6 [Amended]

■ 8. Amend § 601.6 as follows:
■ a. Remove the word ''insurance'' and add, in its place, the words ''compensation laws'' in the section heading and introductory text;
■ b. Remove the words ''upon request from the Employment and Training Administration, Department of Labor, Washington, DC 20210, and at the regional offices.'' and add, in their place, the words ''on the ETA Web site (*http://www.ows.doleta.gov/rjm*).'' in paragraph (a);
■ c. Remove the word ''RAETA'' and add, in its place, the words ''Regional Administrator'' paragraphs (b) and (c); and
■ d. Remove the word ''his'' and add, in its place, the words ''his/her'' in paragraph (b).
■ e. Redesignate existing paragraph (b) as (b)(1) and designate the following undesignated paragraph as paragraph (b)(2).

§ 601.9 [Amended]

■ 9. In § 601.9, remove the words ''41 CFR 29–70.207–2(h) and (i), 41 CFR 29–70.207–3, and 41 CFR 29–70.207–4'' and add, in their place, the words ''29 CFR Part 96 and 29 CFR Part 99''; and remove the word ''insurance'' and add, in its place, the word ''compensation''.

PART 602—QUALITY CONTROL IN THE FEDERAL-STATE UNEMPLOYMENT INSURANCE SYSTEM

■ 10. The authority citation for 20 CFR Part 602 continues to read as follows:

Authority: 42 U.S.C. 1302.

§ 602.1 [Amended]

■ 11. In § 602.1, remove the words ''unemployment insurance (UI)'' and add, in their place, the words ''unemployment compensation (UC)''; and remove the words ''State Employment Security Agencies (SESA)'' and add, in their place, the words ''State unemployment compensation agencies''.

§§ 602.1, 602.2, 602.21, 602.43 [Amended]

■ 12. In 20 CFR Part 602, remove the words ''UI'' and add, in their place, the words ''UC'' in the following places:
■ a. Section 602.1 in two places;
■ b. Section 602.2;
■ c. Section 602.21(c) introductory text, and (c)(3); and
■ d. Section 602.43.

§ 602.2 [Amended]

■ 13. In § 602.2, remove the words ''Internal Revenue Code of 1954'' and add, in their place, the words ''Internal Revenue Code of 1986''; remove the words ''SESAs'' and add, in their place, the words ''State unemployment compensation agencies''; and remove the word ''Ex-Servicemen'' and add, in its place, the word ''Ex-Servicemembers''.

§ 602.10 [Amended]

■ 14. In § 602.10 paragraphs (d)(1) and (d)(2), remove the words ''unemployment compensation'' and add, in their place, the words ''UC''.

§ 602.40 [Amended]

■ 15. In § 602.40(b), remove the word ''date'' and add, in its place, the word ''data''.

PART 603—INCOME AND ELIGIBILITY VERIFICATION SYSTEM

■ 16. The authority citation for 20 CFR Part 603 continues to read as follows:

Authority: Sec. 1102, Social Security Act, ch. 531, 49 Stat. 647, as amended (42 U.S.C. 1302); Reorganization Plan No. 2 of 1949, 63 Stat. 1065, 14 FR 5225.

§ 603.2 [Amended]

■ 17. Amend § 603.2 as follows:
■ a. Remove the words ''Internal Revenue Code of 1954'' and add, in their place, the words ''Internal Revenue Code of 1986'' in paragraph (a); and
■ b. Remove the words ''Aid to Families with Dependent Children'' and add, in their place, the words ''Temporary Assistance for Needy Families'' in paragraph (d)(1).

§ 603.9 [Removed]

■ 18. Remove § 603.9.

§ 603.20 [Removed]

■ 19. Remove § 603.20.

PART 606—TAX CREDITS UNDER THE FEDERAL UNEMPLOYMENT TAX ACT; ADVANCES UNDER TITLE XII OF THE SOCIAL SECURITY ACT

■ 20. The authority for 20 CFR Part 606 continues to read as follows:

Authority: 42 U.S.C. 1102; 26 U.S.C. 7805(a); Secretary's Order No. 4–75 (40 FR 18515).

§ 606.3 [Amended]

■ 21. In § 606.3(c)(2), remove the words ''606–3(1)'' and add, in their place, the words ''606.3(1)''.

§§ 606.4, 606.5, 606.6, 606.20, 606.22, 606.23, 606.24, 606.25, 606.26, 606.41, 606.42, 606.44 [Amended]

■ 22. In 20 CFR Part 606, remove the words ''UIS Director'' and add, in their place, the words ''OWS Administrator'' in the following places:
■ a. Section 606.4(a) in two places;
■ b. Section 606.5;
■ c. Section 606.6;
■ d. Section 606.20(a) introductory text;
■ e. Section 606.22(a)(2);

■ f. Section 606.23(a) introductory text, (a)(1)(i), (a)(2), (a)(3), and (b)(2) in two places;
■ g. Section 606.24(a)(2);
■ h. Section 606.25;
■ i. Section 606.26(b);
■ j. Section 606.41(a), and (e)(2);
■ k. Section 606.42(c)(2); and
■ l. Section 606.44 in two places.

§ 606.4 [Amended]

■ 23. In § 606.4(a), remove the words ''Director, Unemployment Insurance Service'' and add, in their place, the words ''Administrator, Office of Workforce Security''.

§ 606.6 [Amended]

■ 24. In § 606.6, remove the last sentence.

§ 606.30 [Amended]

■ 25. In § 606.30, remove the words ''on or after April 1, 1982,''.

§ 606.43 [Removed]

■ 26. Remove § 606.43.

PART 609—UNEMPLOYMENT COMPENSATION FOR FEDERAL CIVILIAN EMPLOYEEES

■ 27. The authority for 20 CFR 609 continues to read as follows:

Authority: 5 U.S.C. 8508; Secretary's Order No. 4–75, 40 FR 18515; (5 U.S.C. 301).

§ 609.2 [Amended]

■ 28. In § 609.2, in paragraphs (f)(12)(iii) and (o)(1), remove the words ''Internal Revenue Code of 1954'' and add, in their place, the words ''Internal Revenue Code of 1986''.

§ 609.6 [Amended]

■ 29. In § 609.6(e)(2), remove the word ''Fedeal'' and add, in its place, the word ''Federal''.

§ 609.7 [Amended]

■ 30. In § 609.7(c)(2), remove the word ''calenders'' and add, in its place, the word ''calendars'; and remove the word ''unemployent'' and add, in its place, the word ''Unemployment''.

§ 609.13 [Amended]

■ 31. In § 609.13(b), add the words '', as amended'' after the words ''Privacy Act of 1974''.

PART 614—UNEMPLOYMENT COMPENSATION FOR EX-SERVICEMEMBERS

■ 32. The authority for 20 CFR Part 614 continues to read as follows:

Authority: 5 U.S.C. 8508; Secretary's Order No. 4–75 (40 FR 18515).

§ 614.6 [Amended]

■ 33. In § 614.6(g), remove the word ''appying'' and add, in its place, the word ''applying''; and remove the word ''consisent'' and add, in its place, the word ''consistent''.

PART 615—EXTENDED BENEFITS IN THE FEDERAL-STATE UNEMPLOYMENT COMPENSATION PROGRAM

■ 34. The authority for 20 CFR Part 615 continues to read as follows:

Authority: 26 U.S.C. 7805; 42 U.S.C. 1102; Secretary's Order No. 4–75 (40 FR 18515)

§ 615.2 [Amended]

■ 35. In § 615.2(k)(3), remove the words ''State Employment Security Agency'' and add, in their place, the words ''State unemployment compensation agency''

§ 615.5 [Amended]

■ 36. In § 615.5(a)(1)(iii), remove the words ''Internal Revenue Code of 1954'' and add, in their place, the words ''Internal Revenue Code of 1986''.

§ 615.8 [Amended]

■ 37. Amend § 615.8 as follows:
■ a. Remove the words ''State agency'' and add, in their place, the words ''State Workforce Agency'' in paragraphs (e)(1), (e)(2), (e)(3), (e)(6), and (f)(1) introductory text;
■ b. Remove the second occurrence of the word ''or'' in paragraph (f)(2)(ii);
■ c. Add the word ''or'' after the comma at the end of paragraph (f)(2)(iii); and
■ d. Add the words ''or State Workforce Agency, as applicable'' after the words ''State agency'' in paragraph (h) introductory text.

§ 615.14 [Amended]

■ 38. Amend § 615.14 as follows:
■ a. Remove the words '', as to weeks beginning after October 31, 1981, except for any State which the State legislature did not meet in 1981 as to weeks beginning after October 1, 1982''; and remove the words ''as to weeks beginning after March 31, 1981'' in paragraph (b)(1)(i);
■ b. Remove the words '', as to weeks beginning after September 25, 1982'' in paragraph (b)(1)(ii);
■ c. Remove the words '', as to weeks which begin after May 31, 1981, or May 31, 1982,'' in paragraph (b)(2);
■ d. Remove the words '', that first week begins after December 5, 1980,'' in paragraph (c)(3) introductory text;
■ e. Remove paragraph (c)(3)(i), and redesignate paragraphs (c)(3)(ii) and (c)(3)(iii) as paragraphs (c)(3)(i) and (c)(3)(ii), respectively;
■ f. Remove the last sentence of paragraph (c)(4); and
■ g. Remove the last sentence of paragraph (c)(5).

PART 616—INTERSTATE ARRANGEMENT FOR COMBINING EMPLOYMENT AND WAGES AUTHORITY

■ 39. The authority for 20 CFR Part 616 is revised to read as follows:

Authority: Sec. 3304(a)(9)(B), 84 Stat. 702; 26 U.S.C. 3304(a)(9)(B); Secretary's Order No. 4–75, April 16, 1975.

§ 616.2 [Amended]

■ 40. In § 616.2 remove the words ''Interstate Conference of Employment Security Agencies'' and add, in their place, the words ''National Association of State Workforce Agencies (NASWA)''.

■ 41. Amend § 616.6 by revising paragraphs (a) and (e)(2) to read as follows:

§ 616.6 Definitions

* * * * *

(a) *State.* ''State'' includes the States of the United States of America, the District of Columbia, the Commonwealth of Puerto Rico, and the Virgin Islands.

* * * * *

(e) * * *

(2) If the State in which a Combined-Wage Claimant files a Combined-Wage Claim is not the Paying State under the criterion set forth in paragraph (e)(1) of this section, or if the Combined-Wage Claim is filed in Canada then the Paying State shall be that State where the Combined-Wage Claimant was last employed in covered employment among the States in which the claimant qualifies for unemployment benefits on the basis of combined employment and wages.

* * * * *

§ 616.7 [Amended]

■ 42. Amend § 616.7 as follows:
■ a. Remove the word ''he'' and add, in its place, the words ''the individual'' in paragraphs (a) introductory text in two places, (a)(2) footnote 1, and (c);
■ b. Remove the word ''He'' and add, in its place, the words ''The individual'' in paragraphs (a) introductory text and (a)(2);
■ c. Remove the word ''He'' and add, in its place, the words ''The claimant'' in paragraph (b)(1);
■ d. Remove the word ''His'' and add, in its place, the words ''The claimant's'' in paragraph (b)(2); and
■ e. Remove the word ''he'' and add, in its place, the words ''the claimant'' in paragraph (b) introductory text, (d) introductory text, (d)(2), and (e).

§§ 616.7, 616.8 [Amended]

■ 43. In 20 CFR Part 616, remove the word ''his'' and add, in its place, the words ''his/her'' in the following places:
■ a. Section 616.7(b)(1), (d) introductory text, and (e); and
■ b. Section 616.8(a) in the second instance, (b) in two places, (d)(1), (d)(2), and (e).

§ 616.8 [Amended]

■ 44. Amend § 616.8 as follows:
■ a. Remove the word ''his'' and add, in its place, the words ''the claimant's'' in paragraph (a) in the first instance it appears;
■ b. Remove the word ''he'' and add, in its place, the words ''the claimant'' in paragraph (a);
■ c. Remove the word ''he'' and add, in its place, the words ''he/she'' in paragraph (b);
■ d. Remove the words ''Internal Revenue Code of 1954'' and add, in their place, the words ''Internal Revenue Code of 1986'' in paragraph (c)(2).
■ e. Remove the word ''him'' and add, in its place, the words ''him/her'' in paragraph (e);
■ f. Remove the words ''With respect to benefits paid after December 31, 1978, except'' and add, in their place, the word ''Except'' in paragraph (f)(4); and
■ g. Remove the words ''With respect to new claims establishing a benefit year effective on or after July 1, 1977, the'' and add, in their place, the word ''The''; and remove the words ''With respect to new claims effective before July 1, 1977, prior law shall apply.'' in paragraph (f)(5).

§ 616.11 [Amended]

■ 45. In § 616.11, remove the word ''he'' and add, in its place, the words ''the Secretary'' and remove the words ''the ICESA'' and add, in their place, the word ''NASWA''.

PART 617— TRADE ADJUSTMENT ASSISTANCE FOR WORKERS UNDER THE TRADE ACT

■ 46. The authority citation for 20 CFR Part 617 continues to read as follows:

Authority: 19 U.S.C. 2320; Secretary's Order No. 3–81, 46 FR 31117.

■ 47. Amend § 617.3 as follows:
■ a. Revise paragraph (m)(1) to read as set forth below:
■ b. Revise paragraphs (t)(2) and (t)(3)(i) to read as set forth below:
■ c. Remove the words ''Internal Revenue Code of 1954'' and add, in its place, the words ''Internal Revenue Code of 1986'' in paragraph (q)(3);
■ d. Remove the words ''State Employment Security Agency'' and add, in their place, the words ''State Workforce Agency'' and remove the words ''title III of the Job Training Partnership Act'' and add, in their place, the words ''title I, Subchapter B of the Workforce Investment Act'' in paragraph (ii); and
■ e. Remove the words ''Internal Revenue Code of 1954'' and add, in their place, the words ''Internal Revenue Code of 1986'' in paragraph (jj).

The revisions read as follows:

§ 617.3 Definitions.

* * * * *

(m) * * *

(1) *Basic TRA.* With respect to a total qualifying separation (as defined in paragraph (t)(3)(i) of this section) the 104-week period beginning with the first week following the week in which such total qualifying separation occurred; provided, that an individual who has a second or subsequent total qualifying separation within the certification period of the same certification shall be determined to have a new 104-week eligibility period based upon the most recent such total qualifying separation.

* * * * *

(t)(1) * * *

(2) *Qualifying separation* means for an individual to qualify as an adversely affected worker and for basic TRA, any total separation of the individual within the certification period of a certification with respect to which the individual meets all of the requirements in § 617.11(a)(2)(i) through (iv), and which qualifies as a total qualifying separation as defined in paragraph (B) of (t)(3)(i) of this section.

(3) * * *

(i) For the purposes of determining an individual's eligibility period for basic TRA, the first total separation of the individual within the certification period of a certification, with respect to which the individual meets all of the requirements in § 617.11(a)(2)(i) through (iv).

* * * * *

§ 617.11 [Amended]

■ 48. Amend § 617.11 as follows:
■ a. Remove and reserve paragraphs (a)(1), (a)(3), and (a)(4);
■ b. Remove the words ''On and after November 21, 1988.'' and ''that begins on or after November 21, 1988,'' in paragraph (a)(2) introductory text;
■ c. Remove the words ''(except in the case of oil and gas workers to whom paragraph (a)(4) of this section applies)'' in paragraph (b)(1); and
■ d. Remove the words ''§ 617.11(a)(1)(v) or'' and '', as appropriate'' in paragraph (b)(2).

§ 617.19 [Amended]

■ 49. Amend § 617.19 as follows:
■ a. Remove the words ''for all weeks beginning on and after November 21, 1988'' and add in their place, the words ''for each week'' in paragraph (a)(1)(i);
■ b. Remove the words '',for all weeks beginning before November 21, 1988'' and add, in their place, the words ''for each week'' in paragraph (a)(1)(ii); and
■ c. Remove the words ''Job Training Partnership Act (including Title III)'' and add, in their place, the words ''Title I, Subchapter B of the Workforce Investment Act'' in the undesignated paragraph following paragraph (b)(1)(i)(A)(*3*) and wrap the undesignated text into paragraph (b)(1)(i)(A)(*3*).

§ 617.20 [Amended]

■ 50. In § 617.20(b)(15), remove the words ''Title III of the Job Training Partnership Act'' and add, in their place, the words ''Title I, Subchapter B of the Workforce Investment Act''.

§ 617.22 [Amended]

■ 51. In § 617.22(a)(4) in the paragraph heading add the word ''technical'' after the word ''vocational''; and remove the words ''section 195(2) of the Vocational Education Act of 1963'' and add, in their place, the words ''Carl D. Perkins Vocational and Applied Technology Education Act''.

§ 617.23 [Amended]

■ 52. Amend § 617.23 as follows:
■ a. Remove the words ''Private Industry Councils (PICs)'' and add, in their place the words, ''Workforce Investment Boards (WIBs)'' and remove the words ''Job Training Partnership Act (JTPA)'' and add, in their place, the words ''Workforce Investment Act (WIA)'' in paragraph (a); and
■ b. Remove the words ''Job Service Improvement Program Committees, JTPA SDA grant recipients'' and add, in their place, the words ''WIBs and other WIA One-Stop partners'' and remove the word ''PICs'' and add, in its place, the word ''WIBs'' in paragraph (d)(2).

§ 617.24 [Amended]

■ 53. Amend § 617.24 as follows:
■ a. Remove the words ''Title III of the Job Training Partnership Act'' and add, in their place, the words ''Title I, subchapter B of the Workforce Investment Act'' in paragraph (b); and
■ b. Remove the words ''private industry council'' and add, in their place, the words ''Workforce Investment Board''; and remove the words ''Job Training Partnership Act'' and add, in their place, the words ''Workforce Investment Act'' in paragraph (c).

§ 617.27 [Amended]

■ 54. In § 617.27(a), remove the word ''JTPA'' and add, in its place, the words ''Workforce Investment Act''.

§ 617.49 [Amended]

■ 55. Amend § 617.49 as follows:

■ a. Remove the word ''JTPA'' and add, in its place, the words ''Workforce Investment Act'' in paragraph (b)(1); and

■ b. Remove the words ''which begins after November 20, 1988'' in paragraph (e).

§ 617.59 [Amended]

■ 56. In § 617.59(h), remove the words ''State Service Delivery Areas, Private Industry Councils, and substate grantees under the Job Training Partnership Act'' and add, in their place, the words ''the Workforce Investment Act''.

§ 617.62 [Removed]

■ 57. Remove § 617.62.

§ 617.63 [Removed]

■ 58. Remove § 617.63.

§ 617.65 [Removed]

■ 59. Remove § 617.65.

§ 617.66 [Removed]

■ 60. Remove § 617.66.

§ 617.67 [Removed]

■ 61. Remove § 617.67.

PART 625—DISASTER UNEMPLOYMENT ASSISTANCE

■ 62. The authority citation for 20 CFR Part 625 continues to read as follows:

Authority: 42 U.S.C. 1302; 42 U.S.C. 5164; 42 U.S.C. 5189a(c); 42 U.S.C. 5201(a); Executive Order 12673 of March 23, 1989 (54 FR 12571); delegation of authority from the Director of the Federal Emergency Management Agency to the Secretary of Labor, effective December 1, 1985 (51 FR 4988); Secretary's Order No. 4–75 (40 FR 18515).

§ 625.2 [Amended]

■ 63. In § 625.2(f) remove ''['' .

§§ 625.6, 625.10, 625.30 [Amended]

■ 64. In 20 CFR Part 625, remove the words ''Region IX'' and add, in their place, the words ''Region VI'' in the following places:

■ a. Section 625.6(d);

■ b. Section 625.10(b)(2); and

■ c. Section 625.30(h)(1).

§ 625.10 [Amended]

■ 65. Amend § 625.10 as follows:

■ a. Remove the words ''Director, Unemployment Insurance Service'' and add, in their place, the words ''Administrator, Office of Workforce Security'' in paragraphs (c)(5), (d)(2), (d)(4), and (d)(6); and

■ b. Remove the word ''his'' and add, in its place, the words ''his or her'' in paragraph (d)(1).

§ 625.11 [Amended]

■ 66. In § 625.11 section heading, remove the word ''Provisons'' and add, in its place, the word ''Provisions''.

§ 625.14 [Amended]

■ 67. In § 625.14(c), remove the word ''aplied'' and add, in its place, the word ''applied''.

§ 625.20 [Removed]

■ 68. Remove and reserve § 625.20.

PART 640—STANDARD FOR BENEFIT PAYMENT PROMPTNESS—UNEMPLOYMENT COMPENSATION

■ 69. The authority citation for 20 CFR Part 640 continues to read as follows:

Authority: Sec. 1102, Social Security Act (42 U.S.C. 1302); Secretary's order No. 4–75, dated April 16, 1975 (40 FR 18515) (5 U.S.C. 553). Interpret and apply secs. 303(a)(1) and 303(b)(2) of the Social Security Act (42 U.S.C. 503(a)(1), 503(b)(2)).

§ 640.1 [Amended]

■ 70. Amend § 640.1 as follows:

■ a. Remove the word ''act'' and add, in its place, the word ''Act'' in paragraph (a)(1); and

■ b. Remove the words ''Internal Revenue Code of 1954'' and add, in their place, ''Internal Revenue Code of 1986'' in paragraph (b)(1).

■ 71. In § 640.5 the Intrastate and Interstate Claims table is revised to read as follows:

§ 640.5 Criteria for compliance.

* * * * *

	Percentage of first payments issued—days following end of first compensable week		
	14 days, waiting week States	21 days, nonwaiting week States [1]	35 days, all States
Intrastate Claims			
Performance to be achieved for the 12-mo. period ending on March 31 of each year	87	87	93
Interstate Claims			
Performance to be achieved for the 12-mo. period ending on March 31 of each year	70	70	78

[1] A nonwaiting week State is any State whose law does not require that a non-compensable period of unemployment be served before the payment of benefits commences.

* * * * *

PART 641—PROVISIONS GOVERNING THE SENIOR COMMUNITY SERVICE EMPLOYMENT PROGRAM

■ 72. The authority citation for 20 CFR Part 641 continues to read as follows:

Authority: 42 U.S.C. 3056 *et seq.*

■ 73. Revise § 641.490 (b) to read as follows:

§ 641.490 When may SCSEP grants be awarded competitively?

* * * * *

(b) The Department may hold a full and open competition before the beginning of a new grant period, or if additional grantees are funded. The details of the competition will be provided in a Solicitation for Grant Applications published in the **Federal Register** or in another medium. The Department believes that full and open competition is the best way to assure the highest quality of services to eligible participants.

§ 641.690 [Amended]

■ 74. In § 641.690(a)(3), remove the word ''increase''.

§ 641.700 [Amended]

■ 75. In § 641.700(b), remove the word ''increase''.

■ 76. Revise § 641.710 (b)(9) to read as follows:

§ 641.710 How are these performance indicators defined?

* * * * *

(b) * * *

(9) *Earnings* means the total earnings in the second quarter plus total earnings in the third quarter after the exit quarter divided by the number of participants who exit during the quarter, for those who are employed in the first, second, and third quarters after the exit quarter.

* * * * *

■ 77. Revise § 641.715 (c) to read as follows:

§ 641.715 What are the common performance measures?

* * * * *

(c) Earnings, defined as the total earnings in the second quarter plus total earnings in the third quarter after the exit quarter divided by the number of participants who exit during the quarter, for those who are employed in the first, second, and third quarters after the exit quarter.

* * * * *

§ 641.800 [Amended]

■ 78. In § 640.800(c), remove the words ''OMB Circular A–110, codified at 29 CFR part 95'' and add, in their place, the words ''OMB Circular A–110, codified at 2 CFR part 215 and 29 CFR part 95''.

PART 650—STANDARD FOR APPEALS PROMPTNESS—UNEMPLOYMENT COMPENSATION

■ 79. The authority citation for 20 CFR Part 650 continues to read as follows:

Authority: Sec. 1102 of the Social Security Act, 42 U.S.C. 1302; Secretary's Order No. 4–75, dated April 16, 1975. Interpret and apply secs. 303(a)(1), 303(a)(3), and 303(b)(2) of the Social Security Act (42 U.S.C. 503(a)(1), 503(a)(3), 503(b)(2)).

§ 650.4 [Amended]

■ 80. Amend § 650.4 as follows:

■ a. Remove the words ''after calendar year 1973'' in paragraph (a);

■ b. Remove the words ''if for the calendar year 1975 and ensuing years''; and remove the words ''employment security'' and add, in their place, the words ''unemployment compensation'' in paragraph (b) and in footnote 1 respectively; and

■ c. Remove paragraph (c).

§ 650.5 [Amended]

■ 81. In § 650.5, remove the words ''December 15, 1974, and the 15th of December of each ensuing year'' and add, in their place, the words ''December 15 of each year''.

PART 651—GENERAL PROVISIONS GOVERNING THE FEDERAL-STATE EMPLOYMENT SERVICE

■ 82. The authority citation for 20 CFR Part 651 continues to read as follows:

Authority: Wagner-Peyser Act of 1933, as amended, 29 U.S.C. 49 *et seq.*; 5 U.S.C. 301; and 38 U.S.C. chapters 41 and 42.

■ 83. Amend § 651.10 as follows:

■ a. Remove from the definition of *Agricultural worker* the words ''Standard Industrial Classification (SIC) of 01–07, except 027, 074, 0752, and 078'' and add, in their place, the words ''North American Industry Classification System (NAICS) 111, 112, and 115 (excluding the following codes: 1125 (under 112) and 1152 and 1153 (under 115))'';

■ b. Remove from the definition of *Farmwork* the words ''in establishments included in industries 01—Agricultural Production-Crops; 02—Agricultural Production-Livestock excluding 027—Animal Specialties; 07—Agricultural Services excluding 074—Veterinary Services, 0752—Animal Specialty Services, and 078—Landscape and Horticultural Services, as defined in the most recent edition of the Standard Industrial Classification (SIC) code definitions.'' and add, in their place, the words ''North American Industry Classification System (NAICS) 111, 112, and 115 (excluding the following codes: 1125 (under 112) and 1152 and 1153 (under 115))'';

■ c. Remove from the definition of *Migrant food processing worker* the words ''1972 Standard Industrial Classification (SIC) definitions 201, 2033, 2035, and 2037'' and add, in their place, the words ''North American Industry Classification System (NAICS) 311411, 311611, 311421'';

■ d. Remove from the definition of *Job bank* the words ''and WIN''.

■ e. Remove from the definition of *Program Budget Plan (PBP)* the words ''SESA'' and ''SESA's'', and add, in their place, the words ''SWA'' and ''SWA's'' respectively;

■ f. Remove the definitions of ''Administrator, United States Employment Service (Administrator)'', ''Dictionary of Occupational Titles (DOT)'', ''D.O.T'', ''SESA'', ''State Employment Security Agency (SESA)''; and ''Work Incentive Program (WIN).'';

■ g. Add, in alphabetical order, definitions for ''Administrator, Office of Workforce Investment (OWI Administrator)'', ''Occupational Information Network (O*NET)'', ''O*NET–SOC'', and ''State Workforce Agency(SWA)''.

§ 651.10 Definitions of terms used in parts 651–658.

Administrator, Office of Workforce Investment (OWI Administrator) means the chief official of the Office of Workforce Investment (OWI) or the Administrator's designee.

* * * * *

*Occupational Information Network (O*NET)* means the online reference database which contains detailed descriptions of U.S. occupations, distinguishing characteristics, classification codes, and information on tasks, knowledge, skills, abilities, and work activities as well as information on interests, work styles, and work values.

*O*NET–SOC* means Standard Occupational Classification (SOC) titles and codes are used by Federal statistical agencies to classify workers into occupational categories for the purpose of collecting, calculating and disseminating data. DOL uses O*NET–SOC titles and codes for the purposes of reporting data on training, certifications, and placement in employment by occupation.

* * * * *

State Workforce Agency (SWA), formerly State Employment Security Agency or SESA, means the State agency which, under the State Administrator, is designated by the Governor to administer Wagner-Peyser Act funded employment and workforce information services (State Agency) and the State unemployment compensation program.

* * * * *

PART 653—SERVICES OF THE EMPLOYMENT SERVICE SYSTEM

■ 84. The authority citation for 20 CFR Part 653 continues to read as follows:

Authority: 38 U.S.C. chapters 41 and 42; Wagner-Peyser Act, as amended, 29 U.S.C. 49 *et seq.*; sec. 104 of the Emergency Jobs and Unemployment Assistance Act of 1974 Pub. L. 93–567, 88 Stat. 1845, unless otherwise noted.

§ 653.103 [Amended]

■ 85. In § 653.103(d), remove the words ''Dictionary of Occupational Titles'' and ''D.O.T'' and add, in their place, the words ''Occupational Informational Network (O*NET)'' and ''O*NET-SOC'', respectively.

§§ 653.107, 653.108, 653.111 [Amended]

■ 86. In 20 Part 653, remove the words ''CETA 303'' and add, in their place, the words ''WIA 167 National Farmworker Jobs Program'' in the following places:
■ a. Section 563.107(c)(1)(iv), and (d) introductory text in two places;
■ b. Section 653.108 (k); and
■ c. Section 653.111 (d) in two places.

§§ 653.108, 653.501 [Amended]

■ 87. In 20 Part 653, remove the words ''USES Administrator'' and add, in their place, the words ''OWI Administrator'' in the following places:
■ a. Section 653.108(d)(1); and
■ b. Section 653.501(j).

§ 653.109 [Amended]

■ 88. In § 653.109(a), remove the words ''the ESARS Handbook and applicable ETA Reports and Analysis Letters.'' and add, in their place, the words ''applicable ETA Reports and Guidance Letters.''

§ 653.111 [Amended]

■ 89. In § 653.111(f), remove the words ''State Employment Security Agencies (SESAs)'' and ''SESAs'', and add, in their place, the words ''State Workforce Agencies (SWAs)'' and ''SWAs'' respectively.

PART 654—SPECIAL RESPONSIBILITIES OF THE EMPLOYMENT SERVICE SYSTEM

■ 90. The authority citation for 20 CFR Part 654 continues to read as follows:

Authority: 41 U.S.C. 10a *et seq*; 29 U.S.C. 49 *et seq*; 15 U.S.C. 644(n); E.O. 12073; 10582, as amended by E.O. 11051 and 12148.

§ 654.5 [Amended]

■ 91. In § 654.5(b), remove the words ''State employment security agency'' and add, in their place the words ''State Workforce Agency''.

§ 654.8 [Amended]

■ 92. In § 654.8 introductory text, remove the words ''State employment service agencies'' and add, in their place, the words ''State Workforce Agencies''.

PART 655—TEMPORARY EMPLOYMENT OF ALIENS IN THE UNITED STATES

■ 93. The authority citation for 20 CFR Part 655 continues to read as follows:

Authority: Section 655.0 issued under 8 U.S.C. 1101(a)(15)(H)(i) and (ii), 1182(m), (n), and (t), 1184, 1188, and 1288(c) and (d); 29 U.S.C. 49 *et seq.*; sec. 3(c)(1), Pub. L. 101–238, 103 Stat. 2099, 2102 (8 U.S.C. 1182 note); sec. 221(a), Pub. L. 101–649, 104 Stat. 4978, 5027 (8 U.S.C. 1184 note); sec. 323, Pub. L. 103–206, 107 Stat. 2149; Title IV, Pub. L. 105–277, 112 Stat. 2681; Pub. L. 106–95, 113 Stat. 1312 (8 U.S.C. 1182 note); and 8 CFR 213.2(h)(4)(i).

■ 94. Revise § 655.00 to read as follows:

§ 655.00 Authority of the Office of Foreign Labor Certification (OFLC) Administrator under subparts A, B, and C.

Pursuant to the regulations under this part, temporary labor certification determinations under subparts A, B, and C of this part are ordinarily made by the Office of Foreign Labor Certification (OFLC) Administrator (OFLC Administrator) of the Employment and Training Administration. The OFLC Administrator will informally advise the employer or agent of the name of the official who will make determinations with respect to the application.

§ 655.2 [Amended]

■ 95. In § 655.2, remove the words ''the local office of the State employment service'' and add, in their place, the words ''the appropriate State Workforce Agency''.

§ 655.3 [Amended]

■ 96. Amend § 655.3 as follows:
■ a. Remove the words ''local office of the State employment service'' and ''Regional Administrator, Employment and Training Administration'', and add, in their place, the words ''State Workforce Agency'' and ''National Processing Center'' respectively in paragraph (a); and
■ b. Remove the words ''District Director of the'' in paragraph (d).

■ 97. Revise 655.92 to read as follows:

§ 655.92 Authority of the Office of Foreign Labor Certification (OFLC) Administrator.

Under this subpart, the accepting for consideration and the making of temporary alien agricultural labor certification determinations are ordinarily performed by the Office of Foreign Labor Certification (OFLC) Administrator (OFLC Administrator), who, in turn, may delegate this responsibility to a designated staff member. The OFLC Administrator will informally advise the employer or agent of the name of the official who will make determinations with respect to the application.

§ 655.93 [Amended]

■ 98. In § 655.93(b), remove the words '', appropriate RAs,''.

■ 99. Amend § 655.100 as follows:
■ a. Remove the words ''having jurisdiction over the geographical area in which the work will be performed'' in paragraph (a)(1);
■ b. Remove from the definition State Agency the words ''the USES'' and add, in their place, the word ''OFLC'' in paragraph (b);
■ c. Remove the definitions of ''Director'', ''Immigration and Naturalization Service'', ''Employment Service'', ''Regional Administrator, Employment and Training Administration (RA)'', ''Local office'', and ''United States Employment Service (USES)'' in paragraph (b); and
■ d. In paragraph (b), add, in alphabetical order, definitions for ''Administrator, Office of Foreign Labor Certification (OFLC)'', ''Employment Service (ES) and Employment Service (ES) System'', ''Department of Homeland Security (DHS) through the United States Citizenship and Immigration Services (USCIS)'', and ''Office of Foreign Labor Certification (OFLC)'' to read as follows:

§ 655.100 Overview of this subpart and definition of terms.

* * * * *

(b) * * *

Administrator, Office of Foreign Labor Certification (OFLC) means the primary official of the Office of Foreign Labor Certification (OFLC Administrator), or the OFLC Administrator's designee.

* * * * *

Department of Homeland Security (DHS) through the United States Citizenship and Immigration Services (USCIS) makes the determination under the INA on whether or not to grant visa petitions to employers seeking H–2A workers to perform temporary agricultural work in the United States.

* * * * *

Employment Service (ES), in this subpart, refers to the system of federal and state entities responsible for administration of the labor certification process for temporary and seasonal agricultural employment of nonimmigrant foreign workers. This includes the State Workforce Agencies (SWAs), the National Processing Centers (NPCs) and the Office of Foreign Labor Certification (OFLC).

* * * * *

Office of Foreign Labor Certification (OFLC) means the organizational component within the ETA that provides national leadership and policy guidance and develops regulations and procedures to carry out the responsibilities of the Secretary of Labor under the INA concerning alien workers seeking admission to the United States in order to work under the Immigration and Nationality Act, as amended.

* * * * *

§ 655.101 [Amended]

■ 100. Amend § 655.101 as follows:
■ a. Remove the words ''in whose region the area of intended employment is located.'' in paragraph (a)(1); and
■ b. Remove and reserve paragraph (c)(5).

■ 101. Amend § 655.104 as follows:
■ a. Revise paragraph (a) to read as set forth below; and
■ b. Revise the heading of paragraph (b) to read as follows:

§ 655.104 Determinations based on acceptability of H–2A applications.

(a) *State Workforce Agency activities.* The State Workforce Agency (SWA), using the job offer portion of the H–2A application, shall promptly prepare a local job order and shall begin to recruit U.S. workers in the area of intended employment. The OFLC Administrator should notify the SWA by telephone no later than seven calendar days after the application was received by the OFLC Administrator if the application has been accepted for consideration. Upon receiving such notice or seven calendar days after the application is received by the SWA, whichever is earlier, the SWA shall promptly prepare an agricultural clearance order which will permit the recruitment of U.S. workers by the Employment Service System on an intrastate and interstate basis.

(b) *National Processing Center activities.* * * *

* * * * *

§ 655.105 [Amended]

■ 102. Amend § 655.105 as follows:
■ a. Remove the words ''the RA, under the direction of the ETA national office and with the assistance of other RAs with respect to areas outside the region,'' and add, in their place, the words ''the OFLC Administrator'' in paragraph (b);
■ b. Remove the words ''the RA, with the Director's concurrence,'' and add, in their place, the words ''the OFLC Administrator'' in paragraph (c); and
■ c. Remove the words ''and local office'' in paragraph (d).

■ 103. Amend § 655.106 as follows:
■ a. Remove the words ''or lockout and the vacancies directly attributable through the receipt by the RA of a written report from the State agency written following an investigation by the State agency (made under the oversight of the RA) of the situation and after the RA has consulted with the Director'' and add, in their place, the words ''or lockout and any resulting vacancies'' in the undesignated paragraph following paragraph (b)(1)(v).
■ b. Remove the words ''local employment office'' and add, in their place, the word ''SWA'' in paragraphs (e)(1)(i), (e)(1)(ii)(A), and (e)(1)(ii)(B);
■ c. Remove the words ''local office'' and add, in their place, the word ''SWA'' in paragraphs (e)(1)(i) in two places, (e)(1)(ii)(A) in two places, and (e)(1)(ii)(B); and
■ d. Revise the heading of paragraph (h)(3) to read as follows:

§ 655.106 Referral of U.S. Workers; determinations based on U.S. workers availability and adverse effect; activities after receipt of the temporary alien agricultural labor certification.

* * * * *

(h) * * *

(3) *National Processing Center review.* * * *

* * * * *

§ 655.110 [Amended]

■ 104. Amend § 655.110 as follows:
■ a. Remove the words '', after consultation with the Director'' in paragraph (a);
■ b. Remove the words ''(with the concurrence of the Director)'' in paragraph (c)(2).

§ 655.112 [Amended]

■ 105. In § 655.112, remove the words ''the Director,'' in paragraph (a)(2); and in paragraph (b)(2), remove the word ''Director,''

■ 106. Amend § 655.200 as follows:
■ a. Remove in two places the words ''a Department of Labor Hearing Officer'' and add, in their place, the words ''an Administrative Law Judge''; remove the words ''a local office of the State employment service agency'' and add, in their place, the words ''an appropriate State Workforce Agency''; and remove the words ''Where the application is timely and meets the regulatory standards, the State employment service agency'' and add, in their place, the words ''Where the application is timely and meets the regulatory standards, the State Workforce Agency'' in paragraph (b);
■ b. Remove from the definition of *Temporary labor certification* the words ''Immigration and Naturalization Service'' and add, in their place, the words ''United States Citizenship and Immigration Services (USCIS) of the Department of Homeland Security (DHS)'' in paragraph (c);
■ c. Remove the definitions of ''Administrator'', ''Immigration and Naturalization Service (INS)'' ''Hearing Officer'', ''Local office'', and ''Regional Administrator, Employment and Training Administration (RA)'', and ''United States Employment Service (USES)'' in paragraph (c);
■ d. In paragraph (c), add definitions for ''Administrative Law Judge'', ''Administrator, Office of Foreign Labor Certification (OFLC Administrator)'', ''Department of Homeland Security (DHS) through the United States Citizenship and Immigration Services (USCIS)'', and ''Office of Foreign Labor Certification (OFLC)'' to read as follows:

§ 655.200 General description of this subpart and definition of terms.

* * * * *

(c) * * *

Administrative Law Judge means an official who is authorized to conduct administrative hearings.

Administrator, Office of Foreign Labor Certification (OFLC Administrator) means the primary official of the Office of Foreign Labor Certification or the OFLC Administrator's designee.

* * * * *

Department of Homeland Security (DHS) through the United States Citizenship and Immigration Services (USCIS) makes the determination under the INA on whether or not to grant visa petitions to an alien seeking to perform temporary agricultural or logging work in the United States.

* * * * *

Office of Foreign Labor Certification (OFLC) means the organizational component within the ETA that provides national leadership and policy guidance and develops regulations and procedures to carry out the responsibilities of the Secretary of Labor under the INA concerning alien workers seeking admission to the United States in order to work under the Immigration and Nationality Act, as amended.

* * * * *

§ 655.204 [Amended]

■ 107. Remove the words ''and the Administrator'' in paragraph (d) introductory text; and remove the words ''by a Department of Labor (DOL) Hearing Officer'' and add, in their place, the words ''by an Administrative Law Judge'' in paragraph (d)(2).

§ 655.205 [Amended]

■ 108. Amend § 655.205 as follows:
■ a. Remove the words ''and local office'' in the first sentence of paragraph (a) and the second sentence of paragraph (c); and
■ b. Remove the words ''the RA, under the direction of the ETA national office and with the assistance of other RAs with respect to areas outside the region,'' and add, in their place, the words ''OFLC Administrator'' in paragraph (b).

§ 655.206 [Amended]

■ 109. In § 655.206(d)(2), remove the words ''The ES system'' and add, in

their place the words ''The State Workforce Agency (SWA) system''.

§ 655.209 [Amended]

■ 110. In § 655.209, in the second sentence, remove the words ''becomes known to a Regional Administrator, Employment and Training Administration or to the Administrator, the Regional Administrator or Administrator as appropriate, shall notify the'' and add, in their place, the words ''becomes known to the OFLC Administrator, the OFLC Administrator shall notify the''.

§ 655.212 [Amended]

■ 111. Amend § 655.212 as follows:
■ a. Remove the words ''a Hearing Officer'' and add, in their place, the words ''an Administrative Law Judge'' in the first sentence in paragraph (a);
■ b. Remove ''The Hearing Officer'' and add, in their place, the words ''The Administrative Law Judge'' in the second sentence in paragraph (a) and in paragraph (b) in two places; and
■ c. Remove the words ''the Hearing Officer'' and add, in their place, the words ''the Administrative Law Judge''; and remove the word ''Administrator,'' in the second sentence in paragraph (b).

§ 655.500 [Amended]

■ 112. In § 655.500(a)(2), in the second sentence, remove the words ''The Department of Justice, through the Immigration and Naturalization Service (INS), determines'' and add, in their place, the words ''The Department of Homeland Security (DHS) through the United States Citizenship and Immigration Services (USCIS), determines''.

■ 113. Amend § 655.502 as follows:
■ a. Remove the definitions of ''Certifying Officer'', ''Chief, Division of Foreign Labor Certifications, USES'', ''Director'', ''Immigration and Nationalization Service (INS)'', ''Regional Administrator, Employment and Training Administration (RA)'' and ''United States Employment Service (USES)''; and
■ b. Add the definitions for ''Administrator, Office of Foreign Labor Certification (OFLC Administrator)'', ''Certifying Officer (CO)'', ''Department of Homeland Security (DHS) through the United States Citizenship and Immigration Services (USCIS)'', and ''Office of Foreign Labor Certification (OFLC)'' to read as follow:

§ 655.502 Definitions.

* * * * *

Administrator, Office of Foreign Labor Certification (OFLC Administrator) means the primary official of the Office of Foreign Labor Certification (OFLC Administrator), or the OFLC Administrator's designee.

* * * * *

Certifying Officer (CO) means a Department of Labor official, or the CO's designee, who makes determinations about whether or not to grant applications for labor certification. The National Certifying Officer, which is the OFLC Administrator, makes such determinations in the national office of the OFLC.

* * * * *

Department of Homeland Security (DHS) through the United States Citizenship and Immigration Services (USCIS) makes the determination under the Act on whether an employer of alien crewmembers may use such crewmembers for longshore work at a U.S. port.

* * * * *

Office of Foreign Labor Certification (OFLC) means the organizational component within the ETA that provides national leadership and policy guidance and develops regulations and procedures to carry out the responsibilities of the Secretary of Labor under the INA concerning alien workers seeking admission to the United States in order to work under the Immigration and Nationality Act, as amended.

* * * * *

§ 655.510 [Amended]

■ 114. Amend § 655.510 as follows:
■ a. Remove the words ''ETA Regional Office(s) which are designated by the Chief, Division of Foreign Labor Certifications, USES'' and add, in their place, ''office(s) which are designated by the OFLC Administrator'' in the first sentence in paragraph (b)(1);
■ b. Remove the words ''are available at all Department of Labor ETA Regional Offices and at the National Office.'' and add, in their place, the words ''are available at the National Processing Centers and at the National Office.'' in the third sentence in paragraph (c)(1); and
■ c. Remove the words ''regional Certifying Officer'' and add, in their place, the words ''Certifying Officer'' in the first three sentences in paragraph (g) introductory text, the first sentence in paragraph (h), and the last sentence in paragraph (j)(1).

§ 655.533 [Amended]

■ 115. In § 655.533(a), remove the words ''are available at all Department of Labor Regional Offices and at the National Office.'' and add, in their place, the words ''are available at the National Processing Centers and at the National Office.''

§ 655.665 [Amended]

■ 116. In § 655.665, remove from the section heading the words ''the Attorney General'' and add, in their place, ''the Department of Homeland Security''.

§ 655.700 [Amended]

■ 117. In § 655.700(d)(1), remove the words ''(now USCIS)''.

§ 655.705 [Amended]

■ 118. Amend § 655.705 as follows:
■ a. Remove from the introductory text the words ''Three federal agencies (Department of Labor, Department of State, and Department of Justice)'' and add, in their place, the words ''Four federal agencies (Department of Labor, Department of State, Department of Justice, and Department of Homeland Security)'';
■ b. Remove the words ''Room C–4318'' and add, in their place, the words ''Room C–4312'' in paragraph (a)(1); and
■ c. Remove the words ''Department of Justice (DOJ) and Department of State (DOS)'' and add, in their place, the words ''Department of Justice (DOJ), Department of Homeland Security (DHS) and Department of State (DOS)'' in the heading to paragraph (b); and remove the words ''The Department of Justice, through the Immigration and Naturalization Service (INS)'' and add, in their place, the word ''DHS'' and remove the words ''The Department of Justice, through the INS'' and add, in their place, the word ''DHS'' in the second sentence of paragraph (b) respectively.

■ 119. Amend § 655.715 as follows:
■ a. In the definition of *Employment and Training Administration (ETA)*, remove the words ''Office of Workforce Security (OWS)'' and add, in their place, the words ''Office of Foreign Labor Certification (OFLC)''; in the definitions of *Employer* and in paragraph (3) of *Specialty Occupation* remove the words, ''(formerly the Immigration and Naturalization Service or INS)''; and in paragraph (2) of the definition of *United States worker (''U.S. worker'')* remove the words ''(by the INA or by the Attorney General)'' and add, in their place, ''(by the INA or by DHS)'';
■ b. Remove the definitions of ''Immigration and Naturalization Service (INS)'', ''Office of Workforce Security (OWS)'' and ''State Employment Security Agency''; and
■ c. Add, in alphabetical order, the definitions of ''Department of Homeland Security (DHS) through the United States Citizenship and Immigration

Services (USCIS)'', ''Office of Foreign Labor Certification (OFLC)'', and ''State Workforce Agency, formerly State Employment Security Agency or SESA'' to read as follows:

§ 655.715 Definitions

* * * * *

Department of Homeland Security (DHS) through the United States Citizenship and Immigration Services (USCIS) makes the determination under the INA on whether to grant visa petitions of employers seeking the admission of non-immigrants under H–1B visa for the purpose of employment.

* * * * *

Office of Foreign Labor Certification (OFLC) means the organizational component within the ETA that provides national leadership and policy guidance and develops regulations and procedures to carry out the responsibilities of the Secretary of Labor under the INA concerning alien workers seeking admission to the United States in order to work under the Immigration and Nationality Act, as amended.

* * * * *

State Workforce Agency, formerly State Employment Security Agency or SESA means the State agency which, under the State Administrator, is designated by the Governor to administer Wagner-Peyser Act funded employment and workforce information services (State agency) and the State unemployment compensation program.

* * * * *

§ 655.730 [Amended]

■ 120. Amend § 655.730 as follows:
■ a. Remove the words ''Employer Identification Number (EIN)'' and add, in their place, the words ''Federal Employer Identification Number (FEIN)'' in paragraph (e)(1) introductory text; and
■ b. Remove the words ''employer identification number (EIN)'' and add, in their place, the words ''Federal Employer Identification Number (FEIN)'' in paragraph (e)(1)(iii).

§ 655.731 [Amended]

■ 121. Amend § 655.731 as follows:
■ a. Remove the words ''State Employment Security Agency (SESA) (now known as State Workforce Agency or SWA)'' and add, in their place, the word ''SWA'' in paragraph (a)(2) introductory text;
■ b. Remove the words ''SESA (now known as State Workforce Agency or SWA)'' and add, in their place, the word ''SWA'' in paragraph (a)(2)(ii)(A); and
■ c. Remove the word ''SESA'' and add, in its place, the word ''SWA'' in paragraphs (a)(2)(ii)(A) in three places, (a)(2)(ii)(A)(1) in five places, (a)(2)(ii)(A)(2) in three places, (a)(2)(ii)(A)(3) in three places, (a)(2)(ii)(B), (b)(3)(iii)(A), (d)(2) introductory text, and (d)(3).

§ 655.760 [Amended]

■ 122. Amend § 655.760 as follows:
■ a. Remove the word ''EIN'' and add, in its place, the word ''FEIN'' in paragraph (a)(7); and
■ b. Remove the word ''Division'' and add, in its place, the word ''Office'' in the last sentence in paragraph (b).

§§ 655.3, 655.204, 655.212 [Amended]

■ 123. In 20 CFR Part 655, remove the words ''Regional Administrator'' and add, in their place, the words ''OFLC Administrator'' in the following places:
■ a. Section 655.3(c);
■ b. Section 655.204(d)(2); and
■ c. Section 655.212(a) in two places.

§§ 655.100, 655.200, 655.201 [Amended]

■ 123A. In 20 CFR Part 655, remove the words ''Regional Administrator (RA)'' and add, in their place, the words ''OFLC Administrator'' in the following places:
■ a. Section 655.100(a)(1), second sentence;
■ b. Section 655.200(b), third sentence; and
■ c. Section 655.201(e), first sentence.

§§ 655.3, 655.4, 655.200, 655.215, 655.501, 655.700, 655.801 [Amended]

■ 124. In 20 CFR Part 655, remove the words ''Immigration and Naturalization Service'' and add, in their place, the words ''United States Citizenship and Immigration Services of the Department of Homeland Security'' in the following places:
■ a. Section 655.3(d);
■ b. Section 655.4;
■ c. Section 655.200(b);
■ d. Section 655.215;
■ e. Section 655.501(b)(1);
■ f. Section 655.700(a)(3), and (d)(1); and
■ g. Section 655.801(c).

§§ 655.4, 655.100, 655.106, 655.108, 655.112, 655.200, 655.201, 655.204, 655.208, 655.209, 655.212, 655.215, 655.501, 655.510, 655.538, 655.700, 655.705, 655.731, 655.733, 655.736, 655.737, 655.740, 655.750, 655.801, 655.805 [Amended]

■ 125. In 20 CFR Part 655 remove the word ''INS'' and add, in its place, the word ''DHS'' in the following places:
■ a. Section 655.4;
■ b. Section 655.100(b) in the definition of *Temporary alien agricultural labor certification;*
■ c. Section 655.106(c)(3)(i) in three places and (c)(3)(ii) in two places;
■ d. Section 655.108(a) and (c);
■ e. Section 655.112(a)(2) and (b)(2);
■ f. Section 655.200(b) in four places;
■ g. Section 655.201(c) and (e) in two places;
■ h. Section 655.204(d)(3)(i) in two places and (d)(3)(ii) in two places;
■ i. Section 655.208(a) and (c);
■ j. Section 655.209 in two places;
■ k. Section 655.212(b);
■ l. Section 655.215 in two places;
■ m. Section 655.501(b)(1) and (b)(2);
■ n. Section 655.510(g)(1)(i) in two places and (g)(2)(vii);
■ o. Section 655.538(a)(1) in two places and (b)(6);
■ p. Section 655.700(a)(3), (b)(2) in six places, (b)(3) in two places, (c)(2), and (d)(1) in the second instance;
■ q. Section 655.705(b) in the first, third, fourth and fifth instances, (c)(3), and (c)(4) in two places;
■ r. Section 655.731(c)(6)(ii), (c)(7)(i), and (c)(7)(ii) in two places;
■ s. Section 655.733 introductory text, (a) introductory text, (a)(2) in the heading and in two places;
■ t. Section 655.736(d) introductory text;
■ u. Section 655.737(d)(1) in two places, (e)(1) in three places;
■ v. Section 655.740(a)(1) in three places;
■ w. Section 655.750(b)(5) in two places, and (c)(2);
■ x. Section 655.801(a)(1); and
■ y. Section 655.805(a)(11) and (d).

§§ 655.93, 655.100, 655.102, 655.107, 655.111 [Amended]

■ 126. In 20 CFR Part 655 remove the word ''Director'' and add, in its place, the word ''OFLC Administrator'' in the following places:
■ a. Section 655.93(b) in five places and (c) in two places;
■ b. Section 655.100(b) in the definition of *Adverse effect wage rate (AEWR);*
■ c. Section 655.102(b)(4), last sentence;
■ d. Section 655.107(a) in two places and (b) and;
■ e. Section 655.111(a), seventh sentence.

§§ 655.100, 655.200 [Amended]

■ 127. In 20 CFR Part 655, revise the definition heading ''State agency'' to read ''*State Workforce Agency (SWA)*'' in the following places:
■ a. Section 655.100(b); and
■ b. Section 655.200(c).

§§ 655.100, 655.200, 655.502 [Amended]

■

128. In 20 CFR Part 655, in the definition *Employment Training Administration (ETA)*, remove the words ''which includes the United States Employment Service (USES)'' and

add, in their place, the words ''which includes the Office of Foreign Labor (OFLC)'' in the following places:
■ a. Section 655.100(b);
■ b. Section 655.200(c); and
■ c. Section 655.502.

§§ 655.100, 655.101, 655.102, 655.103, 655.104, 655.105, 655.106, 655.108, 655.110, 655.111, 655.112, 655.200, 655.201, 655.202, 655.203, 655.204, 655.205, 655.206, 655.208, 655.210, 655.211, 655.212 [Amended]

■ 129. In 20 CFR Part 655, remove the word ''RA'' and add, in its place, the word ''OFLC Administrator'' in the following places:
■ a. Section 655.100(a)(1) in three places, (a)(2), (a)(3) in two places, (a)(4)(i), (a)(4)(ii), (a)(4)(iii)(A), (a)(4)(iii)(B), and (b) in the definitions of *Accept for consideration* and *Temporary alien agricultural labor certification determination*;
■ b. Section 655.101(a)(1) in two places, (a)(3), (c) in two places, (c)(1) in five places, (c)(2) in nine places, (c)(4) in three places, (c)(5), (c)(5)(ii) in two places, (c)(5)(iii), (d), (e) in two places, (f)(1), (f)(2) in three places, and (g) in two places;
■ c. Section 655.102(b)(1)(iii), (b)(2), (b)(3), (b)(4), (b)(6)(iv), (b)(9)(ii)(B)(1), (b)(9)(ii)(B)(2), and (c) in two places;
■ d. Section 655.103(d)(2) in two places, (f), and (h)(2);
■ e. Section 655.104(b) in five places, (c) in two places, (c)(2), (c)(3) in two places, and (e) in five places;
■ f. Section 655.105(a) in seven places, (c) in three places, (d) in three places, and (e);
■ g. Section 655.106(b)(1) in eight places, (b)(1)(iii), (b)(1)(v) in the first three instances, (b)(2)(ii), (c)(1), (c)(3)(ii) in four places, (d) in two places, (f)(1)(i), (f)(1)(iii), (f)(2), (g)(2) in two places, (g)(3), (g)(4) in six places, (h)(1) in three places, (h)(2) in two places, (h)(2)(i) in two places, (h)(2)(ii) in four places, (h)(3)(i) in two places, (h)(3)(ii) in three places, and (h)(3)(iii) in four places;
■ h. Section 655.108(a) in two places, (b), and (c);
■ i. Section 655.110(a) in seven places, (b) in three places, (c)(1) in four places, (c)(2) in five places, (d) in two places, (e) in two places, (f) in two places, (g)(1), and (g)(1)(ii);
■ j. Section 655.111(a) in three places, and (b);
■ k. Section 655.112(a)(1), (a)(2) in two places, (b)(1), and (b)(2) in two places;
■ l. Section 655.200(b) in six places;
■ m. Section 655.201(c) in two places, (d) and (e) in four places;
■ n. Section 655.202(b)(4), (b)(9)(ii)(B)(1), (b)(9)(ii)(B)(2), and (b)(12);
■ o. Section 655.203(f);
■ p. Section 655.204(a), (c) in five places, (d), (d)(2), (d)(3)(i), and (d)(3)(ii);
■ q. Section 655.205(a) in three places, and (c) in three places;
■ r. Section 655.206(a) in six places and (c) in two places;
■ s. Section 655.208(a) in two places and (b);
■ t. Section 655.210(a) in five places;
■ u. Section 655.211(a) in two places; and
■ v. Section 655.212(b) in two places.

§§ 655.101, 655.102, 655.103, 655.104, 655.106, 655.201, 655.204 [Amended]

■ 130. In 20 CFR Part 655 remove the words ''local office'' and add, in their place, the word ''SWA'' in the following places:
■ a. Section 655.101(a)(1), (c)(2) in two places, (c)(3), and (c)(4) in three places;
■ b. Section 655.102(b)(11);
■ c. Section 655.103(c);
■ d. Section 655.104(c);
■ e. Section 655.106(g)(1) in two places, (g)(2) in two places, (g)(3),(h)(2)(ii) and (h)(3)(i);
■ f. Section 655.201(a)(1), (c), and (e); and
■ g. Section 655.204(a), (b), and (d).

§§ 655.103, 655.203 [Amended]

■ 131. In 20 CFR Part 655, remove the words ''a local employment services office in their area'' and add, in their place, the words ''the appropriate office of the State Workforce Agency in their area'' in the following places:
■ a. Section 655.103(d)(2)(ii); and
■ b. Section 655.203(d)(2)(ii).

§§ 655.105, 655.205 [Amended]

■ 132. In 20 CFR Part 655 remove, the words ''state agency'' and add, in their place, the word ''SWA'' in the following places:
■ a. Section 655.105(b), and (d); and
■ b. Section 655.205(a), and (b).

§§ 655.200, 655.202, 655.207, 655.211 [Amended]

■ 133. In 20 CFR Part 655, remove the word ''Administrator'' and add, in its place, the word ''OFLC Administrator'' in the following places:
■ a. Section 655.200(c) in four places in the definition of *Adverse effect rate;*
■ b. Section 655.202(b) and (b)(4);
■ c. Section 655.207(b)(1); and
■ d. Section 655.211(a).

§§ 655.204, 655.205, 655.206 [Amended]

■ 134. In 20 CFR Part 655, remove the words ''a DOL Hearing Officer'' and add, in their place, the words ''an Administrative Law Judge'' in the following places:
■ a. Section 655.204(d)(3);
■ b. Section 655.205(d); and
■ c. Section 655.206(c).

§§ 655.510, 655.540, 655.625, 655.665, 655.670, 655.807, 655.810, 655.815, 655.855 [Amended]

■ 135. In 20 CFR Part 655, remove the words ''Attorney General'' and add, in their place, the word ''DHS'' in the following places:
■ a. Section 655.510(i)(1) and (i)(2);
■ b. Section 655.540(a) and (b);
■ c. Section 655.625(d)(5);
■ d. Section 655.665(a) in two places, (a)(1), (b), (c), and (d)(1);
■ e. Section 655.670(a), (c), (d), (d)(1), and (d)(2);
■ f. Section 655.807(e);
■ g. Section 655.810(d);
■ h. Section 655.815(c)(5); and
■ i. Section 655.855 in heading, (a) in three places, (b), (c), and (d).

§§ 655.538; 655.539; 655.541 [Amended]

■ 136. In 20 CFR Part 655, remove the words ''regional certifying officer'' and add, in their place, the words ''Certifying Officer'' in the following places:
■ a. Section 655.538 in three places;
■ b. Section 655.539; and
■ c. Section 655.541(a).

PART 656—LABOR CERTIFICATION PROCESS FOR PERMANENT EMPLOYMENT OF ALIENS IN THE UNITED STATES

■ 137. The authority for 20 CFR Part 656 continues to read as follows:

Authority: 8 U.S.C. 1182(a)(5)(A), 1189(p)(1); 29 U.S.C. 49 *et seq.*; section 122, Pub. L. 101–649, 109 Stat. 4978; and Title IV, Pub. L. 105–277, 112 Stat. 2681.

§ 656.1 [Amended]

■ 138. In § 656.1(c) remove the word ''Division'' and add, in its place, the word ''Office.''

■ 139. Amend § 656.3 as follows:
■ a. Remove the definition of ''Division of Foreign Labor Certification'';
■ b. In the definition of *Employment and Training Administration (ETA)*, remove the words ''Division of Foreign Labor Certification'', and add, in their place, the words ''Office of Foreign Labor Certification (OFLC)''; and
■ c. Add, in alphabetical order, the definition of ''Office of Foreign Labor Certification'' to read as follows:

§ 656.3 Definitions, for purposes of this part, of terms used in this part.

* * * * *

Office of Foreign Labor Certification means the organizational component within the Employment and Training Administration that provides national leadership and policy guidance and

develops regulations and procedures to carry out the responsibilities of the Secretary of Labor under the Immigration and Nationality Act, as amended, concerning alien workers seeking admission to the United States in order to work under section 212(a)(5)(A) of the Immigration and Nationality Act, as amended.

* * * * *

§ 656.10 [Amended]

■ 140. In § 656.10(d)(5) remove the reference ''656.18(b)(2)'' and add, in its place, the reference, ''656.18(b)(3)''.

§ 656.16 [Amended]

■ 141. In § 656.16(b)(2) remove the words, ''Chief, Division of Foreign Labor Certification'' and add, in their place, the words ''Office of Foreign Labor Certification (OFLC) Administrator''.

§ 656.20 [Amended]

■ 142. In § 656.20(b) remove the words ''that application being denied § 656.24 under'' and add, in their place, the words ''that application being denied under § 656.24''.

■ 143. Revise § 656.24(a) to read as follows:

§ 656.24 Labor certification determinations.

(a)(1) The Office of Foreign Labor Certification Administrator (OFLC Administrator) is the National Certifying Officer. The OFLC Administrator and the certifying officers in the ETA application processing centers have the authority to certify or deny labor certification applications.

(2) If the labor certification presents a special or unique problem, the Director of an ETA application processing center may refer the matter to the Office of Foreign Labor Certification Administrator (OFLC Administrator). If the OFLC Administrator has directed that certain types of applications or specific applications be handled in the ETA national office, the Directors of the ETA application processing centers shall refer such applications to the OFLC Administrator.

* * * * *

PART 658—ADMINISTRATIVE PROVISIONS GOVERNING THE JOB SERVICE SYSTEM

■ 144. The authority for 20 CFR Part 658 continues to read as follows:

Authority: Wagner-Peyser Act of 1933, as amended, 29 U.S.C. 49 *et seq.*; 38 U.S.C. chapters 41 and 42; 5 U.S.C. 301 *et seq.*; sections 658.410, 658.411 and 658.413 also issued under 44 U.S.C. 3501 *et seq.*

§ 658.401 [Amended]

■ 145. In § 658.401(a)(1) in two places, remove the words '',WIN or CETA'' and add, in their place, the words ''or WIA''.

§ 658.417 [Amended]

■ 146. In § 658.417(a), remove the words ''and/or the Work Incentive Program''.

§§ 658.602, 658.603 [Amended]

■ 147. In 20 CFR Part 658, remove the words ''CETA 303 groups'' and add, in their place, the words ''WIA 167 National Farmworker Jobs program organizations'' in the following places:

■ a. Section 658.602(f)(8)(iii) and (f)(11); and

■ b. Section 658.603(f)(9)(iii) and (f)(12).

§§ 658.602, 658.603 [Amended]

■ 148. In 20 CFR Part 658, remove the words ''CETA 303 services'' and add, in their place, the words ''WIA 167 National Farmworker Jobs program services'' in the following places:

■ a. Section 658.602(f)(11); and

■ b. Section 658.603(f)(12).

§ 658.704 [Amended]

■ 149. In paragraphs (b), (d) in two places, (e), and (f)(1) of § 658.704, remove the words ''USES Administrator'' and add, in their place, the words ''OWI Administrator''.

PART 661—STATEWIDE AND LOCAL GOVERNANCE OF THE WORKFORCE INVESTMENT SYSTEM UNDER TITLE I OF THE WORKFORCE INVESTMENT ACT

■ 150. The authority for 20 CFR Part 661 continues to read as follows:

Authority: Sec. 506(c), Pub. L. 105–220; 20 U.S.C. 9276(c).

§ 661.240 [Amended]

■ 151. Amend § 661.240 as follows:

■ a. Remove and reserve paragraph (a)(5); and

■ b. In paragraph (b)(1) remove the words '', or the WtW plan''.

PART 662—DESCRIPTION OF THE ONE-STOP SYSTEM UNDER TITLE I OF THE WORKFORCE INVESTMENT ACT

■ 152. The authority for 20 CFR Part 662 is revised to read as follows:

Authority: Sec. 506(c), Pub. L. 105–220; 20 U.S.C. 9276(c).

■ 153. Amend § 662.200 by removing and reserving paragraph (b)(5) and by revising paragraph (b)(8) to read as follows:

§ 662.200 Who are the required One-Stop partners?

* * * * *

(b) * * *

(8) Trade Adjustment Assistance and NAFTA Transitional Adjustment Assistance activities authorized under chapter 2 of title II of the Trade Act of 1974, as amended (19 U.S.C. 2271 *et seq.*) and Section 123(c)(2) of the Trade Adjustment Assistance Reform Act of 2002 (Pub. L. 107–210), respectively; see (WIA sec. 121(b)(1)(B)(viii));

* * * * *

■ 154. Revise § 662.240(b)(10) to read as follows:

§ 662.240 What are a program's applicable core services?

* * * * *

(b) * * *

(10) Assistance in establishing eligibility for programs of financial aid assistance for training and education programs that are not funded under this Act and are available in the local area; and

* * * * *

PART 667—ADMINISTRATIVE PROVISIONS UNDER TITLE I OF THE WORKFORCE INVESTMENT ACT

■ 155. The authority for 20 CFR Part 667 continues to read as follows:

Authority: Subtitle C of Title I, Sec. 506(c), Pub. L. 105–220, 112 Stat. 936 (20 U.S.C. 9276(c)); Executive Order 13198, 66 FR 8492, 3 CFR 2001 Comp., p. 750; Executive Order 13279, 67 FR 77141, 3 CFR 2002 Comp., p. 258.

§ 667.105 [Amended]

■ 156. Remove and reserve § 667.105(f).

§ 667.200 [Amended]

■ 157. Amend § 667.200 as follows:

■ a. In paragraph(a)(2), remove the words ''which is codified at 29 CFR part 95.'' and add, in their place, the words ''which is codified at 2 CFR part 215 and 29 CFR part 95.'';

■ b. In paragraph (b)(2)(ii), remove the words ''($300,00 as of August 11, 2000)'' and add, in their place, the words ''($300,000 ($500,000 for years ending after December 21, 2003))''; and

■ c. Remove paragraph (c)(7).

Subpart I [Removed]

■ 158. Remove subpart I, consisting of §§ 667.900 and 667.910.

PART 668—INDIAN AND NATIVE AMERICAN PROGRAMS UNDER TITLE I OF THE WORKFORCE INVESTMENT ACT

■ 159. The authority citation for 20 CFR 668 continues to read as follows:

Authority: Secs. 506(c) and 166(h)(2), Pub. L. 105–220; 20 U.S.C. 9276(c); 29 U.S.C. 2911(h)(2).

§ 668.230 [Amended]

■ 160. In § 668.230(b) remove the words ''or the JTPA regulations at 20 CFR part 632''.

Dated: May 25, 2006.

Emily Stover DeRocco,

Assistant Secretary for Employment and Training.

[FR Doc. 06–5292 Filed 6–20–06; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 602

[TD 9268]

RIN 1545–BF49

Information Returns Required With Respect to Certain Foreign Corporations and Certain Foreign-Owned Domestic Corporations

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final and temporary regulations.

SUMMARY: This document contains final and temporary regulations that provide guidance under sections 6038 and 6038A of the Internal Revenue Code. The final regulations under § 1.6038–2 are revised to remove and replace obsolete references to a form and IRS offices. The temporary regulations clarify the information required to be furnished regarding certain related party transactions of certain foreign corporations and certain foreign-owned domestic corporations. The temporary regulations also increase the amount of certain penalties, and make certain other changes, to reflect the statutory changes made by the Taxpayer Relief Act of 1997 (TRA '97). The text of the temporary regulations also serves as the text of the proposed regulations set forth in this issue of the **Federal Register**.

DATES: *Effective Date:* These final and temporary regulations are effective June 21, 2006.

Applicability Date: Changes to § 1.6038–2 are applicable June 21, 2006. Sections 1.6038–2T(f)(11), (12), and 1.6038A–2T(b)(8) apply with respect to information for annual accounting periods beginning on or after June 21, 2006. Section 1.6038–2T(k) applies June 21, 2006.

FOR FURTHER INFORMATION CONTACT: Kate Y. Hwa (202) 622–3840 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

These temporary regulations are being issued without prior notice and public procedure pursuant to the Administrative Procedure Act (5 U.S.C. 553). For this reason, the collection of information contained in these regulations has been reviewed and pending receipt and evaluation of public comments, approved by the Office of Management and Budget under control number 1545–2020. Responses to this collection of information are mandatory.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid control number assigned by the Office of Management and Budget.

For further information concerning this collection of information, and where to submit comments on the collection of information and the accuracy of the estimated burden, and suggestions for reducing this burden, please refer to the preamble to the cross-referencing notice of proposed rulemaking published in the Proposed Rules section of this issue of the **Federal Register**.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Background

Section 6038 of the Internal Revenue Code (Code) requires a U.S. person to furnish, with respect to any foreign business entity which such person controls, certain information as prescribed by the Secretary. More specifically, section 6038(a)(1)(D) provides that the information to be furnished includes information relating to transactions between the foreign business entity and (i) such U.S. person, (ii) any corporation or partnership controlled by such U.S. person, and (iii) any U.S. person owning at the time the transaction takes place a 10 percent or greater interest in the foreign business entity.

Section 6038A requires certain foreign-owned domestic corporations to furnish certain information prescribed by the Secretary. In particular, section 6038A(a) requires a 25 percent foreign-owned domestic corporation to furnish information with respect to certain transactions between such corporation and certain related parties.

Explanation of Provisions

The final regulations are revised to remove and correct obsolete references to a form and IRS offices. The temporary regulations conform the current final regulations to specific statutory changes and make other minor clarifications to those final regulations.

Section 1.6038–2 provides that each U.S. person, with respect to each foreign corporation such person controls, must furnish the required information on a Form 5471, ''Information Return of U.S. Persons with Respect to Certain Foreign Corporations'', (or, in the case of taxable years that ended before December 31, 1982, on a Form 2952, ''Information Return with Respect to Foreign Controlled Corporations''). Section 1.6038–2(f) sets forth the information that must be provided on the applicable form. The information that must be reported includes a summary showing the total amount of each of the types of transactions of the corporation specified in § 1.6038–2(f)(11). In some cases, § 1.6038–2(f)(11) requires reporting of sales and purchases of items. See § 1.6038–2(f)(11)(i) (stock in trade) and (iii) (certain intangibles). In other cases, it requires reporting only of purchases. See § 1.6038–2(f)(11)(ii) (tangible property other than stock in trade). The temporary regulations modify the rules of the final regulations to include the reporting of sales and purchases, instead of just purchases, of tangible property. The temporary regulations also modify the current rules to include the reporting of premiums paid, instead of just premiums received, for insurance or reinsurance. This consistent treatment of sales and purchases, and premiums paid and received, more fully implements the purpose of section 6038. It also conforms the rules in § 1.6038–2 to analogous reporting rules. See § 1.6038A–2(b)(3)(ii) (reporting requirements for foreign-owned domestic corporations).

It has come to the IRS' attention that some foreign corporations that use an accrual method of accounting may not be properly reporting the transactions described in § 1.6038–2(f)(11). Accordingly, § 1.6038–2T(f)(12) modifies the rules of the final

regulations to clarify that foreign corporations that use an accrual method of accounting must report the summary of the total amount of the transactions described in § 1.6038–2T(f)(11) on an accrual basis. To maintain conformity, § 1.6038A–2(b)(8), which provides a similar rule for foreign-owned domestic corporations, has been similarly clarified.

Section 6038(b)(1), as amended by the TRA '97, provides for a $10,000 penalty for failure to furnish the required information within the time prescribed under section 6038(a)(2). Section 6038(b)(2), as amended by the TRA '97, also provides for additional $10,000 penalties (not to exceed a total of $50,000) when there is a continuing failure to furnish the required information. Section 1.6038–2(k)(1) sets forth the dollar amounts of the penalty for failure to furnish the information required under section 6038. To conform to the statutory change made by the TRA '97, § 1.6038–2(k)(1) has been amended to reflect the increased penalty amounts.

Section 6038(c)(4)(B) and § 1.6038–2(k)(3) provide a reasonable cause exception for failure to furnish the information required under section 6038. Some questions have arisen regarding how one determines, after reasonable cause has been established, the time prescribed for furnishing the information under § 1.6038–2(i) (time and place for filing return) and the 90-day period described in § 1.6038–2(k)(1)(ii) (increase in penalty for continued failure after notification) and § 1.6038–2(k)(2)(iv)(A) (reduction of foreign tax credit for continued failure after notice). Two examples have been added in § 1.6038–2T(k)(5) to illustrate the determination, after reasonable cause has been established under § 1.6038–2(k)(3)(i), of the time for filing the Form 5471, and the beginning of the 90-day period.

The temporary regulations also modify the rules of the final regulations to include transactions between the foreign corporation and controlled partnerships, implementing a change made by section 1142 of the TRA '97.

Section 1.6038–2 of the regulations has been updated to remove references to obsolete Form 2952 and to reflect that the Director of Field Operations has replaced the district director and the Field Director has replaced the director of the service center.

Special Analyses

It has been determined that this Treasury decision is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations. For the applicability of the Regulatory Flexibility Act (5 U.S.C. chapter 6), refer to the Special Analyses section of the preamble to the cross-reference notice of proposed ruling making published in the Proposed Rules section in this issue of the **Federal Register**. Pursuant to section 7805(f) of the Code, these final and temporary regulations will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small business.

Drafting Information

The principal author of these regulations is Kate Y. Hwa, Office of the Associate Chief Counsel (International). However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects

26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

26 CFR Part 602

Reporting and recordkeeping requirements.

Amendments to the Regulations

■ Accordingly, 26 CFR part 1 is amended as follows:

PART 1—INCOME TAXES

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

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

§ 1.6038–2 [Amended]

■ **Par. 2.** Section 1.6038–2 is amended as follows:

■ 1. Paragraph (f) introductory text is amended by removing the language ''Form 2952 or'' in the first sentence.

■ 2. Paragraph (f)(11) and (k)(1) are revised.

■ 3. Paragraph (f)(12) and (m) are added.

■ 4. Paragraph (i) is amended by removing the language ''Form 2952 or'' in the first sentence, the second sentence, and the last sentence.

■ 5. Paragraph (i) is also amended by removing the language ''District directors and directors of service centers'' and adding the language ''Directors of Field Operations and Field Directors'' in its place in the second sentence.

■ 6. Paragraph (k)(2)(iv) is amended by removing the language ''district director'' and adding the language ''Director of Field Operations'' in its place in the first sentence.

■ 7. Paragraph (k)(3)(i) is amended by removing the language ''district director'' and adding the language ''Director of Field Operations'' in its place in the first sentence.

The revisions and additions read as follows:

§ 1.6038–2 Information returns required of United States persons with respect to annual accounting periods of certain foreign corporations beginning after December 31, 1962.

* * * * *

(f) * * *

(11) [Reserved]. For further guidance, see § 1.6038–2T(f)(11).

(12) [Reserved]. For further guidance, see § 1.6038–2T(f)(12).

* * * * *

(k) * * *

(1) [Reserved]. For further guidance, see § 1.6038–2T(k)(1).

* * * * *

(m) [Reserved]. For further guidance, see § 1.6038–2T(m)

* * * * *

■ **Par. 3** Section 1.6038–2T is amended by revising paragraphs (e) through (m) to read as follows:

§ 1.6038–2T Information returns required of United States persons with respect to annual accounting periods of certain foreign corporations (temporary).

* * * * *

(e) through (f)(10) [Reserved]. For further guidance, see § 1.6038–2(e) through (f)(10).

(f)(11) *Transactions with certain related parties.* (i) A summary showing the total amount of each of the following types of transactions of the corporation, which took place during the annual accounting period, with the person required to file this return, any other corporation or partnership controlled by that person, or any United States person owning at the time of the transaction 10 percent or more in value of any class of stock outstanding of the foreign corporation, or of any corporation controlling that foreign corporation—

(A) Sales and purchases of stock in trade;

(B) Sales and purchases of tangible property other than stock in trade;

(C) Sales and purchases of patents, inventions, models, or designs (whether or not patented), copyrights, trademarks, secret formulas or processes, or any other similar property rights;

(D) Compensation paid and compensation received for the rendition of technical, managerial, engineering, construction, scientific, or like services;

(E) Commissions paid and commissions received;

(F) Rents and royalties paid and rents and royalties received;

(G) Amounts loaned and amounts borrowed (except open accounts resulting from sales and purchases reported under other items listed in this paragraph (f)(11) that arise and are collected in full in the ordinary course of business);

(H) Dividends paid and dividends received;

(I) Interest paid and interest received; and

(J) Premiums paid and premiums received for insurance or reinsurance.

(ii) *Special rule for banks.* For purposes of this paragraph (f)(11), if the United States person is a bank, as defined in section 581, or is controlled within the meaning of section 368(c) by a bank, the term transactions shall not, as to a corporation with respect to which a return is filed, include banking transactions entered into on behalf of customers; in any event, however, deposits in accounts between a foreign corporation, controlled (within the meaning of paragraph (b) of this section) by a United States person, and a person described in this paragraph (f)(11) and withdrawals from such accounts shall be summarized by reporting end-of-month balances.

(12) *Accrued payments and receipts.* For purposes of the required summary under paragraph (f)(11) of this section, a corporation that uses an accrual method of accounting shall use accrued payments and accrued receipts for purposes of computing the total amount of each of the types of transactions listed.

(g) through (j)(3) [Reserved]. For further guidance, see § 1.6038–2(g) through (j)(3).

(k) *Failure to furnish information*—(1) *Dollar amount penalty*—(i) *In general.* If any person required to file Form 5471 under section 6038 and this section fails to furnish any information described in paragraphs (f) and (g) of this section within the time prescribed by paragraph (i) of this section, such person shall pay a penalty of $10,000 for each annual accounting period of each foreign corporation with respect to which such failure occurs.

(ii) *Increase in penalty for continued failure after notification.* If a failure described in paragraph (k)(1)(i) of this section continues for more than 90 days after the date on which the Director of Field Operations mails notice of such failure to the person required to file Form 5471, such person shall pay a penalty of $10,000, in addition to the penalty imposed by section 6038(b)(1) and paragraph (k)(1)(i) of this section, for each 30-day period (or a fraction of) during which such failure continues after such 90-day period has expired. The additional penalty imposed by section 6038(b)(2) and this paragraph (k)(1)(ii) shall be limited to a maximum of $50,000 for each failure.

(k)(2) through (k)(4) [Reserved]. For further guidance, see § 1.6038–2(k)(2) through (k)(4).

(k)(5) *Illustrations.* [Reserved]. For further guidance, see § 1.6038–2(k)(5).

Example 1 and 2. [Reserved]. For further guidance, see § 1.6038–2(k)(5) Examples 1 and 2.

Example 3. A, a U.S. person, owns 100 percent of the stock of FC. On April 15, 2008, A timely filed its 2007 income tax return but did not file Form 5471 with respect to FC's 2007 annual accounting period. On June 1, 2008, the Director of Field Operations mailed a notice to A of A's failure to file Form 5471 for 2007 with respect to FC. On August 1, 2008, A submits a written statement asserting facts for reasonable cause for failure to file the 2007 Form 5471 for FC. Based on A's statement and discussions with A, the Director of Field Operations agrees that A had reasonable cause for failure to file FC's 2007 Form 5471 and determined that it is reasonable for A to file FC's 2007 Form 5471 by September 15, 2008. The time prescribed for furnishing information under paragraph (i) of this section is September 15, 2008, and the 90-day period described under paragraphs (k)(1)(ii) and (k)(2)(iv)(A) of this section begins on that same date. Thus, if A files a completed Form 5471 by September 15, 2008, A is not subject to the penalties under paragraphs (k)(1) and (k)(2) of this section. If A does not file a completed Form 5471 by December 14, 2008, in addition to the penalties under paragraphs (k)(1) and (k)(2) of this section, A will also be subject to the penalties for continued failure under paragraphs (k)(1)(ii) and (k)(2)(iv)(A) of this section.

Example 4. The facts are the same as in *Example 3* except A submits the written statement to the Director before a notice of failure to furnish information is mailed to A. The notice is mailed to A on September 7, 2008. Under these facts, the time prescribed for furnishing information under paragraph (i) of this section is September 15, 2008, and the 90-day period after mailing of notice of failure under paragraphs (k)(1)(ii) and (k)(2)(iv)(A) of this section begins on that same date.

(l) through (l)(2) [Reserved]. For further guidance, see § 1.6038–(2)(l) through (l)(2).

(m) *Effective dates.* (1) Except as otherwise provided, this section applies with respect to information for annual accounting periods beginning on or after June 21, 2006. Paragraph (d) of this section applies to taxable years ending after October 22, 2004. Paragraphs (k)(1) and (k)(5), *Examples 3* and *4,* of this section apply June 21, 2006.

(2) The applicability of paragraphs (f)(11), (f)(12), (k)(1), and (k)(5), *Examples 3* and *4,* of this section will expire on or before June 22, 2009.

■ **Par. 4.** Section 1.6038A–2 is amended by revising paragraph (b)(8) to read as follows:

§ 1.6038A–2 Requirement of return.

* * * * *

(b) * * *

(8) [Reserved]. For further guidance, see § 1.6038A–2T(b)(8).

* * * * *

■ **Par. 5.** Section 1.6038A–2T is amended by adding paragraphs (b)(8) and (h) to read as follows:

§ 1.6038A–2T Requirement of return (temporary).

* * * * *

(b)(8) *Accrued payments and receipts.* For purposes of this section, a reporting corporation that uses an accrual method of accounting shall use accrued payments and accrued receipts for purposes of computing the total amount of each of the types of transactions listed in this section.

* * * * *

(h) *Effective date.* (1) Except as otherwise provided, for effective dates for this section for certain reporting corporations, see § 1.6038A–1(n). Paragraph (b)(8) of this section applies with respect to information for annual accounting periods beginning on or after June 21, 2006.

(2) The applicability of paragraph (b)(8) of this section will expire on or before June 22, 2009.

PART 602—OMB CONTROL NUMBERS UNDER THE PAPERWORK REDUCTION ACT

■ **Par. 6.** The authority citation for part 602 continues to read as follows:

Authority: 26 U.S.C. 7805.

■ **Par. 7.** Section 602.101(b) is amended by adding an entry to the table in numerical order to read as follows:

§ 602.101 OMB Control numbers.

* * * * *

(b) * * *

CFR part or section where identified and described	Current OMB control No.
* * * * *	
1.6038–2	1545–2020
* * * * *	

Mark E. Matthews,

Deputy Commissioner for Services and Enforcement.

Approved: June 13, 2006.

Eric Solomon,

Acting Deputy Assistant Secretary of the Treasury (Tax Policy).

[FR Doc. E6–9612 Filed 6–20–06; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 199

[DoD–2006–OS–0022]

RIN 0720–AA99

Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); TRICARE Reserve Select for Members of the Selected Reserve

AGENCY: Office of the Secretary, DoD.

ACTION: Interim final rule with comment period.

SUMMARY: This interim final rule revises requirements and procedures for TRICARE Reserve Select pursuant to section 701 of the National Defense Authorization Act for FY 2006 (NDAA–06). TRICARE Reserve Select is the premium-based medical coverage program first made available in April 2005 for purchase by members of the Selected Reserve who fulfill the statutory qualification of having served on active duty in support of a contingency operation among other qualifications. By adding two new tiers of premium sharing by the government (50% and 85% member portion) to the existing premium tier (28% member portion), this interim final rule expands availability of TRICARE Reserve Select to include all Selected Reservists pursuant to section 702 of NDAA–06.

DATES: This rule is effective July 21, 2006. Submit comments on or before August 21, 2006. Coverage established during the one-time special open season described herein will be available no later than October 1, 2006.

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

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

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

FOR FURTHER INFORMATION CONTACT: Jody Donehoo, TRICARE Management Activity, TRICARE Operations, telephone (703) 681–0039.

Questions regarding payment of specific claims under the TRICARE allowable charge method should be addressed to the appropriate TRICARE contractor.

SUPPLEMENTARY INFORMATION:

I. Introduction and Background

An interim final rule was published in the **Federal Register** on March 16, 2005 (70 FR 12798–12805), that addressed three provisions of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (NDAA–05) (Pub. L. 108–375). That interim final rule established requirements and procedures to make permanent two provisions of the NDAA–05. Section 706 of the NDAA–05 made permanent the temporary revisions to the Transitional Assistance Management Program (TAMP), enacted in section 704 of the National Defense Authorization Act for Fiscal Year 2004 (NDAA–04) (Pub.L. 18–136) and section 1117 of the Emergency Supplemental Appropriations Act for the Reconstruction of Iraq and Afghanistan, 2004 (Emergency Supplemental) (Pub. L.108–106). Section 703 of the NDAA–05 made permanent the earlier TRICARE eligibility for certain reserve component members authorized by section 703 of the NDAA–04 and section 1116 of the Emergency Supplemental. A separate final rule will be issued for the requirements established by sections 703 and 706 of the NDAA for FY05.

The interim final rule published on March 16, 2005, also established requirements and procedures for implementation of TRICARE Reserve Select, the program authorized by section 701 of the NDAA–05 for premium-based medical coverage for certain members of the Selected Reserve and their family members. Before a final rule could be issued subsequent to the interim final rule published in the **Federal Register** on March 16, 2005 (70 FR 12798–12805), for the TRICARE Reserve Select program, it became evident that subsequent legislation would likely amend the statutory provisions in section 701 of the NDAA–05 implemented in the interim final rule.

Therefore, this interim rule contains the provisions of the former interim rule on the TRICARE Reserve Select program (70 FR 12798–12805) and addresses two provisions of the National Defense Authorization Act for Fiscal Year 2006 (NDAA–06) (Pub. L. 109–163). First, section 701 of the NDAA–06 contains several provisions to enhance the TRICARE Reserve Select program implemented in fulfillment of section 701 of the NDAA–05. Second, section 702 of the NDAA–06 expands the TRICARE Reserve Select program to make it available to all members of the Selected Reserve of the Ready Reserve by providing the statutory basis to establish two tiers of premium sharing subject to a number of additional specific statutory requirements, which are outlined in this regulation. These two tiers are in addition to the premium sharing tier established by section 701 of the NDAA–05.

The law authorizing the TRICARE Reserve Select program uses the term ''eligibility'' to identify conditions under which a Reserve component member may purchase coverage. For purposes of program administration, the terms ''qualifying'' or ''qualified'' shall generally be used in lieu of such terms as ''eligibility'' or ''eligible'' to refer to a Reserve component member who meets the program requirements allowing purchase of TRICARE Reserve Select coverage.

This interim rule introduces certain terminology for TRICARE Reserve Select intended to reflect critical elements that distinguish it from other long-established TRICARE health programs. For instance, the effective date of eligibility for TRICARE has long been understood to mean that the eligible individual may obtain care under the military health system as of that date. However, that is not what it means in the context of TRICARE Reserve Select. To avoid the inevitable misunderstanding, this rule uses 239 the term ''qualify'' to mean that the member's reserve component has validated that the member has satisfied all the ''qualifications'' that must be met before the member is authorized to purchase coverage under a particular tier. Only then may the member purchase coverage by taking further action to submit a completed application along with payment of a one month premium. The term ''coverage'' indicates the benefit of TRICARE covering claims submitted by TRICARE authorized providers, hospitals, and

suppliers for payment of covered services, supplies, and equipment.

II. TRICARE Reserve Select Program

A. *Establishment of the TRICARE Reserve Select Program* (paragraph 199.24(a)). This paragraph describes the nature, purpose, statutory basis, scope, and major features of TRICARE Reserve Select, a premium-based medical coverage program that was made available worldwide to certain members of the Selected Reserve and their family members. TRICARE Reserve Select is authorized by 10 U.S.C. 1076b and 10 U.S.C. 1076d.

The major features of the program include the following. TRICARE Reserve Select coverage is available for purchase by any Selected Reserve member if the member fulfills all of the statutory qualifications for one of the three premium tiers. The percentage of the total amount of the premium that members pay in each of the three premium tiers is prescribed by law: 28% for Tier 1,50% for Tier 2, and 85% for Tier 3. Within each tier there is one premium rate for self-only coverage and one premium rate for self and family coverage. Additionally, TRICARE rules apply unless otherwise specified; certain special TRICARE programs are not part of TRICARE Reserve Select, including the Extended Health Care Option (ECHO) program, the Special Supplemental Food Program (also known as the Women, Infants, and Children—Overseas Program), and the Supplemental 240 Health Care Program, except when referred by a Medical Treatment Facility (MTF) provider for incidental consults and the MTF provider maintains clinical control over the episode of care. The TRICARE Dental Program is already available under 10 USC 1076a to all members of the Selected Reserve and their family members whether or not they purchase TRICARE Reserve Select coverage.

Under TRICARE Reserve Select, Selected Reserve members who fulfill all of the statutory qualifications for one of the three premium tiers may purchase either the self-only type of coverage or the self and family type of coverage by submitting a completed application form along with the appropriate monthly premium at the time of enrollment. When their coverage becomes effective, TRICARE Reserve Select beneficiaries receive the TRICARE Standard (and Extra) benefit. TRICARE Reserve Select features the deductible and cost share provisions of the TRICARE Standard (and Extra) plan for active duty family members (ADFM) for both the member and covered family members.

B. *TRICARE Reserve Select premium tiers* (paragraph 199.24(b)). Members are charged premiums for coverage under TRICARE Reserve Select that represent a portion of the total amount that the Assistant Secretary of Defense, Health Affairs (ASD(HA)) determines on an appropriate actuarial basis as being appropriate for coverage under the TRICARE Standard benefit for the TRICARE Reserve Select eligible population.

Members may qualify for one of three tiers of premium sharing with the Department of Defense. The first tier was established by section 701 of the NDAA–05 as 28% of the total cost of the premium and implemented in accordance with regulation issued March 16,2005, (70 FR 12798–12805).

Selected Reserve members who qualify to purchase TRICARE Reserve Select coverage in Tier 1 shall pay 28% of the total cost of the premium. In the event of the death of a member of the Selected Reserve who is covered by TRICARE Reserve Select at the time of death, the premium amount shall be at the self-only rate if there is only one surviving family member to be covered by TRICARE Reserve Select and at the self and family rate if there are two or more survivors to be covered by TRICARE Reserve Select.

The NDAA–06 added two more tiers of premium sharing for members who may qualify as specified in paragraph 199.24(c). Selected Reserve members who qualify to purchase TRICARE Reserve Select coverage in Tier 2 shall pay 50% of the total cost of the premium. Selected Reserve members who qualify to purchase TRICARE Reserve Select coverage in Tier 3 shall pay 85% of the total cost of the premium.

Annual rates for the first year TRICARE Reserve Select was offered (calendar year 2005) were based on the annual premiums for the Blue Cross and Blue Shield Standard Service Benefit Plan under the Federal Employees Health Benefits Program, a nationwide plan closely resembling TRICARE Standard (and Extra) coverage, with an adjustment based on estimated differences in covered populations, as determined by the ASD(HA).

Based on an analysis of demographic differences between Blue Cross and Blue Shield participants and beneficiaries eligible for TRICARE Reserve Select, the adjustment amount in calendar year 2005 represented a 32% reduction from the Blue Cross and Blue Shield annual premium for self-only coverage and represented an 8% reduction from the Blue Cross and Blue Shield annual premium for self and family coverage. (The difference in the percentage reductions between self-only and self and family premiums is due to the disproportionately high number of high cost, single, elderly retiree federal employees covered by Blue Cross and Blue Shield self-only coverage).

Premiums are to be paid monthly, except as otherwise established as part of the administrative implementation of TRICARE Reserve Select. Monthly premium rates are established and updated annually to maintain an appropriate relationship with the annual changes in Blue Cross and Blue Shield premiums, or by other adjustment methodology determined to be appropriate by the ASD(HA).

Separate rates will be established and updated annually for each of the two types of coverage, self-only and self and family, within each of the three tiers on a calendar year basis and are effective on the first of January each year. The monthly rate for each month of a calendar year is one-twelfth of the annual rate for that calendar year.

In addition to these annual premium changes, premium adjustments may also be made prospectively for any calendar year to reflect any significant program changes or any actual experience in the costs of administering the TRICARE Reserve Select Program.

For calendar year 2005, the total annual premium for self-only coverage was $3,214 and the total annual premium for self and family coverage was $9,985. The member's portion of the annual premium for self-only coverage under TRICARE Reserve Select in Tier 1 was $900 ($75 monthly). The member's portion of the annual premium for self and family coverage under TRICARE Reserve Select in Tier 1 was $2,796 ($233 monthly).

For calendar year 2006, the total annual premium for self-only coverage increased 8.5% to $3,487 (rounded to the nearest dollar) and the total annual premium (Tier 1) for self and family coverage increased 8.5% to $10,834 (rounded to the nearest dollar). The 8.5% increase mirrors the increase in Blue Cross and Blue Shield rates in the Federal Employee Health Benefits program.

(a) For calendar year 2006, the member's portion in Tier 1 is 28% of the annual premium. Self-only coverage is $972 ($81 monthly). Self and family coverage is $3,036 ($253 monthly).

(b) For calendar year 2006, the member's portion in Tier 2 is 50% of the annual premium. Self-only coverage is $1,743.48 ($145.29 monthly). Self and family coverage is $5,417.04 ($451.42 monthly).

(b) For calendar year 2006, the member's portion in Tier 3 is 85% of the annual premium. Self-only coverage is $2,964.00 ($247.00 monthly). Self and family coverage is $9,208.92 ($767.41 monthly).

C. *Eligibility for qualifying to purchase TRICARE Reserve Select coverage* (paragraph I99.24(c)). This paragraph defines the statutory conditions for each of the three tiers within which members of a Reserve component may qualify to purchase TRICARE Reserve Select coverage. The Reserve components of the Armed Forces have the responsibility to determine and validate a member's qualifications to purchase TRICARE Reserve Select coverage and to identify the premium tier for which they qualify.

Section 701 of NDAA–05 established two distinct statutory basis for qualifying to purchase TRICARE Reserve Select coverage under Tier 1. The first statutory basis for Tier 1 established that a member or former member of a Reserve component of the Armed Forces who was released from active duty on or before April 26, 2005, qualifies to purchase TRICARE Reserve Select coverage in Tier 1 if the member meets all of the following conditions:

(a) Was called or ordered to active duty for a period of more than 30 days on or after September 11, 2001 under a provision of law referred to in 10 U.S.C. 101(a)(13)(B);

(b) Served continuously on active duty for 90 days or more pursuant to such call or order to active duty (unless such continuous service on active duty is less than 90 days solely due to an injury, illness, or disease incurred or aggravated while deployed, as provided in 10 U.S.C. 1076d(b)(2)(A));

(c) Was released from active duty on or before April 26, 2005;

(d) Executed a service agreement with his or her Reserve component prior to purchasing TRICARE Reserve Select coverage, but no later than October 28, 2005, to serve continuously in the Selected Reserve for a period of 1 or more years; and,

(e) Is in a Selected Reserve status on the first day of coverage for TRICARE Reserve Select and maintains continued membership in the Selected Reserve.

This temporary opportunity for Tier 1 (until October 28, 2005) applied to current members of the Selected Reserve, and also to former members who served in support of a contingency after September 11, 2001, who rejoined the Selected Reserve, and who entered into a service agreement for continued service.

In conformance with section 701(b)(2)(B) of the NDAA–05, the Department took steps to notify reservists released from active duty on or before April 26, 2005, who could potentially qualify for TRICARE Reserve Select and provided them information on the opportunity and procedures for entering into a service agreement together with a clear explanation of the benefits that the member is eligible to receive under TRICARE Reserve Select as a result of entering into such service agreement. Specifically, the Department delivered this information to all potentially eligible members (376,800) through a mass mailing conducted from April 22, 2005, to May 12, 2005.

The second statutory basis for Tier 1 established that a member or former member of a Reserve component of the Armed Forces who was released from active duty after April 26, 2005, qualifies to purchase TRICARE Reserve Select coverage in Tier 1 if the member meets all of the following conditions:

(a) Is called or ordered to active duty for a period of more than 30 days on or after September 11, 2001 under a provision of law referred to in 10 U.S.C. 101(a)(13)(B);

(b) Serves continuously on active duty for 90 days or more in support of a contingency operation on or after September 11, 2001 (unless such continuous service on active duty is less than 90 days solely due to an injury, illness, or disease incurred or aggravated while deployed, as provided in 10 U.S.C. 1076d(b)(2)(A)); and

(c) Is released from active duty after April 26, 2005;

(d) Executed a service agreement with his or her Reserve component to serve continuously in the Selected Reserve for a period of 1 or more years on or before the date of release from active duty if released from active duty before January 6, 2006, or not later than 90 days after release from active duty if released from active duty on or after January 6, 2006, except in the case of a member of the Individual Ready Reserve described in below, with the effective date of the Service agreement coinciding with the 246 TRS coverage begin date

(e) If not already a member of the Selected Reserve, the member shall be in the Selected Reserve on the first day of coverage for TRICARE Reserve Select and shall maintain continued membership in the Selected Reserve. A member of the Individual Ready Reserve released from active duty on or after January 6, 2006, who is unable to find a position in the Selected Reserve and who qualifies TRICARE Reserve Select coverage, except for membership in the Selected Reserve, has one year from the expiration of the member's entitlements to care and benefits following a qualifying period of active duty to execute a service agreement with his or her Reserve component and become a member of the Selected Reserve. A member of the Selected Reserve released from active duty on or after January 6, 2006, who loses his or her position in the Selected Reserve before the end of the Transitional Assistance Management Program (TAMP) shall have one year from the expiration of TAMP period to execute a service agreement with his or her Reserve component and again become a member of the Selected Reserve. This opportunity for Tier I coverage is now permanent under the statute.

The statutory basis for Tier 2 established that a member who is a member of a Reserve component of the Armed Services qualifies to purchase TRICARE Reserve. Select coverage in Tier 2 if the member meets all of the following conditions:

(a) Executes a service agreement to serve continuously in the Selected Reserve for a period of time that extends through the period of coverage; and

(b) Maintains continued membership in the Selected Reserve as determined by the member's Reserve component; and

(c) Submits certification in accordance with procedures established by the Under Secretary of Defense for Personnel and Readiness that is appropriate to substantiate the Reserve component member's assertion that the member is one of the following:

—an eligible unemployment compensation recipient;

—either employed by an employer that does not offer a health benefits plan to anyone working for the employer, or is in a category of employees (based on hours, duties, employment agreement, or such other characteristic, but not membership in the Selected Reserve) to which the member's employer does not offer a health benefits plan;

—self-employed (where income earned from such self-employment is the member's primary source of annual income, as reported to the IRS, other than service in the Selected Reserve).

Further, the member shall submit certification appropriate to substantiate the member's assertion of qualifying for Tier 2 in accordance with procedures established by the Under Secretary of Defense for Personnel and Readiness. Documentation required to support the certifications includes supplementation covering the full period of qualification. In the event that documentation fails to support qualification or continued qualification or the condition of

qualification otherwise ceases to exist and the member fails to report such event to the TRICARE contractor servicing the member's coverage, the member's coverage under Tier 2 will terminate, effective on the date the required condition ceased to exist. In that case, the member may elect coverage in Tier 3 and will be responsible for the additional premiums required for Tier 3, effective from that date.

The statutory basis for Tier 3 established that a member who is a member of a Reserve component of the Armed Services qualifies to purchase TRICARE Reserve 248 Select coverage in Tier 3 if the member meets all of the following conditions.

(a) Executes a service agreement to serve continuously in the Selected Reserve for a period of time that extends through the period of coverage;

(b) Maintains continued membership in the Selected Reserve: and

(c) Does not qualify for either Tier 1 or Tier 2.

D. *TRICARE Reserve Select enrollment procedures* (paragraph 199.24(d)). To purchase TRICARE Reserve Select coverage, Reserve component members qualified under paragraph 199.24(c) must complete and submit the applicable TRICARE enrollment application, along with an initial payment of the monthly premium share required under paragraph 199.24(b) to the appropriate TRICARE contractor in accordance with deadlines and other procedures established by the ASD(HA) for receipt not later than 30 days prior to the start of the period of coverage as it has been determined. A member may purchase one of two types of coverage: self-only coverage or self and family coverage.

For qualified members, the decision to purchase TRICARE Reserve Select coverage in Tier I is a one-time opportunity. If not purchased within the prescribed time limit, if coverage is taken for a period less than the maximum period of eligibility, or if coverage is terminated for any reason, coverage may not be initiated or extended later, nor may any period of qualification be saved to be used later.

Members qualified under Tier I based upon qualifying active duty that ended on or before April 26, 2005 are required to submit the required application and premium 249 payment as soon as practicable after entering into a Service Agreement with their respective Reserve component. Members qualified under Tier I based upon qualifying active duty that ended after April 26, 2005 are required to submit the proper application and premium payment for receipt by the appropriate TRICARE contractor not later than 30 days before the last day of qualifying active duty or the last day of coverage under the Transition Assistance Management Program, whichever is later, unless the otherwise qualified member is a member of the Individual Ready Reserve at that time. In that case, the member shall submit the required application and premium payment as soon as practicable after entering into a Service Agreement with his or her respective Reserve component.

Thus, for example, if a member served for one year in support of a contingency operation, the member may purchase Tier I coverage for the next four years if the member agrees to continue service in the Selected Reserve for four years. However, if that member elects to continue service in the Selected Reserve for only two years, the member will qualify for only two years of TRICARE Reserve Select coverage under the Tier 1 premium rate. This two-year coverage period based on the qualifying period of active duty cannot be extended later, even if the member later extends Selected Reserve service for two more years. The only way to extend TRICARE Reserve Select coverage under the Tier 1 premium rate beyond the period determined when the one-time choice is made is by qualifying again through another period of active duty service in support of a contingency operation.

Open Season is the time period during which a member who qualifies for coverage in Tier 2 or Tier 3 may purchase new coverage, renew existing coverage with or without 250 a change in type of coverage, or terminate coverage. One open season will be offered each year in accordance with procedures established by the ASD(HA). A one-time special open season will be offered in 2006 for members to purchase coverage and coverage will be available no later than October 1, 2006. Before a member's coverage may be renewed during open season, the service agreement must be valid through December 31st of the renewed year of coverage and all other qualifications under Tier 2 or Tier 3 must be validated by the member's Reserve component. Actions requested during an open season will take effect January 1st of the year following the open season. Existing Coverage that is not renewed during open season will be terminated no later than December 31st of that year. Upon assignment to the Selected Reserves, members who qualify for coverage under either Tier 2 Or Tier 3 may purchase coverage in accordance with deadlines and other procedures established by the ASD(HA). Members may request certain changes to their TRICARE Reserve Select Coverage in connection with certain events called qualifying life events in accordance with deadlines and other procedures established by the ASD(HA). The first type of qualifying life event is associated with changes in immediate family composition and it is the responsibility of the member to provide his or her personnel office with the necessary evidence required to substantiate the change in immediate family composition. Personnel will update the Defense Enrollment Eligibility Reporting System (DEERS) in the usual manner, which will then notify the appropriate TRICARE contractor who will take appropriate action upon receipt of a proper application. The second type of qualifying life event is associated with changes in family employment or health coverage status.

If a member who is covered under Tier I experiences a qualifying life event, the only action a member may request is a change in type of coverage. The member may request termination of coverage at any time; however, they will not be allowed to purchase coverage again under Tier 1, unless the member qualifies again for Tier 1 coverage after the date of termination for Tier 1 coverage. If a member who is covered under either Tier 2 or Tier 3 experiences a qualifying life event, the member may apply to purchase coverage, request changes in type of coverage, or terminate coverage. Otherwise, a member who is covered under either Tier 2 or Tier 3 may not request to terminate coverage outside of open season.

A member of a Reserve component who qualifies to purchase coverage may elect self-only or self and family coverage. Immediate family members of the Reserve component member, as defined in §§ 199.3(b)(2)(i) (except former spouses) and 199.3(b)(2)(ii) of this part, may be included in such family coverage. After purchasing coverage under *Tier 1,* members may change type of coverage only in conjunction with a qualifying life event. After purchasing coverage under *Tiers 2 and 3,* members may change type of coverage either during an open season or in conjunction with a qualifying life event.

The period of coverage for members who qualify under Tier 1 is equal to either the number of whole years covered by the executed service agreement, or to one year in the case of a member who is otherwise eligible but does not serve continuously on active duty for 90 days because of an injury,

illness, or disease incurred or aggravated while deployed.

The period of coverage for members released from active duty on or before April 26, 2005 begins on the date that is the later of the expiration of TAMP benefits or the 252 effective date of the service agreement, but in no case later than October 28, 2005.

The period of coverage for members released from active duty after April 26, 2005, begins on the first day following the date their TAMP benefits period ends under section 199.3(e) of this part; or the date that a member of the Individual Ready Reserve finds and occupies a position in the Selected Reserve, up to one year after expiration of TAMP benefits. The enrollment in TRICARE Reserve Select must be accomplished within 60 days of assignment to the Selected Reserve. When coverage is terminated or the member is otherwise disenrolled, a member may not purchase coverage in Tier 1 again unless recalled to active duty and the member qualifies again for this tier.

If a member of the Selected Reserves dies while in a period of coverage under Tier 1, the family member(s) may purchase new or continue TRICARE Reserve Select Tier 1 coverage for up to six months beyond the date of the member's death upon payment of monthly premiums. The premium amount shall be at the member only rate if there is only one surviving family member to be covered by TRICARE Reserve Select and at the member and family rate if there are two or more survivors to be covered.

The maximum duration for any period of coverage purchased by members who qualify for TRICARE Reserve Select under either Tier 2 or Tier 3 is one year and will coincide with the calendar year. The period of coverage begins in accordance with procedures established by the ASD(HA) and ends December 31st of the same year in which the current period of coverage began.

The period of coverage for members who purchase coverage in either Tier 2 or Tier 3 during the annual open season begins January 1st of the year immediately following the open season and ends December 31st of that same year.

The period of coverage for members who purchase coverage in either Tier 2 or Tier 3 as a result of assignment to the Selected Reserve or as a result of a qualifying life event described below begins in accordance with procedures established by the ASD(HA) and ends December 31st of the same year that coverage begins.

Coverage will terminate whenever a member ceases to meet the qualifications for the particular tier under which coverage was purchased or a request for termination is received in accordance with established procedures. However, unless the member's Reserve component terminates the member's service in the Selected Reserve, the service agreement remains in force and the end date is unchanged. Termination of coverage for the member will result in termination of coverage for the member's family members in TRICARE Reserve Select, except for qualified survivors of Reserve component members covered by TRICARE Reserve Select under Tier 1 at the time of death. Failure to make a premium payment in a timely manner will result in termination of coverage for the member and any covered family members and denial of claims for services received after the effective date of termination. Members whose coverage under Tier 1 terminates will not be allowed to purchase coverage again under Tier 1, unless the member qualifies again for Tier 1 coverage after the date of termination. Members whose coverage under any of the three tiers terminates may purchase coverage again under either Tier 2 or Tier 3 if they qualify during the annual open season, or in connection with a qualifying life event.

Effective January 6, 2006, with enactment of section 701 of the NDAA–06, the rules changed with regard to the TRICARE Reserve Select Tier 1 period of coverage when a member serves on active duty. Before January 6, 2006, when a member covered by TRICARE Reserve Select serves on active duty for a period of more than 30 days and receives other TRICARE coverage, TRICARE Reserve Select coverage is *superseded* [italics added] for the member and any covered family members, but the period of coverage continues to run. During any period in which TRICARE Reserve Select coverage is superseded, no premium payments for TRICARE Reserve Select are due. If applicable, this other TRICARE coverage includes early TRICARE coverage based on delayed-effective-date orders under § 199.3(b)(5) of this part and TAMP benefits under § 199.3(e) of this part. If the original end date of TRICARE Reserve Select coverage has not been reached by the time the other TRICARE coverage terminates, TRICARE Reserve Select coverage will resume with the same type of coverage in effect on the date coverage was suspended. Coverage will continue until the original end date of coverage or until coverage is otherwise terminated. In addition, TRICARE Reserve Select coverage is also superseded by a new period of coverage established as a result of re-qualifying through another period of active duty service in support of a contingency operation under § 199.24(c) of this part.

On or after January 6, 2006, when a member covered by TRICARE Reserve Select under Tier 1 serves on active duty under orders for a period of more than 30 days and receives other TRICARE coverage, TRICARE Reserve Select Tier 1 coverage is *suspended* [italics added] for the member and any covered family members and the period of coverage stops. During any period in which TRICARE Reserve Select coverage is suspended, no premium payments for TRICARE Reserve Select are due. If applicable, this other TRICARE coverage includes early TRICARE coverage based on delayed-effective-date orders under § 199.3(b)(5) of this part and TAMP benefits under § 199.3(e) of this part. The end date of the TRICARE Reserve Select Tier 1 period of coverage will be extended for a period of time equal to the period of time that TRICARE Reserve Select coverage was suspended. TRICARE Reserve Select Tier 1 coverage will continue until the adjusted end date, or until coverage is otherwise terminated. In addition, the end date of the TRICARE Reserve Select Tier 1 period of coverage will be extended for a period of time equal to any new period of coverage established as a result of re-qualifying through another period of active duty service in support of a contingency operation under § 199.24(c) of this part and all other qualifications are met.

E. *Relationship to Continued Health Care Benefits Program (CHCBP)* (paragraph 199.24(e)). This paragraph addresses the relationship between TRICARE Reserve Select and the CHCBP. CHCBP is a program that (among other things) allows members released from active duty to purchase continued health care coverage through TRICARE. Coverage under TRICARE Reserve Select counts as coverage under a health benefit plan for purposes of individuals qualifying for the Continued Health Care Benefits Program (CHCBP) under § 199.20(d)(1)(ii)(B) or § 199.20(d)(1)(iii)(B) of this part. Some members and family members will be eligible for Tier 1 of TRICARE Reserve Select, and may also be eligible for CHCBP at the time of release from active duty.

This paragraph of the regulation provides that if a member purchases TRICARE Reserve Select coverage that is later terminated, the member or the

covered family members may then purchase CHCBP coverage for whatever period is remaining of the original 18 month eligibility. For example, in the case that TRICARE Reserve Select Tier 1 coverage that is terminated because of transfer or discharge from the Selected Reserve (such as through a reduction in force or base closure) of a member is within 18 months of release from active duty, the member could choose to continue health care coverage under CHCBP for the remainder of the period at the applicable CHCBP premiums. Eligibility and coverage for TRICARE Reserve Select under either Tier 2 or Tier 3 has no effect on eligibility for the CHCBP.

F. *Preemption of State laws* (paragraph 199.24(f)). This paragraph explains that the preemptions of State and local laws established for the TRICARE program also apply to TRICARE Reserve Select. Any State or local law or regulation pertaining to health insurance, prepaid health plans, or other health care delivery, administration, and financing methods is preempted and does not apply in connection with TRICARE Reserve Select.

This includes State and local laws imposing premium taxes on health insurance carriers, underwriters or other plan managers, or similar taxes on such entities. Preemption does not apply to taxes, fees, or other payments on net income or profit realized by such entities in the conduct of business relating to DoD health services contracts, if those taxes, fees or other payments are applicable to a broad range of business activity. For the purposes of assessing the effect of Federal preemption of State and local taxes and fees in connection with DoD health services contracts, interpretations shall be consistent with those applicable to the Federal Employees Health Benefits Program under 5 U.S.C. 8909(f).

G. *Administration* (paragraph 199.24(g)). This paragraph provides that the ASD(HA) may establish other rules and procedures necessary for the effective administration of TRICARE Reserve Select.

III. Regulatory Procedures

Executive Order 12866 requires certain regulatory assessments for any significant regulatory action that would result in an annual effect on the economy of $100 million or more, or have other substantial impacts. The Congressional Review Act establishes certain procedures for major rules, defined as those with similar major impacts. The Regulatory Flexibility Act (RFA) requires that each Federal agency prepare, and make available for public comment, a regulatory flexibility analysis when the agency issues a regulation that would have significant impact on a substantial number of small entities. This interim final rule is not subject to any of those requirements because it would not have any of these substantial impacts. Any substantial impacts associated with implementation of TRICARE Reserve Select are already determined by statute and are outside any discretionary action of DoD or effect of this regulation.

This rule, however, does address novel policy issues relating to implementation of a new medical benefits program for members of the armed forces. Thus, this rule has been reviewed by the Office of Management and Budget under E.O. 12866.

We are in the process of determining whether the interim final rule imposes ''collection of information'' requirements on the public within the meaning of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3511). If the determination is in the affirmative, we will promptly submit these to the Office of Management and Budget for review and approval in accordance with the Paperwork Reduction Act.

We have examined the impact(s) of the final rule under Executive Order 13132 and it does not have policies that have federalism implications that would have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, therefore, consultation with State and local officials is not required.

List of Subjects in 32 CFR Part 199

Claims, handicapped, health insurance, and military personnel.

■ Accordingly, 32 CFR Part 199 is amended as follows:

PART 199—[AMENDED]

■ 1. The authority citation for part 199 continues to read as follows:

Authority: 5 U.S.C. 301; 10 U.S.C. chapter 55.

■ 2. Section 199.2(b) is amended by revising the definition of ''TRICARE Reserve Select'' to read as follows:

§ 199.2 Definitions.

* * * * *

(b) * * *

TRICARE Reserve Select. The program established under 10 U.S.C. 1076d and 32 CFR 199.24.

* * * * *

■ 3. Section 199.24 is revised to read as follows:

§ 199.24 TRICARE Reserve Select.

(a) *Establishment.* TRICARE Reserve Select is established for the purpose of offering TRICARE Standard and Extra health coverage to qualified members of the Selected Reserve and their immediate family members.

(1) *Purpose.* TRICARE Reserve Select is a premium-based health plan that will be available to members of the Selected Reserve and their immediate family members as specified in paragraph (c) of this section.

(2) *Statutory Authority.* TRICARE Reserve Select is authorized by 10 U.S.C. 1076b and 1076d.

(3) *Scope of the Program.* TRICARE Reserve Select is applicable in the 50 United States, the District of Columbia, Puerto Rico, and, to the extent practicable, other areas where members of the Selected Reserve serve. In locations other than the 50 states of the United States and the District of Columbia, the Assistant Secretary of Defense may authorize modifications to the program rules and procedures as may be appropriate to the area involved.

(4) *Terminology.* Certain terminology is introduced for TRICARE Reserve Select intended to reflect critical elements that distinguish it from other long-established TRICARE health programs. For instance, the effective date of eligibility for TRICARE has long been understood to mean that the eligible individual may obtain care under the military health system as of that date. However, that is not what it means in the context of TRICARE Reserve Select. To avoid the inevitable misunderstanding, this regulation uses the term ''qualify'' to mean that the member's reserve component has validated that the member has satisfied all the ''qualifications'' that must be met before the member is authorized to purchase coverage under a particular premium tier. Only then may the member purchase coverage by taking further action to submit a completed application along with payment of a one month premium. The term ''coverage'' indicates the benefit of TRICARE covering claims submitted for payment of covered services, supplies, and equipment furnished by TRICARE authorized providers, hospitals, and suppliers.

(5) *Major Features of TRICARE Reserve Select.* The major features of the program include the following:

(i) *TRICARE rules applicable.* (A) Unless specified in this section or otherwise prescribed by the ASD(HA),

provisions of 32 CFR Part 199 apply to TRICARE Reserve Select.

(B) Certain special programs established in 32 CFR Part 199 are not available to members covered under TRICARE Reserve Select. These include the Extended Health Care Option Program (see § 199.5), and the Special Supplemental Food Program (see § 199.23), and the Supplemental Health Care Program (see § 199.16) except when referred by a Medical Treatment Facility (MTF) provider for incidental consults and the MTF provider maintains clinical control over the episode of care. The TRICARE Dental Program (see § 199.13) is independent of this program and is otherwise available to all members of the Selected Reserve and their eligible family members whether or not they purchase TRICARE Reserve Select coverage.

(ii) *Premium Tiers.* TRICARE Reserve Select coverage is available for 261 purchase by any Selected Reserve member if the member fulfills all of the statutory qualifications for one of the three premium tiers. The percentage of the total amount of the premium that members pay in each of the three premium tiers is prescribed by law: 28% for Tier 1, 50% for Tier 2, and 85% for Tier 3. Within each tier there is one premium rate for self-only coverage and one premium rate for self and family coverage.

(iii) *Enrollment system.* Under TRICARE Reserve Select, Reserve component members who have been validated as fulfilling all of the statutory qualifications for one of the three premium tiers may purchase either the self-only type of coverage or the self and family type of coverage by submitting a completed application form along with the appropriate monthly premium at the time of enrollment. Rules and procedures for purchasing coverage and paying applicable premiums are prescribed in this section.

(iv) *Benefits.* When their coverage becomes effective, TRICARE Reserve Select beneficiaries receive the TRICARE Standard (and Extra) benefit including access to military treatment facility services and pharmacies, as described in § 199.17 of this part. TRICARE Reserve Select coverage features the deductible and cost share provisions of the TRICARE Standard (and Extra) plan for active duty family members for both the member and the member's covered family members. The TRICARE Standard (and Extra) plan is described in section § 199.17 of this part.

(b) *TRICARE Reserve Select premium tiers.* A member of the Selected Reserve covered under TRICARE Reserve Select shall be required to pay a portion of the total amount that the ASD(HA) determines on an appropriate actuarial basis as being appropriate for that coverage. The member's monthly share of the premium is one-twelfth of the annual portion. The particular share of the premium to be paid by the member is determined by the particular tier for which a member qualifies as established in paragraphs (c)(2) of this section. The member's share of the premium is to be paid monthly, except as otherwise provided through administrative implementation, pursuant to procedures established by the ASD(HA).

(1) *Member's Share of the Total Premium.* (i) *Tier 1.* Selected Reserve members who qualify to purchase TRICARE Reserve Select coverage under paragraph (c)(2)(i) of this section shall pay 28% of the total cost of the premium as determined above. In the event of the death of a member of the Selected Reserve who is covered by TRICARE Reserve Select at the time of death, the premium amount shall be at the self-only rate if there is only one surviving family member to be covered by TRICARE Reserve Select and at the self and family rate if there are two or more survivors to be covered by TRICARE Reserve Select.

(ii) *Tier 2.* Selected Reserve members who qualify to purchase TRICARE Reserve Select coverage under paragraph (c)(2)(ii) of this section shall pay 50% of the total cost of the premium as determined paragraph (c) of this section.

(iii) *Tier 3.* Selected Reserve members who qualify to purchase TRICARE Reserve Select coverage under paragraph (c)(2)(iii) of this section shall pay 85% of the total cost of the premium as determined paragraph (c) of this section.

(2) *Annual establishment of rates.* (i) TRICARE Reserve Select monthly premium rates shall be established and updated annually on a calendar year basis by the ASD(HA) for each of the two types of coverage, self-only and self and family as described in paragraphs (d)(2) of this section, within each of the premium tiers.

(ii) Annual rates for the first year TRICARE Reserve Select was offered (calendar year 2005) were based on the annual premiums for the Blue Cross and Blue Shield Standard Service Benefit Plan under the Federal Employees Health Benefits Program, a nationwide plan closely resembling TRICARE Standard (and Extra) coverage, with adjustments based on estimated differences in covered populations, as determined by the ASD(HA).

(A) For calendar year 2005, the total annual premium for self-only coverage was $3,214 and the total annual premium for self and family coverage was $9,985. The member's portion of the annual premium for self-only coverage under TRICARE Reserve Select in Tier 1 was $900 ($75 monthly). The member's portion of the annual premium for self and family coverage under TRICARE Reserve Select in Tier 1 was $2,796 ($233 monthly).

(B) For calendar year 2006, the total annual premium for self-only coverage is $3,487 and the total annual premium for self and family coverage is $10,834 (rounded to the nearest dollar).

(*1*) In Tier 1, the member's portion is 28% of the annual premium. Self-only coverage is $972 ($81 monthly). Self and family coverage is $3,036 ($253 monthly).

(*2*) In Tier 2, the member's portion is 50% of the annual premium. Self-only coverage is $1,743.48 ($145.29 monthly). Self and family coverage is $5,417.04 ($451.42 monthly).

(*3*) In Tier 3, the member's portion is 85% of the annual premium. Self-only coverage is $2,964.00 ($247.00 monthly). Self and family coverage is $9,208.92 ($767.41 monthly).

(3) *Premium adjustments.* In addition to the determinations described in paragraph (b)(2)(i) of this section, premium adjustments may be made prospectively for any calendar year to reflect any significant program changes or any actual experience in the costs of administering the TRICARE Reserve Select Program.

(c) *Eligibility for (qualifying to purchase) TRICARE Reserve Select coverage.* (1) General—The law authorizing the TRICARE Reserve Select program uses the term ''eligibility'' to identify conditions under which a Reserve component member may purchase coverage. For purposes of program administration, the terms ''qualifying'' or ''qualified'' shall generally be used in lieu of such terms as ''eligibility'' or ''eligible'' to refer to a Reserve component member who meets the program requirements allowing purchase of TRICARE Reserve Select coverage.

(*2*) Reserve component members who meet the qualifications defined in paragraphs (c)(2)(i), (c)(2)(ii), or (c)(2)(iii), and have their qualifications validated under procedures in paragraph (c)(2)(iv) of this section may purchase TRICARE Reserve Select coverage as defined in this section. The Reserve components of the Armed Forces have the responsibility to determine and validate a member's qualifications to purchase TRICARE

Reserve Select coverage and identify the premium tier for which the member qualifies.

(i) *Tier 1.* (A) *Members released from active duty on or before April 26, 2005.* A member or former member of a Reserve component of the Armed Forces who was released from active duty on or before April 26, 2005, qualifies to purchase TRICARE Reserve Select coverage in Tier 1 if the member meets all of the following conditions:

(*1*) Was called or ordered to active duty for a period of more than 30 days on or after September 11, 2001 under a provision of law referred to in 10 U.S.C. 101(a)(13)(B);

(*2*) Served continuously on active duty for 90 days or more pursuant to such call or order to active duty (unless such continuous service on active duty is less than 90 days solely due to an injury, illness, or disease incurred or aggravated while deployed, as provided in 10 U.S.C. 1076d(b)(2)(A);

(*3*) Was released from active duty on or before April 26, 2005;

(*4*) Executed a service agreement with his or her Reserve component to serve continuously in the Selected Reserve for a period of 1 or more years prior to purchasing TRICARE Reserve Select coverage, but no later than October 28, 2005; and

(*5*) Is in a Selected Reserve status on the first day of coverage for TRICARE Reserve Select and maintains continued membership in the Selected Reserve.

(B) *Members released from active duty after April 26, 2005.* A member released from active duty after April 26, 2005, who is a member of a Reserve component of the Armed Forces qualifies to purchase TRICARE Reserve Select coverage in Tier 1 if the member meets all of the following conditions:

(*1*) Is called or ordered to active duty for a period of more than 30 days on or after September 11, 2001 under a provision of law referred to in 10 U.S.C. 101(a)(13)(B);

(*2*) Serves continuously on active duty for 90 days or more pursuant to such call or order to active duty (unless such continuous service on active duty is less than 90 days solely due to an injury, illness, or disease incurred or aggravated while deployed, as provided in 10 U.S.C. 1076d(b(2)(A));

(*3*) Is released from active duty after April 26, 2005;

(*4*) Executed a service agreement with his or her Reserve component to serve continuously in the Selected Reserve for a period of 1 or more years on or before the date of release from active duty if released from active duty before January 6, 2006, or not later than 90 days after release from active duty if released from active duty on or after January 6, 2006, except in the case of a member of the Individual Ready Reserve described in paragraph (c)(2)(i)(B)(*5*) of this section, with the effective date of the Service agreement coinciding with the TRS coverage begin date; and

(*5*) If not already a member of the Selected Reserve, the member shall be in the Selected Reserve on the first day of coverage for TRICARE Reserve Select and shall maintain continued membership in the Selected Reserve. A member of the Individual Ready Reserve released from active duty on or after January 6, 2006, who is unable to find a position in the Selected Reserve and qualifies for TRICARE Reserve Select coverage, except for membership in the Selected Reserve, has one year from the expiration of the member's entitlements to care and benefits following a qualifying period of active duty to execute a service agreement with his or her Reserve component and become a member of the Selected Reserve. A member of the Selected Reserve released from active duty on or after January 6, 2006, who loses his or her position in the Selected Reserve before the end of the Transitional Assistance Management Program (TAMP) shall have one year from the expiration of TAMP period to execute a service agreement with his or her Reserve component and again become a member of the Selected Reserve.

(ii) *Tier 2.* A member who is a member of a Reserve component of the Armed Forces qualifies to purchase TRICARE Reserve Select coverage in Tier 2 if the member meets all of the following conditions:

(A) Executes a service agreement with his or her Reserve component to serve continuously in the Selected Reserve for a period of time that extends through the period of coverage;

(B) Maintains continued membership in the Selected Reserve; and

(C) Submits certification in accordance with procedures established by the Under Secretary of Defense for Personnel and Readiness that is appropriate to substantiate the Reserve component member's assertion that the member is one of the following:

(*1*) An eligible unemployment compensation recipient. This is a member who, with respect to any month, is determined eligible for any day of such month for unemployment compensation under State law (as defined in section 205(9) of the Federal-State Extended Unemployment Compensation Act of 1970), including Federal unemployment compensation laws administered through the State;

(*2*) An employee ineligible for health care benefits under an employer-sponsored health benefits plan. A Reserve component member shall be considered ineligible for health care benefits under an employer-sponsored health benefits plan only if the member is an employee and either:

(*i*) Is employed by an employer that does not offer a health benefits plan to anyone working for the employer; or

(*ii*) Is in a category of employees to which the member's employer does not offer a health benefits plan, if such category is designated by the employer based on hours, duties, employment agreement, or such other characteristic, other than membership in the Selected Reserve, as the regulations administering this section prescribe (such as part-time employees).

(*3*) *Self-employed.* A Reserve component member shall be considered to be self-employed if the income earned from such self-employment is the member's primary source of annual income, as reported to the IRS, other than service in the Selected Reserve.

(iii) *Tier 3.* A member who is a member of a Reserve component of the Armed Forces qualifies to purchase TRICARE Reserve Select coverage in Tier 3 if the member meets all of the following conditions:

(A) Executes a service agreement with his or her Reserve component to serve continuously in the Selected Reserve for a period of time that extends through the period of coverage;

(B) Maintains continued membership in the Selected Reserve; and

(C) Does not qualify under paragraphs (c)(2)(i) or (c)(2)(ii).

(iv) *Procedures validating qualifications for TRS coverage.* (A) The Reserve components are responsible for determining the member's Reserve category, details of potentially qualifying active duty periods, periods of obligation, and other military personnel matters that are pertinent to validating the member's qualifications and identification of the premium tier for which a member may purchase coverage. An executed service agreement does not guarantee Selected Reserve status for the full time period covered by the service agreement. Further, the member shall submit certification appropriate to substantiate the member's assertion of qualifying under paragraph (c)(2)(ii) of this section in accordance with procedures established by the Under Secretary of Defense for Personnel and Readiness.

(B) Documentation required to support the certifications referred to in paragraph (c)(2)(ii)(C) of this section includes supplementation covering the

full period of qualification. In the event that documentation fails to support qualification or continued qualification or the condition of qualification otherwise ceases to exist and the member fails to report such event to the TRICARE contractor servicing the member's coverage, the member's coverage under Tier 2 will terminate, effective on the date the required condition ceased to exist. In that case, the member's coverage will be in Tier 3 and the member will be responsible for the additional premiums required for Tier 3, effective from that date.

(d) *TRICARE Reserve Select enrollment procedures.*

(1) *Application procedures.* To purchase TRICARE Reserve Select coverage, qualified Reserve component members must complete and submit the applicable TRICARE enrollment application, along with an initial payment of the appropriate monthly premium share required by paragraph (b)(3) of this section to the appropriate TRICARE contractor in accordance with deadlines and other procedures established by the ASD(HA).

(i) *Tier 1.* For qualified members, the decision to purchase TRICARE Reserve Select coverage in Tier 1 is a one-time opportunity. If not purchased in a timely manner, if coverage is taken for a period less than the maximum period of qualification, or if coverage is terminated for any reason, coverage may not be initiated or extended later, nor may any period of qualification be saved to be used later. Members qualified under paragraph (c)(2)(i)(A) of this section are required to submit the required application and premium payment as soon as practicable after entering into a Service Agreement with their respective Reserve component. Members qualified under paragraph (c)(2)(i)(B) of this section are required to submit the required application and premium payment for receipt by the appropriate TRICARE contractor not later than 30 days before the last day of qualifying active duty or the last day of coverage under the Transition Assistance Management Program, whichever is later, unless the otherwise qualified member is a member of the Individual Ready Reserve at that time. In that case, the member shall submit the required application and premium payment as soon as practicable after entering into a Service Agreement with his or her respective Reserve component.

(ii) *Open Season for Tiers 2 and 3.* Open Season is the time period during which a member who qualifies for coverage under either paragraph (c)(2)(ii) or paragraph (c)(2)(iii) of this section may purchase new coverage, renew existing coverage with or without a change in type of coverage, or terminate coverage. One open season will be offered each year in accordance with procedures established by the ASD(HA). Before a member's coverage may be renewed, the service agreement must be valid through December 31st of the renewed year of coverage and all other qualifications under either paragraph (c)(2)(ii) or paragraph (c)(2)(iii) of this section must be validated by the member's Reserve component. Actions requested during an open season will take effect January 1st of the year following the open season. Existing coverage that is not renewed will be terminated no later than December 31st of that year. A one-time special open season will be offered in 2006 for members to purchase coverage.

(iii) *New Selected Reservists.* Upon assignment to the Selected Reserves, members who qualify for coverage under either paragraph (c)(2)(ii) or paragraph (c)(2)(iii) of this section may purchase coverage in accordance with deadlines and other procedures established by the ASD(HA).

(iv) *Qualifying Life Events.* TRS members may request certain changes to their TRS coverage in connection with certain events called qualifying life events in accordance with deadlines and other procedures established by the ASD(HA). The first type of qualifying life event is associated with changes in immediate family composition. The second type of qualifying life event is associated with changes in family employment or health coverage status. If a member who is covered under Tier 1 experiences a qualifying life event, the only action a member may request is a change in type of coverage. (The member may request termination of coverage at any time; however, the member will not be allowed to purchase coverage again under Tier 1, unless he or she qualifies again after the date of termination for Tier 1 coverage). If a member who is covered under either Tier 2 or Tier 3 experiences a qualifying life event, the member may apply to purchase coverage, request changes in type of coverage, or terminate coverage.

(2) *Type of coverage.* A member of a Reserve component who qualifies to purchase coverage under paragraph 272(c) of this section may elect self-only or self and family coverage. Immediate family members as defined in §§ 199.3(b)(2)(i) (except former spouses) and 199.3 (b)(2)(ii) of this part may be included in such family coverage.

(i) *Tier 1.* After purchasing coverage, members who qualified under paragraph (c)(2)(i)(A) or (c)(2)(i)(B) of this section may change type of coverage only in conjunction with a qualifying life event described in paragraph (d)(1)(iv) of this section. The change will become effective in accordance with procedures established by the ASD(HA).

(ii) *Tiers 2 and 3.* After purchasing coverage, members who qualified under either paragraph (c)(2)(ii) or paragraph (c)(2)(iii) of this section may change type of coverage either during an open season described in paragraph (d)(1)(ii) of this section or in conjunction with a qualifying life event described in paragraph (d)(1)(iv) of this section. The change will become effective in accordance with procedures established by the ASD(HA).

(3) *Period of coverage.*

(i) *Tier 1.* (A) The period of coverage for members who qualify under (c)(2)(i) of this section shall be equal to the lesser of—

(*1*) one year, in the case of a member who otherwise qualifies but does not serve continuously on active duty for 90 days because of an injury, illness, or disease incurred or aggravated while deployed;

(*2*) one year for each consecutive period of 90 days of continuous active duty described in paragraph (c)(2)(i)(A)(*1*) or (c)(2)(i)(B)(*1*); or

(*3*) the number of whole years for which the member agrees under paragraph (c)(2)(i)(A)(4) or (c)(2)(i)(B)(4) to continue to serve in the Selected Reserve after the coverage begins.

(B) The number of years established by the service agreement that was entered into prior to beginning coverage in TRICARE Reserve Select under paragraph (c)(2)(i)(A)(*4*) or (c)(2)(i)(B)(*4*) of this section may not later be changed, even if that number of years was fewer than the maximum number of years that the member could have established in the service agreement. The number of years of coverage may only be changed if the member is recalled to active duty and qualifies again for a new period of coverage under paragraph (c)(2)(i) of this section. When coverage is terminated for any reason, a member may not purchase coverage again under paragraph (c)(2)(i)(B) unless recalled to active duty and the member qualifies again for a new period of coverage under paragraph (c) of this section.

(C) The period of coverage for members who qualify under paragraph (c)(2)(i)(A) of this section begins on the date that is the later of the expiration of TAMP benefits under § 199.3(e) of this part or the effective date of the service agreement referred to in paragraph (c)(2)(i)(A)(*4*) of this section, but in no

case later than October 28, 2005. The period of coverage for members who qualify under (c)(2)(i)(B) of this section begins the later of the day after the last day of active duty; the day after the expiration of TAMP benefits under § 19(e) of this part; or the date that a member of the Individual Ready Reserve finds and occupies a position in the Selected Reserve, up to one year after either the last day of active duty or the expiration of TAMP benefits, whichever is later.

(D) If a member of the Selected Reserves dies while in a period of TRICARE Reserve Select coverage under Tier 1, the family member(s) may purchase new or continuing TRICARE Reserve Select coverage under Tier 1 for up to six months beyond the date of the member's death upon payment of monthly premiums. The premium amount payable shall be as determined in accordance with paragraph (b)(1)(i) of this section.

(ii) *Tiers 2 and 3*. The maximum duration for any period of coverage purchased by members who qualify for TRICARE Reserve Select under either paragraph (c)(2)(ii) or paragraph (c)(2)(iii) is one year and will coincide with the calendar year. The period of coverage begins in accordance with procedures established by the ASD(HA) and ends December 31st of the same year in which the current period of coverage began.

(4) *Enrollment processing*. Following validation, upon receipt of a completed TRICARE Reserve Select application, along with an initial payment of the appropriate monthly premium share required by paragraph (b) of this section, the appropriate TRICARE contractor will process enrollment actions into DEERS in accordance with deadlines and other procedures established by the ASD(HA).

(5) *Termination*. Coverage will terminate whenever a member ceases to meet any of the qualifications for the particular tier under which coverage was purchased or a request for termination for Tier 1 coverage is received in accordance with procedures established by the ASD(HA). However, unless the member's Reserve component terminates the member's service in the Selected Reserve, the service agreement described in paragraph (c) of this section remains in force and the end date is unchanged. Termination of coverage for the member will result in termination of coverage for the member's family members in TRICARE Reserve Select, except as described in paragraphs (d)(3)(i)(D). The termination will become effective in accordance with procedures established by the ASD(HA).

(i) *Tier 1*. Members whose coverage under Tier 1 terminates will not be allowed to purchase coverage again under Tier 1, unless the member qualifies again for Tier 1 coverage under (c)(2)(i)(B) of this section after the date of termination. However, the member may qualify for coverage under conditions identified either in paragraphs (c)(2)(ii) or (c)(2)(iii) of this section.

(A) Members who qualify under paragraph (c)(2)(i) of this section may request to terminate coverage at any time.

(B) Coverage shall terminate for members who no longer qualify for TRICARE Reserve Select as specified in paragraph (c) of this section, including when the member's service in the Selected Reserve terminates.

(C) Coverage may terminate for members who fail to make a premium payment in accordance with procedures established by the ASD(HA).

(D) Coverage for survivors as described in paragraph (d)(3)(i)(D) shall terminate six months after the date of death of the covered Reserve component member.

(ii) *Tiers 2 and 3.* (A) Members who qualify under either paragraph (c)(2) or paragraph (c)(3) in this section may request to terminate coverage only during an open season by notifying the appropriate TRICARE office.

(B) Coverage shall terminate for members who no longer qualify for TRICARE Reserve Select as specified under either paragraph (c)(2) or paragraph (c)(3) of this section, including when the member's service in the Selected Reserve terminates. However, members whose coverage under Tier 2 terminates may be able to purchase continued coverage under Tier 3 outside of open season if they qualify under paragraph (c)(2)(iii).

(C) Coverage may terminate for members who fail to make a premium payment in accordance with procedures established by the ASD(HA).

(D) During the month that a Reserve component member qualified for coverage under paragraph (c)(2)(ii) of this section ceases to qualify, the Reserve component member must submit a request to terminate coverage under Tier 2. Failure to do so will result with the member being retroactively enrolled in Tier 3 as of the date the member no longer qualified for Tier 2. Such member will be responsible for the payment of Tier 3 premiums.

(6) *Effect of Other TRICARE Benefits on TRICARE Reserve Select.* During any period in which members covered by TRICARE Reserve Select receive full TRICARE medical benefits (except the certain special programs listed in paragraph (a)(5)(i)(B) of this section), no premium payments for TRICARE Reserve Select are due.

(i) *Tier 1.* (A) Before January 6, 2006, when a member who was covered by TRICARE Reserve Select under Tier 1 serves on active duty for a period of more than 30 days and either is released from active duty or whose TAMP benefits under § 199.3(e) of this part end before January 6, 2006, receives other TRICARE benefits; TRICARE Reserve Select coverage is superseded for the member and any covered family members, but the period of coverage continues to run and the end date of coverage remains unchanged. If applicable, such TRICARE coverage includes early TRICARE benefits based on delayed-effective-date orders under § 199.3(b)(5) of this part. If the original end date of TRICARE Reserve Select coverage has not been reached by the time the other TRICARE benefits terminate, TRICARE Reserve Select coverage will resume with the same type of coverage in effect on the date coverage was suspended. TRICARE Reserve Select coverage will continue until the original end date of coverage or until coverage is otherwise terminated. The service agreement in effect as described in paragraphs (c)(2)(i)(A)(*4*) or (c)(2)(i)(B)(*4*) of this section remains in force and the end date is unchanged. In addition, TRICARE Reserve Select coverage is also superseded by a new period of coverage established as a result of qualifying again under paragraph (c)(2)(1)(B) of this section.

(B) On or after January 6, 2006, when a member who was covered by TRICARE Reserve Select under Tier 1 serves on active duty for a period of more than 30 days and either is released from active duty or whose TAMP benefits under § 199.3(e) of this part end on or after January 6, 2006, receives other TRICARE benefits; TRICARE Reserve Select coverage is suspended for the member and any covered family members. If such coverage was in effect on January 6, 2006, the effective date of the suspension is January 6, 2006. If applicable, such TRICARE coverage includes early TRICARE coverage based on delayed-effective-date orders under § 199.3(b)(5) of this part and TAMP benefits under § 199.3(e) of this part. The end date of the TRICARE Reserve Select period of coverage will be extended for a period of time equal to the period of time that TRS coverage was suspended. TRICARE Reserve Select coverage will continue until the

adjusted end date, or until coverage is otherwise terminated. The service agreement in effect as described in paragraphs (c)(2)(i)(A)(*4*) or (c)(2)(i)(B)(*4*) of this section remains in force and the end date is unchanged. In addition, the end date of the TRICARE Reserve Select period of coverage will be extended for a period of time equal to any new period of coverage established as a result of qualifying again under paragraph (c)(2)(i)(B) of this section.

(ii) *Tiers 2 and 3.* When a member covered by TRICARE Reserve Select under either Tier 2 or Tier 3 receives other TRICARE coverage, TRICARE Reserve Select coverage is superseded for the member and any covered family members, but the period of coverage continues to run and the end date of coverage remains unchanged. The service agreement described in paragraphs (c)(2)(ii) and (c)(2)(iii) of this section remains in force and the end data remains unchanged.

(7) *Periodic revision.* Periodically, certain features, rules or procedures of TRICARE Reserve Select may be revised. If such revisions will have a significant effect on members' costs or access to care, members may be given the opportunity to change their type of coverage or terminate coverage coincident with the revisions.

(e) *Relationship to Continued Health Care Benefits Program.* Coverage under TRICARE Reserve Select counts as coverage under a health benefit plan for purposes of individuals qualifying for the Continued Health Care Benefits Program (CHCBP) under § 199.20(d)(1)(ii)(B) or § 199.2(d)(1)(iii)(B) of this part.

(1) *Tier 1.* If at the time a member who qualifies under (c)(2)(i) of this section purchases coverage in TRICARE Reserve Select, or resumes TRICARE Reserve Select coverage after a period in which coverage was superseded under paragraph (d)(6)(i)(A) or suspended under paragraph (d)(6)(i)(B) of this section, the member was also eligible to enroll in the Continued Health Care Benefits Program (CHCBP) under § 199.20(d)(1)(i) of this part (except to the extent eligibility in CHCBP was affected by enrollment in TRICARE Reserve Select), enrollment in TRICARE Reserve Select will be deemed to also constitute preliminary enrollment in CHCBP. If for any reason the member's coverage under TRICARE Reserve Select terminates before the date that is 18 months after discharge or release from the most recent period of active duty upon which CHCBP eligibility was based, the member or the member's family members eligible to be included in CHCBP coverage may, within 30 days of the effective date of the termination of TRICARE Reserve Select coverage, begin CHCBP coverage by following the applicable procedures to purchase CHCBP coverage. The period of coverage will be as provided in 199.20(d)(6) of the part.

(2) *Tiers 2 and 3.* Coverage for TRICARE Reserve Select under either paragraph (c)(2)(ii) or paragraph (c)(2)(iii) of this section has no effect on eligibility for the CHCBP.

(f) *Preemption of State laws.* (1) Pursuant to 10 U.S.C. 1103, the Department of Defense has determined that in the administration of chapter 55 of title 10, U.S. Code, preemption of State and local laws relating to health insurance, prepaid health plans, or other health care delivery or financing methods is necessary to achieve important Federal interests, including but not limited to the assurance of uniform national health programs for military families and the operation of such programs at the lowest possible cost to the Department of Defense, that have a direct and substantial effect on the conduct of military affairs and national security policy of the United States. This determination is applicable to contracts that implement this section.

(2) Based on the determination set forth in paragraph (f)(1) of this section, any State or local law or regulation pertaining to health insurance, prepaid health plans, or other health care delivery, administration, and financing methods is preempted and does not apply in connection with TRICARE Reserve Select. Any such law, or regulation pursuant to such law, is without any force or effect, and State or local governments have no legal authority to enforce them in relation to TRICARE Reserve Select. (However, the Department of Defense may, by contract, establish legal obligations on the part of DoD contractors to conform with requirements similar to or identical to requirements of State or local laws or regulations with respect to TRICARE Reserve Select).

(3) The preemption of State and local laws set forth in paragraph (f)(2) of this section includes State and local laws imposing premium taxes on health insurance carriers or underwriters or other plan managers, or similar taxes on such entities. Such laws are laws relating to health insurance, prepaid health plans, or other health care delivery or financing methods, within the meaning of 10 U.S.C. 1103. Preemption, however, does not apply to taxes, fees, or other payments on net income or profit realized by such entities in the conduct of business relating to DoD health services contracts, if those taxes, fees or other payments are applicable to a broad range of business activity. For the purposes of assessing the effect of Federal preemption of State and local taxes and fees in connection with DoD health services contracts, interpretations shall be consistent with those applicable to the Federal Employees Health Benefits Program under 5 U.S.C. 8909(f).

(g) *Administration.* The ASD(HA) may establish other rules and procedures for the effective administration of TRICARE Reserve Select, and may authorize exceptions to requirements of this section, if permitted by law, based on extraordinary circumstances.

Dated: June 13, 2006.

L.M. Bynum,

OSD Federal Register Liaison Officer, Department of Defense.

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[COTP Charleston 06–112]

RIN 1625–AA00

Fireworks Safety Zone; Skull Creek, Hilton Head, SC

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a safety zone extending from a radius of 1000 feet around the barge located in Skull Creek, Hilton Head, South Carolina in (32°13.95′ N 080°45.1′ W). This regulation is necessary to protect life and property on the navigable waters of Skull Creek due to possible danger associated with fireworks. No vessel or person may enter the safety zone without permission of the Captain of the Port Charleston.

DATES: The rule is effective from 6 p.m. on July 4, 2006 until 12:01 a.m. on July 5, 2006.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket [COTP Charleston 06–112] and are available for inspection or copying at Coast Guard Sector Charleston (WWM), 196 Tradd Street, Charleston, South Carolina 29401 between 7:30 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Chief Warrant Officer James J. McHugh, Sector Charleston office of Waterways Management, at (843) 723–7647.

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. Publishing an NPRM, which would incorporate a comment period before a final rule could be issued and delay the effective date, would be contrary to the public interest because immediate action is needed to protect the public and waters of the United States.

For the same reason, under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. A Coast Guard patrol vessel will be on scene for the duration of the effective period to notify mariners of the restrictions.

Background and Purpose

These proposed regulations are required to provide for the safety of life on navigable waters because of the inherent danger of fireworks during the Skull Creek July 4th celebration, Skull Creek, Hilton Head, SC.

Discussion of Rule

The temporary safety zone will be enforced in an area extending a radius of 1000 feet around the barge located in Skull Creek, Hilton Head, South Carolina, in approximate position 32°13.95′ N 080°45.1′ W. The temporary safety zone will be enforced from 6 p.m. on July 4, 2006 until 12:01 a.m. on July 5, 2006. Marine Traffic will not be permitted to enter the safety zone without permission of the Caption Of the Port Charleston. Any concerned traffic can contact the on-scene designated representative of the Captain of the Port on board the lead U.S. Coast Guard Patrol vessel. Traffic needing permission to pass through the safety zone can contact the representative for the COTP on VHF–FM channel 16 or via phone at (843) 724–7616.

Regulatory Evaluation

This rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not ''significant'' under the regulatory policies and procedures of the Department of Homeland Security (DHS) because the regulation will only be in effect for a short duration, the impact on routine navigation is expected to be minimal, marine traffic will still be able to safely transit around the temporary safety zone and vessels may be allowed to enter the zone with the permission of the COTP or designated representative.

Small Entities

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

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. The owners and operators of vessels navigating in vicinity of Skull Creek, Hilton Head, S.C., may be impacted by this rule. This impact will not be significant because the regulation will only be in effect for a short duration, the impact on routine navigation is expected to be minimal, marine traffic will still be able to safely transit around the temporary safety zone and vessels may be allowed to enter the zone with the permission of the COTP or designated representative.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we offered to assist small entities in understanding the rule so that they could better evaluate its effects on them and participate in the rulemaking process. Small entities may contact the person listed under **FOR FURTHER INFORMATION CONTACT** for assistance in understanding and participating in this rulemaking.

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

Collection of Information

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

Federalism

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

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

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

or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Energy Effects

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

Technical Standards

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

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

Environment

We have analyzed this rule under Commandant Instruction M16475.lD and Department of Homeland Security Management Directive 5100.1, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2–1, paragraph (34)(g), of the Instruction, from further environmental documentation. A final ''Environmental Analysis Check List'' and a final ''Categorical Exclusion Determination'' are available in the docket where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. A new temporary § 165.T07–112 is added to read as follows:

§ 165.T07–112 Shelter Cove, Hilton Head, SC.

(a) *Regulated Area.* The Coast Guard is establishing a temporary safety zone for a fireworks display extending a radius of 1000 feet around the barge located in Skull Creek, Hilton Head, South Carolina, in approximate position 32°13.95′ N 080°45.1′ W. All coordinates referenced use Datum: NAD 1983.

(b) *Definitions.* The following definitions apply to this section:

Designated representative means Coast Guard Patrol Commanders including Coats Guard coxswains, petty officers and other officers operating Coast Guard vessels, and federal, state, and local officers designated by or assisting the Captain of the Port Charleston (COTP) in the enforcement of the regulated area.

(c) *Regulations.* In accordance with the general regulations in § 165.23 of this part, anchoring, mooring or transiting in this zone is prohibited, except as provided for herein, or unless authorized by the Coast Guard Captain of the Port Charleston, South Carolina or his designated representative. Persons and vessels may request permission to enter the safety zone on VHF–FM channel 16 or via phone at (843) 724–7616.

(d) *Date.* This rule is effective from 6 p.m. on July 4, 2006 until 12:01 a.m. on July 5, 2006.

Dated: May 23, 2006.

John E. Cameron,

Captain, U.S. Coast Guard, Captain of the Port Charleston, SC.

[FR Doc. E6–9801 Filed 6–20–06; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[COTP Charleston 06–113]

RIN 1625–AA00

Safety Zone; Cooper River, River Front Park, North Charleston, SC

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone on the navigable waters of the Cooper River for a fireworks display. The temporary safety zone extends 1000 feet in all directions from the center of the spud barge located at 32°51′57″ N 079°57′35″ W. This rule prohibits entry, anchoring, mooring or transiting within the safety zone without the permission of the Captain of the Port Charleston or his designated representative. This rule is necessary to protect life and property on the navigable waters of the Upper Cooper River from the hazards associated with the launching of fireworks.

DATES: The rule is effective from 6 p.m. on July 4, 2006 until 12:01 a.m. on July 5, 2006.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket [COTP Charleston 06–113] and are available for inspection or copying at Coast Guard Sector Charleston (WWM), 196 Tradd Street, Charleston, South Carolina 29401 between 7:30 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Chief Warrant Officer James J. McHugh, Sector Charleston office of Waterways Management, at (843) 723–7647.

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. Publishing an NPRM, which would incorporate a comment period before a final rule could be issued and delay the effective date, would be contrary to the public interest because immediate action is needed to protect the public and waters of the United States.

For the same reason, under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule

effective less than 30 days after publication in the **Federal Register**. A Coast Guard patrol vessel will be on scene for the duration of the effective period to notify mariners of the restrictions.

Background and Purpose

These proposed regulations are required to provide for the safety of life on navigable waters because of the inherent danger from fireworks during the July 4th celebration on the upper Cooper River, North Charleston, SC.

Discussion of Rule

The temporary safety zone will be in effect and enforced in an area extending 1000 feet in all directions from a barge located on the Upper Cooper River, North Charleston, SC in approximate position 32°51′57″ N 079°57′35″ W. The temporary safety zone will be enforced from 6 p.m. on July 4, 2006 through 12:01 a.m. on July 5, 2006. Persons and vessels will be prohibited from entering, anchoring, mooring or transiting within the safety zone without the permission of the Captain of the Port Charleston or his designated representative. Any concerned traffic may request permission to pass through the safety zone from the COTP or designated representative on VHF–FM channel 16 or via phone at (843) 724–7616.

Regulatory Evaluation

This rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not ''significant'' under the regulatory policies and procedures of the Department of Homeland Security (DHS) because the regulation will only be in effect for a short duration, the impact on routine navigation is expected to be minimal, marine traffic will still be able to safely transit around the temporary safety zone and vessels may be allowed to enter the zone with the permission of the COTP or designated representative.

Small Entities

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

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. The owners and operators of vessels navigating in vicinity of the Upper Cooper River may be impacted by this rule. This impact will not be significant because the regulation will only be in effect for a short duration, the impact on routine navigation is expected to be minimal, marine traffic will still be able to safely transit around the temporary safety zone and vessels may be allowed to enter the zone with the permission of the COTP or designated representative.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub.L. 104–121), we offered to assist small entities in understanding the rule so that they could better evaluate its effects on them and participate in the rulemaking process. Small entities may contact the person listed under **FOR FURTHER INFORMATION CONTACT** for assistance in understanding and participating in this rulemaking.

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

Collection of Information

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

Federalism

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

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

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

Energy Effects

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

Technical Standards

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

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

Environment

We have analyzed this rule under Commandant Instruction M16475.lD and Department of Homeland Security Management Directive 5100.1, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2–1, paragraph (34)(g), of the Instruction, from further environmental documentation. A final ''Environmental Analysis Check List'' and a final ''Categorical Exclusion Determination'' are available in the docket where indicated under **ADDRESSES.**

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. A new temporary § 165.T07–113 is added to read as follows:

§ 165.T07–113 Upper Cooper River, Charleston, SC.

(a) *Regulated area.* The Coast Guard is establishing a temporary safety zone on the navigable waters of the Upper Cooper River for a fireworks display. The temporary safety zone extends 1000 feet in all directions from the fireworks launch barges located on the Upper Cooper River, North Charleston, SC in approximate position 32°51′57″ N 079°57′35″ W.

(b) *Definitions.* The following definitions apply to this section:

Designated representative means Coast Guard Patrol Commanders including Coast Guard coxswains, petty officers and other officers operating Coast Guard vessels, and federal, state, and local officers designated by or assisting the Captain of the Port Charleston (COTP) in the enforcement of the regulated area.

(c) *Regulations.* In accordance with the general regulations in § 165.23 of this part, anchoring, mooring or transiting in this regulated area is prohibited, except as provided for herein, or unless authorized by the Coast Guard Captain of the Port Charleston, South Carolina or his designated representative. Persons and vessels may request permission to enter the safety zone on VHF-FM channel 16 or via phone at (843) 724–7616.

(d) Date. The rule is effective from 6 p.m. on July 4, 2006 through until 12:01 a.m. on July 5, 2006.

Dated: May 23, 2006.

John E. Cameron,

Captain, U.S. Coast Guard, Captain of the Port Charleston, SC.

[FR Doc. E6–9815 Filed 6–20–06; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Part 242

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 100

Subsistence Management Regulations for Public Lands in Alaska, Subpart D; Seasonal Adjustments—Copper River and Cable Creek

AGENCIES: Forest Service, USDA; Fish and Wildlife Service, Interior.

ACTION: Seasonal adjustments.

SUMMARY: This provides notice of the Federal Subsistence Board's in-season management actions to protect Chinook and sockeye salmon escapement in the Copper River, while still providing for a subsistence harvest opportunity, and to protect steelhead in Cable Creek and its tributaries. The revised fishing schedule for the Chitina Subdistrict of the Copper River and the closure of the Cable Creek area provide an exception to the Subsistence Management Regulations for Public Lands in Alaska, published in the **Federal Register** on March 29, 2006. Those regulations established seasons, harvest limits, methods, and means relating to the taking of fish and shellfish for subsistence uses during the 2006 regulatory year.

DATES: The latest fishing schedule for the Chitina Subdistrict of the Upper Copper River District is effective June 1, 2006, through July 31, 2006. The closure of Cable Creek and its tributaries is effective April 13, 2006, through May 31, 2006.

FOR FURTHER INFORMATION CONTACT: Peter J. Probasco, Office of Subsistence Management, U.S. Fish and Wildlife Service, telephone (907) 786–3888. For questions specific to National Forest System lands, contact Steve Kessler, Subsistence Program Manager, USDA—Forest Service, Alaska Region, telephone (907) 786–3592.

SUPPLEMENTARY INFORMATION:

Background

Title VIII of the Alaska National Interest Lands Conservation Act (ANILCA) (16 U.S.C. 3111–3126) requires that the Secretary of the Interior and the Secretary of Agriculture (Secretaries) implement a joint program to grant a preference for subsistence uses of fish and wildlife resources on public lands in Alaska, unless the State of Alaska enacts and implements laws of general applicability that are consistent with ANILCA and that provide for the subsistence definition, preference, and participation specified in Sections 803, 804, and 805 of ANILCA. In December 1989, the Alaska Supreme Court ruled that the rural preference in the State subsistence statute violated the Alaska Constitution and, therefore, negated State compliance with ANILCA.

The Department of the Interior and the Department of Agriculture (Departments) assumed, on July 1, 1990, responsibility for implementation of Title VIII of ANILCA on public lands. The Departments administer Title VIII through regulations at Title 50, Part 100 and Title 36, Part 242 of the Code of Federal Regulations (CFR). Consistent with Subparts A, B, and C of these

regulations, as revised January 8, 1999 (64 FR 1276), the Departments established a Federal Subsistence Board to administer the Federal Subsistence Management Program. The Board's composition includes a Chair appointed by the Secretary of the Interior with concurrence of the Secretary of Agriculture; the Alaska Regional Director, U.S. Fish and Wildlife Service; the Alaska Regional Director, National Park Service; the Alaska State Director, Bureau of Land Management; the Alaska Regional Director, Bureau of Indian Affairs; and the Alaska Regional Forester, USDA Forest Service. Through the Board, these agencies participate in the development of regulations for Subparts A, B, and C, which establish the program structure and determine which Alaska residents are eligible to take specific species for subsistence uses, and the annual Subpart D regulations, which establish seasons, harvest limits, and methods and means for subsistence take of species in specific areas. Subpart D regulations for the 2006 fishing seasons, harvest limits, and methods and means were published on March 29, 2006 (71 FR 15569). Because this action relates to public lands managed by an agency or agencies in both the Departments of Agriculture and the Interior, identical closures and adjustments would apply to 36 CFR part 242 and 50 CFR part 100.

The Alaska Department of Fish and Game (ADF&G), under the direction of the Alaska Board of Fisheries (BOF), manages sport, commercial, personal use, and State subsistence harvest on all lands and waters throughout Alaska. However, on Federal lands and waters, the Federal Subsistence Board implements a subsistence priority for rural residents as provided by Title VIII of ANILCA. In providing this priority, the Board may, when necessary, preempt State harvest regulations for fish or wildlife on Federal lands and waters.

Current Management Actions

These actions are authorized and in accordance with 50 CFR 100.19(d–e) and 36 CFR 242.19(d–e).

Copper River—Chitina Subdistrict

In December 2001, the Board adopted regulatory proposals establishing a new Federal subsistence fishery in the Chitina Subdistrict of the Copper River. This fishery is open to federally qualified users having customary and traditional use of salmon in this Subdistrict. The State conducts a personal use fishery in this Subdistrict that is open to all Alaska residents.

Management of the fishery is based on the numbers of salmon returning to the Copper River. A larger than predicted salmon run will allow additional fishing time. A smaller than predicted run will require restrictions to achieve upriver passage and spawning escapement goals. A run that approximates the pre-season forecast will allow fishing to proceed on a schedule similar to the pre-season schedule, with some adjustments made to fishing time based on in-season data. Adjustments to the preseason schedule are expected as a normal function of an abundance-based management strategy. State and Federal managers, reviewing and discussing all available in-season information, will make these adjustments.

While Federal and State regulations currently differ for this Subdistrict, the Board indicated that Federal in-season management actions regarding fishing periods were expected to mirror State actions. The State established a preseason schedule of allowable fishing periods based on daily projected sonar estimates. The preseason schedule was intended to distribute the harvest throughout the salmon run and provide salmon for upriver subsistence fisheries and the spawning escapement. Data regarding the salmon return to the Copper River is now available from estimates made by the Miles Lake sonar. Data from the sonar indicate that by June 9, 2006, there will be sufficient salmon in the Copper River to allow fishing time in the Chitina Subdistrict, provide for the needs of upper Copper River users, and achieve spawning escapement objectives. The Board, acting through the in-season manager, has delayed the opening of this fishery until June 9, 2006. Late breakup conditions delayed salmon migration into the Copper River by approximately 2 weeks. Shown below are the fishing schedule openings for the Chitina Subdistrict of the Copper River:

Friday, June 9, 12:01 p.m.–Sunday, June 11, 8 p.m.
Monday, June 12, 12:01 a.m.–Sunday, June 18, 11:59 p.m.
Monday, June 19, 12:01 a.m.–Sunday, June 25, 11:59 p.m.
Monday, June 26, 12:01 a.m.–Sunday, July 2, 11:59 p.m.
Monday, July 3, 12:01 a.m.–Tuesday, July 4, 11:59 p.m.
Friday, July 7, 12:01 p.m.–Sunday, July 9, 8 p.m.
Monday, July 17, 12:01 p.m.–Sunday, July 23, 11:59 p.m.
Monday, July 24, 12:01 a.m.–Saturday, September 30, 11:59 p.m.

State personal use and Federal subsistence fisheries in this Subdistrict close simultaneously by regulation on September 30, 2006. No deviation from this date is anticipated.

Cable Creek

The Federal Steelhead Subsistence management plan for Cable Creek requires that in-season action be taken when the total harvest reaches 5 or more steelhead. It is estimated that steelhead harvest from Cable Creek is greater than 11 fish. Immediate action was necessary to restrict federally and non-federally qualified users in the Cable Creek drainage for conservation of the steelhead resource. The Board, acting through the in-season manager, has closed all waters of Cable Creek to fishing from 12:01 a.m., Thursday, April 13, 2006 through 11:59 p.m., May 31, 2006. Concurrent action was being taken by ADF&G to close fishing on this stream to all users.

Conformance With Statutory and Regulatory Authorities

Administrative Procedure Act

The Board finds that additional public notice and comment requirements under the Administrative Procedure Act (APA) for these adjustments are impracticable, unnecessary, and contrary to the public interest. Lack of appropriate and immediate conservation measures could seriously affect the continued viability of fish populations, could adversely impact future subsistence opportunities for rural Alaskans, and would generally fail to serve the overall public interest. Therefore, the Board finds good cause pursuant to 5 U.S.C. 553(b)(3)(B) to waive additional public notice and comment procedures prior to implementation of these actions and pursuant to 5 U.S.C. 553(d)(3) to make this rule effective as indicated in the **DATES** section.

National Environmental Policy Act Compliance

A Final Environmental Impact Statement (FEIS) was published on February 28, 1992, and a Record of Decision on Subsistence Management for Federal Public Lands in Alaska (ROD) was signed April 6, 1992. The final rule for Subsistence Management Regulations for Public Lands in Alaska, Subparts A, B, and C (57 FR 22940, published May 29, 1992), implemented the Federal Subsistence Management Program and included a framework for an annual cycle for subsistence hunting and fishing regulations. A final rule that redefined the jurisdiction of the Federal Subsistence Management Program to include waters subject to the

subsistence priority was published on January 8, 1999 (64 FR 1276.)

Section 810 of ANILCA

The intent of all Federal subsistence regulations is to accord subsistence uses of fish and wildlife on public lands a priority over the taking of fish and wildlife on such lands for other purposes, unless restriction is necessary to conserve healthy fish and wildlife populations. A Section 810 analysis was completed as part of the FEIS process. The final Section 810 analysis determination appeared in the April 6, 1992, ROD, which concluded that the Federal Subsistence Management Program, under Alternative IV with an annual process for setting hunting and fishing regulations, may have some local impacts on subsistence uses, but the program is not likely to significantly restrict subsistence uses.

Paperwork Reduction Act

The adjustment and emergency closures do not contain information collection requirements subject to Office of Management and Budget (OMB) approval under the Paperwork Reduction Act of 1995.

Other Requirements

The adjustments have been exempted from OMB review under Executive Order 12866.

The Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*) requires preparation of flexibility analyses for rules that will have a significant effect on a substantial number of small entities, which include small businesses, organizations, or governmental jurisdictions. The exact number of businesses and the amount of trade that will result from this Federal land-related activity is unknown. The aggregate effect is an insignificant economic effect (both positive and negative) on a small number of small entities supporting subsistence activities, such as boat, fishing gear, and gasoline dealers. The number of small entities affected is unknown; however, the effects will be seasonally and geographically limited in nature and will likely not be significant. The Departments certify that the adjustments will not have a significant economic effect on a substantial number of small entities within the meaning of the Regulatory Flexibility Act. Under the Small Business Regulatory Enforcement Fairness Act (5 U.S.C. 801 *et seq.*), this rule is not a major rule. It does not have an effect on the economy of $100 million or more, will not cause a major increase in costs or prices for consumers, and does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises.

Title VIII of ANILCA requires the Secretaries to administer a subsistence preference on public lands. The scope of this program is limited by definition to certain public lands. Likewise, the adjustments have no potential takings of private property implications as defined by Executive Order 12630.

The Service has determined and certifies under the Unfunded Mandates Reform Act, 2 U.S.C. 1502 *et seq.*, that the adjustments will not impose a cost of $100 million or more in any given year on local or State governments or private entities. The implementation is by Federal agencies, and no cost is involved to any State or local entities or tribal governments.

The Service has determined that the adjustments meet the applicable standards provided in Sections 3(a) and 3(b)(2) of Executive Order 12988, regarding civil justice reform.

In accordance with Executive Order 13132, the adjustments do not have sufficient federalism implications to warrant the preparation of a federalism assessment. Title VIII of ANILCA precludes the State from exercising subsistence management authority over fish and wildlife resources on federal lands. Cooperative salmon run assessment efforts with ADF&G will continue.

In accordance with the President's memorandum of April 29, 1994, ''Government-to-Government Relations with Native American Tribal Governments'' (59 FR 22951), Executive Order 13175, and 512 DM 2, we have evaluated possible effects on federally recognized Indian tribes and have determined that there are no effects. The Bureau of Indian Affairs is a participating agency in this rulemaking.

On May 18, 2001, the President issued Executive Order 13211 on regulations that significantly affect energy supply, distribution, or use. This Executive Order requires agencies to prepare Statements of Energy Effects when undertaking certain actions. As these actions are not expected to significantly affect energy supply, distribution, or use, they are not significant energy actions and no Statement of Energy Effects is required.

Drafting Information

Bill Knauer drafted this document under the guidance of Peter J. Probasco, of the Office of Subsistence Management, Alaska Regional Office, U.S. Fish and Wildlife Service, Anchorage, Alaska. Stacie Mcintosh, Alaska State Office, Bureau of Land Management; Jerry Berg, Alaska Regional Office, U.S. Fish and Wildlife Service; Nancy Swanton, Alaska Regional Office, National Park Service; Dr. Glenn Chen, Alaska Regional Office, Bureau of Indian Affairs; and Steve Kessler, USDA—Forest Service, provided additional guidance.

Authority: 16 U.S.C. 3, 472, 551, 668dd, 3101–3126; 18 U.S.C. 3551–3586; 43 U.S.C. 1733.

Dated: June 7, 2006.

Peter J. Probasco,

Acting Chair, Federal Subsistence Board.

Dated: June 7, 2006.

Steve Kessler,

Subsistence Program Leader, USDA—Forest Service.

[FR Doc. 06–5499 Filed 6–20–06; 8:45 am]

BILLING CODE 3410–11–P; 4310–55–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 150, 152, 154, 158, 159, 168, 170, 172, 174, 178, and 180

[EPA–HQ–OPP–2006–0403; FRL–8070–7]

Technical Amendments; Change of Address for the Office of Pesticide Programs

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA's Office of Pesticide Programs (OPP) has relocated to new offices in Arlington, VA. OPP's official mailing address has not changed; however, the courier and in-person delivery address, the docket address, and the internal mail codes used by OPP have changed. EPA is revising references throughout its pesticide regulations to reflect these address changes.

DATES: This final rule is effective on June 21, 2006.

ADDRESSES: EPA has established a docket for this action under docket identification (ID) number EPA–HQ–OPP–2006–0403. All documents in the docket are listed in the regulations.gov website. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are

available in the electronic docket at *http://www.regulations.gov*, or, if only available in hard copy, at the OPP Regulatory Public Docket in Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA 22202. The Docket Facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Docket Facility is (703) 305–5805.

FOR FURTHER INFORMATION CONTACT: Kathryn Boyle, Field and External Affairs Division (7506P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 305–6304; fax number: (703) 305–5884; e-mail address: *boyle.kathryn@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this action if you submit applications or other pesticide related information to OPP. Potentially affected entities may include, but are not limited to:

- Pesticide manufacturing (NAICS code 32532).

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Access Electronic Copies of this Document?

In addition to accessing an electronic copy of this **Federal Register** document through the electronic docket at *http://www.regulations.gov*, you may access this **Federal Register** document electronically through the EPA Internet under the ''**Federal Register**'' listings at *http://www.epa.gov/fedrgstr*. You may also access a frequently updated electronic version of 40 CFR parts 150, 152, 154, 158, 159, 168, 170, 172, 174, 178, and 180 through the Government Printing Office's pilot e-CFR site at *http://www.gpoaccess.gov/ecfr*.

II. Background

A. What Action is the Agency Taking?

OPP has relocated to new offices in Arlington, VA. This move was announced in the **Federal Register** of April 19, 2006 (71 FR 20089) (FRL–8065–6). Detailed information on how to contact OPP at the new location was recently provided to the public in Pesticide Registration (PR) Notice 2006–1 (April 12, 2006). PR Notice 2006–1 contains the mail codes which are to be used with submissions to OPP and is available on the Agency's website at *http://www.epa.gov/PR_Notices/pr2006-1.pdf*.

The Agency is now amending its pesticide regulations in parts 150–189 of the Code of Federal Regulations (CFR) to change the manner in which the addresses are referenced. Currently, there are over 20 references in 40 CFR parts 150–189 to either an address or docket location. Rather than maintain and have to update multiple address references, the Agency is creating a new § 150.17 to contain the U.S. Postal Service mailing address, the address for hand/courier delivery, and the location of the OPP Regulatory Public Docket. This means that individual addresses scattered throughout the CFR are being replaced by a reference to § 150.17.

B. What is the Agency's Authority for Taking this Action?

EPA is issuing this document under its general rulemaking authority, Reorganization Plan No. 3 of 1970 (5 U.S.C. App.).

C. Why is EPA Issuing this as a Final Rule?

Section 553 of the Administrative Procedure Act (APA), 5 U.S.C. 553(b)(3)(A), provides that an agency may issue rules of agency organization, procedure, and practice without first giving notice. This address change regulation qualifies as a rule of organization, procedure, or practice.

Additionally, section 553 of the APA, 5 U.S.C. 553(b)(3)(B), provides that, when an agency for good cause finds that notice and public procedure are impracticable, unnecessary or contrary to the public interest, the agency may issue a rule without providing notice and an opportunity for public comment. EPA has determined that there is good cause for making this rule final without prior proposal and opportunity for comment because the actions taken in this final rule represent technical amendments to the regulations and do not involve substantive Agency action. Moreover, maintaining incorrect information on how to submit documents to the Agency may have legal consequences, and may increase costs to the regulated industry.

For these reasons, notice and public procedure are unnecessary. EPA finds that this constitutes good cause under 5 U.S.C. 553(b)(3)(B).

III. Statutory and Executive Order Reviews

This final rule implements technical amendments to 40 CFR chapter I, subchapter E, to reflect the new OPP address. It does not otherwise impose or amend any requirements. As such, the Office of Management and Budget (OMB) has determined that a technical amendment is not a ''significant regulatory action'' subject to review by OMB under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). Because this rule has been exempted from review under Executive Order 12866 due to its lack of significance, this rule is not subject to Executive Order 13211, *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4). Nor does it require any special considerations under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994); or OMB review or any Agency action under Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This action does not involve any technical standards that require the Agency's consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note).

Since this action is not subject to notice-and-comment requirements under the APA or any other statute, this action is not subject to the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*). In addition, the Agency has determined that this action will not have a substantial direct effect on 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, entitled *Federalism* (64 FR 43255, August 10, 1999). The Agency has determined that this rule does not have any substantial

direct effects on one or more Indian tribes, on the relationship between the Federal Government and the Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes as described in Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 6, 2000). Thus, Executive Order 13132 and 13175 do not apply to this rule.

IV. Congressional Review Act

Yes. The Congressional Review Act (CRA) (5 U.S.C. 801 *et seq.*) generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. Section 808 of CRA allows the issuing agency to make a rule effective sooner than otherwise provided by the CRA, if the agency makes a good cause finding that notice and public procedure is impracticable, unnecessary, or contrary to the public interest. This determination must be supported by a brief statement (5 U.S.C. 808(2)). As stated previously, EPA has made such a good cause finding, including the reasons therefore, and established an effective date of June 21, 2006. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Parts 150, 152, 154, 158, 159, 168, 170, 172, 174, 178, 180

Environmental protection, Administrative practice and procedure, Advertising, Agricultural commodities, Confidential business information, Exports, Food additives, Intergovernmental relations, Labeling, Occupational safety and health, Pesticides and pests, Reporting and recordkeeping requirements, Research.

Dated: June 12, 2006.

Susan B. Hazen,

Acting Assistant Administrator, Office of Prevention, Pesticides and Toxic Substances.

■ Therefore, 40 CFR chapter I is amended as follows:

■ 1. Part 150, consisting of § 150.17, is added to subchapter E to read as follows:

PART 150—GENERAL

Authority: Reorganization Plan No. 3 of 1970 (5 U.S.C. App.).

§ 150.17 Addresses for applications and correspondence.

The official addresses for all submissions directed to the Office of Pesticide Programs (OPP) of the Environmental Protection Agency are as follows:

(a) *United States Postal Service mailing address.* Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington DC 20460–0001.

(b) *Hand/courier delivery address.* Office of Pesticide Programs, Environmental Protection Agency, 2777 S. Crystal Dr., Arlington, VA 22202–4501.

(c) *OPP Regulatory Public Docket address.* OPP Regulatory Public Docket is physically located in Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA 22202–4501. This is not a mailing address.

PART 152—[AMENDED]

■ 2. The authority citation for part 152 continues to read as follows:

Authority: 7 U.S.C. 136–136y; Subpart U is also issued under 31 U.S.C. 9701.

■ 3. In § 152.25, revise paragraph (f)(2) to read as follows:

§ 152.25 Exemptions for pesticides of a character not requiring FIFRA regulation.

* * * * *

(f) * * *

(2) *Permitted inerts.* A pesticide product exempt under paragraph (f)(1) of this section may only include inert ingredients listed in the most current List 4A. This list is updated periodically. The most current list may be obtained by contacting the Registration Division at the appropriate address as set forth in 40 CFR 150.17(a) or (b).

* * * * *

■ 4. Section152.55 is revised to read as follows:

§ 152.55 Where to send applications and correspondence.

Applications and correspondence relating to registration should be sent to the Office of Pesticide Programs' Document Processing Desk at the appropriate address as set forth in 40 CFR 150.17(a) or (b).

■ 5. In § 152.414, revise paragraph (a)(1) and the fourth sentence in (a)(2) to read as follows:

§ 152.414 Procedures.

(a) * * *

(1) A request for a waiver must be submitted in writing at the time the application is submitted to the Office of Pesticide Programs' Document Processing Desk at the appropriate address as set forth in 40 CFR 150.17(a) or (b).

(2) * * * Since the actual fee is submitted to an address different than the one to which the waiver request is submitted, a copy of the payment document must be submitted with the waiver request that is submitted to the Office of Pesticide Programs' Document Processing Desk as described in paragraph (a)(1) of this section. * * *

* * * * *

PART 154—[AMENDED]

■ 6. The authority citation for part 154 continues to read as follows:

Authority: 15 U.S.C. 136a, d, and w.

■ 7. In § 154.15, revise paragraph (f)(1)(ii) to read as follows:

§ 154.15 Docket for the Special Review.

* * * * *

(f) * * *

(1) * * *

(ii) The docket and index will be available at the OPP Regulatory Public Docket located as set forth in 40 CFR 150.17(c).

* * * * *

PART 158—[AMENDED]

■ 8. The authority citation for part 158 continues to read as follows:

Authority: 7 U.S.C. 136–136y.

■ 9. In § 158.45, revise paragraph (d) to read as follows:

§ 158.45 Waivers.

* * * * *

(d) *Availability of waiver decisions.* Agency decisions under this section granting waiver requests will be available to the public at the OPP Regulatory Public Docket located as set forth in 40 CFR 150.17(c). Any person may obtain a copy of any waiver decision by written request in the manner set forth in 40 CFR part 2.

PART 159—[AMENDED]

■ 10. The authority citation for part 159 continues to read as follows:

Authority: 7 U.S.C. 136–136y.

■ 11. In § 159.156, remove paragraphs (a) and (b), redesignate paragraphs (c) through (k) as paragraphs (a) through (i), and revise the section's introductory text to read as follows:

§ 159.156 How information must be submitted.

A submission under FIFRA section 6(a)(2) must be delivered to the Office of Pesticide Programs' Document Processing Desk at the appropriate address as set forth in 40 CFR 150.17(a) or (b).

* * * * *

PART 168—[AMENDED]

■ 12. The authority citation for part 168 continues to read as follows:

Authority: 7 U.S.C. 136–136y.

■ 13. In § 168.65, revise the last sentence in the parenthetical in paragraph (b)(1)(iii)(A)*(2)(i)* and the parenthetical in paragraph (b)(1)(iii)(A)*(2)(iii)* to read as follows:

§ 168.65 Pesticide export label and labeling requirements.

* * * * *

(b) * * *

(1) * * *

(iii) * * *

(A) * * *

(2) * * *

(i) * * * The classification of inerts is explained in EPA's Policy Statement on Inert Ingredients in Pesticide Products, which can be obtained at the OPP Regulatory Public Docket located as set forth in 40 CFR 150.17(c).

* * * * *

(iii) * * * (See ''Food Fragrances in Pesticide Formulations,'' EPA's Office of Pesticide Programs Policy and Criteria Notice number 2155.1, November 20, 1975, which can be obtained at the OPP Regulatory Public Docket located as set forth in 40 CFR 150.17(c).)

* * * * *

■ 14. In § 168.75, revise the last sentence in paragraph (c)(2)(i)(D), paragraph (c)(2)(ii)(D), and paragraph (c)(2)(ii)(F) to read as follows:

§ 168.75 Procedures for exporting unregistered pesticides—purchaser acknowledgement statements.

* * * * *

(c) * * *

(2) * * *

(i) * * *

(D) * * * This information must be transmitted to the Office of Pesticide Programs' Document Processing Desk at the appropriate address as set forth in 40 CFR 150.17(a) or (b), Attention: Purchaser Acknowledgement Statement.

* * * * *

(ii) * * *

(D) * * * This information must be transmitted to the Office of Pesticide Programs' Document Processing Desk at the appropriate address as set forth in 40 CFR 150.17(a) or (b), Attention: Purchaser Acknowledgement Statement.

* * * * *

(F) * * * The annual summary shall be sent to the Office of Pesticide Programs' Document Processing Desk at the appropriate address as set forth in 40 CFR 150.17(a) or (b), Attention: Annual Summary of Exports.

* * * * *

PART 170—[AMENDED]

■ 15. The authority citation for part 170 continues to read as follows:

Authority: 7 U.S.C. 136w.

■ 16. In § 170.112, revise the introductory text of paragraph (e)(1) to read as follows:

§ 170.112 Entry restrictions.

* * * * *

(e) * * *

(1) *Exception requiring agency approval.* A request for an exception must be submitted to the Office of Pesticide Programs' Document Processing Desk at the appropriate address as set forth in 40 CFR 150.17(a) or (b) and must be accompanied by two copies of the following information:

* * * * *

PART 172—[AMENDED]

■ 17. The authority citation for part 172 continues to read as follows:

Authority: 7 U.S.C. 136c, 136w. Section 172.4 is also issued under 31 U.S.C. 9701.

■ 18. In § 172.3, revise the fourth sentence of paragraph (d) to read as follows:

§ 172.3 Scope of requirement.

* * * * *

(d) * * * Persons intending to conduct tests who are uncertain whether the testing may be conducted without a permit may submit a request for determination to the Office of Pesticide Programs' Document Processing Desk at the appropriate address as set forth in 40 CFR 150.17(a) or (b). * * *

* * * * *

■ 19. In § 172.4, revise paragraph (a) to read as follows:

§ 172.4 Applications.

(a) *Time for submission.* An application or request for amendment to an existing permit shall be submitted as far as possible in advance of the intended date of shipment or use to the Office of Pesticide Programs' Document Processing Desk at the appropriate address as set forth in 40 CFR 150.17(a) or (b).

* * * * *

■ 20. In § 172.46, revise paragraph (b) to read as follows:

§ 172.46 Submission of a notification.

* * * * *

(b) *Where to submit a notification.* A notification shall be submitted to the Office of Pesticide Programs' Document Processing Desk at the appropriate address as set forth in 40 CFR 150.17(a) or (b), Attention: Biotechnology Notification Review.

* * * * *

■ 21. In § 172.52, revise paragraph (b)(2) to read as follows:

§ 172.52 Notification exemption process.

* * * * *

(b) * * *

(2) *Where to submit a petition.* All petitions shall be submitted to the Office of Pesticide Programs' Document Processing Desk at the appropriate address as set forth in 40 CFR 150.17(a) or (b).

* * * * *

PART 174—[AMENDED]

■ 22. The authority citation for part 174 continues to read as follows:

Authority: 7 U.S.C. 136–136y; 21 U.S.C. 346a and 371.

■ 23. In § 174.71, revise paragraph (d) to read as follows:

§ 174.71 Submission of information regarding adverse effects.

* * * * *

(d) Reports and questions should be submitted to the Office of Pesticide Programs' Document Processing Desk at the appropriate address as set forth in 40 CFR 150.17(a) or (b).

PART 178—[AMENDED]

■ 24. The authority citation for part 178 continues to read as follows:

Authority: 21 U.S.C. 346a, 371(a); Reorg. Plan No. 3 of 1970.

■ 25. In § 178.25, revise paragraphs (b)(1) and (b)(2) to read as follows:

§ 178.25 Form and manner of submission of objections.

* * * * *

(b) * * *

(1) Mailed submissions should be addressed to: Office of the Hearing Clerk (1900L), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001.

(2) For hand/courier delivery the Office of the Hearing Clerk is located at

Suite 350, 1099 14th St., NW., Washington, DC 20005.

PART 180—[AMENDED]

■ 26. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346a and 371.

■ 27. In § 180.33, revise the second sentence of paragraph (l) and the fourth sentence of paragraph (m) to read as follows:

§ 180.33 Fees.

* * * * *

(l) * * * A request for waiver or refund of a fee shall be submitted to the Office of Pesticide Programs' Document Processing Desk at the appropriate address as set forth in 40 CFR 150.17(a) or (b). * * *

(m) * * * The actual letter or petition, along with supporting data, shall be forwarded within 30 days of payment to the Office of Pesticide Programs' Document Processing Desk at the appropriate address as set forth in 40 CFR 150.17(a) or (b). * * *

* * * * *

[FR Doc. E6–9750 Filed 6–20–06; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 262

[EPA–R01–RCRA–2006–0391; FRL–8186–3]

Extension of Site-Specific Regulations for University Laboratories XL Project

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The EPA is taking direct final action to extend the expiration date of the New England University Laboratories XL Project (Labs XL Project) rule that EPA previously promulgated under the eXcellence and Leadership program (Project XL), allowing laboratories at certain universities in Massachusetts and Vermont to follow certain alternative RCRA generator requirements. In this action, EPA is extending the expiration date from September 30, 2006 to a new date of April 15, 2009. EPA is making no further changes to the Labs XL Project regulations other than the change in expiration date.

DATES: This direct final rule will be effective on August 21, 2006, without further notice, unless EPA receives adverse written comments by July 21, 2006. If EPA receives adverse comments, EPA will publish a timely withdrawal notice in the **Federal Register** indicating that this direct final rule has been withdrawn due to adverse comment.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R01–RCRA–2006–0391, by one of the following methods:

- *www.regulations.gov:* Follow the on-line instructions for submitting comments.
- *E-mail: biscaia.robin@epa.gov.*
- Mail: Robin Biscaia, Hazardous Waste Unit, Office of Ecosystems Protection, EPA Region I, One Congress Street, Suite 1100 (Mail Code: CHW), Boston, MA 02114–2023.
- Hand Delivery: Robin Biscaia, Hazardous Waste Unit, Office of Ecosystems Protection, EPA Region I, One Congress Street, Suite 1100 (Mail Code: CHW), Boston, MA 02114–2023. Such deliveries are only accepted during the EPA'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–R01–RCRA–2006–0391. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov* or e-mail. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *www.regulations.gov*, your e-mail address will be 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: EPA has established a docket for this action under Docket ID No. EPA–R01–RCRA–2006–0391. All documents in the docket are listed on the *www.regulations.gov* web site. Although listed in the index, some information may not be publicly available, *e.g.*, CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *www.regulations.gov* or in hard copy at the EPA New England Library, One Congress Street—11th Floor, Boston, MA 02114–2023, business hours Monday through Thursday 10 a.m. to 3 p.m., telephone: (617) 918–1990. Records in these dockets are available for inspection and copying during normal business hours.

FOR FURTHER INFORMATION CONTACT: Robin Biscaia, Hazardous Waste Unit, EPA New England, One Congress Street, Suite 1100 (Mail Code: CHW), Boston, MA 02114–2023, telephone: (617) 918–1642, e-mail: *biscaia.robin@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

Previously, on October 21, 2003, the EPA proposed an extension of the original expiration date of the Labs XL Project. EPA received no negative public comments in response to the proposal, and published a final rule on March 12, 2004. EPA is again extending the expiration date, this time as a direct final rule, without prior proposal, because the Agency views the extension as non-controversial and anticipates no adverse comments.

Unless the EPA gets written comments which oppose this action during the comment period, the decision will take effect as provided below. If EPA gets comments that oppose this action, EPA will withdraw this direct final rule and it will not take effect. EPA will then address the public comments in a later final rule, but may not provide any further opportunity for comment beyond what is being provided for in this document. Any parties interested in commenting on this action should do so during the comment period being provided for in this action.

A. Why Is the EPA Extending the Expiration Date of Its XL Project Regulations?

As indicated above, EPA is extending the expiration date of September 30, 2006 set forth in 40 CFR 262.108 of the Labs XL Project regulations until April

15, 2009. The original rule implementing the Labs XL Project took effect on September 28, 1999 and allowed four years for the colleges to demonstrate the beneficial aspects of the new management system expiring on September 30, 2003. *See* 40 CFR 262.108. EPA later determined that an extension was appropriate, and published a **Federal Register** on October 21, 2003 (68 FR 60060) proposing a three-year extension (until September 30, 2006) of the Labs XL Project regulations. EPA received no negative public comments in response to the proposal, and finalized the extension on March 12, 2004 (69 FR 11801). In the meantime, EPA has been developing a national set of alternative regulations for academic laboratories that are similar to the Labs XL Project regulations. However, since these alternative regulations for academic laboratories will not be in place prior to the expiration of the current September 30, 2006 Labs XL Project regulations, if the Labs XL Project was not extended, there would be a period of time in which labs participating in the Labs XL Project would have to terminate their participation in the program and would not be able to benefit from alternative generator regulations, either under the Labs XL Project (since this would have expired) or under the National Labs Rule that EPA is developing (since this would not have been finalized). For this reason, EPA has decided to extend the expiration date of the Labs XL Project to allow time for a national set of alternative regulations to be promulgated and for equivalent regulations to be adopted by the States. EPA is proposing an extension of approximately two and a half years because the Agency believes that this would be a reasonable period of time for EPA to promulgate its National Labs Rule, and for the States to adopt equivalent regulations. Of course, nothing in this rule pre-judges what general Federal and State regulations ultimately will be adopted—rather, it simply gives an opportunity for alternative general regulations to be adopted before the expiration of the Labs XL Project.

Also, EPA Region I recently has done an analysis of the Labs XL Project, which is available in the Docket. Based on this analysis, and other oversight of the project, the EPA believes that the continuation of the project should provide a superior level of environmental protection in comparison to an immediate return by the three covered institutions to standard RCRA regulation.

EPA is publishing this rule without prior proposal because the Agency views it as a non-controversial action. The Agency anticipates no adverse comments, since none were received during the previous comment period to extend the original expiration date. However, in the ''Proposed Rules'' section of this **Federal Register** publication, EPA is publishing a separate, parallel document that will serve as a proposal to extend the current expiration date if the Agency receives adverse comments.

B. What Is the University Labs XL Project?

EPA announced Project XL—''eXcellence and Leadership'' in May 1995 as a part of the National Performance Review and the EPA's effort to reinvent environmental protection. *See* 60 FR 27282 (May 23, 1995). Project XL provides a limited number of private and public regulated entities an opportunity to develop pilot projects to provide regulatory flexibility that would result in environmental protection that is superior to what would be achieved through compliance with current standard regulations and reasonably anticipated future regulations.

One of the projects that EPA approved under Project XL was the Labs XL project. This project was intended to provide certain flexibility under RCRA for: (1) The University of Massachusetts—Boston, Boston, MA; (2) Boston College, Chestnut Hill, MA; and (3) the University of Vermont, Burlington, VT (the ''participating universities''). On September 28, 1999, EPA, the participating universities, the Massachusetts Department of Environmental Protection and the Vermont Department of Environmental Conservation signed the Final Project Agreement for the project. That agreement and the related specially adopted Federal and State regulations allow the participating universities to comply with the terms of their Environmental Management Plans (EMPs) for their laboratories in place of certain standard requirements for hazardous waste generators, during a trial period. In order to allow this experiment, the EPA promulgated certain regulations in 1999 which are set forth in 40 CFR 262.10(j) and 40 CFR 262.100—108. *See* 64 FR 52380 (September 28, 1999) (final rulemaking) and 64 FR 40696 (July 27, 1999) (proposed rulemaking). The reasons for promulgating these particular EPA regulations are fully set forth in those previous rulemaking notices and will not be repeated here. These EPA regulations were designed to enable the EPA to authorize as part of a State's RCRA authorized program State regulations that were different from the standard EPA regulations, in order to implement the Labs XL project.

After EPA promulgated its Labs XL Project regulations, both Massachusetts and Vermont promulgated their own state regulations establishing equivalent alternative standards for laboratories at the participating universities. The Vermont regulations were authorized by the EPA and became part of the federally enforceable Vermont RCRA program on October 26, 2000. *See* 65 FR 64164. The Massachusetts regulations were authorized by the EPA and became part of the federally enforceable Massachusetts RCRA program on March 12, 2004. *See* 69 FR 11801.

C. What Is the Federal Regulation Change in This Rule?

The Federal regulation change in this direct final rule is to extend the expiration date in 40 CFR 262.108 from September 30, 2006 to April 15, 2009. EPA is making no further changes to the Labs XL Project regulations. The regulation change is set out at the end of this document.

II. Statutory and Executive Order Reviews

The EPA has examined the effects of the change to the Federal regulations and reached the conclusions set out below.

A. Executive Order 12866: Regulatory Planning and Review

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the Agency must determine whether the regulatory action is ''significant'' and therefore subject to Office of Management and Budget (OMB) review and the requirements of the Executive Order. The Order defines ''significant regulatory action'' as one that is likely to result in a rule that may:

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

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

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

(4) Raise novel legal or policy issues arising out of legal mandates, the

President's priorities, or the principles set forth in the Executive Order.

Because the annualized cost of these actions will be significantly less than $100 million and because these actions will not meet any of the other criteria specified in the Executive Order, it has been determined that this rule is not a ''significant regulatory action'' under the terms of the Executive Order and is therefore not subject to OMB review.

B. Paperwork Reduction Act

Under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, Federal agencies must consider the paperwork burden imposed by any information request contained in a proposed rule or final rule. The Labs XL Project applies to only three universities, and any reporting obligations for nine or fewer sources are not subject to the Paperwork Reduction Act. Therefore, no information collection request (ICR) was submitted to OMB for review under the Paperwork Reduction Act.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking under the Administrative Procedure Act or other statute, unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

In determining whether a rule has a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act, the impact of concern is any significant adverse economic impact, since the primary purpose of any regulatory flexibility analysis would be to identify and address regulatory alternatives ''which minimize any significant economic impact of the proposed rule on small entities.'' 5 U.S.C. 603 and 604. Thus, an agency may certify that a rule will not have a significant economic impact on a substantial number of small entities if the rule relieves regulatory burden, or otherwise has a positive economic effect on all of the small entities subject to the rule. The Labs XL Project applies to only three universities. Also, the rule increases flexibility—thus relieving the regulatory burden. Accordingly, the EPA hereby certifies that this action will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Thus a regulatory flexibility analysis is not required to be prepared under that Act.

D. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, the EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures to State, local, and tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. Before promulgating a EPA rule for which a written statement is needed, section 205 of the UMRA generally requires the EPA to identify and consider a reasonable number of regulatory alternatives and adopts the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows the EPA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. In addition, before the EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments about the regulatory requirements, enabling officials of affected small governments to have meaningful and timely input in the development of the EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

The EPA has determined that the section 202 and 205 requirements do not apply to this action because the rule does not contain a Federal mandate that may result in annual expenditures of $100 million or more for State, local, and/or tribal governments in the aggregate, or the private sector. Costs to State, local or tribal governments and the private sector already exist under the State program, and the actions will not impose any additional obligations on regulated entities. Thus the requirements of section 203 that the EPA develop a small government agency plan will not apply to this rule.

E. Executive Order 13132: Federalism

Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999), requires the EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have Federalism implications.'' ''Policies that have Federalism implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.''

This rule does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. This rule does not create a mandate on State, local, or tribal governments and does not impose any enforceable duties on these entities. Thus, Executive Order 13132 does not apply to this rule.

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

Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 6, 2000), requires the EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' ''Policies that have tribal implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and the Indian tribes.''

The actions will not have tribal implications, as defined by the Executive Order, because they will have no direct effect in Indian Country. None of the three universities participating in the XL project are located in Indian Country; therefore, this rule does not significantly or uniquely affect the communities of Indian tribal governments. Thus, Executive Order 13175 does not apply to this rule.

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

Executive Order 13045, ''Protection of Children from Environmental Health Risks and Safety Risks,'' applies to any rule that: (1) Is determined to be ''economically significant'' as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that the EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This rule is not subject to Executive Order 13045 because it is not an economically significant rule as defined by Executive Order 12866. In addition, it does not concern environmental health or safety risks that the EPA has reason to believe may have a disproportionate effect on children.

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

This rule is not subject to Executive Order 13211 because that Executive Order applies only to rules that are ''significant'' under Executive Order 12866, and this rule is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (''NTTAA''), Public Law 104–113, section 12(d) (15 U.S.C. 272 note) directs the EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.*, materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs the EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

This rule does not involve technical standards covered by voluntary consensus standards. Therefore, EPA did not consider the use of any voluntary consensus standards.

J. Congressional Review Act

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

List of Subjects in 40 CFR Part 262

Environmental protection, Hazardous waste, Reporting and recordkeeping requirements.

Authority: The Federal regulation change is being made under the authority of the Resource Conservation and Recovery Act (RCRA) sections 2002 and 3002, 42 U.S.C. 6912 and 6922.

Dated: June 12, 2006.

Robert W. Varney,

Regional Administrator, EPA New England.

■ For the reasons set forth in the preamble, chapter I of title 40 of the Code of Federal Regulations is amended as follows:

PART 262—STANDARDS APPLICABLE TO GENERATORS OF HAZARDOUS WASTE

■ 1. The authority citation for part 262 continues to read as follows:

Authority: 42 U.S.C. 6906, 6912, 6922–6925, 6937, and 6938.

Subpart J—University Laboratories XL Project—Laboratory Environmental Management Standard

■ 2. Section 262.108 is revised to read as follows:

§ 262.108 When will this subpart expire?

This subpart will expire on April 15, 2009.

[FR Doc. E6–9754 Filed 6–20–06; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 2, 25, and 87

[ET Docket No. 02–305, FCC 06–62]

World Radiocommunication Conferences Concerning Frequency Bands above 28 MHz

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document denies a Petition for Partial Reconsideration filed by AirTV Limited in response to the Commission's *S-Band Allocation Order,* which, inter alia, deleted the unused Broadcasting Satellite Service (BSS) allocation from the band 2500–2690 MHz and removed a related footnote from the Table of Frequency Allocations (Table). We continue to believe that the decision in the *S-Band Allocation Order* serves the public interest because it will prevent terrestrial licensees in the band 2500–2690 MHz from incurring the costs of mitigating the interference expected from BSS systems, such as the one proposed by AirTV.

DATES: Effective July 21, 2006.

FOR FURTHER INFORMATION CONTACT: Patrick Forster, Office of Engineering and Technology, Policy and Rules Division, (202) 418–7061, e-mail: *Patrick.Foster@fcc.gov.*

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Order on Reconsideration,* ET Docket No. 02–305, FCC 06–62, adopted May 3, 2006 and released May 8, 2006. The full text of this document is available on the Commission's Internet site at *http://www.fcc.gov.* It is also available for inspection and copying during regular business hours in the FCC Reference Center (Room CY–A257), 445 12th Street., SW., Washington, DC 20554. The full text of this document also may be purchased from the Commission's duplication contractor, Best Copy and Printing Inc., Portals II, 445 12th St., SW., Room CY–B402, Washington, DC 20554; telephone (202) 488–5300; fax (202) 488–5563; e-mail *FCC@BCPIWEB.COM.*

Summary of the Order on Reconsideration

1. In the *Order on Reconsideration,* the Commission denies a Petition for Partial Reconsideration (Petition) filed by AirTV Limited (AirTV) in response to the Commission's *S-Band Allocation Order,* which, *inter alia,* deleted the unused Broadcasting Satellite Service (BSS) allocation from the band 2500–

2690 MHz and removed a related footnote from the Table of Frequency Allocations (Table). We continue to believe that the decision in the *S-Band Allocation Order* is necessary to prevent terrestrial licensees in the band 2500–2690 MHz from incurring the costs of mitigating the interference expected from BSS systems, such as the one proposed by AirTV.

2. On January 22, 2004, AirTV filed its Petition seeking reinstatement of the BSS allocation in the band 2520–2670 MHz and expansion of the BSS allocation in that band through deletion of footnote NG101. On February 9, 2004, we released a public notice seeking comment on AirTV's Petition, 69 FR 7484 February 17, 2004. The Wireless Communications Association International, Inc. (WCA) filed an opposition (Opposition) to AirTV's Petition on March 3, 2004. In addition, both AirTV and WCA submitted additional pleadings in the record.

3. Pursuant to § 1.429(a) of the Commission's rules, any interested party may petition for reconsideration of a final action in a Commission proceeding. Section 1.429(b) states that a petition for reconsideration which relies on facts which have not previously been presented to the Commission will be granted only if (1) the facts relied on relate to events which have changed since the last opportunity to present them to the Commission; (2) the facts relied on were unknown to the petitioner until after his last opportunity to present them to the Commission, and he could not through the exercise of ordinary diligence have learned of the facts in question prior to such an opportunity; or (3) the Commission determines that consideration of the facts relied on is required in the public interest.

4. We first reject AirTV's apparent position that it bore no responsibility for demonstrating in the record that BSS systems, such as its proposed Direct-to-Aircraft (DTA) system, would not cause interference to terrestrial systems. We distinguish between a burden of proof, which AirTV mistakenly believes that we imposed upon it in the *S-Band Allocation Order,* and the burden of persuasion that is an integral part of any rulemaking proceeding. In the *Notice of Proposed Rule Making,* (''NPRM''), the Commission sought comment on the proposed deletion of an unused BSS allocation, and the record that was subsequently developed included pleadings setting forth reasons why we should adopt or reject the proposal. Because the Commission must make a rational connection between the facts found and the choice made, and provide a reasoned analysis to support its determination—and because in this case the comments contained conflicting stances—any interested party had a responsibility to weigh in with substantive and persuasive arguments in order to support its position. Thus, it was incumbent upon AirTV to offer substantive and persuasive comments that could counter both our tentative conclusion and other parties' pleadings that supported the proposed deletion of the allocation. In addition, however, we also now agree with WCA that AirTV's suggestion in its comments that the Commission should retain the BSS allocation, but without footnote NG101, was an inappropriate filing and amounts to the equivalent of a waiver request or a petition for further rulemaking. As such, it was incumbent on AirTV to show that its proposed DTA system would not interfere with terrestrial systems.

5. In the *S-Band Allocation Order,* the Commission made the determination that deleting the BSS/Fixed Satellite Service (FSS) allocation would serve the public interest by preventing the potential disruption of Educational Broadband Service (EBS) and Broadband Radio Service (BRS) across the country, as well as by avoiding imposing high costs on terrestrial licensees to mitigate harmful interference from BSS and FSS services to terrestrial services. A review of the record on reconsideration gives us no reason to alter our conclusion. We do not find persuasive AirTV's argument that we should overturn our decision on the grounds that its proposed system would not produce ''unacceptable interference'' to terrestrial systems because it would operate with power flux density (PFD) levels 10 dB below the PFD levels specified in International Telecommunication Union (ITU) Table 21–4. As the final product of a consultative process that involved input from a variety of working groups, ITU Table 21–4 sets forth maximum PFD levels at the Earth's surface produced by emissions from a satellite that are intended to promote sharing between BSS and terrestrial services in the band 2500–2690 MHz. We note, however, that other parties that have studied the potential for BSS interference to terrestrial systems in the band have discussed the possible interference mitigation measures that may be necessary with shared operations in the band. For example, in a liaison statement from ITU–R Study Groups Working Party (WP) 6S to WP 8F that AirTV did not cite, WP 6S indicates that all BSS systems, even if operated at PFD levels 10 dB below the levels specified in ITU Table 21–4 as AirTV proposed, will reduce the coverage area of terrestrial systems in the band 2630–2655 MHz. Similarly, the United Kingdom, within the framework of the European Conference of Postal and Telecommunications Administrations Electronic Communications Committee Project Team 1 (CEPT ECC/PT1), found that BSS systems, even if operated at the lower PFD levels proposed by AirTV, will result in reduced coverage area for terrestrial systems using the band 2630–2655 MHz. Even one of the Draft Recommendations cited by AirTV in support of its Petition expressly assumes that terrestrial stations will be employing mitigation techniques to counteract BSS systems' interference. All these studies predict the additional interference mitigation costs for terrestrial systems subjected to BSS interference would include, for example, the need to install additional base stations in order to restore any lost coverage area. Furthermore, because the studies by WP 6S and the United Kingdom only consider BSS systems' interference potential to IMT–2000 terrestrial systems, the potential impact to existing BRS and EBS systems in the United States is actually greater than the impact predicted in those studies. This is due to the fact that existing BRS and EBS systems use receiving antennas with higher gain than the receiving antennas typically employed in IMT–2000 systems.

6. A closer examination of AirTV's proposed system gives us additional reason to conclude that it would impose interference mitigation burdens on incumbent terrestrial service operators. When we compare the interference-to-noise (I/N) ratios AirTV purports its system would produce with the ratios reported in the WP 6S and United Kingdom studies, we find that AirTV's I/N ratios closely approximate the I/N ratios that the WP 6S and the United Kingdom materials indicate will result in reduced coverage area and increased interference mitigation costs for terrestrial systems. Furthermore, the interference study that accompanied AirTV's Petition does not evaluate the interference potential of its proposed satellites at 55° West Longitude and 96° West Longitude, and does not compute the I/N ratios for elevation angles below 20° for its proposed satellite at 86° West Longitude, where the interference potential from AirTV's proposed system to terrestrial systems is greatest. Satellite signals received at elevation angles below 20° have the greatest potential to cause harmful interference to terrestrial

systems because the gain of the receiving antennas in these terrestrial systems increases as the elevation angle decreases below this angle. In this regard, the potential for interference from AirTV's system is most prevalent where AirTV's satellite signals would be received by terrestrial systems' receiving antennas at elevation angles less than 20°, as WCA asserts, in Alaska and Hawaii, but also in portions of the Continental United States, including locations in Arizona, California, Nevada, Oregon, Washington, Idaho, Montana, North and South Dakota, Wyoming, Colorado, and Utah. An evaluation of the interference potential of AirTV's proposed system at elevation angles less than 20° shows that it would produce I/N ratios that exceed −6dB, which all parties have indicated will affect terrestrial operations in the band.

7. For the foregoing reasons, we continue to believe that the Commission properly and rationally concluded that BSS systems will affect the coverage area and introduce potential interference mitigation costs for terrestrial systems. Although AirTV may plan to operate a system that generates PFD levels ''significantly below'' the maximum levels in Table 21–4 of the ITU Radio Regulations, that in itself does not mean that such operations will not have a significant effect on terrestrial users in the band. While Table 21–4 and the studies we discuss, above, set forth ways in which the band may be shared, it is a different matter to conclude that such shared use best serves the public interest here. In balancing the effect of such burdens on terrestrial licensees against the currently unused BSS allocation, the prospect of interference to terrestrial licensees that would affect their planning and deployment of systems weighs strongly against reinstating the unused BSS allocation. Accordingly, we continue to believe that it best serves the public interest to remove the allocation.

8. Because we have determined that BSS systems will impose interference mitigation costs that we find unacceptable for terrestrial systems, we also reject AirTV's suggestion that the Commission could consider individual BSS applications on a case-by-case basis as impractical. This is especially relevant in light of the Commission's decisions to reband and add a mobile allocation to the band 2500–2690 MHz that are anticipated to promote increased mobile use in these frequencies. Our restructuring of the band, with the enhanced flexibility targeted to facilitate new mobile and wireless broadband applications, is likely to make it more, rather than less, difficult to avoid interference from BSS systems to terrestrial systems. Moreover, based on our evaluation of AirTV's proposed system, we conclude that a BSS system will have minimal likelihood of success in overcoming these interference challenges. Were we to implement AirTV's suggestion to examine specific BSS system proposals on a case-by-case basis and address the appropriate terrestrial mitigation remedy for the interference such BSS systems would be expected to cause to terrestrial systems, we would introduce complexity, uncertainty, and the likelihood of increased costs for terrestrial operators in the band 2500–2690 MHz to build their systems with capabilities for mitigating possible interference from BSS operations. In exchange, we would introduce the prospect that, under certain circumstances that would have not been clearly demonstrated as of yet, it might be possible, at some point in the future, to deploy a BSS operation in the band that would not impose unacceptable interference mitigation costs on existing terrestrial systems.

9. We also find AirTV's other arguments unpersuasive. We reject the argument that, in order to delete the unused BSS allocation, we need an affirmative showing from terrestrial licensees in the band that the BSS cannot coexist with existing terrestrial services. Our election in the *Multichannel Video Distribution and Data Service* (MVDDS) proceeding to require such an analysis does not mandate such an analysis every time we consider adding a new service. In addition, this is a case in which the Commission deleted, rather than added, a service allocation from a frequency band. Furthermore, the respective services contemplated by the parties would both involve ubiquitous mobile receivers. Given the challenges inherent in arranging compatible uses of such receivers, we see no point in requiring or reviewing further technical studies. The sharing scenario proposed is, in this case, not practicable. Consequently, we see no purpose in maintaining an allocation for BSS when we are not in a position to adequately protect BSS earth stations from interference.

10. AirTV also contends for the first time, at this late date, that § 7 of the Communications Act of 1934, as amended, requires parties that oppose the introduction of a new service in the band (and thus support the Commission's deletion of the BSS allocation in the band 2500–2690 MHz) to demonstrate that the BSS was inconsistent with the public interest. As an initial matter, we note that that portion of the Act has been characterized as a broad policy statement reflecting congressional delegation on policy matters to the Commission's discretion. Furthermore, even if section 7 should be read to apply to the instant situation involving the deletion of an unused allocation, we nevertheless find that our decision is consistent with the provision's intent. Specifically, because we think that the BRS/EBS band, as recently restructured, holds great potential for the development of new services and technologies, it was consistent with the public interest for us to remove an allocation for a service (in this case, the BSS) that was not presently being offered and that, if deployed, could impose limitations on the rapid and robust deployment of new BRS and EBS technologies. Thus, our decision serves to encourage the provision of new technologies and services to the public, in furtherance of section 7's broad and general policies.

11. We maintain our conclusion that deletion of the BSS allocation was not violative of international requirements, notwithstanding AirTV's arguments to the contrary. We note that the U.S. Schedule of Specific Commitments to the World Trade Organization (WTO) Basic Telecommunications Agreement includes an exemption from most-favored-nation obligations for the Direct-to-Home Fixed-Satellite Service (DTH–FSS), Direct Broadcast Satellite (DBS) service, and Digital Audio Radio Service (DARS). Under this exemption, the U.S. is not required to extend most-favored-nation treatment for these satellite services in evaluating coordination requests from foreign administrations for applications to transmit into the territory of the U.S. by non-U.S. satellite systems. In addition, nothing in the U.S. Schedule of Specific Commitments or in the Commission's decision implementing the WTO decision, however, limits the exempted satellite services to a specific frequency band, in particular the DBS frequency band. For this reason, the exemption applies to all signals transmitted or retransmitted by satellites that are intended for direct reception by the general public. Thus, we reject AirTV's assertion that, because BSS systems at 2500–2690 MHz are not part of the Commission's definition of DBS services in § 25.201, the Commission's deletion of the BSS allocation from the band 2500–2690 MHz was precluded by the commitments the U.S. has under the WTO's General Agreement on Trade in Services (GATS). In addition, as we previously determined, under the

WTO's GATS, the U.S. may also limit new satellite authorizations when incumbent operations face potential interference. Furthermore, we agree with WCA's assertion that the Commission's decision to delete the BSS allocation does not discriminate against foreign licensees, because the decision affects both domestic and foreign systems in a non-discriminatory fashion. This conforms to the WTO's GATS non-discrimination policies.

Conclusion

12. Having reexamined our allocation decision, we remain convinced that it was properly decided based on interference mitigation concerns. We continue to believe, that simultaneous operation of BSS and terrestrial systems at 2520–2670 MHz would require parties to address matters of technical compatibility in order to make use of the band. Thus, we continue to find that the public interest is served by our deletion of the unused BSS allocation, and that our decision will prevent terrestrial licensees from incurring the costs of evaluating and mitigating the interference that any proposed BSS deployment—including the AirTV system examined herein—would be expected to cause to terrestrial systems.

Procedural Matters

13. A Regulatory Flexibility Act analysis or certification, *see generally* 5 U.S.C 604–605, is not required because this order does not promulgate or revise any rules.

Ordering Clauses

14. Pursuant to sections 4(i), 303(r), and 405 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 303(r), and 405, and § 1.429 of the Commission's Rules, 47 CFR 1.429, the Petition for Partial Reconsideration filed by AirTV Limited, is denied.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. E6–9592 Filed 6–20–06; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 64

[CG Docket No. 03–123; DA 06–1043]

Telecommunications Relay Services and Speech-to-Speech Services for Individuals With Hearing and Speech Disabilities

AGENCY: Federal Communications Commission.

ACTION: Final rule; dismissal of petition.

SUMMARY: In this document, the Commission denies a petition for declaratory ruling (*Petition*) filed by Telco Group, Inc. (Telco Group) requesting that the Commission either exclude international revenues from the end-user revenue base used to calculate payments due to the Interstate Telecommunications Relay Service (TRS) Fund (Fund), or in the alternative, waive the portion of Telco Group's contribution based on its international end-user revenues. Further, Telco Group requests a stay of its payment obligation pending the Commission's decision. The Commission finds that the inclusion of international end-user revenues in calculating carriers' obligations to the Interstate TRS Fund is appropriate. In addition, the Commission is unable to find good cause to waive the portion of Telco Group's Interstate TRS Fund assessment based on its international services revenue. Because the Commission addresses the merits of the *Petition,* the request for stay is dismissed as moot.

DATES: Effective May 16, 2006.

ADDRESSES: Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Thomas Chandler, Consumer & Governmental Affairs Bureau, Disability Rights Office at (202) 418–1475 (voice), (202) 418–0597 (TTY), or e-mail at *Thomas.Chandler@fcc.gov.*

SUPPLEMENTARY INFORMATION: This document does not contain new or modified information collection requirements subject to the PRA of 1995, Public Law 104–13. In addition, it does not contain any new or modified ''information collection burden for small business concerns with fewer than 25 employees,'' pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506 (c)(4). This is a summary of the Commission's document DA 06–1043, *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities,* Declaratory Ruling, CG Docket No. 03–123, DA 06–1043, adopted May 16, 2006, released May 16, 2006, addressing issues raised in Telco Group's Petition for Declaratory Ruling, or in the Alternative, Petition for Waiver (*Petition*), filed July 26, 2004.

The full text of document DA 06–1043 and copies of any subsequently filed documents in this matter will be available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY–A257, Washington, DC 20554. Document DA 06–1043 and copies of subsequently filed documents in this matter may also be purchased from the Commission's duplicating contractor at Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC 20554. Customers may contact the Commission's duplicating contractor at its Web site *http://www.bcpiweb.com* or by calling 1–800–378–3160.

To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an e-mail to *fcc504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY). Document DA 06–1043 can also be downloaded in Word or Portable Document Format (PDF) at: *http://www.fcc.gov/cgb/dro.*

Synopsis

Background

Title IV of the ADA directs the Commission to ensure that interstate and intrastate telecommunications relay services are available, to the extent possible and in the most efficient manner, to individuals with hearing and speech disabilities in the United States. *See generally* Public Law 101–336, 104 Statute 327, 366–69 (July 26, 1990), codified at 47 U.S.C. 225; *see also* 47 U.S.C. 225(b)(1). Section 225 of the Communications Act, requires the Commission to establish regulations to ensure the quality of relay service. 47 U.S.C. 225(b). The Commission initially implemented this mandate in three orders.

In *TRS I,* the Commission adopted rules identifying the relay services that carriers offering voice telephone transmission services must provide to persons with hearing and speech disabilities and the TRS mandatory minimum standards that govern the provision of service. *See Telecommunications Relay Services for Individuals with Hearing and Speech Disabilities, and the Americans with Disabilities Act of 1990*, CC Docket No. 90–571, Report and Order and Request for Comments, 6 FCC Rcd 4657 (July 26, 1991) (*TRS I*), published at 56 FR 36729, August 1, 1991; *see* 47 CFR 64.604 of the Commission's rules (the TRS ''mandatory minimum standards''). In *TRS II*, the Commission adopted a shared funding mechanism for interstate TRS cost recovery, spreading the cost of providing TRS to all subscribers of every interstate service. *See Telecommunications Services for Individuals with Hearing and Speech*

Disabilities, and the Americans with Disabilities Act of 1990, CC Docket No. 90–571, Order on Reconsideration, Second Report and Order, and Further Notice of Proposed Rulemaking, 8 FCC Rcd 1802, 1805–1806, at paragraphs 19–27 (February 25, 1993) (*TRS II*), published at 58 FR 12204, March 3, 1993 and 58 FR 12175, March 3, 1993. Under section 225(d)(3) of the Communication's Act, the Commission's regulations governing the jurisdictional separation of costs shall generally provide that the costs caused by interstate TRS shall be recovered from all subscribers to every interstate service, and the costs caused by intrastate TRS shall be recovered by the states. 47 U.S.C. 225(d)(3). The Commission also proposed that under this mechanism a charge would be assessed on all common carriers that offer interstate telecommunications services to create the Interstate TRS Fund, and that the providers would be compensated from the Fund for providing TRS based on a national average TRS interstate minute of use rate. *TRS II*, 8 FCC Rcd at 1806, paragraphs 23–26. In *TRS III*, the Commission established the Interstate TRS Fund, currently administered by the National Exchange Carrier Association (NECA), to reimburse TRS providers for the costs of providing interstate TRS. *See Telecommunications Services, and the Americans with Disabilities Act of 1990,* CC Docket No. 90–571, Third Report and Order, 8 FCC Rcd 5300 (July 20, 1993) (*TRS III*), published at 58 FR 39671, July 26, 1993. That order also finalized the contribution methodology for payments into the Fund and defined the interstate services subject to the contribution assessment. The Commission adopted a regulation providing that ''[c]ontributions shall be made by all carriers who provide interstate services, including, but not limited to * * * international * * * services.'' 47 CFR 64.604(c)(5)(iii)(A) of the Commission's rules; *see also TRS III*, 8 FCC Rcd at 5306, paragraph 33 (ordering clause adopting rule amendments set forth in Appendix B); *Telecommunications Services for Individuals with Hearing and Speech Disabilities, Recommended TRS Cost Recovery Guidelines*, CC Docket No. 98–67, Memorandum Opinion and Order and Further Notice of Proposed Rulemaking, 16 FCC Rcd 22948, 22949–22950, paragraph 2 (December 21, 2001), published at 67 FR 4203, January 29, 2002 and 67 FR 4227, January 29, 2002 (noting that *TRS III* required ''that every carrier providing interstate telecommunications services contribute to the TRS Fund on the basis of * * * interstate and international revenues'').

In its *Petition*, Telco Group requests that the Commission exclude international revenues from the revenue base used to calculate payments due to the Interstate TRS Fund, ''at least for those carriers whose international revenues comprise a significant portion of their total interstate and international revenues,'' or in the alternative, find good cause to waive Telco Group's obligations to the Fund that are based on its international revenues. *Petition* at 1.

Telco Group maintains that such relief is warranted because, in what Telco Group argues is an analogous case involving the Universal Service Fund (USF), the United States Court of Appeals for the Fifth Circuit required the Commission to revisit the USF assessment on the international services revenue of a provider of primarily international services and *de minimis* interstate services. *Petition* at 3 (citing *Texas Office of the Public Utility Counsel* v. *FCC*, 183 F.3d 393 (5th Cir. 1999) (*TOPUC*)). The Court found that requiring a carrier to pay an assessment on its international services revenue that exceeded the carrier's total interstate revenue violated the equitable and nondiscriminatory contribution requirement of the Universal Service statute, section 254 of the Communications Act of 1934, as amended. *TOPUC*, 183 F.3d at 434–435; *see* 47 U.S.C. 254(b)(4). Although the Interstate TRS Fund is governed by section 225 of the Communications Act, rather than section 254 of the Communications Act, Telco Group argues that the Interstate TRS Fund contribution rules also are ''designed to be equitable and nondiscriminatory'' and, therefore, the relief afforded in *TOPUC* should be extended to TRS. *Petition* at 4. Telco Group argues that its circumstance is comparable to the *TOPUC* plaintiff because the ''vast majority'' of Telco Group's revenues—approximately 96 percent—are derived from international services. Moreover, Telco Group argues the public interest will be served by granting the requested relief because it will ensure Telco Group ''remains as a viable competitor in the market for interstate services.'' *Petition* at 9. Telco Group adds that the ''high payment obligations also hinder Telco Group's ability to compete outside the United States, and so contradict the Commission's efforts to promote and encourage competition in the international and interstate markets.'' *Petition* at 9–10 (citing *2000 Biennial Regulatory Review—Policies and Procedures Concerning the International, Interexchange Marketplace*, IB Docket No. 02–202, Report and Order, 16 FCC Rcd 10647 (March 20, 2001)), published at 66 FR 16874, March 28, 2001.

On October 25, 2004, the Telco Group *Petition* was place on Public Notice. *Telco Group, Inc. Files Petition for Declaratory Ruling or Waiver to Exclude International Revenues from the Revenue Base Used to Calculate Payment to the Interstate TRS Fund*, CC Docket No. 98–67, Public Notice, 19 FCC Rcd 20965 (October 25, 2004), published at 69 FR 64573, November 5, 2004. Two oppositions were filed, one from a carrier and one from an organization representing the deaf community. Comments were filed by MCI (MCI) (November 26, 2004) and Telecommunications for the Deaf, Inc. (TDI) (November 24, 2004). Late filed comments were filed by Globecomm Systems, Inc. (''GSI'') on February 14, 2006. On that same date, GSI also filed a petition for declaratory ruling that there is no obligation to pay into the Interstate TRS Fund based on revenues arising from traffic that does not originate or terminate in the United States. Globecomm Systems, Inc., Petition for Declaratory Ruling (filed February 14, 2006). Because the issue in the GSI petition—whether certain calls should be considered international calls—is distinct from the issue raised in Telco Group's *Petition*, the Commission will address GSI's petition in a separate order. Telco Group did not file any reply comments.

Discussion

Telco Group's *Petition* is premised on the congruence between section 254 of the Communications Act, which establishes Universal Service requirements, and section 225 of the Communications Act, which establishes requirements for the provision of TRS. Sections 254 and 225 of the Communications Act, however, differ in fundamental and, in this case, dispositive ways. Unlike USF assessments, contributions to the Interstate TRS Fund are used, in part, to reimburse international relay calls. Therefore, in this case, the public interest lies in ensuring adequate funding for interstate TRS—including international TRS—by assessing contributions on as broad a revenue base as can be justified. Accordingly, Telco Group's request that the Commission exclude international revenues from the end-user revenue base used to calculate payments due to the Interstate TRS Fund is denied. Because Telco Group has not

demonstrated why individualized relief is appropriate, the company's request for waiver of the interstate TRS assessment on international services revenue is also denied.

Unlike the Universal Service Fund, which does not directly support international services but only may be used only to support domestic services, the Interstate TRS Fund is used to support *international* TRS. *TRS I Order*, 6 FCC Rcd at 4660–4661, paragraph 18 (discussing comments that relay services should relay international calls that originate or terminate in the United States provided that equipment of the foreign country is compatible with U.S. equipment); *TRS III Order*, 8 FCC Rcd at 5301, paragraph 9, note14 (in adopting rule requiring contributions to the Fund to be based on, *inter alia,* international services, Commission notes Sprint's argument ''that international services should be included because TRS providers will be compensated by the administrator for international TRS minutes of use''). IP Relay service is an exception to this rule. *See, e.g., Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities,* CC Docket No. 98–67, Order, 19 FCC Rcd 12224, 12242, at paragraph 48, note, 121 (June 30, 2004) (noting that the Fund ''does not currently reimburse providers for the costs of providing international calls via IP Relay''); *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities,* CC Docket No. 98–67, Order, 18 FCC Rcd 12823, 12837, at paragraph 42 (June 30, 2003) (noting that in March 2003 NECA was directed to suspend payment to TRS providers for international IP Relay service minutes); *see also 2004 TRS Report and Order*, 19 FCC Rcd at 12525, paragraph 129, published at 69 FR 53346, September 1, 2004 and 69 FR 53382, September 1, 2004 (noting that although Fund does not pay for international IP Relay service calls, it does pay for international Video Relay Service calls). Therefore, unlike the USF assessments at issue in *TOPUC,* excluding international revenues from the revenue base used for calculating TRS contributions would not serve the public interest. With the TRS Fund, it is not the case—as in *TOPUC*—that a provider of only *de minimis* interstate service may be required to bear a disproportionately heavy burden in subsidizing the provision of such services by other carriers. Contributions to the Interstate TRS Fund based on Telco Group's international services revenue can, in turn, be used to subsidize international TRS. Moreover, Telco Group is required to contribute the same percentage of its interstate and international revenues to the Interstate TRS Fund as other carriers that provide both interstate and international services. This approach is both equitable and nondiscriminatory. Opposition of MCI at 3. As MCI notes, ''it would be discriminatory if Telco Group, and other internationally-oriented carriers, were allowed to exclude international revenues from the TRS contribution base. Companies such as MCI, who also earn international revenues by providing international prepaid calling services, as well as other international services, would be required to compete against companies who would have been granted a discriminatory cost advantage were the Commission to grant Telco Group's request.''

Moreover, *TOPUC* is specifically based on the equitable and nondiscriminatory contribution requirement of section 254 of the Communications Act. Section 254 of the Communications Act states that ''[a]ll providers of telecommunications services should make an equitable and nondiscriminatory contribution to the preservation and advancement of universal service.'' 47 U.S.C. 254(b)(4). The Court found that requiring COMSAT, a satellite provider of primarily international services along with *de minimis* interstate service offerings, to contribute to the Universal Service Fund based on its international services revenues was inequitable and discriminatory given that COMSAT's contribution based on international services revenue would exceed the company's total interstate revenues. The Court stated that ''the agency's interpretation of 'equitable and nondiscriminatory,' allowing it to impose prohibitive costs on carriers such as COMSAT, is 'arbitrary and capricious' * * * [because] COMSAT and carriers like it will contribute more in universal service payments than they will generate from interstate service.'' *TOPUC,* 183 F.3d at 434–435. Section 225 of the Communications Act, however, contains no such express requirement. In the absence of such language, and particularly because international services are supported by the Interstate TRS Fund, the Commission is not bound by the TOPUC decision to reduce or eliminate Interstate TRS Fund assessments on international services for Telco Group or similarly situated providers. With respect to contributions, the only limiting language of section 225 of the Communications Act is jurisdictional in nature. *See* 47 U.S.C. 225(d)(3) (addressing jurisdictional separation of costs). Accordingly, Telco Group's request for a declaratory ruling excluding international services revenue from the interstate contribution base is denied.

Telco Group's request for waiver of the interstate TRS assessment on its international services revenue is also denied. Although the Commission may waive a provision of its rules for ''good cause shown,'' 47 CFR 1.3 of the Commission's rules; *see generally 2004 TRS Report and Order,* 19 FCC Rcd at 12520, paragraph 110 (discussing standard for waiving Commission rules). Telco Group's argument rests on the fact that a high percent of its revenues derive from international services and therefore its TRS payment is substantially higher that it would be if international revenues were not included and burdensome. *Petition* at 9–10. As noted above, however, because the Fund supports both international and interstate TRS, TRS assessments are based on both international and interstate revenues, and the fact that some contributors have relatively more international revenues, or more interstate revenues, is not relevant to ensuring adequate funding for these services.

Congressional Review Act

The Commission will not send a copy of the *Declaratory Ruling* pursuant to the Congressional Review Act because the adopted rules are rules of particular applicability. *See* 5 U.S.C. 801(a)(1)(A).

Ordering Clauses

Pursuant to the authority contained in section 225 of the Communications Act of 1934, as amended, 47 U.S.C. 225, and §§ 0.141 and 0.361 of the Commission's rules, 47 CFR 0.141 and 0.361, Telco Group's Petition for Declaratory Ruling or, in the Alternative, Petition for Waiver, is denied.

Having addressed the merits of the Petition for Declaratory Ruling or, in the Alternative, Petition for Waiver, Telco Group's Petition for Stay Pending Resolution of Petition for Declaratory Ruling or, in the Alternative, Petition for Waiver is moot.

Federal Communications Commission.

Monica S. Desai,

Chief, Consumer & Governmental Affairs Bureau.

[FR Doc. E6–9795 Filed 6–20–06; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 06–1072; MB Docket No. 05–4; RM–11133]

Radio Broadcasting Services; Hagerstown and Myersville, MD

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: At the request of Manning Broadcasting, former licensee of Station WARX(FM), Hagerstown, Maryland, this document reallots Channel 295B from Hagerstown, Maryland, to Myersville, Maryland, as the community's first local transmission service, and modifies the license for Station WARX(FM) to specify the new community. Channel 295B is reallotted at Myersville at a site 13.9 kilometers (2.4 miles) west of the community at coordinates 34–29–57 NL and 77–36–42 WL.

DATES: Effective July 17, 2006.

ADDRESSES: Secretary, Federal Communications Commission, 445 12th Street, SW., Room TW–A325, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Victoria M. McCauley, Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Report and Order,* MB Docket No. 05–4, adopted May 31, 2006, and released June 2, 2006. The *Notice of Proposed Rule Making,* 70 FR 3666, January 26, 2005, was issued at the request of Manning Broadcasting. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Information Center, 445 Twelfth Street, SW., Washington, DC 20554. The complete text of this decision may also be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., 445 12th Street, SW., Room CY–B402, Washington, DC 20054, telephone 800–378–3160 or *http://www.BCPIWEB.com.*

The Commission will send a copy of this *Report and Order* in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A).

List of Subjects in 47 CFR Part 73

Radio, Radio broadcasting.

■ For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 73 as follows:

PART 73—RADIO BROADCAST SERVICES

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

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

§ 73.202 [Amended]

■ 2. Section 73.202(b), the Table of FM Allotments under Maryland, is amended by removing Channel 295B at Hagerstown, and adding Myersville, Channel 295B.

Federal Communications Commission.

John A. Karousos,

Assistant Chief, Audio Division, Media Bureau.

[FR Doc. E6–9473 Filed 6–20–06; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 06–1074; MB Docket No. 05–124; RM–11174]

Radio Broadcasting Services; Killen, AL and Loretto, TN

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Audio Division, at the request of Pulaski Broadcasting, Inc., licensee of Station WKSR–FM, Channel 252C3, Killen, Alabama, deletes Channel 252C3 at Killen, Alabama, from the FM Table of Allotments, allots Channel 252C3 at Loretto, Tennessee, as the community's first local FM service, and modifies the license of Station WKSR–FM to specify operation on Channel 252C3 at Loretto. Channel 252C3 can be allotted to Loretto, Tennessee, in compliance with the Commission's minimum distance separation requirements with a site restriction of 13.8 km (8.5 miles) southwest of Loretto. The coordinates for Channel 252C3 at Loretto, Tennessee, are 35–00–47 North Latitude and 87–34–06 West Longitude.

DATES: Effective July 17, 2006.

FOR FURTHER INFORMATION CONTACT: Deborah Dupont, Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Report and Order*, MB Docket No. 05–124, adopted May 31, 2006, and released June 2, 2006. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY–A257, Washington, DC 20554. The complete text of this decision also may be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., 445 12th Street, SW., Room CY–B402, Washington, DC 20554, (800) 378–3160, or via the company's Web site, *www.bcpiweb.com.* The Commission will send a copy of this *Report and Order* in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A).

List of Subjects in 47 CFR Part 73

Radio, Radio broadcasting.

■ For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR Part 73 as follows:

PART 73—RADIO BROADCAST SERVICES

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

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

§ 73.202 [Amended]

■ 2. Section 73.202(b), the Table of FM Allotments under Alabama is amended by removing Killen, Channel 252C3.

■ 3. Section 73.202(b), the Table of FM Allotments under Tennessee is amended by adding Loretto, Channel 252C3.

Federal Communications Commission.

John A. Karousos,

Assistant Chief, Audio Division, Media Bureau.

[FR Doc. E6–9741 Filed 6–20–06; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 06–1186; MB Docket No. 06–51; RM–11317]

Radio Broadcasting Services; Frisco City, AL

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In response to a *Notice of Proposed Rule Making,* this *Report and Order* allots Channel 278A to Frisco City, Alabama. The coordinates for Channel 278A at Frisco City, Alabama are 31–27–42 NL and 87–32–29 WL,

with a site restriction of 13.7 kilometers (8.5 miles) west of Frisco City.

DATES: Effective July 17, 2006.

ADDRESSES: Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554.

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Report and Order*, MB Docket No. 06–51, adopted May 31, 2006, and released June 2, 2006. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Information Center at Portals II, 445 12th Street, SW., Room CY–A257, Washington, DC 20554. The document may also be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC 20554, telephone 1–800–378–3160 or *www.BCPIWEB.com*. The Commission will send a copy of this Report and Order in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act, see 5 U.S.C. 801(a)(1)(A).

List of Subjects in 47 CFR Part 73

Radio, Radio broadcasting.

■ As stated in the preamble, the Federal Communications Commission amends 47 CFR Part 73 as follows:

PART 73—RADIO BROADCAST SERVICES

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

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

§ 73.202 [Amended]

■ 2. Section 73.202(b), the Table of FM Allotments under Alabama, is amended by adding Frisco City, Channel 278A.

Federal Communications Commission.

John A. Karousos,

Assistant Chief, Audio Division, Media Bureau.

[FR Doc. E6–9742 Filed 6–20–06; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 06–1187; MB Docket No. 06–59; RM–11319]

Radio Broadcasting Services; Gravette, Arkansas, and Southwest City, MO

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Audio Division, at the request of KERM, Inc., licensee of Station KURM–FM, Channel 262A, Southwest City, Missouri, deletes Channel 262A at Southwest City, Missouri, from the FM Table of Allotments, allots Channel 262A at Gravette, Arkansas, as the community's first local FM service, and modifies the license of Station KURM–FM to specify operation on Channel 262A at Gravette, Arkansas. Channel 262A can be allotted to Gravette, Arkansas, in compliance with the Commission's minimum distance separation requirements with a site restriction of 5.4 km (3.4 miles) west of Gravette. The coordinates for Channel 262A at Gravette, Arkansas, are 36–25–54 North Latitude and 94–30–46 West Longitude.

DATES: Effective July 17, 2006.

FOR FURTHER INFORMATION CONTACT: Deborah Dupont, Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Report and Order,* MB Docket No. 06–59, adopted May 31, 2006, and released June 2, 2006. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY–A257, Washington, DC 20554. The complete text of this decision also may be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., 445 12th Street, SW., Room CY–B402, Washington, DC 20554, (800) 378–3160, or via the company's Web site, *www.bcpiweb.com*. The Commission will send a copy of this *Report and Order* in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act, see U.S.C. 801(a)(1)(A).

List of Subjects in 47 CFR Part 73

Radio, Radio broadcasting.

■ As stated in the preamble, the Federal Communications Commission amends 47 CFR Part 73 as follows:

PART 73—RADIO BROADCAST SERVICES

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

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

§ 73.202 [Amended]

■ 2. Section 73.202(b), the Table of FM Allotments under Arkansas is amended by adding Gravette, Channel 262A.

■ 3. Section 73.202(b), the Table of FM Allotments under Missouri is amended by removing Southwest City, Channel 262A.

Federal Communications Commission.

John A. Karousos,

Assistant Chief, Audio Division Media Bureau.

[FR Doc. E6–9471 Filed 6–20–06; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 06–1188]

Radio Broadcasting Services; Walnut Grove, MS

AGENCY: Federal Communications Commission.

ACTION: Final rule; denial of petition for reconsideration.

SUMMARY: This document denies a Petition for Reconsideration filed by Crossgates Baptist Church directed at the staff letter action dismissing the Petition for Rulemaking requesting the reservation of vacant FM Channel 244C2 at Walnut Grove, Mississippi for noncommercial educational use. With this action, the proceeding is terminated.

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Memorandum Opinion and Order,* adopted May 31, 2006, and released June 2, 2006. The full text of this decision is available for inspection and copying during normal business hours in the FCC Reference Information Center at Portals ll, CY–A257, 445 12th Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, Best Copy and Printing, Inc., 445 12th Street, SW., Room CY–B402,

Washington, DC 20054, telephone 1–800–378–3160 or *www.BCPIWEB.com.* The Commission will not send a copy of this *Memorandum Opinion and Order* pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A), because the aforementioned petition for reconsideration was denied.

Federal Communications Commission.

John A. Karousos,

Assistant Chief, Audio Division Media Bureau.

[FR Doc. E6–9472 Filed 6–20–06; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary of Transportation

49 CFR Part 1

[Docket No.:OST–1999–6189]

RIN 9991–AA50

Organization and Delegation of Powers and Duties

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

ACTION: Correction of final rule.

SUMMARY: This action corrects a final rule published in the **Federal Register** on May 31, 2006 (71 FR 30828), which delegated various authorities vested in the Secretary of Transportation by the ''Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users'' (Pub. L. 109–59) and other laws to the Research and Innovative Technology Administrator; the Federal Aviation Administrator; the Federal Highway Administrator; the Federal Railroad Administrator; the National Traffic Highway Safety Administrator; the Federal Transit Administrator; the Pipeline and Hazardous Materials Safety Administrator; the Federal Motor Carrier Safety Administrator; and the Under Secretary for Transportation Policy.

DATES: *Effective Date:* June 21, 2006.

FOR FURTHER INFORMATION CONTACT: Rebecca S. Behravesh, Attorney Advisor, Office of General Counsel, Department of Transportation, 400 7th St., SW., Room 10424, Washington, DC 20590–0001; Telephone (202) 366–9314.

Correction to Final Rule

The Office of the Secretary of Transportation (OST) hereby corrects two typographical errors in the final rule that was published in the **Federal Register** on May 31, 2006 (71 FR 30830), Organization and Delegation of Powers and Duties, Docket No. OST–1999–6189. On page 30830 of volume 71 of the **Federal Register**, instruction 5 is corrected to read as follows:

''Revise § 1.46(c), (d), (e), and (i) and add (l) and (m) to read as follows:''. On page 30833 of volume 71 of the **Federal Register**, instruction 10(c) is corrected to read as follows:

''Revise paragraph (b)(1) to read as follows:''.

Issued this 13th day of June, 2006, at Washington, DC.

Jeffrey A. Rosen,

General Counsel.

[FR Doc. E6–9731 Filed 6–16–06; 8:45 am]

BILLING CODE 4910–9X–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Parts 571, 575, and 582

[Docket No. NHTSA–2005–21564; Notice 2]

Vehicle Safety Hotline; Child Restraint Systems; Technical Amendment

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

ACTION: Technical amendment.

SUMMARY: On June 21, 2005, NHTSA published a final rule that made technical amendments to several regulations that reference NHTSA's Vehicle Safety Hotline telephone number. The rule updated the Hotline telephone number and added our Web address to the information that NHTSA requires manufacturers and dealers to provide consumers. The effective date for those amendments to Part 571, *Federal motor vehicle safety standards,* Part 575, *Consumer information;* and Part 582, *Insurance cost information regulation,* is June 21, 2006. This document withdraws the June 21, 2005 amendments to part 571, in response to a request from General Motors and other motor vehicle manufacturers to have the effective date coincide with the traditional September 1 vehicle model year changeover date, this document changes the effective date of the amendments to September 1, 2006.

DATES: This rule withdraws the amendments published at 70 FR 35556, June 21, 2005 to part 571. This rule delays the effective date of amendments to 49 CFR parts 575 and 582 published on June 21, 2005 from June 21, 2006 until September 1, 2006. The amendments to § 571.213 in this document are effective September 1, 2006. Voluntary compliance is permitted before that time.

FOR FURTHER INFORMATION CONTACT: Deirdre Fujita, NHTSA Office of Chief Counsel, 400 Seventh Street, SW., Washington, DC 20590 (telephone 202–366–2992; fax 202–366–3820).

SUPPLEMENTARY INFORMATION: In several regulations, NHTSA specifies that vehicle manufacturers, child restraint manufacturers or automobile dealers must provide the telephone number for our Vehicle Safety Hotline so that consumers concerned about safety recalls or potential defects could contact this agency. Because that telephone number has been updated to a toll-free number that can be used nationwide and to include a TTY number, on June 21, 2005, NHTSA amended the relevant sections of the CFR to use the new telephone number and to add our Web address so that consumers can access safety recall and defect information online (70 FR 35556; Docket 21564). We also updated text in the Part 582 (''Insurance Cost Information Regulation'') information form to reflect that our current New Car Assessment Program has information on side crash protection and relative rollover resistance. The effective date of the amended requirements pertaining to Parts 571, 575 and 582 was June 21, 2006.[1]

Vehicle Model Year Changeover

We received a request from General Motors (GM) asking that we change the effective date for certain aspects of the final rule, from June 21, 2006 to September 1, 2006 to coincide with traditional vehicle model year changeover (NHTSA–21564–2). Part 575 requires vehicle manufacturers to provide to first purchasers, among other things, information in the owner's manual on how they may contact NHTSA with concerns about potential safety-related defects (49 CFR 575.6(a)(2)).[2] GM explained that the vast majority of the owner's manuals would be printed with the information by June 21, 2006, but that there are certain low-volume vehicles that have owner's manuals that are printed in a single

[1] The final rule also made similar changes to Part 577, ''Defect and Noncompliance Notification,'' section 577.5(g)(1)(vii). That section requires manufacturers to provide the agency's address and telephone number in notifications to the public of recall campaigns. Because that change could be made effective immediately without imposing any substantive burdens, the effective date for that change was July 21, 2005. Today's document does not affect the effective date for that Part 577 amendment.

[2] If there is no owner's manual, the information is to be provided on a one-page document.

edition for which the entire quantity has already been printed. In addition, the petitioner stated, even for vehicles whose owners' manuals are typically printed in two editions during a model year, there might not be a second edition if original volume productions are not met. GM was concerned about the burden associated with producing and installing owner's manual supplements in 2006 model year vehicles produced after June 21, 2006 that have owner's manuals printed before that date. GM believed that our changing the effective date to September 1, 2006, while continuing to allow early compliance with the final rule, would eliminate the burden without adversely affecting the public's ability to contact the agency. The Alliance of Automobile Manufacturers (Alliance) filed a letter supporting GM's petition (NHTSA–21564–3). The Alliance urged NHTSA to allow manufacturers the 72 additional days to meet the amended requirements of Part 575.

We have examined the issues raised in the petition and have decided to delay the effective date of the technical amendments to parts 575 and 582 until September 1, 2006. We agree with the petitioner that a September 1, 2006 effective date will not adversely affect the public's ability to contact the agency. The vast majority of vehicles will have had their owner's manuals updated with the telephone numbers by this June 21, and this delay will only affect a number of smaller vehicle lines. Further, the former Auto Safety Hotline number (1–800–424–9393) can still be used to contact the agency. Child restraint manufacturers and automobile dealers will also be provided until September 1, 2006 to reference the updated telephone number and agency web address in the materials they produce. For those that use the September 1 traditional vehicle model year changeover date to revise their materials, this amendment provides flexibility in meeting the requirements.

The amendment was not intended to impose or relax any substantive requirements or burdens on anyone. Not using a September 1, 2006, effective date to coincide with the traditional vehicle model year changeover was an oversight of the June 21, 2005 final rule which today's technical amendment corrects.

Child Restraint Labeling

This document also makes a technical amendment to the regulatory text of the June 21, 2005 final rule pertaining to Federal Motor Vehicle Safety Standard (FMVSS) No. 213, ''Child restraint systems.'' The regulatory text of the June 21, 2005 is amended to reflect labeling and other changes to FMVSS No. 213 adopted by a September 9, 2005 final rule that permitted information regarding online product registration to be included in child restraint product information, including child restraint labels and owner registration forms (70 FR 53569; Docket 22324). This technical amendment makes consistent the regulatory texts of the June 21, 2005 and September 2, 2005 final rules amending FMVSS No. 213.[3]

List of Subjects in 49 CFR Part 571

Motor vehicle safety, Reporting and recordkeeping requirements, Tires.

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

■ In consideration of the foregoing, NHTSA is withdrawing the amendments to part 571 published at 70 FR 35556, June 21, 2005. The effective date of the amendments published at 70 FR 35556, June 21, 2005 to parts 575 and 582 is delayed until September 1, 2006. In further consideration of the foregoing NHTSA is amending 49 CFR part 571 as follows:

■ 1. The authority citation for Part 571 continues to read as follows:

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

■ 2. Section 571.213 is amended to revise paragraph (m) of S5.5.2, S5.5.5 (k), S5.6.1.7, and S5.6.2.2 to read as follows:

§ 571.213 Standard No. 213; Child restraint systems.

* * * * *

S5.5.2 * * *

(m) One of the following statements, inserting an address and a U.S. telephone number. If a manufacturer opts to provide a Web site on the registration card as permitted in Figure 9a of this section, the manufacturer must include the statement in part (ii):

(i) ''Child restraints could be recalled for safety reasons. You must register this restraint to be reached in a recall. Send your name, address, e-mail address if available (preceding four words are optional) and the restraint's model number and manufacturing date to (*insert address*) or call (*insert a U.S. telephone number*). For recall information, call the U.S. Government's Vehicle Safety Hotline at 1–888–327–4236 (TTY: 1–800–424–9153), or go to *http://www.NHTSA.gov*.''

(ii) ''Child restraints could be recalled for safety reasons. You must register this restraint to be reached in a recall. Send your name, address, e-mail address if available [preceding four words are optional], and the restraint's model number and manufacturing date to (*insert address*) or call (*insert a U.S. telephone number*) or register online at (*insert Web site for electronic registration form*). For recall information, call the U.S. Government's Vehicle Safety Hotline at 1–888–327–4236 (TTY: 1–800–424–9153), or go to *http://www.NHTSA.gov*.''

* * * * *

S5.5.5 * * *

(k) One of the following statements, inserting an address and a U.S. telephone number. If a manufacturer opts to provide a Web site on the registration card as permitted in Figure 9a of this section, the manufacturer must include the statement in part (ii):

(i) ''Child restraints could be recalled for safety reasons. You must register this restraint to be reached in a recall. Send your name, address, e-mail address if available (preceding four words are optional), and the restraint's model number and manufacturing date to (*insert address*) or call (*insert a U.S. telephone number*). For recall information, call the U.S. Government's Vehicle Safety Hotline at 1–888–327–4236 (TTY: 1–800–424–9153), or go to *http://www.NHTSA.gov*.''

(ii) ''Child restraints could be recalled for safety reasons. You must register this restraint to be reached in a recall. Send your name, address, e-mail address if available (preceding four words are optional), and the restraint's model number and manufacturing date to (*insert address*) or call (*insert telephone number*) or register online at (*insert Web site for electronic registration form*). For recall information, call the U.S. Government's Vehicle Safety Hotline at 1–888–327–4236 (TTY: 1–800–424–9153), or go to *http://www.NHTSA.gov*.''

* * * * *

S5.6.1.7 One of the following statements, inserting an address and a U.S. telephone number. If a manufacturer opts to provide a Web site on the registration card as permitted in Figure 9a of this section, the manufacturer must include the statement in part (ii):

(i) ''Child restraints could be recalled for safety reasons. You must register this restraint to be reached in a recall. Send your name, address, e-mail address if available (preceding four words are optional), and the restraint's model

[3] The September 2, 2005 final rule noted that the June 21, 2005 final rule had changed the Hotline number required to be included on the labels of child restraints and in printed instructions (70 FR at 53573).

number and manufacturing date to (*insert address*) or call (*insert a U.S. telephone number*). For recall information, call the U.S. Government's Vehicle Safety Hotline at 1–888–327–4236 (TTY: 1–800–424–9153), or go to *http://www.NHTSA.gov.*''

(ii) ''Child restraints could be recalled for safety reasons. You must register this restraint to be reached in a recall. Send your name, address, e-mail address if available (preceding four words are optional), and the restraint's model number and manufacturing date to (*insert address*) or call (*insert telephone number*) or register online at (*insert Web site for electronic registration form*). For recall information, call the U.S. Government's Vehicle Safety Hotline at 1–888–327–4236 (TTY: 1–800–424–9153), or go to *http://www.NHTSA.gov.''*

* * * * *

S5.6.2.2 The instructions for each built-in child restraint system other than a factory-installed restraint, shall include one of the following statements, inserting an address and a U.S. telephone number. If a manufacturer opts to provide a Web site on the registration card as permitted in Figure 9a of this section, the manufacturer must include the statement in part (ii):

(i) ''Child restraints could be recalled for safety reasons. You must register this restraint to be reached in a recall. Send your name, address, e-mail address if available (preceding four words are optional), and the restraint's model number and manufacturing date to *(insert address*) or call (*insert a U.S. telephone number*). For recall information, call the U.S. Government's Vehicle Safety Hotline at 1–888–327–4236 (TTY: 1–800–424–9153), or go to *http://www.NHTSA.gov.''*

(ii) ''Child restraints could be recalled for safety reasons. You must register this restraint to be reached in a recall. Send your name, address, e-mail address if available (preceding four words are optional), and the restraint's model number and manufacturing date to (*insert address*) or call (*insert U.S. telephone number*) or register online at (*insert Web site for electronic registration form*). For recall information, call the U.S. Government's Vehicle Safety Hotline at 1–888–327–4236 (TTY: 1–800–424–9153), or go to *http://www.NHTSA.gov.''*

* * * * *

Issued: June 13, 2006.

Stephen R. Kratzke,

Associate Administrator for Rulemaking.

[FR Doc. E6–9582 Filed 6–20–06; 8:45 am]

BILLING CODE 4910–59–P

Proposed Rules

Federal Register
Vol. 71, No. 119
Wednesday, June 21, 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.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 451

RIN 3206–AL06

Awards

AGENCY: Office of Personnel Management.

ACTION: Proposed rule.

SUMMARY: The Office of Personnel Management is issuing proposed regulations regarding the employee awards program. These revisions clarify the use of performance-based cash awards by providing that such awards programs, as designed and applied, must make meaningful distinctions based on levels of performance. This proposed change is designed to ensure that better performers receive greater recognition.

DATES: Comments must be received on or before July 21, 2006.

ADDRESSES: Send or deliver written comments to Jerome D. Mikowicz, Acting Deputy Associate Director for Pay and Performance Policy, Office of Personnel Management, Room 7H31, 1900 E Street, NW., Washington, DC 20415; FAX: (202) 606–4264; or e-mail: *pay-performance-policy@opm.gov.*

FOR FURTHER INFORMATION CONTACT: Barbara Colchao, (202) 606–2720, FAX: (202) 606–4264, or e-mail: *pay-performance-policy@opm.gov.*

SUPPLEMENTARY INFORMATION: OPM is proposing to amend the incentive awards regulations in part 451 of title 5, Code of Federal Regulations, to ensure effective application of the merit system principles and related appraisal and incentive awards requirements and authorities. This amendment would clarify that agencies using the incentive awards authorities in chapter 45 of title 5, United States Code, to grant employees performance-based cash awards on the basis of a summary rating of record of ''fully successful'' or above must ensure that such cash awards reflect meaningful distinctions based on levels of performance. In other words, when agencies grant rating-based awards, employees with higher performance ratings must be granted larger cash awards, as a percentage of basic pay, than those with lower ratings.

This amendment is consistent with the merit system principle at 5 U.S.C. 2302(b)(3), which states, in part, ''appropriate incentives and recognition should be provided for excellence in performance.'' Further, the requirements in 5 U.S.C. chapter 43 regarding appraisal of employee performance state that the results of performance appraisal shall be used as a basis for rewarding employees ''whose performance so warrants.'' Taken together, these requirements are not reasonably met by providing uniform amounts as performance-based cash awards irrespective of differences in summary performance ratings.

OPM is mindful that many agencies already use established performance-based awards programs that fully comport with the proposed regulatory requirement. Nonetheless, the importance of linking rating-based rewards to measured performance in a way that supports the merit system principle warrants this amendment to the awards regulations.

In addition, OPM is proposing to clarify that a rating of record used as the basis for a performance-based cash award must be at the fully successful level (or equivalent) or higher. The statute at 5 U.S.C. 4505a already establishes this threshold for rating-based cash awards granted to General Schedule employees and to other employees in certain circumstances.

These amendments to the incentive awards regulations would make no changes in regulations governing Senior Executive Service performance awards granted under 5 U.S.C. 5384 and 5 CFR 534.405.

Waiver of 60-Day Comment Period for Proposed Rulemaking

Pursuant to 5 U.S.C. 553(b)(3)(B), I find that good cause exists to waive the 60-day comment period for general notice of proposed rulemaking. Limiting the comment period for the proposed regulations to 30 days will enable OPM to issue final regulations at the time when most agencies are making their awards decisions, which will give practical effect to these regulations.

E.O. 12866, Regulatory Review

This rule has been reviewed by the Office of Management and Budget as a significant regulatory action in accordance with E.O. 12866.

Regulatory Flexibility Act

I certify that these regulations would not have a significant economic impact on a substantial number of small entities because they would apply only to Federal agencies and employees.

List of Subjects in 5 CFR Part 451

Decorations, Medals, Awards, Government employees.

Office of Personnel Management.

Linda M. Springer,

Director.

Accordingly, OPM is proposing to revise part 451 of title 5 of the Code of Federal Regulations as follows:

PART 451—AWARDS

1. The authority citation for part 451 continues to read as follows:

Authority: 5 U.S.C. 4302, 4501–4509; E.O. 11438, 33 FR 18085, 3 CFR, 1966–1970 Comp., p. 755; E.O. 12828, 58 FR 2965, 3 CFR, 1993 Comp., p. 569.

Subpart A—Agency Awards

2. In § 451.101, paragraph (e) is revised to read as follows:

§ 451.101 Authority and coverage.

* * * * *

(e) An agency may grant performance-based cash awards on the basis of a rating of record at the fully successful level (or equivalent) or above under the authority of 5 U.S.C. 4505a and the provisions of this part to eligible non-GS employees who are covered by 5 U.S.C. chapter 45 and this part and who are not otherwise covered by an explicit statutory authority for the payment of such awards, including 5 U.S.C. 5384 (SES performance awards).

3. In § 451.104, paragraph (a)(3) is revised and a new paragraph (h) is added to read as follows:

§ 451.104 Awards.

(a) * * *

(3) Performance as reflected in the employee's most recent rating of record (as defined in § 430.203 of this chapter), provided that the rating of record is at the fully successful level (or equivalent) or above, except that performance

awards may be paid to SES members only under § 534.405 of this chapter and not on the basis of this subpart.

* * * * *

(h) Programs for granting performance-based cash awards on the basis of a rating of record at the fully successful level (or equivalent) or above, as designed and applied, must make meaningful distinctions based on levels of performance.

[FR Doc. E6–9797 Filed 6–20–06; 8:45 am]

BILLING CODE 6325–39–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 930

[Docket No. FV06–930–2 PR]

Tart Cherries Grown in the States of Michigan, et al.; Increased Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This rule would increase the assessment rate established for the Cherry Industry Administrative Board (Board) for the 2006–2007 fiscal year and subsequent fiscal years from $0.0021 to $0.0066 per pound to fund the Board's administrative expenses and its new research and promotion program. Authorization to assess tart cherry handlers enables the Board to incur expenses that are reasonable and necessary to administer the program. The Board locally administers the marketing order which regulates the handling of tart cherries grown in the States of Michigan, New York, Pennsylvania, Oregon, Utah, Washington, and Wisconsin. The fiscal year begins July 1, 2006 and ends June 30, 2007. The assessment rate will remain in effect indefinitely unless modified, suspended, or terminated.

DATES: Comments must be received by July 11, 2006.

ADDRESSES: Interested persons are invited to submit written comments concerning this action. Comments must be sent to the Docket Clerk, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue, SW., STOP 0237, Washington, DC 20250–0237; Fax: (202) 720–8938, or E-mail: *moabdocket.clerk@usda.gov.* All comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be made 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: Dawana J. Clark or Kenneth G. Johnson, DC Marketing Field Office, Fruit and Vegetable Programs, AMS, USDA, Unit 155, 4700 River Road, Riverdale, Maryland 20737; telephone: (301) 734–5243, Fax: (301) 734–5275.

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 Avenue, 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. 930, as amended (7 CFR part 930), regulating the handling of tart cherries produced in the States of Michigan, New York, Pennsylvania, Oregon, Utah, Washington, and Wisconsin, 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.''

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. Under the marketing order now in effect, tart cherries are subject to assessments. Funds to administer the order are derived from such assessments. It is intended that the assessment rate as issued herein will be applicable to all assessable tart cherries beginning July 1, 2006, and continue until amended, suspended, or terminated. 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 the 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. Such handler is afforded the opportunity for a hearing on the petition. After the hearing the 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 the USDA's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

This rule would increase the assessment rate established for the Board for the 2006–2007 and subsequent fiscal years for tart cherries from $0.0021 to $0.0066 per pound of tart cherries to fund the Board's administrative expenses and its new research and promotion program.

The tart cherry marketing order provides authority for the Board, with approval of USDA, to formulate an annual budget of expenses and collect assessments from handlers to administer the program. The members of the Board are producers and handlers of tart cherries. They are familiar with the Board's needs and with the costs for goods and services in their local area and are thus in a position to formulate an appropriate budget and assessment rate. The assessment rate is formulated and discussed in a public meeting. Thus, all directly affected persons have an opportunity to participate and provide input.

Authority to fix the rate of assessment to be paid by each handler and to collect such assessment appears in § 930.41 of the order. In addition, § 930.48 of the order provides that the Board, with the approval of the USDA, may establish or provide for the establishment of production research, marketing research, and market development projects designed to assist, improve, or promote the marketing, distribution, consumption, or efficient production of cherries. The expense of such projects is paid from funds collected pursuant to § 930.41 (Assessments), or from such other funds as approved by the USDA.

For the 2003–2004 fiscal year, the Board recommended, and USDA approved, an assessment rate of $0.0021 per pound of tart cherries handled that would continue in effect from fiscal period to fiscal period unless modified, suspended, or terminated by USDA upon recommendation and information submitted by the Board or other information available to USDA.

The Board met on March 16, 2006, and recommended 2006–2007 expenditures of $1,523,000 and an assessment rate of $0.0066 per pound of tart cherries. Eighteen of the nineteen Board members voted in support of the assessment rate increase. One Board seat is vacant. In comparison, last year's budgeted expenses were $488,000. The assessment rate of $0.0066 is $0.0045 higher than the rate currently in effect. The Board recommended that the

assessment rate be increased to cover its administrative expenses and fund a new research and promotion program which will commence in Fall 2006. The proposed $0.0066 assessment rate would cover the costs of the research and promotion program which would be assessed at $.005 per pound (or $10 per ton) of cherries for processing and $.0016 per pound for administrative expenses. The $0.0016 per pound for administrative expenses would be a reduction from the 2005–2006 assessment rate of $0.0021 per pound. The Board believes that its new research and promotion program is the best way for the industry to develop both stronger demand for tart cherries and tart cherry products and increase sales opportunities.

According to a recent Board survey, both growers and handlers believe a research and promotion program would benefit the industry. This program would be directed primarily at consumers and retail nutrition advisors, and employ promotional strategies, such as print advertising. All tart cherry handlers regulated under the marketing order would pay the proposed assessment rate to fund the new research and promotion program. However, certain organic handlers may be exempt from paying assessments for market promotion activities pursuant to 7 CFR 900.700.

The major expenditures recommended by the Board for the 2006–2007 year include $1,150,000 for promotion, $169,000 for personnel, $82,000 for meetings, $77,000 for office expenses, $20,000 for compliance, and $5,000 for industry educational efforts. Budgeted expenses for major items in 2005–2006 were $159,000 for personnel, $150,000 for compliance, $81,000 for meetings, $93,000 for office expenses, and $5,000 for industry educational efforts. The Board recommended an increased assessment rate to generate larger revenue to meet its expenses and keep its reserves at an acceptable level.

In deriving the recommended assessment rate, the Board determined assessable tart cherry production for the fiscal period at 230 million pounds. Therefore, total assessment income for 2006–2007 is estimated at $1,518,000 (230 million pounds × $0.0066). This amount plus adequate funds in the reserve and interest income would be adequate to cover budgeted expenses. Funds in the reserve (approximately $411,000) would be kept within the approximately six months' operating expenses as recommended by the Board consistent with § 930.42(a).

The assessment rate established in this rule would continue in effect indefinitely unless modified, suspended, or terminated by USDA upon recommendation and other information submitted by the Board or other available information.

Although the assessment rate would be effective for an indefinite period, the Board would continue to meet prior to or during each fiscal period to recommend a budget of expenses and consider recommendations for modification of the assessment rate. The dates and times of Board meetings are available from the Board or the USDA. Board meetings are open to the public and interested persons may express their views at these meetings. USDA will evaluate Board recommendations and other available information to determine whether modification of the assessment rate is needed. Further rulemaking would be undertaken as necessary. The Board's 2006–2007 budget and those for subsequent fiscal periods would be reviewed and, as appropriate, approved by the USDA.

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 rules 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.

There are approximately 40 handlers of tart cherries who are subject to regulation under the tart cherry marketing order and approximately 900 producers of tart cherries in the regulated area. Small agricultural service firms, which includes handlers, 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. The majority of producers and handlers of tart cherries under the order are considered small entities under SBA's standards.

The principal demand for tart cherries is in the form of processed products. Tart cherries are dried, frozen, canned, juiced, and pureed. During the period 2001/2002 through 2005/2006, approximately 93.8 percent of the U.S. tart cherry crop, or 214.3 million pounds, was processed annually. Of the 214.3 million pounds of tart cherries processed, 62 percent was frozen, 26 percent was canned, and 12 percent was utilized for juice and other products.

Based on National Agricultural Statistics Service data, acreage in the United States devoted to tart cherry production has been trending downward. Bearing acreage has declined from a high of 50,050 acres in 1987/99 to 37,100 acres in 2005/2006. This represents a 26 percent decrease in total bearing acres. Michigan leads the nation in tart cherry acreage with 74 percent of the total and produces about 72 percent of the U.S. tart cherry crop each year.

This rule would increase the assessment rate established for the Board and collected from handlers for the 2006–2007 and subsequent fiscal periods from $.0021 to $.0066 per pound of tart cherries.

The Board discussed continuing the existing assessment rate, but concluded that it needed the additional funds to devote to its research and promotion program which would be funded through assessments.

This action would increase the assessment obligation imposed on handlers. While assessments impose some additional costs on handlers, the costs are minimal and uniform on all handlers. Some of the additional costs may be passed on to producers. However, these costs will be offset by the benefits derived by the operation of the marketing order. In addition, the Board's meeting was widely publicized throughout the tart cherry industry and all interested persons were invited to attend the meeting and participate in Board deliberations on all issues. Like all Board meetings, all entities, both large and small, were able to express views on this issue. Finally, interested persons are invited to submit information on the regulatory and informational impacts of this action on small businesses.

This proposed rule would impose no additional reporting or recordkeeping requirements on either small or large tart cherry handlers. 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.

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.

USDA has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at the following Web site: *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.

A 20-day comment period is provided to allow interested persons to respond to this proposed rule. Twenty days is deemed appropriate because: (1) The 2006–2007 fiscal period begins July 1, 2006, and the marketing order requires that the rate of assessment for each fiscal year apply to all assessable tart cherries handled during such period; (2) the Board needs to have sufficient funds to pay its expenses which are incurred on a continuous basis; and (3) handlers are aware of this action which was recommended by the Board at a public meeting.

List of Subjects in 7 CFR Part 930

Marketing agreements, Reporting and recordkeeping requirements, Tart cherries.

For the reasons set forth in the preamble, 7 CFR part 930 is proposed to be amended as follows:

PART 930—TART CHERRIES GROWN IN THE STATES OF MICHIGAN, NEW YORK, PENNSYLVANIA, OREGON, UTAH, WASHINGTON, AND WISCONSIN

1. The authority citation for 7 CFR part 930 continues to read as follows:

Authority: 7 U.S.C. 601–674.

2. Section 930.200 is revised to read as follows:

§ 930.200 Assessment rate.

On and after July 1, 2006, the assessment rate imposed on handlers shall be $0.0066 per pound of tart cherries grown in the production area and utilized in the production of tart cherry products. Included in this rate is $.005 per pound of cherries to cover the costs of the new research and promotion program and $.0016 per pound of cherries to cover administrative expenses.

Dated: June 15, 2006.

Lloyd C. Day,

Administrator, Agricultural Marketing Service.

[FR Doc. E6–9727 Filed 6–20–06; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF THE TREASURY

31 CFR Part 103

RIN 1506–AA86

FEDERAL RESERVE SYSTEM

12 CFR Part 219

[Regulation S, Docket No. R–1258]

Threshold for the Requirement To Collect, Retain, and Transmit Information on Funds Transfers and Transmittals of Funds

AGENCIES: Financial Crimes Enforcement Network, Department of the Treasury; Board of Governors of the Federal Reserve System.

ACTION: Joint advance notice of proposed rulemaking (Advance Notice).

SUMMARY: The Financial Crimes Enforcement Network (FinCEN) of the Department of the Treasury (Treasury) and the Board of Governors of the Federal Reserve System (Board) are reviewing the threshold in the rule requiring banks and nonbank financial institutions to collect and retain information on funds transfers and transmittals of funds. FinCEN is reviewing the threshold in the rule requiring banks and nonbank financial institutions to transmit information on funds transfers and transmittals of funds. The requirement to collect, retain, and transmit information on funds transfers and transmittals of funds applies only to funds transfers and transmittals of funds in amounts of $3,000 or more. FinCEN and the Board (collectively, the Agencies) request comment from the public, including law enforcement and financial institutions, to assess whether the potential benefit to law enforcement of a lower threshold outweighs the potential burden to financial institutions.

DATES: Written comments on this Advance Notice may be submitted on or before August 21, 2006.

ADDRESSES: *FinCEN:* You may submit comments, identified by Regulatory Identification Number (RIN) 1506–AA86, by any of the following methods:

- *Federal E-rulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments. Include 1506–AA86 in the submission.
- *E-mail: regcomments@fincen.treas.gov.* Include 1506-AA86 in the subject line of the message.
- *Mail:* FinCEN, P.O. Box 39, Vienna, VA 22183. Include 1506–AA86 in the body of the text.

All comments received will be posted without change to *http://www.fincen.gov.* Your comments will not be edited to remove identifying, contact, or other personal information. Comments may be inspected in the FinCEN reading room between 10 a.m. and 4 p.m. in Washington, DC. Persons wishing to inspect comments must request an appointment by telephone at (202) 354–6400 (not a toll-free number).

Board: You may submit comments, identified by Docket No. R–1258, by any of the following methods:

- *Agency Web site: http://www.federalreserve.gov.* Follow the instructions for submitting comments at *http://www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm.*
- *Federal E-Rulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *E-mail: regs.comments@federalreserve.gov.*
- *Fax:* (202) 452–3819 or (202) 452–3102.
- *Mail:* Jennifer J. Johnson, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, NW., Washington, DC 20551.

All public comments are available from the Board's Web site at *http://www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm,* as submitted, unless modified for technical reasons. Accordingly, your comments will not be edited to remove any identifying or contact information. Public comments may also be viewed electronically or in paper in Room MP–500 of the Board's Martin Building (20th and C Streets, NW.) between 9 a.m. and 5 p.m. on weekdays.

FOR FURTHER INFORMATION CONTACT:

FinCEN: Regulatory Policy and Programs Division, Financial Crimes Enforcement Network, (800) 949–2732.

Board: James K. Owens, Manager, (202) 728–5848, Division of Reserve Bank Operations and Payment Systems, Suzanne L. Williams, Manager, (202) 452–3513, Division of Banking Supervision and Regulation, or Christopher W. Clubb, Senior Counsel, (202) 452–3904, Legal Division. For the hearing impaired only: Telecommunications Device for the Deaf, (202) 263–4869.

SUPPLEMENTARY INFORMATION:

I. Background

A. Statutory and Regulatory Background

The Bank Secrecy Act (BSA) (Pub. L. 91–508, codified at 12 U.S.C. 1829b and 1951–1959, and 31 U.S.C. 5311–5314 and 5316–5332) authorizes the Secretary of the Treasury (Secretary) to require financial institutions to keep records and file reports that the Secretary determines have a high degree of usefulness in criminal, tax, or regulatory investigations or proceedings, or in intelligence or counterintelligence matters to protect against terrorism. The authority of the Secretary to administer the BSA has been delegated to the Director of FinCEN. The BSA was amended by the Annunzio-Wylie Anti-Money Laundering Act of 1992 (Pub. L. 102–550) (Annunzio-Wylie). Annunzio-Wylie authorizes the Secretary and the Board to jointly issue regulations requiring insured depository institutions to maintain records of domestic funds transfers.[1] In addition, Annunzio-Wylie authorizes the Secretary and the Board to jointly issue regulations requiring insured depository institutions and certain nonbank financial institutions to maintain records of international funds transfers and transmittals of funds.[2] Annunzio-Wylie requires the Secretary and the Board, in issuing regulations for international funds transfers and transmittals of funds, to consider the usefulness of the records in criminal, tax, or regulatory investigations or proceedings, and the effect of the regulations on the cost and efficiency of the payments system.[3]

On January 3, 1995, the Agencies jointly issued a recordkeeping rule that requires banks and nonbank financial institutions to collect and retain information on funds transfers and transmittals of funds in amounts of $3,000 and more.[4] At the same time, FinCEN issued a rule—the travel rule—that requires banks and nonbank financial institutions to transmit information on funds transfers and transmittals of funds to other banks or nonbank financial institutions.[5] The recordkeeping rule is codified at 31 CFR 103.33(e) and (f),[6] and the travel rule is codified at 31 CFR 103.33(g).[7]

B. Overview of the Recordkeeping and Travel Rules

The recordkeeping and travel rules in 31 CFR 103.33 require banks and nonbank financial institutions to collect, retain, and transmit information on funds transfers and transmittals of funds in amounts of $3,000 and more.

Under the recordkeeping rule, the originator's bank or transmittor's financial institution must collect and retain the following information: (a) Name and address of the originator or transmittor; (b) the amount of the payment or transmittal order; (c) the execution date of the payment or transmittal order; (d) any payment instructions received from the originator or transmittor with the payment or transmittal order; and (e) the identity of the beneficiary's bank or recipient's financial institution. In addition, the originator's bank or transmittor's financial institution must retain as much of the following information as the bank or nonbank financial institution receives with the payment or transmittal order: (1) Name and address of the beneficiary or recipient; (2) account number of the beneficiary or recipient; and (3) any other specific identifier of the beneficiary or recipient. The originator's bank or transmittor's financial institution is required to verify the identity of the person placing a payment or transmittal order if the order is made in person and the person placing the order is not an established customer.[8] Similarly, should the beneficiary's bank or recipient's financial institution deliver the proceeds to the beneficiary or recipient in person, the bank or nonbank financial institution must verify the identity of the beneficiary or recipient—and collect and retain various items of information identifying the beneficiary or recipient—if the beneficiary or recipient is not an established customer. Finally, an intermediary bank or intermediary financial institution—and the beneficiary's bank or recipient's financial institution—must retain originals or copies of payment or transmittal orders.

Under the travel rule, the originator's bank or transmittor's financial institution is required to include information, including all information required under the recordkeeping rule, in a payment or transmittal order sent by the bank or nonbank financial institution to another bank or nonbank financial institution in the payment chain. An intermediary bank or intermediary financial institution is also required to transmit information to other banks or nonbank financial institutions in the payment chain, to the extent the information is received by the intermediary bank or intermediary financial institution.

II. Issues for Comment

The requirement in 31 CFR 103.33 to collect, retain, and transmit information on funds transfers and transmittals of funds applies only to funds transfers and transmittals of funds in amounts of $3,000 or more. This Advance Notice requests comment on the potential effect of lowering the threshold—or eliminating the threshold altogether—as a means of combating terrorism, money laundering, and other illicit activity and protecting the U.S. financial system from these threats. Money launderers and terrorist financiers have become increasingly sophisticated in their use of funds transfers and transmittals of funds. In addition, the operating environment for banks and other financial institutions has evolved since the issuance of the recordkeeping and travel rules for funds transfers and transmittals of funds.

In October 2001, the Financial Action Task Force issued ''Special Recommendations on Terrorist Financing.''[9] Special Recommendation VII aims to ensure that basic information pertaining to the originator or transmittor in a funds transfer or transmittal of funds is collected, retained, and transmitted to banks or other financial institutions in the

[1] 12 U.S.C. 1829b(b)(2). The Treasury—and not the Board—is authorized to issue regulations requiring nonbank financial institutions to maintain records of domestic transmittals of funds.

[2] 12 U.S.C. 1829b(b)(3). The terms ''funds transfer,'' ''originator,'' ''beneficiary,'' and ''payment order'' apply only in the context of banks. The term ''transmittal of funds'' includes a funds transfer and its counterpart in the context of nonbank financial institutions. *See* 31 CFR 103.11(jj). Transmittors, recipients, and transmittal orders in the context of nonbank financial institutions play the same role as originators, beneficiaries, and payment orders in the context of banks.

[3] 12 U.S.C. 1829b(b)(3).

[4] 60 FR 220–01 Jan. 3, 1995.

[5] 60 FR 234–01 Jan. 3, 1995. The Bank Secrecy Act authorizes the Treasury to issue regulations requiring financial institutions to implement procedures for complying with the Bank Secrecy Act and to guard against money laundering. FinCEN issued the travel rule pursuant to this authority.

[6] Through a separate rulemaking, the Board added on January 3, 1995 a new subpart B to 12 CFR Part 219, which cross-references the requirements of 31 CFR 103.33(e) and (f). *See* 60 FR 231–01 Jan. 3, 1995.

[7] Recordkeeping requirements for banks are set forth in 31 CFR 103.33(e). Recordkeeping requirements for nonbank financial institutions are set forth in 31 CFR 103.33(f). The travel rule—codified at 31 CFR 103.33(g)—applies by its terms to both bank and nonbank financial institutions.

[8] The term ''established customer'' is defined at 31 CFR 103.11(l).

[9] *See* Nine Special Recommendations on Terrorist Financing (October 22, 2004). The document was amended on October 22, 2004—with the addition of Special Recommendation IX on cash couriers. The Financial Action Task Force is an international, inter-governmental body whose purpose is the development and promotion of national and international policies to combat money laundering and terrorist financing.

payment chain.[10] The Financial Action Task Force recommends a de minimis threshold no higher than $1,000 with the interest of identifying low value originators or transmitters without driving legitimate transactions underground and below regulatory review. The Agencies are considering the recommendation and assessing its appropriateness for the financial system in the United States.

A. Benefit to Law Enforcement

This Advance Notice requests comment on the benefit to law enforcement of reducing or eliminating the threshold for the requirement to collect, retain, and transmit information on funds transfers and transmittals of funds.

Funds transfers and transmittals of funds are fast and efficient methods of moving funds anywhere in the world. Criminals have used funds transfers and transmittals of funds to facilitate or commit financial and other crimes. Representatives from the United States Drug Enforcement Administration, the State of Arizona, the Puerto Rico High Intensity Financial Crime Area, the Office of the New York State Attorney General, and the civil and criminal investigatory functions of the Internal Revenue Service have all indicated that the additional information collected as a result of lowering or eliminating the threshold would prove beneficial to investigations of money laundering, terrorist financing, and other financial crime. These representatives of law enforcement have indicated that lowering or eliminating the threshold would promote the disruption of illegal activity and make illegal activity more expensive for perpetrators by forcing them to use costlier alternative means of transferring funds to avoid higher risks of detection for funds transfers and transmittals of funds beneath the current threshold.

Law enforcement has stated that criminals are aware of the current threshold and conduct transactions in amounts under the threshold to avoid providing identification. One agency, for instance, indicated that transactions in a money laundering and drug case involved amounts between $2,600 to $2,900. Another agency pointed to a money laundering incident—with a total value of over $1 million in laundered funds—that involved human trafficking and forced labor. All of the transactions in the money laundering incident involved amounts less than $3,000. One agency observed that the laundering of illegal proceeds from human smuggling involves transactions in amounts that average approximately $1,800. The agency also observed that money launderers have started to structure these amounts, using multiple transactions in amounts that range from $500 to $1,000. The same agency analyzed data it collected—on nearly 100,000 transactions in amounts of $750 or more—and determined that 97 percent involved amounts less than $3,000.

The Agencies are interested in empirical support from law enforcement to document the degree of usefulness of a lower threshold in criminal, tax, or regulatory investigations or proceedings, or intelligence or counterintelligence matters. In this regard, the Agencies request responses from law enforcement to the following questions:

(1) To what extent have funds transfers or transmittals of funds under the $3,000 threshold been important to law enforcement investigations and proceedings? Please explain.

(2) To what extent have law enforcement investigations or proceedings been hindered by the $3,000 threshold? What is law enforcement's experience in being able to obtain records of transactions under the $3,000 threshold pursuant to subpoenas or search warrants? How frequently has law enforcement encountered financial institutions that do not retain records of the transactions under the $3,000 threshold and what types of institutions are involved?

(3) How frequently has law enforcement identified cases where persons have structured funds transfers or transmittals of funds to be under the $3,000 threshold in order to evade the recordkeeping requirement? How might structuring behavior change if the threshold was lowered to $2,000? To $1,000?

(4) Inasmuch as information regarding international transmittals of funds can be obtained by law enforcement without a judicial order or other similar process, how often has currently available information been accessed, and how useful was it?

B. Burden to the Financial System

This Advance Notice requests comment on the burden to the financial system, if any, that would result from lowering or eliminating the threshold for the requirement to collect, retain, and transmit information on funds transfers and transmittals of funds. Concurrent with this Advance Notice, the Treasury is evaluating the burden to financial institutions and usefulness to law enforcement of a reporting requirement for certain cross-border funds transfers and transmittals of funds.[11] If the current $3,000 threshold for the requirement to collect, retain, and transmit information on funds transfers and transmittals of funds is lowered or eliminated, the reporting requirement currently being considered could similarly include cross-border funds transfers or transmittals of funds in amounts less than $3,000. Accordingly, in commenting on the burden to collect, retain, and transmit information on funds transfers and transmittals of funds resulting from lowering or eliminating the current threshold, commenters may also wish to comment on whether the extent or nature of the burden would be affected by promulgation of a requirement to report cross-border funds transfers and transmittals of funds below the $3,000 threshold.

In deciding on a threshold of $3,000 in 1995, the Agencies balanced the value of data on funds transfers and transmittals of funds with the burden to the financial system. The Agencies established the current threshold in response to concerns by financial institutions that imposing requirements to collect, retain, and transmit information on funds transfers and transmittals of funds could result in significant implementation and ongoing costs. The expansion of requirements under the Bank Secrecy Act and advancing technology, however, may have reduced the incremental cost of obtaining, retaining, and transmitting information on funds transfers and transmittals of funds in amounts below the current threshold.

In general, the responsibilities of financial institutions under the Bank Secrecy Act have expanded over time. For example, a money services business must now report suspicious transactions[12] and implement programs for ensuring compliance with the Bank Secrecy Act.[13] Money services businesses may collect and retain information on transmittals of funds as

[10] *See* Revised Interpretative Note to Special Recommendation VII: Wire Transfers (June 10, 2005).

[11] Section 6302 of the Intelligence Reform and Terrorism Prevention Act of 2004 (Pub. L. 108–458) authorizes the Secretary of the Treasury to prescribe regulations, if feasible, to require the reporting to FinCEN of certain cross-border funds transfers if such reporting is reasonably necessary to conduct the efforts of the Treasury against money laundering and terrorist financing.

[12] *See* 31 CFR 103.20. The requirement applies to transactions occurring after December 31, 2001. The threshold for the requirement to report suspicious transactions is $2,000.

[13] *See* 31 CFR 103.125. A money services business must implement the program on or before the later of July 24, 2002 and the end of the ninety-day period beginning on the day following the date the business is established.

a means of ensuring compliance with the requirement to report suspicious transactions. The requirement on the part of money services businesses to report suspicious transactions may mean that reducing or eliminating the threshold would impose less of an incremental cost. If this is not the case, the Agencies welcome comments from money services businesses.

In addition, technology has advanced since the issuance of the recordkeeping and travel rules for funds transfers and transmittals of funds. Banks and other financial institutions may use less expensive or more efficient means of electronic storage and retrieval.

The Agencies are gathering information on financial institutions' practices and procedures to measure the compliance burden of lowering the threshold. The Agencies request responses from financial institutions to the following questions:

(1) What proportion of funds transfers or transmittals of funds that your financial institution processes as an originator's bank or transmittor's financial institution involves amounts less than $3,000? What proportion involves amounts less than $2,000? What proportion involves amounts less than $1,000?

(2) For each category of funds transfer or transmittal of funds—those involving amounts less than $3,000, less than $2,000, and less than $1,000—what proportion does your financial institution process as an originator's bank or transmittor's financial institution for originators or transmittors who fail to qualify as ''established customers''? What proportion does your financial institution process as a beneficiary's bank or recipient's financial institution for beneficiaries or recipients who fail to qualify as ''established customers''? Do the recordkeeping practices of your financial institution for these transactions—and the practices of your financial institution in verifying the identities of persons who fail to qualify as ''established customers''—differ based on whether the funds transfer or transmittal of funds involves an amount above or below the current threshold of $3,000? If so, please describe the differences.

(3) Do the recordkeeping practices of your financial institution for funds transfers or transmittals of funds involving amounts below the current threshold of $3,000 differ from those for funds transfers or transmittals of funds involving amounts above the threshold? If so, please describe the differences.

(4) Does the information that your financial institution includes in payment or transmittal orders for funds transfers or transmittals of funds involving amounts below the current threshold of $3,000 differ from the information that your financial institution includes in payment or transmittal orders for funds transfers or transmittals of funds involving amounts above the threshold? If so, please describe the differences.

(5) How would reducing or eliminating the threshold affect the price and type of the services that your financial institution provides in connection with domestic and cross-border funds transfers or transmittals of funds? To the extent possible, discuss the effect based on reductions of the threshold in increments of $1,000, or explain at which point lowering the threshold would substantially impact the price and type of services provided by your financial institution.

(6) How would reducing or eliminating the threshold affect the cost and efficiency of payment operations at your financial institution and the payments system in general? To the extent possible, discuss the effect based on reductions of the threshold in increments of $1,000, or explain at which point lowering the threshold would substantially impact the cost and efficiency of payment operations at your financial institution or the payments system in general.

C. Burden to the Public

Finally, the Agencies are gathering information on consumer practices and procedures to measure the effect of lowering the threshold. The Agencies request responses from the public to the following questions:

(1) Would increases in the price of funds transfers or transmittals of funds result in the use of alternative methods of sending funds, such as sending a money order by post or courier?

(2) Would a requirement for originator information below the current threshold result in the use of alternative methods of sending funds, such as sending a money order by post or courier?

(3) Are there certain types of transactions that permit the use of alternative methods more than others? For transactions that allow for alternative methods, please explain how you would decide between the various methods of sending funds.

(4) Do you engage in different behavior when making funds transfers and transmittal of funds above and below $3,000 because of the current threshold? Please explain.

III. Conclusion

With this Advance Notice, the Agencies request comment on the potential effect of lowering or eliminating the threshold for the requirement in 31 CFR 103.33 to collect, retain, and transmit information on funds transfers and transmittals of funds. Comments on all aspects of the Advance Notice are welcome, and the Agencies encourage all interested parties to provide their views.

IV. Executive Order 12866

The Agencies do not know whether regulations under the Bank Secrecy Act will be amended, or the nature of any amendment. Consequently, the Agencies do not know whether the potential regulatory action would constitute a significant regulatory action under Executive Order 12866. This Advance Notice neither establishes nor proposes any regulatory requirements. Accordingly, the Agencies solicit comment, information, and data on the potential effects of any potential regulation.

Robert W. Werner,

Director, Financial Crimes Enforcement Network.

By order of the Board of Governors of the Federal Reserve System, June 15, 2006.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. 06–5567 Filed 6–20–06; 8:45 am]

BILLING CODE 4810–02–P; 6210–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. NM347; Notice No. 25–06–06–SC]

Special Conditions: Boeing Model 777–200 Series Airplanes; Forward Lower Lobe Crew Rest Compartment (CRC)

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed special conditions.

SUMMARY: This action proposes special conditions for the Boeing Model 777–200 series airplanes. These airplanes, modified by Aerocon Engineering Company (AEC), will have a novel or unusual design feature associated with a forward lower lobe crew rest compartment (CRC). The applicable airworthiness regulations do not contain adequate or appropriate safety standards for this design feature. These proposed

special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

DATES: We must receive your comments by August 7, 2006.

ADDRESSES: You must mail two copies of your comments to: Federal Aviation Administration, Transport Airplane Directorate, Attn: Rules Docket (ANM–113), Docket No. NM347, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. You may deliver two copies to the Transport Airplane Directorate at the above address. You must mark your comments: Docket No. NM347. You can inspect comments in the Rules Docket weekdays, except Federal holidays, between 7:30 a.m. and 4 p.m.

FOR FURTHER INFORMATION CONTACT: Jayson Claar, FAA, Airframe/Cabin Safety Branch, ANM–115, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue, SW., Renton, Washington, 98055–4056; telephone (425) 227–2194; facsimile (425) 227–1320.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite interested people to take part in this rulemaking by sending written comments, date, or views. The most helpful comments reference a specific portion of the proposed special conditions, explain the reason for any recommended change, and include supporting data. We ask that you send us two copies of written comments.

We will file in the docket all comments we receive, as well as a report summarizing each substantive public contact with FAA personnel concerning these proposed special conditions. You can inspect the docket before and after the comment closing date. If you wish to review the docket in person, go to the address in the **ADDRESSES** section of this preamble between 7:30 a.m. and 4 p.m., weekdays, except Federal holidays.

We will consider all comments we receive on or before the closing date for comments. We will consider comments filed late if it is possible to do so without incurring expense or delay. We may make changes to these proposed special conditions based on the comments we receive.

If you want the FAA to acknowledge receipt of your comments on this proposal, include with your comments a pre-addressed, stamped postcard on which the docket number appears. We will stamp the date on the postcard and mail it back to you.

Background

On March 10, 2005, Aerocon Engineering Company (AEC) applied for a supplemental type certificate to permit installation of a CRC in Boeing 777–200 series airplanes.

The CRC will be located under the passenger cabin floor in the forward cargo compartment of Boeing Model 777–200 series airplanes. It will be the size of three standard airfreight containers, combined, and will be removable from the cargo compartment. The CRC will be occupied in flight but not during taxi, takeoff, or landing. No more than ten crewmembers at a time will be permitted to occupy it. The CRC will have a smoke detection system, a hand held fire extinguishing system, and an oxygen system.

The CRC will be accessed from the main deck via a ''stairhouse.'' The floor within the stairhouse has a hatch that leads to stairs which occupants use to descend into the CRC. This hatch locks automatically in the open position when fully opened. In addition, there will be an emergency hatch which opens directly into the main passenger cabin area. The CRC also has a maintenance access/ground loading door. This door is intended to be used to allow maintenance personnel and cargo handlers to enter the CRC from the cargo compartment when the airplane is not in flight.

Type Certification Basis

Under the provisions of § 21.101, AEC must show that Boeing Model 777–200 series airplanes, as changed, continue to meet (1) the applicable provisions of the regulations incorporated by reference in Type Certificate No. T00001SE or (2) the applicable regulations in effect on the date of application for the change. The regulations incorporated by reference in the type certificate are commonly referred to as the ''original type certification basis.'' The regulations incorporated by reference in Type Certificate No. T00001SE are as follows:

The certification basis for Boeing Model 777–200 series airplanes is 14 CFR part 25, as amended by Amendments 25–1 through 25–82, except for § 25.571(e)(1) which remains at Amendment 25–71, with exceptions. Refer to Type Certificate No. T00001SE, as applicable, for a complete description of the certification basis for this model, including certain special conditions that are not relevant to these proposed special conditions.

If the Administrator finds that the applicable airworthiness regulations (*i.e.*, 14 CFR part 25) do not contain adequate or appropriate safety standards for Boeing Model 777–200 series airplanes because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16.

In addition to the applicable airworthiness regulations and special conditions, Boeing Model 777–200 series airplanes must comply with the fuel vent and exhaust emission requirements of 14 CFR part 34 and the noise certification requirements of 14 CFR part 36.

The FAA issues special conditions, as defined in § 11.19, under § 11.38 and they become part of the type certification basis under § 21.101.

Special conditions are initially applicable to the model for which they are issued. Should the type certificate for that model be amended later to include any other model that incorporates the same or similar novel or unusual design feature, or should any other model already included on the same type certificate be modified to incorporate the same or similar novel or unusual design feature, the proposed special conditions would also apply to the other model under § 21.101.

Novel or Unusual Design Features

While the installation of a CRC is not a new concept for large transport category airplanes, each CRC has unique features based on design, location, and use on the airplane. The CRC is novel in terms of part 25 in that it will be located below the passenger cabin floor in the forward cargo compartment of Boeing Model 777–200 series airplanes. Due to the novel or unusual features associated with the installation of a CRC, special conditions are considered necessary to provide a level of safety equal to that established by the airworthiness regulations incorporated by reference in the type certificates of these airplanes. These proposed special conditions do not negate the need to address other applicable part 25 regulations.

Operational Evaluations and Approval

These proposed special conditions specify requirements for design approvals (*i.e.*, type design changes and supplemental type certificates) of CRCs administered by the FAA's Aircraft Certification Service. Prior to operational use of a CRC, the FAA's Flight Standards Service, Aircraft Evaluation Group (AEG), must evaluate and approve the ''basic suitability'' of the CRC for occupation by crewmembers. If an operator wishes to utilize a CRC as ''sleeping quarters,'' the

CRC must undergo an additional operational evaluation and approval. The CRC would be evaluated for compliance to §§ 121.485(a) and 121.523(b), with Advisory Circular 121–31, Flight Crew Sleeping Quarters and Rest Facilities, providing one method of compliance to these operating regulations.

To obtain an operational evaluation, the type design holder must contact the AEG within the Flight Standards Service which has operational approval authority for the project. In this instance, it is the Seattle AEG. The type design holder must request a ''basic suitability'' evaluation or a ''sleeping quarters'' evaluation of the crew rest. The type design holder may make these requests concurrently with the demonstration of compliance with these special conditions.

The results of these evaluations will be documented in the Boeing Model 777–200 Flight Standardization Board (FSB) Report Appendix. In discussions with their FAA Principal Operating Inspector (POI), individual operators may reference these standardized evaluations as the basis for an operational approval, in lieu of an on-site operational evaluation.

An operational re-evaluation and approval will be required for any changes to the approved CRC configuration, if the changes affect procedures for emergency egress of crewmembers, other safety procedures for crewmembers occupying the CRC, or training related to these procedures. The applicant for any such change is responsible for notifying the Seattle AEG that a new crew rest evaluation is required.

All instructions for continued airworthiness (ICAW), including service bulletins, must be submitted to the Seattle AEG for approval acceptance before the FAA issues its approval of the modification.

Discussion of Proposed Special Conditions No. 9 and 12

The following clarifies how proposed Special Condition No. 9 should be understood relative to the requirements of § 25.1439(a):

Amendment 25–38 modified the requirements of § 25.1439(a) by adding, ''In addition, protective breathing equipment must be installed in each isolated separate compartment in the airplane. Including upper and lower lobe galleys, in which crewmember occupancy is permitted during flight for the maximum number of crewmembers expected to be in the area during any operation.'' The CRC is an isolated separate compartment, so § 25.1439(a) is applicable. However, the § 25.1439(a) PBE requirements for isolated separate compartments are not appropriate because the CRC is novel and unusual in terms of the number of occupants.

In 1976 when Amendment 25–38 was adopted, small galleys were the only isolated compartments that had been certificated. Two crewmembers were the maximum expected to occupy those galleys.

These proposed special conditions address a CRC, which can accommodate up to ten crewmembers. This large number of occupants in an isolated compartment was not envisioned at the time Amendment 25–38 was adopted. It is not appropriate for all occupants to don PBE in the event of a fire because the first action should be to leave the confined space unless the occupant is fighting the fire. Taking the time to don the PBE would prolong the time for the emergency evacuation of the occupants and possibly interfere with efforts to extinguish the fire.

In regard to proposed Special Condition No. 12, the FAA considers that during the 1-minute smoke detection time, penetration of a small quantity of smoke from this forward lower lobe CRC design into an occupied area on this airplane configuration would be acceptable based upon the limitations placed in these proposed special conditions. The FAA determination considers that the proposed special conditions place sufficient restrictions in the quantity and type of material allowed in crew carry-on bags that the threat from a fire in this remote area would be equivalent to that experienced on the main cabin.

Applicability

As discussed above, these proposed special conditions are applicable to Boeing Model 777–200 series airplanes as modified by the AEC forward lower lobe CRC. Should AEC apply at a later date for a change to the supplemental type certificate to include another model listed on the same type certificate data sheet, incorporating the same or similar novel or unusual design feature, these special conditions would apply to that model as well.

Conclusion

This action affects only certain novel or unusual design features on the Boeing Model 777–200 series airplanes. It is not a rule of general applicability, and it affects only the applicant which applied to the FAA for approval of these features on the airplane.

List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

The authority citation for these proposed special conditions is as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701, 44702, 44704.

The Proposed Special Conditions

Accordingly, the Federal Aviation Administration (FAA) proposes the following special conditions as part of the type certification basis for the Boeing Model 777–200 series airplanes, modified by Aerocon Engineering Company.

1. Occupancy of the forward lower lobe crew rest compartment (CRC) is limited to the total number of installed bunks and seats in each compartment. There must be an approved seat or Berth able to withstand the maximum flight loads when occupied for each occupant permitted in the CRC. The maximum occupancy is ten in the CRC.

(a) There must be appropriate placard(s) displayed in a conspicuous place at each entrance to the CRC to indicate:

(1) The maximum number of occupants allowed;

(2) That occupancy is restricted to crewmembers who are trained in the evacuation procedures for the CRC;

(3) That occupancy is prohibited during taxi, take-off and landing;

(4) That smoking is prohibited in the CRC;

(5) That hazardous quantities of flammable fluids, explosives, or other dangerous cargo are prohibited from the CRC; and

(6) That stowage in the CRC must be limited to emergency equipment, airplane-supplied equipment (e.g., bedding), and crew personal luggage; cargo or passenger baggage is not allowed.

(b) There must be at least one ashtray located conspicuously on or near the entry side of any entrance to the CRC.

(c) There must be a means to prevent passengers from entering the compartment in the event of an emergency or when no flight attendant is present.

(d) There must be a means for any door installed between the CRC and passenger cabin to be capable of being quickly opened from inside the compartment, even when crowding occurs at each side of the door.

(e) For all doors installed in the evacuation routes, there must be a means to preclude anyone from being trapped inside the compartment. If a locking mechanism is installed, it must

be capable of being unlocked from the outside without the aid of special tools. The lock must not prevent opening from the inside of the compartment at any time.

2. There must be at least two emergency evacuation routes, each of which can be used by each occupant of the CRC to rapidly evacuate to the main cabin. The exit door/hatch for each route must be able to be closed for the main cabin after evacuation. In addition—

(a) The routes must be located with one at each end of the compartment, or with two having sufficient separation within the compartment and between the routes to minimize the possibility of an event (either inside or outside of the CRC) rendering both routes inoperative.

(b) The routes must be designed to minimize the possibility of blockage, which might result from fire, mechanical or structural failure, or persons standing on top of or against the escape route. If an evacuation route utilizes an area where normal movement of passengers occurs, it must be demonstrated that passengers would not impede egress to the main deck. If a hatch is installed in an evacuation route, the point at which the evacuation route terminates in the passenger cabin should not be located where normal movement by passengers or crew occurs (main aisle, cross aisle, passageway or galley complex). If such a location cannot be avoided, special consideration must be taken to ensure that the hatch or door can be opened when a person, the weight of a ninety-fifth percentile male, is standing on the hatch or door. The use of evacuation routes must not be dependent on any powered device. If there is low headroom at or near an evacuation route, provisions must be made to prevent or to protect occupants (of the CRC) from head injury.

(c) Emergency evacuation procedures, including the emergency evacuation of an incapacitated occupant from the CRC, must be established. All of these procedures must be transmitted to all operators for incorporation into their training programs and appropriate operational manuals.

(d) There must be a limitation in the Airplane Flight Manual or other suitable means requiring that crewmembers be trained in the use of evacuation routes.

3. There must be a means for the evacuation of an incapacitated person (representative of a 95th percentile male) from the CRC to the passenger cabin floor. The evacuation must be demonstrated for all evacuation routes. A flight attendant or other crewmember (a total of one assistant within the CRC) may provide assistance in the evacuation. Additional assistance may be provided by up to three persons in the main passenger compartment. For evacuation routes having stairways, the additional assistants may descend down to one half the elevation change from the main deck to the lower deck compartment, or to the first landing, whichever is higher.

4. The following signs and placards must be provided in the CRC:

(a) At least one exit sign, located near each exit, meeting the requirements of § 25.812(b)(1)(i) at Amendment 25–58, except that a sign with reduced background area of no less than 5.3 square inches (excluding the letters) may be utilized, provided that it is installed such that the material surrounding the exit sign is light in color (e.g., white, cream, light beige). If the material surrounding the exit sign is not light in color, a sign with a minimum of a one-inch wide background border around the letters would also be acceptable;

(b) An appropriate placard located near each exit defining the location and the operating instructions for each evacuation route;

(c) Placards must be readable from a distance of 30 inches under emergency lighting conditions; and

(d) The exit handles and evacuation path operating instruction placards must be illuminated to at least 160 micro lamberts under emergency lighting conditions.

5. There must be a means in the event of failure of the aircraft's main power system, or of the normal CRC lighting system, for emergency illumination to be automatically provided for the CRC.

(a) This emergency illumination must be independent of the main lighting system.

(b) The sources of general cabin illumination may be common to both the emergency and the main lighting systems if the power supply to the emergency lighting system is independent of the power supply to the main lighting system.

(c) The illumination level must be sufficient for the occupants of the CRC to locate and transfer to the main passenger cabin floor by means of each evacuation route.

(d) The illumination level must be sufficient with the privacy curtains in the closed position for each occupant of the CRC to locate a deployed oxygen mask.

6. There must be means for two-way voice communications between crewmembers on the flightdeck and occupants of the CRC. There must also be public address (PA) system microphones at each flight attendant seat required to be near a floor level exit in the passenger cabin per § 25.785(h) at Amendment 25–51. The PA system must allow two-way voice communications between flight attendants and the occupants of the CRC, except that one microphone may serve more than one exit provided the proximity of the exits allows unassisted verbal communication between seated flight attendants.

7. There must be a means for manual activation of an aural emergency alarm system, audible during normal and emergency conditions, to enable crewmembers on the flightdeck and at each pair of required floor level emergency exits to alert occupants of the CRC of an emergency situation. Use of a public address or crew interphone system will be acceptable, provided an adequate means of differentiating between normal and emergency communications is incorporated. The system must be powered in flight for at least ten minutes after the shutdown or failure of all engines and auxiliary power units (APU) or the disconnection or failure of all power sources which are dependent on the continued operation of the engines and APUs.

8. There must be a means, readily detectable by seated or standing occupants of the CRC, which indicates when seat belts should be fastened. In the event there are no seats, at least one means must be provided to cover anticipated turbulence (e.g., sufficient handholds). Seat belt type restraints must be provided for berths and must be compatible for the sleeping attitude during cruise conditions. There must be a placard on each berth requiring that seat belts must be fastened when occupied. If compliance with any of the other requirements of these special conditions is predicated on specific head location, there must be a placard identifying the head position.

9. In lieu of the requirements specified in § 25.1439(a) at Amendment 25–38 that pertain to isolated compartments and to provide a level of safety equivalent to that which is provided occupants of a small isolated galley, the following equipment must be provided in the CRC:

(a) At least one approved hand-held fire extinguisher appropriate for the kinds of fires likely to occur;

(b) Two PBE devices approved to Technical Standard Order (TSO)–C116 or equivalent, suitable for fire fighting, or one PBE for each hand-held fire extinguisher, whichever is greater; and

(c) One flashlight.

Note: Additional PBEs and fire extinguishers in specific locations, (beyond the minimum numbers prescribed in Special Condition No. 9) may be required as a result of any egress analysis accomplished to satisfy Special Condition No. 2(a).

10. A smoke or fire detection system (or systems) must be provided that monitors each occupiable area within the CRC, including those areas partitioned by curtains. Flight tests must be conducted to show compliance with this requirement. Each system (or systems) must provide:

(a) A visual indication to the flightdeck within one minute after the start of a fire;

(b) An aural warning in the CRC; and

(c) A warning in the main passenger cabin. This warning must be readily detectable by a flight attendant, taking into consideration the positioning of flight attendants throughout the main passenger compartment during various phases of flight.

11. The CRC must be designed such that fires within the compartment can be controlled without a crewmember having to enter the compartment, or the design of the access provisions must allow crewmembers equipped for fire fighting to have unrestricted access to the compartment. The time for a crewmember on the main deck to react to the fire alarm, to don the fire fighting equipment, and to gain access must not exceed the time for the compartment to become smoke-filled, making it difficult to locate the fire source.

12. There must be a means provided to exclude hazardous quantities of smoke or extinguishing agent originating in the CRC from entering any other compartment occupied by crewmembers or passengers. This means must include the time periods during the evacuation of the CRC and, if applicable, when accessing the CRC to manually fight a fire. Smoke entering any other compartment occupied by crewmembers or passengers when the access to the CRC is opened, during an emergency evacuation, must dissipate within five minutes after the access to the CRC is closed. Hazardous quantities of smoke may not enter any other compartment occupied by crewmembers or passengers during subsequent access to manually fight a fire in the CRC (the amount of smoke entrained by a firefighter exiting the CRC through the access is not considered hazardous). During the 1-minute smoke detection time, penetration of a small quantity of smoke from the CRC into an occupied area is acceptable. Flight tests must be conducted to show compliance with this requirement.

If a built-in fire extinguishing system is used in lieu of manual fire fighting, then the fire extinguishing system must be designed so that no hazardous quantities of extinguishing agent will enter other compartments occupied by passengers or crew. The system must have adequate capacity to suppress any fire occurring in the CRC, considering the fire threat, volume of the compartment and the ventilation rate.

13. There must be a supplemental oxygen system equivalent to that provided for main deck passengers for each seat and berth in the CRC. The system must provide an aural and visual warning to warn the occupants of the CRC to don oxygen masks in the event of decompression. The warning must activate before the cabin pressure altitude exceeds 15,000 feet. The aural warning must sound continuously for a minimum of five minutes or until a reset push button in the CRC is depressed. Procedures for crew rest occupants to follow in the event of decompression must be established. These procedures must be transmitted to the operators for incorporation into their training programs and appropriate operational manuals.

14. The following requirements apply to CRCs that are divided into several sections by the installation of curtains or partitions:

(a) To warn sleeping occupants, there must be an aural alert that can be heard in each section of the CRC and that accompanies automatic presentation of supplemental oxygen masks. A visual indicator that occupants must don an oxygen mask is required in each section where seats or berths are not installed. A minimum of two supplemental oxygen masks is required for each seat or berth. There must also be a means by which the oxygen masks can be manually deployed from the flightdeck.

(b) A placard is required adjacent to each curtain that visually divides or separates, for privacy purposes, the CRC into small sections. The placard must require that the curtain remains open when the private section it creates is unoccupied.

(c) For each section of the CRC created by the installation of a curtain, the following requirements of these special conditions must be met both with the curtain open and with the curtain closed:

(1) Emergency illumination (Special Condition No. 5);

(2) Emergency alarm system (Special Condition No. 7);

(3) Seat belt fasten signal or return to seat signal as applicable (Special Condition No. 8); and

(4) The smoke or fire detection system (Special Condition No. 10).

(d) Crew rest compartments visually divided to the extent that evacuation could be affected must have exit signs that direct occupants to the primary stairway exit. The exit signs must be provided in each separate section of the CRC, and must meet the requirements of § 25.812(b)(1)(i) at Amendment 25–58. An exit sign with reduced background area as described in Special Condition No. 4(a) may be used to meet this requirement.

(e) For sections within a CRC that are created by the installation of a partition with a door separating the sections, the following requirements of these special conditions must be met both with the door open and with the door closed:

(1) There must be a secondary evacuation route from each section to the main deck, or alternatively, it must be shown that any door between the sections has been designed to preclude anyone from being trapped inside the compartment. Removal of an incapacitated occupant within this area must be considered. A secondary evacuation route from a small room designed for only one occupant for short time duration, such as a changing area or lavatory, is not required. However, removal of an incapacitated occupant within this area must be considered.

(2) Any door between the sections must be shown to be openable when crowded against, even when crowding occurs at each side of the door.

(3) There may be no more than one door between any seat or berth and the primary stairway exit.

(4) There must be exit signs in each section meeting the requirements of § 25.812(b)(1)(i) at Amendment 25–58 that direct occupants to the primary stairway exit. An exit sign with reduced background area as described in Special Condition No. 4(a) may be used to meet this requirement.

(5) Special Conditions No. 5 (emergency illumination), No. 7 (emergency alarm system), No. 8 (fasten seat belt signal or return to seat signal as applicable) and No. 10 (smoke or fire detection system) must be met both with the door open and with the door closed.

(6) Special Conditions No. 6 (two-way voice communication) and No. 9 (emergency fire fighting and protective equipment) must be met independently for each separate section except for lavatories or other small areas that are not intended to be occupied for extended periods of time.

15. Where a waste disposal receptacle is fitted, it must be equipped with a built-in fire extinguisher designed to

discharge automatically upon occurrence of a fire in the receptacle.

16. Materials (including finishes or decorative surfaces applied to the materials) must comply with the flammability requirements of § 25.853 at Amendment 25–72. Mattresses must comply with the flammability requirements of § 25.853(b) and (c) at Amendment 25–72.

17. All lavatories within the CRC are required to meet the same requirements as those for a lavatory installed on the main deck except with regard to Special Condition No.10 for smoke detection.

18. When a CRC is installed or enclosed as a removable module in part of a cargo compartment or is located directly adjacent to a cargo compartment without an intervening cargo compartment wall, the following apply:

(a) Any wall of the module (container) forming part of the boundary of the reduced cargo compartment, subject to direct flame impingement from a fire in the cargo compartment and including any interface item between the module (container) and the airplane structure or systems, must meet the applicable requirements of § 25.855 at Amendment 25–72.

(b) Means must be provided so that the fire protection level of the cargo compartment meets the applicable requirements of § 25.855 at Amendment 25–72, § 25.857 at Amendment 25–60 and § 25.858 at Amendment 25–54 when the module (container) is not installed.

(c) Use of each emergency evacuation route must not require occupants of the CRC compartment to enter the cargo compartment in order to return to the passenger compartment.

(d) The aural warning in Special Condition No. 7 must sound in the CRC.

19. Means must be provided to prevent access into the Class C cargo compartment during all airplane flight operations and to ensure that the maintenance door is closed during all airplane flight operations.

20. All enclosed stowage compartments within the CRC that are not limited to stowage of emergency equipment or airplane-supplied equipment (e.g., bedding) must meet the design criteria given in the table below. As indicated by the table below, this special condition does not address enclosed stowage compartments greater than 200 ft^3 in interior volume. The in-flight accessibility of very large enclosed stowage compartments and the subsequent impact on the crewmembers ability to effectively reach any part of the compartment with the contents of a hand fire extinguisher will require additional fire protection considerations similar to those required for inaccessible compartments such as Class C cargo compartments.

STOWAGE COMPARTMENT INTERIOR VOLUMES

Fire protection features	Less than 25 ft^3	25 ft^3 to 57 ft^3	57 ft^3 to 200 ft^3
Materials of Construction [1]	Yes	Yes	Yes.
Detectors [2]	No	Yes	Yes
Liner [3]	No	No	Yes.
Locating Device [4]	No	Yes	Yes.

[1] Material—The material used to construct each enclosed stowage compartment must at least be fire resistant and must meet the flammability standards established for interior components per the requirements of § 25.853. For compartments less than 25 ft^3 in interior volume, the design must ensure the ability to contain a fire likely to occur within the compartment under normal use.

[2] Detectors—Enclosed stowage compartments equal to or exceeding 25 ft^3 in interior volume must be provided with a smoke or fire detection system to ensure that a fire can be detected within a one-minute detection time. Flight tests must be conducted to show compliance with this requirement. Each system (or systems) must provide:

(a) A visual indication in the flightdeck within one minute after the start of a fire;

(b) An aural warning in the CRC; and

(c) A warning in the main passenger cabin. This warning must be readily detectable by a flight attendant, taking into consideration the positioning of flight attendants throughout the main passenger compartment during various phases of flight.

[3] Liner—If it can be shown that the material used to construct the stowage compartment meets the flammability requirements of a liner for a Class B cargo compartment, then no liner would be required for enclosed stowage compartments equal to or greater than 25 ft^3 in interior volume but less than 57 ft^3 in interior volume. For all enclosed stowage compartments equal to or greater than 57 ft^3 in interior volume *but less than or equal to 200 ft^3,* a liner must be provided that meets the requirements of § 25.855 at Amendment 25–72 for a class B cargo compartment.

[4] Location Detector—Crew rest areas which contain enclosed stowage compartments exceeding 25 ft^3 interior volume and which are located away from one central location such as the entry to the crew rest area or a common area within the crew rest area would require additional fire protection features and/or devices to assist the firefighter in determining the location of a fire.

Issued in Renton, Washington, on June 13, 2006.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E6–9819 Filed 6–20–06; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2006–25086; Directorate Identifier 2006–NM–019-AD]

RIN 2120–AA64

Airworthiness Directives; Fokker Model F27 Mark 500 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 all Fokker Model F27 Mark 500 airplanes. This proposed AD would require an inspection to determine whether certain main landing gear (MLG) drag stay units (DSUs) are installed. This proposed AD would also require an ultrasonic inspection to determine if certain tubes are installed in the affected DSUs of the MLG, and related investigative/corrective actions if necessary. This proposed AD results from a report that, due to fatigue cracking from an improperly machined radius of the inner tube, a drag stay broke, and, consequently, led to the collapse of the MLG during landing. We are proposing

this AD to prevent such fatigue cracking, which could result in reduced structural integrity or collapse of the MLG.

DATES: We must receive comments on this proposed AD by July 21, 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 Fokker Services B.V., P.O. Box 231, 2150 AE Nieuw-Vennep, the Netherlands, for service information identified in this proposed AD.

FOR FURTHER INFORMATION CONTACT: Tom Rodriguez, Aerospace Engineer, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–1137; 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–2006–25086; Directorate Identifier 2006–NM–019-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 Civil Aviation Authority—The Netherlands (CAA–NL), which is the airworthiness authority for the Netherlands, notified us that an unsafe condition may exist on certain Fokker Model F27 Mark 500 airplanes. The CAA–NL advises that it has received a report that, due to a broken drag stay, the main landing gear (MLG) on one airplane collapsed during landing. The broken drag stay is attributed to fatigue cracking, which originated at the lower side of a transition from a smaller internal diameter on the upper piece to a larger internal diameter on the lower piece. The apparent cause of such fatigue cracking has been attributed to an improperly machined radius of the inner tube of the drag stay. This condition, if not corrected, could result in reduced structural integrity or collapse of the MLG.

The CAA–NL states that Dutch airworthiness directive BLA 93–169/2 (A), dated April 29, 1994, was issued following a similar incident to address the identified unsafe condition on all F27 airplanes. However, the related Fokker Service Bulletin F27/32–167, dated November 19, 1993, contained a statement that may have led to confusion whether Model F.27 Mark 500 airplanes were affected by the actions specified in the service bulletin. Thus, Model F27 Mark 500 airplanes may be operating without fully complying with actions necessary to address the identified unsafe condition.

Other Relevant Rulemaking

On February 7, 1997, we issued AD 97–04–08, amendment 39–9932 (62 FR 7924, February 21, 1997), for certain Fokker Model F27 Mark 050, 100, 200, 300, 400, 600, and 700 airplanes. That AD is parallel to Dutch airworthiness directive BLA 93–169/2 (A), dated April 29, 1994, and does not include Model F27 Mark 500 airplanes in its applicability. AD 97–04–08 requires an ultrasonic inspection to determine if certain tubes are installed in the drag stay units of the main landing gear (MLG), and various follow-on actions. That AD resulted from a report that, due to fatigue cracking from an improperly machined radius of the inner tube, a drag stay broke, and, consequently, led to the collapse of the MLG during landing. We issued that AD to prevent such fatigue cracking, which could result in reduced structural integrity or collapse of the MLG.

Relevant Service Information

Fokker Services B.V has issued Fokker Service Bulletin F27/32–171, dated December 16, 2004 (for Model F27 Mark 500 airplanes). The service bulletin describes procedures for performing an inspection of the MLG drag stay units (DSUs) in accordance with Dowty Aerospace Landing Gear Service Bulletin 32–82W, Revision 2, including Appendix A, dated July 29, 1994, and including Appendix B, Revision 1, dated November 10, 1993; or Dowty Aerospace Landing Gear Service Bulletin 32–169B, Revision 2, including Appendix A, dated July 29, 1994, and including Appendix B, Revision 1, dated November 10, 1993.

Dowty Aerospace Landing Gear Service Bulletins 32–82W and 32–169B describe procedures for performing an ultrasonic inspection to determine if a tube having part number (P/N) 200485300 with a straight bore, or a tube having P/N 200259300 with a change in section (stepped bore), is installed in the DSUs of the MLG. The service bulletins also describe procedures for related investigative actions and corrective actions, including ultrasonic inspection for cracking of the DSUs, rework and re-identification of certain tubes, replacement of certain DSUs with new/re-identified DSUs, and repetitive ultrasonic inspections of certain DSUs. Both service bulletins include the ultrasonic inspection to determine P/Ns for DSUs having P/N 200485001. Service bulletin 32–82W also addresses the ultrasonic inspection for DSUs having P/N 200684001. Service Bulletin 32–169B also addresses the ultrasonic inspection for DSUs having P/N 200261001.

CAA–NL mandated the service information and issued airworthiness directive NL–2005–003, dated April 29, 2005, to ensure the continued airworthiness of these airplanes in the Netherlands.

FAA's Determination and Requirements of the Proposed AD

This airplane model is manufactured in the Netherlands and is 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, CAA–NL has kept the FAA informed of the situation described above. We have examined the CAA–NL's findings, evaluated all pertinent information, and determined that we need to issue an AD for airplanes 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.

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	Cost per airplane	Number of U.S.-registered airplanes	Fleet cost
Inspection	2	$80	$160	7	$1,120

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):

Fokker Services B.V.: Docket No. FAA–2006–25086; Directorate Identifier 2006–NM–019–AD.

Comments Due Date

(a) The FAA must receive comments on this AD action by July 21, 2006.

Affected ADs

(b) None.

Applicability

(c) This AD applies to all Fokker Model F27 Mark 500 airplanes, certificated in any category.

Unsafe Condition

(d) This AD results from a report that, due to fatigue cracking from an improperly machined radius of the inner tube, a drag stay broke, and, consequently, led to the collapse of the MLG during landing. We are issuing this AD to prevent such fatigue cracking, which could result in reduced structural integrity or collapse of the MLG.

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.

Inspections of the DSUs

(f) Within 60 days after the effective date of this AD: Inspect main landing gear (MLG) drag stay units (DSU) to determine whether Dowty Aerospace is the manufacturer and before further flight inspect Dowty Aerospace MLG DSUs to determine whether part number (P/N) 200261001, 200261002, 200485001, 200485002, 200684001, or 200684002 is installed. A review of airplane maintenance records is acceptable in lieu of these inspections if the manufacturer and P/N of the MLG DSU can be conclusively determined from that review. For airplanes equipped with MLG DSUs other than Dowty Aerospace MLG DSUs, and for airplanes equipped with Dowty Aerospace MLG DSUs having P/Ns other than P/N 200261001, 200261002, 200485001, 200485002, 200684001, and 200684002, no further action is required by this AD, except as specified in paragraph (k) of this AD.

(g) For airplanes equipped with DSUs having P/N 200261001, 200485001, or 200684001: Within 60 days after the effective date of this AD, perform an ultrasonic inspection to determine if a tube having P/N 200485300 with a straight bore, or a tube having P/N 200259300 with a change in section (stepped bore), is installed on the DSUs of the MLG, in accordance with the Accomplishment Instructions of Fokker Service Bulletin F27/32–171, dated December 16, 2004.

Note 1: Fokker Service Bulletin F27/32–171, dated December 16, 2004, references Dowty Aerospace Landing Gear Service Bulletin 32–82W, Revision 2, including Appendix A, dated July 29, 1994, and including Appendix B, Revision 1, dated November 10, 1993; and Dowty Aerospace Landing Gear Service Bulletin 32–169B, Revision 2, including Appendix A, dated July 29, 1994, and including Appendix B, Revision 1, dated November 10, 1993; as

applicable, as appropriates sources of service information for inspecting MLG DSUs.

(h) If any tube having P/N 200485300 with a straight bore is found installed during the inspections required by paragraph (g) of this AD: Before further flight, re-identify the DSU with P/N 200261004, 200485004, or 200684004, in accordance with the Accomplishment Instructions of Dowty Aerospace Landing Gear Service Bulletin 32–82W, Revision 2, including Appendix A, dated July 29, 1994, and including Appendix B, Revision 1, dated November 10, 1993; or Dowty Aerospace Landing Gear Service Bulletin 32–169B, Revision 2, including Appendix A, dated July 29, 1994, and including Appendix B, Revision 1, dated November 10, 1993; as applicable. After re-identifying the DSU, no further action is required by this AD for that DSU; however airplanes are still subject to the requirements specified in paragraph (k) of this AD.

(i) If any tube having P/N 200259300 with a change in section (stepped bore) is found installed during the inspection required by paragraph (g) of this AD: Before further flight, re-identify the DSU in accordance with paragraphs 2.A.(4)(a) and 2.A.(4)(b) of the Accomplishment Instructions Dowty Aerospace Landing Gear Service Bulletin 32–82W, Revision 2, including Appendix A, dated July 29, 1994, and including Appendix B, Revision 1, dated November 10, 1993; or Dowty Aerospace Landing Gear Service Bulletin 32–169B, Revision 2, including Appendix A, dated July 29, 1994, and including Appendix B, Revision 1, dated November 10, 1993; as applicable. Following accomplishment of the re-identification, before further flight, do the inspection specified in paragraph (j) of this AD.

Ultrasonic Inspection for Cracking

(j) For airplanes equipped with re-identified DSUs having 200261002, 200485002, 200684002, 200261003, 200485003, or 200684003: Within 60 days after the effective date of this AD, perform an ultrasonic inspection to detect cracking in the re-identified DSUs, in accordance with the Accomplishment Instructions of Dowty Aerospace Landing Gear Service Bulletin 32–82W, Revision 2, including Appendix A, dated July 29, 1994, and including Appendix B, Revision 1, dated November 10, 1993; or Dowty Aerospace Landing Gear Service Bulletin 32–169B, Revision 2, including Appendix A, dated July 29, 1994, and including Appendix B, Revision 1, dated November 10, 1993; as applicable.

(1) For airplanes equipped with any DSU re-identified as P/N 200684003, 200261003, or 200485003: If no crack is detected, no further action is required by this AD for that DSU; however airplanes are still subject to the requirements specified in paragraph (k) of this AD.

(2) For airplanes equipped with any DSU re-identified as P/N 200684002, 200261002, or 200485002: If no crack is detected, do the actions specified in paragraphs (j)(2)(i) and (j)(2)(ii) of this AD.

(i) Repeat the ultrasonic inspection required by paragraph (j) of this AD thereafter at intervals not to exceed 1,500 flight cycles until the actions specified in paragraph (j)(2)(ii) of this AD are done.

(ii) At the next MLG overhaul but no later than 12,000 flight cycles after the effective date of this AD, rework and re-identify the DSU as P/N 200261003, 200485003, or 200684003, as applicable, in accordance with the applicable service bulletin.

(3) If any crack is detected and the crack signal indication of any DSU tube is greater than or equal to 80 percent, before further flight, replace the DSU with a re-identified DSU having P/N 200261004, 200485004, 200684004, 200261003, 200485003, or 200684003, in accordance with the applicable service bulletin.

(4) If any crack is detected and the crack signal indication of any DSU tube is greater than zero percent but less than 80 percent, do the actions specified in paragraphs (j)(4)(i) and (j)(4)(ii) of this AD.

(i) Repeat the ultrasonic inspection required by paragraph (j) of this AD thereafter at intervals not to exceed 1,500 flight cycles until the actions specified in paragraph (j)(4)(ii) of this AD are done.

(ii) At the next MLG overhaul but no later than 12,000 flight cycles after the effective date of this AD, replace the DSU with a DSU having P/N 200261004, 200485004, 200684004, 200261003, 200485003, or 200684003, in accordance with the applicable service bulletin.

Parts Installation

(k) As of the effective date of this AD, no person may install a MLG DSU, P/N 200261001, 200261002, 200485001, 200485002, 200684001, or 200684002, on any airplane, except as specified in paragraph (i) of this AD.

Alternative Methods of Compliance (AMOCs)

(l)(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

(m) Dutch airworthiness directive NL–2005–003, dated April 29, 2005, also addresses the subject of this AD.

Issued in Renton, Washington, on June 14, 2006.

Kalene C. Yanamura,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E6–9714 Filed 6–20–06; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2006–25088; Directorate Identifier 2006 NM–085–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A300 B4–600, B4–600R, and F4–600R Series Airplanes, and Model A300 C4–605R Variant F Airplanes (Collectively Called A300–600 Series Airplanes)

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to supersede an existing airworthiness directive (AD) that applies to certain Airbus Model A300–600 series airplanes. The existing AD currently requires an inspection for evidence of chafing between the hydraulic flexible hose and the ram air turbine (RAT) hub, and related investigative and corrective actions if necessary. This proposed AD would extend the applicability to include all A300–600 series airplanes that are equipped with a certain RAT. This proposed AD results from reports of holes in the RAT hub cover. We are proposing this AD to prevent a hole in the RAT hub cover. A hole in the RAT hub cover could allow water to enter the RAT governing mechanism, freeze during flight, and jam the governing mechanism. In addition, the metal particles that result from chafing between the hydraulic flexible hose and the RAT could mix with the lubricant grease and degrade the governing mechanism. In an emergency, a jammed or degraded RAT could result in its failure to deploy, loss of hydraulic pressure or electrical power to the airplane, and consequent reduced controllability of the airplane.

DATES: We must receive comments on this proposed AD by July 21, 2006.

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

- *DOT Docket Web site:* Go to *http://dms.dot.gov* and follow the instructions for sending your comments electronically.
- *Government-wide rulemaking Web site:* Go to *http://www.regulations.gov* and follow the instructions for sending your comments electronically.
- *Mail:* Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL–401, Washington, DC 20590.

- *Fax:* (202) 493–2251.
- *Hand Delivery:* Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

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

FOR FURTHER INFORMATION CONTACT: 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 ''Docket No. FAA–2006–25088; Directorate Identifier 2006–NM–085–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

On July 11, 2005, we issued AD 2005–15–05, amendment 39–14194 (70 FR 42267, July 22, 2005), for certain Airbus Model A300–600 series airplanes. That AD requires an inspection for evidence of chafing between the hydraulic flexible hose and the ram air turbine (RAT) hub, and related investigative and corrective actions if necessary. That AD resulted from reports of holes in the RAT hub cover. We issued that AD to prevent a hole in the RAT hub cover. A hole in the RAT hub cover could allow water to enter the RAT governing mechanism, freeze during flight, and jam the governing mechanism. In addition, the metal particles that result from chafing between the hydraulic flexible hose and the RAT could mix with the lubricant grease and degrade the governing mechanism. In an emergency, a jammed or degraded RAT could result in its failure to deploy, loss of hydraulic pressure or electrical power to the airplane, and consequent reduced controllability of the airplane.

Actions Since Existing AD Was Issued

Since we issued AD 2005–15–05, the Direction Générale de l'Aviation Civile (DGAC), which is the airworthiness authority for France, reported that a hole in the RAT hub cover was reported on an airplane that was not included in the effectivity of French airworthiness directive F–2004–133, dated August 4, 2004. French airworthiness directive F–2004–133 parallels AD 2005–15–05.

Relevant Service Information

Airbus has issued Service Bulletin A300–29–6054, Revision 02, dated January 12, 2006. Airbus Service Bulletin A300–29–6054, Revision 01, excluding Appendix 01, dated November 4, 2004, was referenced as the appropriate source of service information for doing the action required by AD 2005–15–05. The procedures in Revision 02 and Revision 01 are essentially the same. Revision 02 extends the effectivity to include all A300–600 series airplanes that are equipped with a Hamilton Sundstrand RAT. Accomplishing the actions specified in the service information is intended to adequately address the unsafe condition. The FCAA mandated the service information and issued French airworthiness directive F–2006–035, dated February 1, 2006, to ensure the continued airworthiness of these airplanes in France.

FAA's Determination and Requirements of the Proposed AD

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

This proposed AD would supersede AD 2005–15–05 and would retain the requirements of the existing AD. This proposed AD would also add airplanes to the applicability.

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 Change to Costs of Compliance

After the original NPRM 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.

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	Cost per airplane	Number of U.S.-registered airplanes	Fleet cost
Inspection (required by AD 2005–15–05)	1	$80	$80	120	$9,600
Rework binding (required by AD 2005–15–05)	1	80	80	120	9,600

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 removing amendment 39–14194 (70 FR 42267, July 22, 2005) and adding the following new airworthiness directive (AD):

Airbus: Docket No. FAA–2006–25088; Directorate Identifier 2006–NM–085–AD.

Comments Due Date

(a) The FAA must receive comments on this AD action by July 21, 2006.

Affected ADs

(b) This AD supersedes AD 2005–15–05.

Applicability

(c) This AD applies to Airbus Model A300 B4–601, B4–603, B4–620, B4–622, B4–605R, B4–622R, F4–605R, F4–622R, and C4–605R Variant F airplanes; certificated in any category; equipped with a Hamilton Sundstrand Ram Air Turbine (RAT).

Unsafe Condition

(d) This AD results from reports of holes in the ram air turbine (RAT) hub cover. We are issuing this AD to prevent a hole in the RAT hub cover. A hole in the RAT hub cover could allow water to enter the RAT governing mechanism, freeze during flight, and jam the governing mechanism. In addition, the metal particles that result from chafing between the hydraulic flexible hose and the RAT could mix with the lubricant grease and degrade the governing mechanism. In an emergency, a jammed or degraded RAT could result in its failure to deploy, loss of hydraulic pressure or electrical power to the airplane, and consequent reduced controllability of the airplane.

Compliance

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

Restatement of the Requirements of AD 2005–15–05 With Compliance Times for New Airplanes

Inspection and Related Investigative/ Corrective Actions

(f) At the applicable time specified in paragraph (f)(1) or (f)(2) of this AD: Do a one-time detailed inspection for evidence of chafing between the hydraulic flexible hose and the RAT hub, and any applicable related investigative and corrective actions, by accomplishing all of the applicable actions specified in the Accomplishment Instructions of Airbus Service Bulletin A300–29–6054, Revision 01, excluding Appendix 01, dated November 4, 2004; or Revision 02, dated January 12, 2006. After the effective date of this AD, only Revision 02 may be used. Any applicable corrective actions must be accomplished before further flight. Where the service bulletin specifies to submit certain information to the manufacturer, and to submit damaged RATs to the vendor or a repair station, this AD does not include those requirements.

(1) For airplanes having serial numbers (S/Ns) 0812, 0813, 0815 through 0818 inclusive, 0821 through 0828 inclusive, and 0836 through 0838 inclusive: Within 2,500 flight hours after August 26, 2005 (the effective date of AD 2005–15–05).

(2) For airplanes not identified in paragraph (f)(1) of this AD: Within 2,500 flight hours after the effective date of this AD.

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

Actions Accomplished Previously

(g) Actions accomplished before the effective date of this AD, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A300–29–6054, excluding Appendix 01, dated June 8, 2004, are acceptable for compliance with the corresponding actions specified in this AD.

Alternative Methods of Compliance (AMOCs)

(h)(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.

(3) AMOCs approved previously in accordance with AD 2005–15–05 are approved as AMOCs for the corresponding provisions of this AD.

Related Information

(i) French airworthiness directive F–2006–035, dated February 1, 2006, also addresses the subject of this AD.

Issued in Renton, Washington, on June 14, 2006.

Kalene C. Yanamura,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E6–9715 Filed 6–20–06; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2006–25089; Directorate Identifier 2006–NM–091–AD]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model MD–11 and –11F Airplanes

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to supersede an existing airworthiness directive (AD) that applies to certain McDonnell Douglas Model MD–11 and –11F airplanes. The existing AD currently requires an initial general visual inspection of the power feeder cables of the integrated drive generator (IDG) and the fuel feed lines of engine pylons No. 1 and No. 3 on the wings for proper clearance and damage; corrective actions if necessary; and repetitive general visual inspections and a terminating action for the repetitive inspections. This proposed AD would continue to require the existing actions, and for certain airplanes, this proposed AD would require installation of new clamps on the power feeder cables of the IDG of engine pylons No. 1 and No. 3. This proposed AD results from reports of IDG power feeder cables riding against structure and fuel lines in the No. 1 and No. 3 pylons. We are proposing this AD to prevent potential chafing of the power feeder cables of the IDG in engine pylons No. 1 and No. 3 on the wings, and consequent arcing on the fuel lines in the engine pylons and possible fuel fire.

DATES: We must receive comments on this proposed AD by August 7, 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, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Data and Service Management, Dept. C1–L5A (D800–0024), for service information identified in this proposed AD.

FOR FURTHER INFORMATION CONTACT: Brett Portwood, Aerospace Engineer, Systems and Equipment Branch, ANM–130L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712; telephone (562) 627–5350; fax (562) 627–5210.

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 ''Docket No. FAA–2006–25089; Directorate Identifier 2006–NM–091–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 may can 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

On January 2, 2004, we issued AD 2004–01–17, amendment 39–13431 (69 FR 2657, January 20, 2004), for certain McDonnell Douglas Model MD–11 and –11F airplanes. That AD requires an initial general visual inspection of the power feeder cables of the integrated drive generator (IDG) and the fuel feed lines of engine pylons No. 1 and No. 3 on the wings for proper clearance and damage; corrective actions if necessary; and repetitive general visual inspections and a terminating action for the repetitive inspections. That AD resulted from the FAA's practice of re-examining all aspects of the service experience of a particular aircraft whenever an accident occurs. We became aware of reports indicating that the power feeder cables of the integrated drive generator (IDG) are riding against structure and fuel lines in engine pylons No. 1 and No. 3 on the wings of certain McDonnell Douglas Model MD–11 and –11F airplanes. We issued that AD to prevent potential chafing of the power feeder cables of the IDG in engine pylons No. 1 and No. 3 on the wings, and consequent arcing of the fuel lines in the engine pylons and possible fuel fire.

Actions Since Existing AD Was Issued

Since we issued AD 2004–01–17, the manufacturer has notified us that certain airplanes with 4/0 size cables installed have clamps too small to install over the 4/0 size cables. Those airplanes need to have larger clamps installed. The larger clamps are needed to prevent chafing of the larger power feeder cables of the IDG.

Relevant Service Information

We have reviewed Boeing Alert Service Bulletin (ASB) MD11–54A011,

Revision 3, dated November 9, 2005. Revision 3 of the ASB is essentially the same as Revision 02, dated May 31, 2002, which is the appropriate source of service information for AD 2004–01–17. In addition to the actions specified in Revision 02 of the ASB, Revision 3 of the ASB describes general visual inspections for proper clearance and damage of the power feeder cables of the IDG and the fuel feed lines of engine pylons No. 1 and No. 3 on the wings for certain airplanes, and installing larger clamps on the power feeder cables of the IDG of engine pylons No. 1 and No. 3 for airplanes with 4/0 size cables.

Accomplishment of the actions specified in the service bulletin is intended to adequately address the identified unsafe condition.

For certain airplanes, the ASB also specifies concurrent or prior accomplishment of BFGoodrich Aerospace Service Bulletin MD–11 54–174, dated May 27, 1993, which describes installation of the IDG harness support brackets.

FAA's Determination and Requirements of the Proposed AD

We have evaluated all pertinent information and identified an unsafe condition that is likely to develop on other McDonnell Douglas Model MD–11 and –11F airplanes of the same type design. For this reason, we are proposing this AD, which would supersede AD 2004–01–17 and would retain the requirements of the existing AD. For airplanes having 4/0 size cables, this proposed AD also would require installation of a larger clamp on the power feeder cables of the IDG.

Change to Existing AD

This proposed AD would retain the requirements of AD 2004–01–17. Since AD 2004–01–17 was issued, the AD format has been revised, and certain paragraphs have been rearranged. As a result, the corresponding paragraph identifiers have changed in this proposed AD, as listed in the following table:

REVISED PARAGRAPH IDENTIFIERS

Requirement in AD 2004–01–17	Corresponding requirement in this proposed AD
Paragraph (a)	Paragraph (f)
Paragraph (b)	Paragraph (g)
Paragraph (c)	Paragraph (h)
Paragraph (d)	Paragraph (i)

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.

Costs of Compliance

There are about 195 airplanes of the affected design in the worldwide fleet. This proposed AD would affect about 98 Model MD–11 and –11F airplanes of U.S. registry.

The inspections that are required by AD 2004–01–17 and retained in this proposed AD 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 currently required actions is $80 per airplane, per inspection cycle.

The new 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 new inspections specified in this proposed AD for U.S. operators is $7,840, or $80 per airplane, per inspection cycle.

The new proposed terminating action would take approximately 4 work hours per airplane to accomplish, at an average labor rate of $80 per work hour. The vendor states that it will supply the parts at no cost to the operator. Based on these figures, the estimated cost of the proposed terminating action specified in this proposed AD for U.S. operators is $31,360, or $320 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 removing amendment 39–13431 (69 FR 2657, January 20, 2004) and adding the following new airworthiness directive (AD):

McDonnell Douglas: Docket No. FAA–2006–25089; Directorate Identifier 2006–NM–091–AD.

Comments Due Date

(a) The FAA must receive comments on this AD action by August 7, 2006.

Affected ADs

(b) This AD supersedes AD 2004–01–17.

Applicability

(c) This AD applies to McDonnell Douglas Model MD–11 and –11F airplanes, as identified in Boeing Alert Service Bulletin MD11–54A011, Revision 3, dated November 9, 2005; certificated in any category.

Unsafe Condition

(d) This AD results from reports of integrated drive generator (IDG) power feeder cables riding against structure and fuel lines in the No. 1 and No. 3 pylons. We are issuing this AD to prevent potential chafing of the power feeder cables of the IDG in engine pylons No. 1 and No. 3 on the wings, and consequent arcing on the fuel lines in the engine pylons and possible fuel fire.

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.

Requirements of AD 2004–01–17

Note 1: Boeing has issued Information Notice MD11–54A011 R02 IN 02, dated July 11, 2002. The information notice informs operators of a typographical error for the string tie part number (P/N) specified in Boeing Alert Service Bulletin MD11–54A011, Revision 02, dated May 31, 2002. The service bulletin specifies string tie P/N 190L0F21G/A; the correct P/N is 109 LOF 21G/A.

Initial Inspection

(f) Within 30 days after February 24, 2004 (the effective date of AD 2004–01–17), do a general visual inspection of the power feeder cables of the IDG and the fuel feed lines of engine pylons No. 1 and No. 3 on the wings for proper clearance and damage, per Boeing Alert Service Bulletin MD11–54A011, Revision 02, dated May 31, 2002, or Boeing Alert Service Bulletin MD11–54A011, Revision 3, dated November 9, 2005.

Note 2: For the purposes of this AD, a general visual inspection is defined as: ''A visual examination of an interior or exterior area, installation, or assembly to detect obvious damage, failure, or irregularity. This level of inspection is made from within touching distance unless otherwise specified. A mirror may be necessary to enhance visual access to all exposed surfaces in the inspection area. This level of inspection is made under normally available lighting conditions such as daylight, hangar lighting, flashlight, or droplight and may require removal or opening of access panels or doors. Stands, ladders, or platforms may be required to gain proximity to the area being checked.''

Condition 1: Proper Clearance and No Damage

(g) If proper clearance exists and no damage is detected during any inspection required by paragraph (f) of this AD, do the action(s) specified in paragraphs (g)(1), (g)(2), and (g)(3) of this AD, as applicable, per Boeing Alert Service Bulletin MD11–54A011, Revision 02, dated May 31, 2002, or Boeing Alert Service Bulletin MD11–54A011, Revision 3, dated November 9, 2005.

(1) For Group 1 and Group 2 airplanes identified in the service bulletin: Repeat the inspection required by paragraph (f) of this AD every 6 months until the modification required by paragraph (g)(2) or (g)(3) of this AD, as applicable, has been done.

(2) For Group 1 airplanes identified in the service bulletin: Within 18 months after February 24, 2004, install the brackets to support the IDG harness, and install new clamps on the power feeder cables of the IDG of the No. 1 and No. 3 pylons.

(3) For Group 2 airplanes identified in the service bulletin: Within 18 months after February 24, 2004, replace the existing fairlead with a new clamp, and install new tape.

Condition 2: Improper Clearance and No Damage

(h) If improper clearance exists and no damage is detected during any inspection required by paragraph (f) of this AD, do the action(s) specified in paragraphs (h)(1), (h)(2), and (h)(3) of this AD, as applicable, per Boeing Alert Service Bulletin MD11–54A011, Revision 02, dated May 31, 2002, or Boeing Alert Service Bulletin MD11–54A011, Revision 3, dated November 9, 2005.

(1) For Group 1 and Group 2 airplanes identified in the service bulletin: Before further flight, reposition cables, and repeat the inspection required by paragraph (f) of this AD every 6 months until the modification required by paragraph (h)(2) or (h)(3) of this AD, as applicable, has been done.

(2) For Group 1 airplanes identified in the service bulletin: Within 18 months after February 24, 2004, install the brackets to support the IDG harness, and install new clamps on the power feeder cables of the IDG of engine pylons No. 1 and No. 3.

(3) For Group 2 airplanes identified in the service bulletin: Within 18 months after February 24, 2004, replace the existing fairlead with a new clamp, and install new tape.

Condition 3: Improper Clearance and Damage Detected

(i) If improper clearance exists and any damage is detected during any inspection required by paragraph (f) of this AD, do the action(s) specified in paragraphs (i)(1), (i)(2), and (i)(3) of this AD, as applicable, per Boeing Alert Service Bulletin MD11–54A011, Revision 02, dated May 31, 2002, or Boeing Alert Service Bulletin MD11–54A011, Revision 3, dated November 9, 2005.

(1) For Group 1 and Group 2 airplanes identified in the service bulletin: Before further flight, reposition cables; repair damage or replace damaged cables or fuel feed lines with new or serviceable cables or fuel feed lines; and repeat the inspection required by paragraph (f) of this AD every 6 months until the modification required by paragraph (i)(2) or (i)(3) of this AD, as applicable, has been done.

(2) For Group 1 airplanes identified in the service bulletin: Within 18 months after February 24, 2004, install the brackets to support the IDG harness, and install new clamps on the power feeder cables of the IDG of engine pylons No. 1 and No. 3.

(3) For Group 2 airplanes identified in the service bulletin: Within 18 months after February 24, 2004, replace the existing fairlead with a new clamp, and install new tape.

New Requirements of This AD

General Visual Inspection

(j) For airplanes identified as Group 1, configurations 3 and 4, and Group 2, configuration 2, in Boeing Alert Service Bulletin (ASB) MD11–54A011, Revision 3, dated November 9, 2005: Within 30 days after the effective date of this AD, do a general visual inspection for proper clearance and damage of the power feeder cables of the IDG and the fuel feed lines of engine pylons No. 1 and No. 3 on the wings, in accordance with the Accomplishment Instructions of Boeing ASB MD11–54A011, Revision 3, dated November 9, 2005.

Condition 1: Proper Clearance and No Damage

(k) For airplanes identified as Group 1, configurations 3 and 4, and Group 2, configuration 2, in Boeing ASB MD11–54A011, Revision 3, dated November 9, 2005: If proper clearance exists and no damage is detected during any inspection required by paragraph (j) of this AD, do the actions specified in paragraphs (k)(1), (k)(2), and (k)(3) of this AD, as applicable, in accordance with the Accomplishment Instructions of Boeing ASB MD11–54A011, Revision 3, dated November 9, 2005. Accomplishment of the actions specified in paragraph (k)(2) or (k)(3) of this AD, as applicable, terminates the inspection requirements of paragraph (k)(1) of this AD.

(1) For Group 1 airplanes, configurations 3 and 4, and Group 2, configuration 2: Repeat the inspection required by paragraph (j) of this AD thereafter at intervals not to exceed 6 months, until the actions specified in paragraph (k)(2) or (k)(3) of this AD, as applicable, are accomplished.

(2) For Group 1 airplanes, configuration 3: Within 18 months after the effective date of this AD, install IDG harness support brackets and modify the IDG power feeder cable installations.

(3) For Group 1 airplanes, configuration 4, and Group 2, configuration 2: Within 18 months after the effective date of this AD, modify the IDG power feeder cable installations.

Condition 2: Improper Clearance and No Damage

(l) For airplanes identified as Group 1, configurations 3 and 4, and Group 2, configuration 2, in Boeing ASB MD11–54A011, Revision 3, dated November 9, 2005: If improper clearance exists and no damage is detected during any inspection required by paragraph (j) of this AD, do the actions specified in paragraph (l)(1), (l)(2), and (l)(3) of this AD, as applicable, in accordance with the Accomplishment Instructions of Boeing ASB MD11–54A011, Revision 3, dated November 9, 2005. Accomplishment of the actions specified in paragraphs (l)(2) or (l)(3) of this AD, as applicable, terminates the repetitive inspections required in paragraph (l)(1) of this AD.

(1) Before further flight, reposition the cables. Repeat the inspection required by paragraph (j) of this AD thereafter at intervals not to exceed 6 months, until the actions specified by (l)(2) or (l)(3) of this AD, as applicable, are accomplished.

(2) For Group 1 airplanes, configuration 3: Within 18 months after the effective date of this AD, install IDG harness support brackets and modify the IDG power feeder cable installations.

(3) For Group 1 airplanes, configuration 4, and Group 2 airplanes, configuration 2: Within 18 months after the effective date of this AD, modify the IDG power feeder cable installations.

Condition 3: Improper Clearance and Damage Detected

(m) For airplanes identified as Group 1, configurations 3 and 4, and Group 2, configuration 2, in Boeing ASB MD11–54A011, Revision 3, dated November 9, 2005: If improper clearance exists and there is any damage to the cables, structure, or fuel feed line, do the actions specified in paragraphs (m)(1), (m)(2), and (m)(3) of this AD, as applicable, in accordance with the Accomplishment Instructions of Boeing ASB MD11–54A011, Revision 3, dated November 9, 2005. Accomplishment of the actions specified in paragraphs (m)(2) or (m)(3) of this AD, as applicable, terminates the repetitive inspection requirements of paragraph (m)(1) of this AD.

(1) Before further flight, reposition cables and repair damage or replace damaged cables or fuel feed lines with new or serviceable cables or fuel feed lines. Repeat the inspection required by paragraph (j) of this AD thereafter at intervals not to exceed 6 months, until the actions specified by paragraph (m)(2) or (m)(3) of this AD, as applicable, is accomplished.

(2) For Group 1 airplanes, configuration 3: Within 18 months after the effective date of this AD, install IDG harness support brackets, and modify the IDG power feeder cable installations.

(3) For Group 1 airplanes, configuration 4, and Group 2 airplanes, configuration 2: Within 18 months after the effective date of this AD: Modify the IDG power feeder cable installations.

Alternative Methods of Compliance (AMOCs)

(n)(1) The Manager, Los Angeles Aircraft Certification Office, 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.

(3) AMOCs approved previously in accordance with AD 2004–01–17, amendment 39–13431, are not approved as AMOCs with this AD.

(4) 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, Los Angeles ACO, to make those findings. For a repair method to be approved, and the approval must specifically refer to this AD.

Issued in Renton, Washington, on June 13, 2006.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E6–9718 Filed 6–20–06; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2006–25087; Directorate Identifier 2006–NM–053–AD]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 747 Airplanes

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to supersede an existing airworthiness directive (AD) that applies to all Boeing Model 747 airplanes. The existing AD currently requires a one-time inspection to determine whether the outer cylinder of the wing landing gear has certain part numbers (P/Ns), and replacement of the outer cylinder of the wing landing gear with a new, improved, or reworked part if necessary. The existing AD also requires removal of the load evening system, if such a system is installed. For certain airplanes, this proposed AD would require an additional one-time inspection to determine whether the outer cylinder has a certain other P/N. For those certain airplanes, this proposed AD would also require replacement of the outer cylinder with a reworked or new, improved part and related investigative/corrective actions, if necessary. This proposed AD results from identification of an additional unsafe part. We are proposing this AD to prevent fracture of the outer cylinder of the wing landing gear, which could result in collapse of the wing landing gear.

DATES: We must receive comments on this proposed AD by August 7, 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 service information identified in this proposed AD.

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

SUPPLEMENTARY INFORMATION:

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 ''Docket No. FAA–2006–25087; Directorate Identifier 2006–NM–053–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 may can 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

On July 27, 2004, we issued AD 2004–16–05, amendment 39–13761 (69 FR 48359, August 10, 2004), for all Boeing Model 747 airplanes. That AD requires a one-time inspection to determine whether the outer cylinder of the wing landing gear has certain part numbers (P/Ns), and replacement of the outer cylinder of the wing landing gear with a new, improved, or reworked part if necessary. That AD also requires removal of the load evening system, if such a system is installed. That AD resulted from reports that the outer cylinder of the wing landing gear was found cracked or fractured on Model 747 airplanes. We issued that AD to prevent fracture of the outer cylinder of the wing landing gear, which could result in collapse of the wing landing gear.

Actions Since Existing AD Was Issued

Since we issued AD 2004–16–05, Boeing has published Service Bulletin 747–32–2472, Revision 1, dated February 23, 2006, to identify an outer cylinder, P/N 65B01382–( ), which was inadvertently omitted from the original issue of the service bulletin, dated November 30, 2000. We referenced the original service bulletin as the appropriate source of service information for accomplishing the inspection and replacement required by the existing AD.
(The procedures in Revision 1 are essentially the same as those in the original service bulletin.) P/N 65B01382–( ) has chrome plating on its inner surface, similar to the other unsafe parts identified in the original service bulletin and existing AD. Therefore, P/N 65B01382–( ) is also subject to the same unsafe condition addressed by the existing AD.

Since P/N 65B01382–( ) was fitted exclusively to Model 747–100, 747–100B, 747–100B SUD, and 747SR series airplanes, this NPRM proposes to require an additional one-time inspection to determine the P/Ns of the outer cylinder of the wing landing only on these airplanes. For any of these airplanes equipped with a load evening system, this NPRM would also require removal of that system before replacing P/N 65B01382–( ) with a reworked or new, improved part if applicable. We have added that requirement to paragraphs (h) and (j) of this NPRM. (Paragraph (h) of the NPRM corresponds to paragraph (c) of the existing AD.)

Relevant Service Information

We have reviewed Revision 1 of Boeing Service Bulletin 747–32–2472. The service bulletin describes procedures for doing a one-time inspection to determine the P/N of the outer cylinder of the wing landing gear. The service bulletin also describes procedures for replacing the outer cylinder with a reworked or new part and doing related investigative and corrective actions, if an outer cylinder having P/N 65B01212–( ), 65B01382–( ),
65B01430–3, or 65B01430–4 is installed on an airplane. The related investigative actions include the following:

- Doing a nital etch test of the upper inner surface of the outer cylinder for chrome plating.
- Doing a magnetic particle inspection of the outer cylinder for any cracking.
- Doing a nital etch inspection of inner surface of the outer cylinder for heat damage.
- Marking the outer cylinder to indicate that part has been reworked.

The corrective actions include the following:

- Removing any chrome plating found on the upper inner surface of the outer cylinder.
- Reworking the outer cylinder to remove any cracking or heat damage.

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 develop on other airplanes of the same type design. For this reason, we are proposing this AD, which would supersede AD 2004–16–05 and would retain the requirements of the existing AD. This proposed AD would also require accomplishing the actions specified in the service bulletin described previously, except as discussed under ''Differences Between the Proposed AD and Service Bulletin.''

Differences Between the Proposed AD and Service Bulletin

Service Bulletin 747–32–2472, Revision 1, specifies that operators may accomplish certain related investigative and corrective actions using an ''approved equivalent procedure.'' However, this proposed AD would require operators to accomplish the actions using the procedures specified in a certain chapter(s) of the Boeing 747 SOPM or OHM, as applicable. An ''approved equivalent procedure'' may be used only if approved as an alternative method of compliance according to paragraph (m) of this AD.

Changes to Existing AD

This proposed AD would retain certain requirements of AD 2004–16–05. Since AD 2004–16–05 was issued, the AD format has been revised, and certain paragraphs have been rearranged. As a result, the corresponding paragraph identifiers have changed in this proposed AD, as listed in the following table:

REVISED PARAGRAPH IDENTIFIERS

Requirement in AD 2004–16–05	Corresponding requirement in this proposed AD
Paragraph (a)	Paragraph (f).
Paragraph (b)	Paragraph (g).
Paragraph (c)	Paragraph (h).
Paragraph (d)	Paragraph (i).

We have added reference to Revision 1 of Boeing Service Bulletin 747–32–2472 in paragraphs (f) and (g) of this proposed AD, since the procedures in Revision 1 are essentially the same as those in the original issue of the service bulletin.

We have revised the ''Alternative Methods of Compliance (AMOCs)'' paragraph in this proposed AD to clarify the delegation authority for Authorized Representatives for the Boeing Commercial Airplanes Delegation Option Authorization.

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

Costs of Compliance

There are about 1,106 Model 747 airplanes of the affected design in the worldwide fleet. Of those airplanes, there are about 66 Model 747–100, 747–100B, 747–100B SUD, and 747SR series airplanes of the affected design in the worldwide fleet that would be subject to the new proposed actions. The following table provides the estimated costs, at an average labor rate of $80 per hour, for U.S. operators to comply with this proposed AD.

ESTIMATED COSTS

Action	Work hours	Parts	Cost per airplane	Number of U.S.-registered airplanes	Fleet cost
Inspection for all airplanes (required by AD 2004–16–05) ..	1	None	$80	256	$20,480
Removal of the load evening system (required by AD 2004–16–05)	240	$2,392	21,592	256	5,527,552
Inspection for certain airplanes (new proposed action)	1	None	80	21	1,680

If required, the chrome removal and inspections for cracking or heat damage would take about 12 work hours per airplane, at an average labor rate of $80 per work hour. Based on these figures, the estimated cost of these actions is $960 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 removing amendment 39–13761 (69 FR 48359, August 10, 2004) and adding the following new airworthiness directive (AD):

Boeing: Docket No. FAA–2006–25087; Directorate Identifier 2006–NM–053–AD.

Comments Due Date

(a) The FAA must receive comments on this AD action by August 7, 2006.

Affected ADs

(b) This AD supersedes AD 2004–16–05.

Applicability

(c) This AD applies to all Boeing Model 747–100, 747–100B, 747–100B SUD, 747–200B, 747–200C, 747–200F, 747–300, 747–400, 747–400D, 747–400F, 747SR, and 747SP series airplanes, certificated in any category.

Unsafe Condition

(d) This AD results from identification of an additional unsafe outer cylinder of the wing landing gear. We are issuing this AD to prevent fracture of the outer cylinder of the wing landing gear, which could result in collapse of the wing landing gear.

Compliance

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

Restatement of Requirements of AD 2004–16–05

Inspection to Determine Part Number

(f) Within 36 months after September 14, 2004 (the effective date of AD 2004–16–05), perform a one-time inspection to determine the part number (P/N) of the outer cylinder of the wing landing gear on both sides of the airplane, per the Accomplishment Instructions of Boeing Service Bulletin 747–32–2472, dated November 30, 2000, or Revision 1, dated February 23, 2006. Instead of inspecting the outer cylinder of the wing landing gear, a review of airplane maintenance records is acceptable if the detailed P/N of the outer cylinder of the wing landing gear (not just a higher-level assembly) can be positively determined from that review.

(1) If no outer cylinder having P/N 65B01212–( ) (where ''( )'' is any dash number of that part number), 65B01430–3, or 65B01430–4 is found: No further action is required by this paragraph.

(2) If any outer cylinder having P/N 65B01212–( ) (where ''( )'' is any dash number of that part number), 65B01430–3, or 65B01430–4 is found: Accomplish paragraph (g) of this AD.

Replacement of Outer Cylinder

(g) For any outer cylinder identified in paragraph (f)(2) of this AD: Within 36 months after September 14, 2004, replace the outer cylinder on the wing landing gear with a new, improved part or a part that has been inspected and reworked per the Accomplishment Instructions of Boeing Service Bulletin 747–32–2472, dated November 30, 2000; or Revision 1, dated February 23, 2006, except as provided by paragraph (k) of this AD. The rework procedures described in the service bulletin, if accomplished, include performing a one-time nital etch inspection of the upper inner surface of the outer cylinder for chrome plating; removing any chrome plating that is present; performing a one-time magnetic particle inspection for cracking of the outer cylinder; performing a nital etch inspection for heat damage of the outer cylinder; reworking the outer cylinder, as applicable; and marking the outer cylinder to indicate that the service bulletin has been accomplished.

Removal of the Load Evening System

(h) For airplanes identified in Boeing Service Bulletin 747–32–2131, Revision 2, dated March 15, 1974: Before performing the requirements of paragraph (g) or (j) of this AD, as applicable, remove the load evening system installed on the wing landing gear,

per the Accomplishment Instructions of the service bulletin.

New Requirements of This AD

Inspection To Determine Outer Cylinder P/N on Certain Airplanes

(i) For Model 747–100, 747–100B, 747–100B SUD, and 747SR series airplanes: Within 36 months after the effective date of this AD, do a one-time inspection to determine the P/N of the outer cylinder of the wing landing gear on both sides of the airplane, in accordance with the Accomplishment Instructions of Boeing Service Bulletin 747–32–2472, Revision 1, dated February 23, 2006. Instead of inspecting the outer cylinder of the wing landing gear, a review of airplane maintenance records is acceptable if the detailed P/N of the outer cylinder of the wing landing gear (not just a higher-level assembly) can be positively determined from that review.

(1) If no outer cylinder having P/N 65B01382–( ) is found: No further action is required by this paragraph.

(2) If any outer cylinder having P/N 65B01382–( ) is found: Accomplish paragraph (j) of this AD.

Replacement of a Certain Outer Cylinder

(j) For any outer cylinder identified in paragraph (i)(2) of this AD: Within 36 months after the effective date of this AD, replace the outer cylinder on the wing landing gear with a reworked or new, improved part, and do the related investigative actions and all applicable corrective actions before further flight after the replacement, by accomplishing all of the applicable actions specified in 3.B.2 and 3.B.3 of the Accomplishment Instructions of Boeing Service Bulletin 747–32–2472, Revision 1, dated February 23, 2006; except as provided by paragraph (k) of this AD. If applicable, do the actions specified in paragraph (h) of this AD before accomplishing the actions specified in this paragraph.

Exception to Revision 1 of the Service Bulletin

(k) Where Service Bulletin 747–32–2472, Revision 1, dated February 23, 2006, specifies that the related investigative and corrective actions may be accomplished using an operator's ''equivalent procedure:'' The related investigative and corrective actions must be accomplished in accordance with the chapter(s) of the applicable Boeing 747 SOPM or OHM specified in the service bulletin.

Parts Installation

(l) As of September 14, 2004, no person may install, on any airplane, an outer cylinder of the wing landing gear if the outer cylinder has P/N 65B01212–( ), 65B01430–3, or 65B01430–4, unless the outer cylinder has been inspected, reworked, and marked to indicate that Boeing Service Bulletin 747–32–2472, dated November 30, 2000, or Revision 1, dated February 23, 2006, has been accomplished. As of the effective date of this AD, no person may install an outer cylinder, P/N 65B01382–( ), of the wing landing gear on any airplane, unless the outer cylinder has been inspected, reworked, and marked to indicate that Boeing Service Bulletin 747–32–2472, Revision 1, dated February 23, 2006, has been accomplished.

Alternative Methods of Compliance (AMOCs)

(m)(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.

(4) AMOCs approved previously in accordance with AD 2004–16–05, amendment 39–13761, are approved as AMOCs for the corresponding provisions of paragraphs (f), (g), and (h) of this AD.

Issued in Renton, Washington, on June 13, 2006.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E6–9721 Filed 6–20–06; 8:45 am]

BILLING CODE 4910–13–P

FEDERAL TRADE COMMISSION

16 CFR Part 305

RIN 3084–AA74

Appliance Labeling Rule

AGENCY: Federal Trade Commission (''FTC'' or ''Commission'').

ACTION: Notice of proposed rulemaking; request for public comment.

SUMMARY: The Energy Policy Act of 2005 directs the Commission to issue labeling requirements for the electricity used by ceiling fans to circulate air. The Commission is seeking public comment on proposed energy labeling requirements for these products.

DATES: Written comments must be received on or before September 8, 2006.

ADDRESSES: Interested parties are invited to submit written comments. Comments should refer to ''Ceiling Fan Labeling, Matter No. R611018'' to facilitate the organization of comments. A comment filed in paper form should include this reference both in the text and on the envelope, and should be mailed or delivered, with two complete copies, to the following address: Federal Trade Commission/Office of the Secretary, Room H–135 (Annex L), 600 Pennsylvania Avenue, NW., Washington, DC 20580. Comments containing confidential material must be filed in paper form, and the first page of the document must be clearly labeled ''Confidential'' and must comply with Commission Rule 4.9(c).[1] The FTC is requesting that any comment filed in paper form be sent by courier or overnight service, if possible, because postal mail in the Washington area and at the Commission is subject to delay due to heightened security precautions.

Comments filed in electronic form should be submitted by following the instructions on the web-based form at *https://secure.commentworks.com/ftc-fan.* To ensure that the Commission considers an electronic comment, you must file it on that web-based form. You also may visit *http://www.regulations.gov* to read this proposed Rule, and may file an electronic comment through that Web site. The Commission will consider all comments that regulations.gov forwards to it.

Comments on any proposed filing, recordkeeping, or disclosure requirements that are subject to paperwork burden review under the Paperwork Reduction Act should additionally be submitted to: Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for Federal Trade Commission. Comments should be submitted via facsimile to (202) 395–6974 because U.S. postal mail at the Office of Management and Budget (''OMB'') is subject to lengthy delays due to heightened security precautions.

The FTC Act and other laws the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. The Commission will consider all timely and responsive public comments that it receives, whether filed in paper or electronic form. Comments received will be available to the public on the FTC Web site, to the extent practicable, at *http://www.ftc.gov.* As a matter of discretion, the FTC makes every effort to remove home contact information for

[1] Any request for confidential treatment, including the factual and legal basis for the request, must accompany the comment and must identify the specific portions of the comment to be withheld from the public record. The request will be granted or denied by the Commission's General Counsel, consistent with applicable law and the public interest. *See* Commission Rule 4.9(c), 16 CFR 4.9(c).

individuals from the public comments it receives before placing those comments on the FTC Web site. More information, including routine uses permitted by the Privacy Act, may be found in the FTC's privacy policy, at *http://www.ftc.gov/ftc/privacy.htm*.

Because written comments appear adequate to present the views of all interested parties, the Commission has not scheduled a public workshop or any other oral hearing. Interested parties may request an opportunity to present views orally. If such a request is made, the Commission will publish a document in the **Federal Register**, stating the time and place for such oral presentation(s) and describing the procedures that will be followed. Interested parties who wish to present oral views must submit, on or before September 8, 2006, a written comment that describes the issues on which the party wishes to speak. If there is no oral hearing, the Commission will base its decision on the written rulemaking record.

FOR FURTHER INFORMATION CONTACT: Hampton Newsome, (202) 326–2889, Attorney, Division of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue, NW., Washington, DC 20580.

SUPPLEMENTARY INFORMATION:

I. Background

Section 324 of the Energy Policy and Conservation Act of 1975 (''EPCA'') (42 U.S.C. 6291–6309), as amended, requires the FTC to prescribe labeling rules for the disclosure of estimated annual energy cost or alternative energy consumption information for a variety of products covered by the statute, including home appliances, lighting, and plumbing products.[2] The Commission's Appliance Labeling Rule (16 CFR part 305) implements the requirements of EPCA by directing manufacturers to disclose energy information about major household appliances. This information enables consumers to compare the energy use or efficiency of competing models.[3] When initially published in 1979,[4] the Rule applied to eight appliance categories: refrigerators, refrigerator-freezers, freezers, dishwashers, water heaters, clothes washers, room air conditioners, and furnaces. Since then, the Commission has expanded the Rule's coverage to include central air conditioners, heat pumps, fluorescent lamp ballasts, plumbing products, lighting products, pool heaters, and some other types of water heaters.[5] As discussed in detail below, Congress has now directed the Commission to require labeling for ceiling fans. Before discussing the proposed Rule, this Notice first describes the provisions of the Energy Policy Act of 2005 (''EPACT''), ceiling fan uses, Energy Star specifications, and existing state labeling programs.

A. Energy Policy Act of 2005

Section 137 of EPACT (Pub. L. 109–58 (2005)) amends EPCA to include various requirements related to ceiling fans. Section 324(a)(2)(G)(i) of EPCA (42 U.S.C. 6294(a)(2)(G)(i)) requires the Commission to ''issue, by rule, in accordance with this section, labeling requirements for the electricity used by ceiling fans to circulate air in a room.''[6] The rulemaking must be completed within 18 months. To implement this directive, the Commission is seeking comments on proposed labeling requirements for ceiling fans.

The statute directs the Department of Energy (''DOE'') to prescribe test procedures and energy conservation standards for ceiling fans.[7] (*See* 42 U.S.C. 6292(b)(16) and 42 U.S.C. 6295(v)). According to EPACT, the test procedure for ceiling fans must be based on the ''Energy Star Testing Facility Guidance Manual: Building a Testing Facility and Performing the Solid State Test Method for ENERGY STAR Qualified Ceiling Fans, Version 1.1'' (''Energy Star Guidance Manual'') published by the EPA. (42 U.S.C. 6293(b)(16)). However, in issuing testing and conservation standards, DOE may exempt or set different standards for certain product classes if the primary standards are not technically feasible or economically justified. DOE may also establish separate or exempted product classes for highly decorative fans for which air movement performance is a secondary design feature. (42 U.S.C. 6295(v)).

In developing labeling rules for products covered by EPCA (such as ceiling fans), the Commission must follow the requirements set out in section 324(c) of that law (42 U.S.C. 6294(c)).[8] Under that provision, labels must disclose the estimated annual operating cost determined in accordance with DOE test procedures unless otherwise indicated in the law. The Commission, however, may require a different measure of energy consumption if DOE determines that the cost disclosure is not technologically feasible, or the Commission determines such a disclosure is not likely to assist consumers in making purchasing decisions or is not economically feasible. In addition, labels must disclose information about the range of operating costs (or a different measure of energy consumption if required by the Commission). The Commission's labeling rules also must include a description of the applicable type or class of covered product, information about the range of operating costs or energy use, a description of applicable test procedures, a prototype label, and directions for displaying the label.

Additionally, EPCA authorizes the Commission to require the disclosure of energy information found on the label in any printed material displayed or distributed at the point of sale. (42 U.S.C. 6293(c)(4)). The Commission also may direct manufacturers to provide additional energy-related disclosures on the label (or information shipped with the product) including instructions for the maintenance, use, or repair of the covered product. (42 U.S.C. 6293(c)(5)). Finally, section 326(b) of EPCA contains certain reporting requirements for covered products. (42 U.S.C. 6296).

B. Ceiling Fan Uses

According to the DOE, 69.6 million of U.S. households (or 65.1 percent) had ceiling fans in 2001.[9] Ceiling fans can improve the comfort of a home by circulating air to create a draft throughout a room. For homes using air conditioning, a ceiling fan allows consumers to raise the thermostat setting about 4 °F with no reduction in comfort. In temperate climates, or during moderately hot weather, ceiling

[2] 42 U.S.C. 6294.

[3] More information about the Rule can be found at *http://www.ftc.gov/appliances*.

[4] 44 FR 66466 (November 19, 1979).

[5] *See* 52 FR 46888 (December 10, 1987) (central air conditioners); 59 FR 49556 (September 28, 1994) (pool heaters); 54 FR 28031 (July 5, 1989) (fluorescent lamp ballasts); 58 FR 54955 (October 25, 1993) (certain plumbing products); and 59 FR 25176 (May 13, 1994) (lighting products).

[6] The Act does not authorize the Commission to require labeling for the energy use of light bulbs attached to ceiling fans.

[7] EPACT (42 U.S.C. 6292(ff)) also directs DOE to require that all ceiling fans manufactured after January 1, 2007 have fan speed controls separate from any lighting controls, adjustable speed controls (either more than 1 speed or variable speed), and reversible fan action capability (except for some exempted categories of fans). (10 CFR 430.32(s)).

[8] EPACT did not amend the list of covered products in EPCA section 322 (42 U.S.C. 6292) to include the new products added by the legislation such as ceiling fans, exit signs, and torchieres. Nevertheless, language elsewhere in EPACT (*e.g.*, section 137(b)) makes it clear that Congress intended to treat these items as covered products. Accordingly, the Commission believes that ceiling fans are subject to EPCA requirements for covered products, such as energy range disclosures on labels required by section 324(c) and the reporting requirements of section 326(b).

[9] *See http://www.eia.doe.gov/emeu/recs/ceilingfan/ceiling_fan.html*.

fans may allow consumers to avoid using air conditioning altogether. A larger fan blade provides comparable cooling at a lower velocity than a smaller blade. DOE recommends that a 36- or 44-inch diameter fan can be used to cool a room up to 225 square feet, while fans that are 52 inches or more should be used in larger rooms.[10] In the winter, by reversing the blade direction and operating at low speed, ceiling fans can provide a gentle updraft, which forces warm air near the ceiling down into the occupied space.[11]

C. Energy Star Specifications

As mentioned above, the statute requires manufacturers to derive the energy information on ceiling fan labels from DOE tests, which must be based on the Energy Star Guidance Manual. The Energy Star program, administered by the EPA and DOE, is a voluntary labeling program that identifies high efficiency products. Ceiling fans that move air 20% more efficiently, on average, than standard models qualify for the Energy Star label. The program also has minimum airflow requirements for qualifying models. Airflow is the rate of air movement at a specific fan setting expressed in cubic feet per minute (''CFM''). Airflow efficiency is the ratio of airflow divided by power consumed by the motor and controls at a specific ceiling fan setting expressed in CFM per watt (''CFM/Watt'').

Energy Star requires participating manufacturers to perform tests and self-certify those product models that meet the Energy Star guidelines. Manufacturers must derive airflow and airflow efficiency measurements using the Solid State Test Method as defined in the Energy Star Guidance Manual.[12] Under this test method, testing personnel must place the fan above a large diameter tube in a standard temperature and humidity-controlled room. The air delivered by the fan passes through the tunnel where a row of velocity sensors mounted on a rotating arm measures the airflow at various points. Energy Star directs manufacturers to measure efficiency at each of three fan speeds (low, medium, high). For example, at low speed, fans must have a minimum airflow of 1,250 CFM and an efficiency of 155 CFM/Watt and, at high speed, fans must have a minimum airflow of 5,000 CFM and an efficiency of 75 CFM/Watt.

D. California Energy Commission

In addition to the Energy Star specifications and test method, the State of California has requirements for ceiling fans. Under the California regulations, each ceiling fan package must display, in characters no less than ¼ inch high, the unit's airflow (in CFM) and airflow efficiency (in CFM/Watt) at high, medium, and low speeds. The requirements only apply to fans with diameters of 50 inches or greater. (Cal. Code Regs. tit. 20, section 1607(d)(7)). California regulations do not specify the test procedures manufacturers must use to derive the required information.

II. Proposed Rule for Ceiling Fans

The Commission is proposing a ceiling fan labeling rule that would require the disclosure of: (1) The fan's airflow at high speed in CFM; (2) the fan's power consumption in watts; (3) the fan's airflow efficiency in CFM/Watt at high speed; and (4) a range of airflow efficiencies for standard-sized fans on the market as published by the Commission. To obtain this information, manufacturers would have to test their fans pursuant to a DOE test procedure. The proposed Rule would require manufacturers to provide this information on a label on the product packaging. Finally, the proposed Rule would require manufacturers to submit reports to the Commission with information such as airflow, power consumption, and airflow efficiency at high speed for the applicable models pursuant to EPCA's reporting requirements (42 U.S.C. 6296). The following discussion details the specific information that the proposed Rule would require on the label and addresses several issues raised by the proposal.

A. Test Procedures—Stay of Labeling Rules

Under EPCA (42 U.S.C. 6294(c)), manufacturers must determine the energy performance of their products pursuant to standard DOE test procedures. DOE has not published final test procedures for ceiling fans. Without such requirements, manufacturers cannot comply with the Commission's labeling rule. Under EPACT (42 U.S.C. 6294(a)(2)(G)(ii)), the labeling requirements for ceiling fans apply to products manufactured after January 1, 2009. Accordingly, the Commission plans to stay the effectiveness of any final labeling rules until that date or until DOE final test procedures become effective, whichever date is later. EPCA requires that DOE base its ceiling fan test procedures on Energy Star's test method (42 U.S.C. 6293(b)(16)). Therefore, the FTC expects that the information derived from DOE's required tests will allow manufacturers to derive all the energy-related data they need for the label required under the Commission's proposed Rule.

B. Operating Cost and Energy Disclosures

Section 324(c) of EPCA (42 U.S.C. 6294(c)) requires labels for covered products to contain operating-cost information unless the Commission determines that such disclosure is not likely to assist consumers in making purchasing decisions or is not economically feasible. The Commission believes that annual operating costs may not be an appropriate energy performance measure because ceiling fan use is likely to vary significantly depending on factors such as climate, household heating and cooling systems, and individual use. Given these significant variations, it appears that annual cost information would have limited utility and could possibly mislead consumers. Instead, the Commission proposes to require the disclosure of fan energy performance as expressed in airflow (CFM), electricity use (watts), and airflow efficiency (CFM/Watt). Under the proposed Rule, the wattage disclosure will also include a phrase indicating that the disclosed amount does not include lights attached to the fan.

Each of the three proposed descriptors provides different information about the fan. Electricity use (in watts) provides information about the power drawn by the fan and allows consumers to compare the fan's energy use to other household items such as light bulbs. Electricity use information also provides an idea of how much the fan will cost to operate because the higher the wattage, the higher the operating costs. Electricity use does not, however, provide information about the amount of air the fan can move. For example, a fan that uses very little electricity may not create the air movement adequate for a consumer's needs. The airflow information describes the amount of air the fan will move in cubic feet per minute (CFM)—the greater the CFM, the more air the model will move. The airflow efficiency, expressed in cubic feet per minute per watt (CFM/W) indicates the amount of air the product will move for each watt of electricity it uses. This efficiency information describes the relationship between the product's energy use and its output, not just the electricity used by the product.

[10] *See http://www.eere.energy.gov/consumer/your_home/space_heating_cooling/index.cfm/mytopic=12355.*

[11] *See http://www.energystar.gov/index.cfm?c=ceiling_fans.pr_ceiling_fans_usage.*

[12] Energy Star Testing Facility Guidance Manual, Version 1.1 (December 9, 2002).

The Commission has considered simplifying the label to require the disclosure of a single descriptor (*e.g.*, electricity use or airflow efficiency). It appears, however, that each single descriptor fails, by itself, to convey information to explain the product's energy performance. As discussed above, electricity use does not provide information about fan output. Similarly, the efficiency rating is not necessarily an accurate predictor of the fan's electricity consumption or its operating cost. For example, a model with an efficiency rating of 100 CFM/Watt, 6,000 CFM airflow, and 60 watts power consumption will use more electricity and thus cost more to operate than a fan with a lower efficiency rating of 91 CFM/Watt, 5,000 CFM airflow, and power consumption of 55 watts. Because airflow efficiency is the ratio of airflow (*i.e.*, fan strength) to power consumption, the less efficient model (91 CFM/Watt) may deliver less air but, at the same time, use less electricity and thus cost less to operate. Therefore, where there is significant variation in the airflow of competing models, the label should not suggest that high efficiency necessarily equates with cost savings.

Accordingly, the Commission proposes to require all three descriptors on the label. The Commission seeks suggestions on whether the proposed label can be simplified in a way that continues to provide accurate, useful information for consumers.

C. Disclosures at High Speed

Under the proposed Rule, each fan label must disclose the model's airflow efficiency, airflow, and power consumption at high speed. The Commission proposes to limit the disclosures to high speed settings in an effort to simplify the information on the label. The Commission expects that the information at high speed will be adequate to allow consumers to compare the efficiency rating and power consumed by competing models. The inclusion of information for other speed settings may clutter the label with few additional benefits. The Commission seeks comment on whether it is appropriate to require disclosures only at high speed and whether there is a consistent relationship between the airflow efficiencies at high speeds and at low speeds (*e.g.*, whether high efficiency fans consistently provide relatively high airflow efficiencies at both high and low speeds).

D. Additional Performance Information

Under the proposed Rule, manufacturers would have the discretion to provide additional energy information elsewhere on the package or in other marketing information. This information could include airflow efficiencies, power consumption in watts, and airflow at other speeds as long as such information is adequately substantiated and fairly represents the results of the applicable test procedure. To ensure that all fan packages feature a uniform energy label, however, the proposed Rule would limit the information allowed on the required label. A uniform label should make it easier for consumers to locate and read the information on different labels as they shop. The Commission seeks comment on whether such restrictions are appropriate.

E. Efficiency Ranges and Additional Information

As directed by EPCA (42 U.S.C. 6294), the Commission proposes to require range information on the label. The proposed label for fans of 49 inches or greater would bear the following statement: ''Compare: 49″ to 60″ ceiling fans have airflow efficiencies ranging from approximately __ to __ cubic feet per minute per watt at high speed.'' The Rule would require a similar statement for fans ranging from 36 to 48 inches. This statement will provide consumers with basic information about the relative energy efficiency of two general categories of ceiling-fan sizes on the market. The Commission is not proposing a more detailed system of range information (*e.g.*, a table of ranges for many different fan sizes and fan speeds) because it is unclear whether such information would provide consumer benefits commensurate with the costs associated with label changes necessary to reflect periodic range changes, particularly if the label is printed on the product package itself. The Commission seeks comment on this proposal and, in particular, the range of efficiency numbers (*e.g.*, 50 CFM/Watt to 130 CFM/Watt) that should be used for both statements.

Finally, a fan's cooling comfort stems from its wind chill effect. Accordingly, ceiling fans produce no cooling benefit in unoccupied rooms. To help consumers avoid wasting electricity, the proposed label also contains the statement ''Money-Saving Tip: Turn off fan when leaving room.''

F. Location of Label

To maximize the label's utility, consumers should be able to view the energy information while making their purchasing decision. Under the proposed Rule, manufacturers would place the ceiling fan label on product packages rather than on the products themselves. Such a requirement will assist consumers while shopping in retail stores. This labeling method would not be helpful in stores that display the fans themselves in a showroom without the product packaging. In lieu of package labeling, the rule could require the attachment of the label directly on the product itself, perhaps through a hang tag. The Commission seeks comment on whether it is appropriate to require the labels on fan packages, instead of the ceiling fans themselves.

G. Size and Format Requirements

The proposed Rule indicates that the label must be at least four inches wide and three inches high. Prototype Label 6 contains suggested font types and sizes for the proposed label.

H. Reporting Requirements

Section 326 of EPCA (42 U.S.C. 6296) contains certain reporting requirements for covered products. For example, EPCA requires manufacturers to submit annual reports. Therefore, consistent with existing reporting requirements for other covered products, the proposed Rule would require manufacturers to submit information on the energy efficiency of ceiling fans, the model numbers for each basic model, the total energy consumed, the number of tests performed, and the capacity (*i.e.*, cubic feet per minute).

I. Internet/Catalog Disclosures

Section 305.14 of the Rule requires that any manufacturer, distributor, retailer, or private labeler who advertises a covered product in a catalog, including a Web site, must provide certain information related to the energy consumption or efficiency of that product. The proposed Rule would amend these catalog requirements to include ceiling fans.

III. Paperwork Reduction Act

The Rule contains disclosure and reporting requirements that constitute ''information collection requirements'' as defined by 5 CFR 1320.7(c), the regulation that implements the Paperwork Reduction Act (''PRA'').[13] OMB has approved the Rule's information collection requirements through December 31, 2007 (OMB Control No. 3084–0069). The proposed amendments would expand the Rule's existing recordkeeping, labeling, and reporting requirements to include manufacturers for a product not previously covered. Accordingly, the

[13] 44 U.S.C. 3501–3520.

Commission has submitted this proposed Rule and a Supporting Statement to OMB for review under the PRA.

The Commission's burden estimates are based on census data, Department of Energy figures and estimates, general knowledge of manufacturing practices, and trade association advice and figures. Because the burden of compliance falls almost entirely on manufacturers and importers (with a *de minimis* burden relating to retailers), the Commission has calculated the burden estimates based on the number of ceiling fan units shipped domestically.

The Commission estimates that there are 1,500 basic models (*i.e.*, units with essentially identical functional physical and electrical characteristics) of ceiling fans sold in the U.S. Consistent with reporting estimates for other products covered by the Rule, the Commission estimates that the average reporting burden for manufacturers is approximately two minutes per basic model. Based on this estimate the annual reporting burden for ceiling fans is an estimated 50 hours (2 minutes x 1,500 models ÷ 60 minutes per hour).

With regard to labeling burdens, manufacturers will require approximately four minutes to create a label for each basic model. Thus, the approximate annual drafting burden involved in labeling is 100 hours per year [1,500 basic models x four minutes (drafting time per basic model) ÷ 60 minutes per hour]. In addition, the Commission estimates that it will take, on average, six seconds to place labels on the packaging of each unit. Based on 2004 U.S. census data, the Commission estimates that there are approximately 6,000,000 ceiling fan units shipped each year in the U.S. Thus, the annual burden for affixing labels to ceiling fans is 10,000 hours [six (seconds) x 6,000,000 (the total products shipped in 2000) divided by 3,600 (seconds per hour)]. Accordingly, the total labeling burden would be 10,100 hours.

With regard to testing burdens, manufacturers will require approximately one hour to test each new basic model. The FTC estimates that, on average, 50% of the total basic models are tested each year. Accordingly, the estimated annual testing burden would be approximately 1,500 hours [1 hour x 2 (average number of units tested) x 750 (50% of 1,500 basic models)].

The proposed Rule requires ceiling fan manufacturers to keep records of test data generated in performing the tests to derive information included on labels. The Commission estimates that it will take ceiling fan manufacturers one minute per record (*i.e.*, per model) to store the data. Accordingly, the estimated annual recordkeeping burden would be approximately 25 hours (1 minute x 1,500 basic models ÷ 60 minutes per hour).

The proposed Rule would also require sellers offering ceiling products through retail sales catalogs (*i.e.*, those publications from which a consumer can actually order merchandise) to disclose in the catalog energy information for each fan model. Because this information is supplied by the product manufacturers, the burden on the retailer consists of incorporating the information into the catalog presentation.

The Commission estimates that there are an additional 200 catalog sellers of ceiling fans (paper catalogs and online sellers) who are subject to the Rule's catalog disclosure requirements. This estimate was derived from Internet research conducted by the FTC staff regarding the number of manufacturers and online retailers of ceiling fans. The FTC estimates that these sellers each require approximately 17 hours per year to incorporate the data into their catalogs. This estimate is based on the assumption that entry of the required information takes one minute per covered product and an assumption that the average online catalog contains approximately 1,000 covered products. Given that there is great variety among sellers in the volume of products that they offer online, it is very difficult to estimate such numbers with precision. In addition, this analysis assumes that information for all 1,000 products is entered into the catalog each year. This is a conservative assumption because the number of incremental additions to the catalog from year to year is likely to be much lower after initial start-up efforts have been completed. Thus, the total catalog disclosure burden for all industries covered by the Rule is 3,400 hours (200 sellers x 17 hours annually).

Therefore, the cumulative estimated annual burden for the proposed Rule would be 15,000 hours, rounded to the nearest thousand.

The Commission has derived labor costs by applying appropriate estimated hourly cost figures to the burden hours described above. In calculating the cost figures, the FTC assumes that test procedures are conducted by skilled technical personnel at an hourly rate of $29.40, and that recordkeeping and reporting, and labeling, marking, and preparation of fact sheets, generally are performed by clerical personnel at an hourly rate of $14.21.[14]

Based on the above estimates and assumptions, the total annual labor cost for the five different categories of burden under the proposed Rule, applied to ceiling fans, is derived as follows: (1) Annual testing labor cost is $44,100 (1500 hours x $29.40 (skilled technical wage category)); and (2) all other annual labor costs including labeling, recordkeeping, reporting, and catalog disclosures are $192,901 (13,575 hours x $14.21 (skilled clerical wage category)). Thus, the total annual labor cost is $237,000 rounded to the nearest thousand.

The Commission invites comments that will enable it to: (1) Evaluate whether the proposed collections of information are necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility; (2) evaluate the accuracy of the Commission's estimate of the burden of the proposed collections 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 collections of information on those who must comply, including through the use of appropriate automated, electronic, mechanical, or other technological techniques or other forms of information technology.

Comments on any proposed filing, recordkeeping, or disclosure requirements that are subject to paperwork burden review under the Paperwork Reduction Act should additionally be submitted to: Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for Federal Trade Commission. Comments should be submitted via facsimile to (202) 395–6974 because U.S. postal mail at the OMB is subject to lengthy delays due to heightened security precautions.

IV. Regulatory Flexibility Act

The Regulatory Flexibility Act (''RFA''), 5 U.S.C. 601–612, requires that the Commission provide an Initial Regulatory Flexibility Analysis (''IRFA'') with a proposed Rule and a Final Regulatory Flexibility Analysis (''FRFA''), if any, with the final rule, unless the Commission certifies that the rule will not have a significant economic impact on a substantial

[14] These hourly rates are based on data recently released by the U.S. Department of Labor's Bureau of Labor Statistics. *See http://www.bls.gov/ncs/ocs/sp/ncbl0757.pdf.*

number of small entities. *See* 5 U.S.C. 603–605.

The Commission does not anticipate that the proposed Rule will have a significant economic impact on a substantial number of small entities. The Commission recognizes that some of the affected manufacturers may qualify as small businesses under the relevant thresholds (*i.e.*, 750 or fewer employees) and that the economic impact of the proposed Rule on a particular small entity could be significant. Overall, however, the proposed Rule likely will not have a significant economic impact on a substantial number of small entities. The Commission estimates that these requirements will apply to about 95 ceiling fan manufacturers and an additional 200 online and paper catalog sellers of ceiling fans. Out of these companies, the Commission expects that approximately ⅔ of these qualify as small businesses. In addition, the Commission does not expect that the disclosures specified in the proposed Rule will have a significant impact on these entities.

Accordingly, this document serves as notice to the Small Business Administration of the FTC's certification of no effect. To ensure the accuracy of this certification, however, the Commission requests comment on whether the proposed Rule will have a significant impact on a substantial number of small entities, including specific information on the number of entities that would be covered by the proposed Rule, the number of these companies that are ''small entities,'' and the average annual burden for each entity. Although the Commission certifies under the RFA that the rule proposed in this notice would not, if promulgated, have a significant impact on a substantial number of small entities, the Commission has determined, nonetheless, that it is appropriate to publish an IRFA in order to inquire into the impact of the proposed Rule on small entities. Therefore, the Commission has prepared the following analysis:

A. Description of the Reasons That Action by the Agency Is Being Taken

The Federal Trade Commission is charged with enforcing the requirements of 42 U.S.C. 6294, which require the agency to issue this rule.

B. Statement of the Objectives of, and Legal Basis for, the Proposed Rule

The objective of the proposed Rule is to establish energy labeling requirements for the movement of air by ceiling fans. Section 137 of EPACT amends section 324 of EPCA to require the Commission to ''issue, by rule, in accordance with this section, labeling requirements for the electricity used by ceiling fans to circulate air in a room.''

C. Small Entities To Which the Proposed Rule Will Apply

Under the Small Business Size Standards issued by the Small Business Administration, household fan manufacturers qualify as small businesses if they have fewer than 750 employees. The Commission estimates that fewer than 200 entities subject to the proposed Rule's requirements qualify as small businesses. The Commission seeks comment and information with regard to the estimated number or nature of small business entities for which the proposed Rule would have a significant economic impact.

D. Projected Reporting, Recordkeeping and Other Compliance Requirements

The Commission recognizes that the proposed labeling rule will involve some increased costs for affected parties. Most of these costs will be in the form of drafting costs for the label. The entities affected will include ceiling fan manufacturers and catalog retailers (including online sellers) of ceiling fans. The Commission does not expect that there will be any significant legal, professional, or training costs to comply with the rule. The Commission does not expect that the labeling requirements will impose significant incremental costs for Web sites or other advertising. The Commission invites comment and information on these issues.

E. Duplicative, Overlapping, or Conflicting Federal Rules

The Commission has not identified any other Federal statutes, rules, or policies that would duplicate, overlap, or conflict with the proposed Rule. The Commission invites comment and information on this issue.

F. Significant Alternatives to the Proposed Rule

The provisions of the rule directly reflect the requirements of the statute, and thus leave little room for significant alternatives to decrease the burden on regulated entities. Nevertheless, the Commission seeks comment and information on the need, if any, for alternative compliance methods that, consistent with the statutory requirements, would reduce the economic impact of the rule on such small entities, including the need, if any, to delay the rule's effective date to provide additional time for small business compliance. If the comments filed in response to this notice identify small entities that are affected by the rule, as well as alternative methods of compliance that would reduce the economic impact of the rule on such entities, the Commission will consider the feasibility of such alternatives and determine whether they should be incorporated into the final rule.

V. Questions for Comment

All comments should be filed as prescribed in the **ADDRESSES** section above, and must be received on or before September 8, 2006. The questions below are designed to assist the public and should not be construed as a limitation on the issues on which public comment may be submitted.

A. What energy-related information should be required on the ceiling fan labels?

B. Should the amount of information on the proposed label be reduced or otherwise simplified? If so, how should this be accomplished?

C. Are the energy descriptors for the proposed label appropriate? Should ''fan strength'' or a similar term be used in lieu of ''airflow''?

D. Should the label contain information explaining terms such as ''airflow,'' ''electricity use,'' and ''airflow efficiency''? If so, what should be the content of such explanations?

E. Should the label contain information about annual operating costs?

F. Do similar sized fans have similar airflow ratings (in cubic feet per minute)?

G. Is it appropriate for the label to require energy information at high fan speed only? Or should it require the disclosure of such information at lower speeds?

H. Should the label include a disclosure that the power use excludes the power used by light bulbs attached to the fan?

I. Is the proposed range disclosure appropriate? Should the label require different range information? What efficiency numbers should be used in the proposed range information on the label?

J. Should the Rule allow the inclusion of information on the label not specifically required by the Rule? Or should the Rule mandate uniformity in the content of the label?

K. Should the label be affixed to the product itself or to the product packaging?

L. What costs or burdens would the proposed requirements impose, and on whom?

M. What regulatory alternatives to the proposed requirements are available that would reduce the burdens of the proposed requirements? How would such alternatives affect the benefits provided by the proposed Rule?

VI. Proposed Rule Language

List of Subjects in 16 CFR Part 305

Advertising, Energy conservation, Household appliances, Labeling, Reporting and recordkeeping requirements.

For the reasons set out above, the Commission proposes the following amendments to 16 CFR part 305:

PART 305—[AMENDED]

1. The authority citation for part 305 continues to read as follows:

Authority: 42 U.S.C. 6294.

2. Amend § 305.2 by revising paragraph (i), revising paragraph (o)(21), and adding paragraph (o)(22) to read as follow:

§ 305.2 Definitions.

* * * * *

(i) *Energy efficiency rating* means the following product-specific energy usage descriptors: *annual fuel utilization efficiency (AFUE)* for furnaces; *energy efficiency ratio (EER)* for room air conditioners; *seasonal energy efficiency ratio (SEER)* for the cooling function of central air conditioners and heat pumps; *heating seasonal performance factor (HSPF)* for the heating function of heat pumps; *airflow efficiency* for ceiling fans; and, *thermal efficiency (TE)* for pool heaters, as these descriptors are determined in accordance with tests prescribed under section 323 of the Act (42 U.S.C. 6293). These product-specific energy usage descriptors shall be used in satisfying all the requirements of this part.

* * * * *

(o) * * *

(21) Ceiling fans.

(22) Any other type of consumer product which the Department of Energy classifies as a covered product under section 322(b) of the Act (42 U.S.C. 6292).

* * * * *

3. Amend § 305.3 by adding paragraph (s) to read as follows:

§ 305.3 Description of covered products.

* * * * *

(s) *Ceiling fan* means a nonportable device that is suspended from a ceiling for circulating air via the rotation of fan blades.

4. Add to § 305.5, paragraph (a)(11) to read as follows:

§ 305.5 Determinations of estimated annual energy consumption, estimated annual operating cost, and energy efficiency rating, and of water use rate.

* * * * *

(a) * * *

(11) Ceiling Fans—§ 430.23.

5. Add to § 305.7, paragraph (l) to read as follows:

§ 305.7 Determinations of capacity.

* * * * *

(l) *Ceiling fans.* The capacity shall be the airflow in cubic feet per minute as determined according to appendix __ of 10 CFR part 430, subpart B.

6. Amend § 305.8 to revise paragraphs (a)(1) and (b)(1) to read as follows:

§ 305.8 Submission of data.

(a)(1) Each manufacturer of a covered product (except manufacturers of fluorescent lamp ballasts, showerheads, faucets, water closets, urinals, general service fluorescent lamps, medium base compact fluorescent lamps, or general service incandescent lamps including incandescent reflector lamps) shall submit annually to the Commission a report listing the estimated annual energy consumption (for refrigerators, refrigerator-freezers, freezers, clothes washers, dishwashers and water heaters) or the energy efficiency rating (for room air conditioners, central air conditioners, heat pumps, furnaces, ceiling fans, and pool heaters) for each basic model in current production, determined according to § 305.5 and statistically verified according to § 305.6. The report must also list, for each basic model in current production: The model numbers for each basic model; the total energy consumption, determined in accordance with § 305.5, used to calculate the estimated annual energy consumption or energy efficiency rating; the number of tests performed; and, its capacity, determined in accordance with § 305.7. For those models that use more than one energy source or more than one cycle, each separate amount of energy consumption or energy cost, measured in accordance with § 305.5, shall be listed in the report. Appendix K illustrates a suggested reporting format. Starting serial numbers or other numbers identifying the date of manufacture of covered products shall be submitted whenever a new basic model is introduced on the market.

* * * * *

* * * * *

(b)(1) All data required by § 305.8(a) except serial numbers shall be submitted to the Commission annually, on or before the following dates:

Product category	Deadline for data submission
Refrigerators	Aug. 1.
Refrigerator-freezers	Aug. 1.
Freezers	Aug. 1.
Central air conditioners	July 1.
Heat pumps	July 1.
Dishwashers	June 1.
Water heaters	May 1.
Room air conditioners	May 1.
Furnaces	May 1.
Pool heaters	May 1.
Clothes washers	Oct. 1.
Fluorescent lamp ballasts.	Mar. 1.
Showerheads	Mar. 1.
Faucets	Mar. 1.
Water closets	Mar. 1.
Urinals	Mar. 1.
Ceiling fans	Mar. 1.
Fluorescent lamps	Mar. 1, [Stayed].
Medium Base Compact Fluorescent Lamps.	Mar. 1, [Stayed].
Incandescent Lamps, incl. Reflector Lamps.	Mar. 1, [Stayed].

* * * * *

7. Revise § 305.10, paragraph (a) to read as follows:

§ 305.10 Ranges of estimated annual energy consumption and energy efficiency ratings.

(a) The range of estimated annual energy consumption or energy efficiency ratings for each covered product (except fluorescent lamp ballasts, showerheads, faucets, water closets, urinals, or ceiling fans) shall be taken from the appropriate appendix to this rule in effect at the time the labels are affixed to the product. The Commission shall publish revised ranges annually in the **Federal Register**, if appropriate, or a statement that the specific prior ranges are still applicable for the new year. Ranges will be changed if the estimated annual energy consumption or energy efficiency ratings of the products within the range change in a way that would alter the upper or lower estimated annual energy consumption or energy efficiency rating limits of the range by 15% or more from that previously published. When a range is revised, all information disseminated after 90 days following the publication of the revision shall conform to the revised range. Products that have been labeled prior to the effective date of a modification under this section need not be relabeled.

* * * * *

8. Amend § 305.11 by revising paragraph (a)(1) and adding paragraph (g) to read as follows:

§ 305.11 Labeling for covered products.

(a) *Labels for covered products other than fluorescent lamp ballasts, general service fluorescent lamps, medium base*

compact fluorescent lamps, general service incandescent lamps (including incandescent reflector lamps), showerheads, faucets, water closets, urinals, and ceiling fans —(1) *Layout.* All energy labels for each category of covered product shall use one size, similar colors and typefaces with consistent positioning of headline, copy and charts to maintain uniformity for immediate consumer recognition and readability. Trim size dimensions for all labels shall be as follows: width must be between 5¼ inches and 5½ inches (13.34 cm. and 13.97 cm.); length must be 7⅜ inches (18.73 cm.). Copy is to be set between 27 picas and 29 picas and copy page should be centered (right to left and top to bottom). Depth is variable but should follow closely the prototype labels appearing at the end of this part illustrating the basis layout. All positioning, spacing, type sizes and line widths should be similar to and consistent with the prototype labels.

* * * * *

(g) *Ceiling Fans.* (1) *Content.* Any covered product that is a ceiling fan shall be labeled clearly and conspicuously on the principal display panel with the following information in order from top to bottom on the label:

(A) The words ''ENERGY INFORMATION'' shall appear at the top of the label with the words ''at High Speed'' directly underneath;

(B) The product's airflow at high speed expressed in cubic feet per minute and determined pursuant to § 305.5 of this part;

(C) The product's electricity usage at high speed expressed in watts and determined pursuant to § 305.5 of this part, including the phrase ''excludes lights'' as indicated in Prototype Label 6 of Appendix L of this part;

(D) The product's airflow efficiency rating at high speed expressed in cubic feet per minute per watt and determined pursuant to § 305.5 of this part;

(E) The following statement shall appear on the label for fans fewer than 49 inches in diameter: ''Compare: 36″ to 48″ ceiling fans have airflow efficiencies ranging from approximately __ to __ cubic feet per minute per watt at high speed.''

(F) The following statement shall appear on the label for fans 49 inches or more in diameter: ''Compare: 49″ to 60″ ceiling fans have airflow efficiencies ranging from approximately __ to __ cubic feet per minute per watt at high speed.''

(G) The following statements shall appear at the bottom of the label as indicated in Prototype Label 6 of Appendix L of this part: ''Money-Saving Tip: Turn off fan when leaving room.''

(2) *Label Size and Text Font.* The label shall be four inches wide and three inches high. The text font shall be Arial or another equivalent font. Prototype Label 6 of Appendix L of this part provides an example of the size, placement, and content of information required by this part.

(3) *Placement.* The ceiling fan label shall be printed on the principal display panel of the product's packaging.

(4) *Additional Information:* No marks or information other than that specified in this part shall appear on this label, except a model name, number, or similar identifying information.

9. Amend § 305.14, by adding paragraph (e) to read as follows:

§ 305.14 Catalogs.

* * * * *

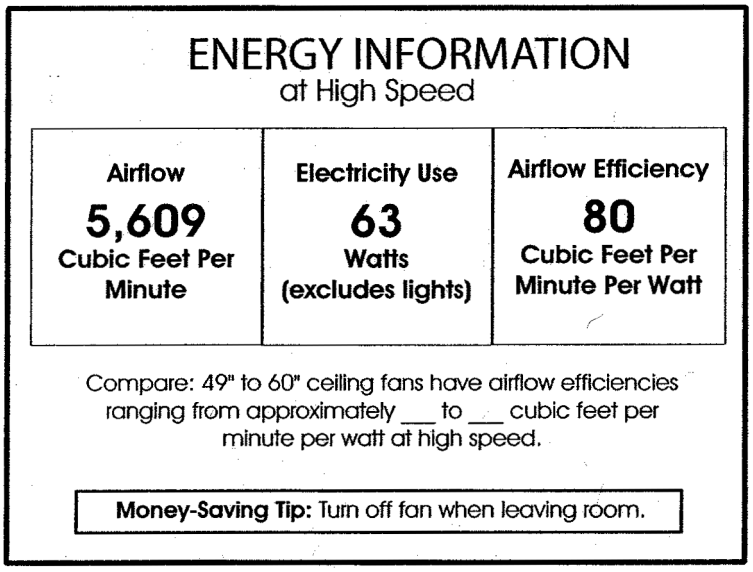
(e) Any manufacturer, distributor, retailer, or private labeler who advertises a covered product that is a ceiling fan in a catalog, from which it may be purchased, shall include in such catalog, on each page that lists the covered product, all the information concerning the product required by § 305.11(g)(1).

10. Amend part 305, Appendix L by adding Prototype Label 6 to read as follows:

Appendix L to Part 305—Sample Labels

* * * * *

Prototype Label 6 (Ceiling Fan Label)



* * * * *

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 06–5591 Filed 6–20–06; 8:45 am]

BILLING CODE 6750–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–109512–05]

RIN 1545—BE47

Information Returns Required With Respect to Certain Foreign Corporations and Certain Foreign-Owned Domestic Corporations

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking by cross-reference to temporary regulations.

SUMMARY: In the Rules and Regulations section of this issue of the **Federal Register**, the IRS is issuing temporary regulations to clarify existing guidance under sections 6038 and 6038A of the Internal Revenue Code (Code) with respect to the information required to be furnished regarding certain related party transactions of certain foreign corporations and certain foreign-owned U.S. corporations. The temporary regulations also increase the amount of certain penalties, and make certain other changes, to reflect the statutory changes made by the Taxpayer Relief Act of 1997. The text of the temporary regulations also serves as the text of these proposed regulations.

DATES: Written or electronic comments and requests for a public hearing must be received by September 19, 2006.

ADDRESSES: Send submissions to: CC:PA:LPD:PR (REG–109512–05), Room 5203, Internal Revenue Service, PO Box 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand-delivered Monday through Friday between the hours of 8 a.m. and 4 p.m. to CC:PA:LPD:PR (REG–109512–05), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC, or sent electronically, via the IRS Internet site at *http://www.irs.gov/regs* or via the Federal eRulemaking Portal at *http://www.regulations.gov* (IRS REG–109512–05).

FOR FURTHER INFORMATION CONTACT: Concerning the proposed regulations, Kate Y. Hwa, (202) 622–3840; concerning submissions of comments, Kelly Banks, (202) 622–7180 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The collection of information contained in these proposed regulations has been submitted to the Office of Management and Budget for review in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)).

Comments concerning the collection of information should be sent to the Office of Management and Budget, Attn: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503, with copies to the Internal Revenue Service, Attn: IRS Reports Clearance Officer, SE:W:CAR:MP:T:T:SP, Washington, DC 20224. Any such comments should be submitted not later than August 21, 2006. Comments are specifically requested concerning:

Whether the proposed collection of information is necessary for the proper performance of the functions of the IRS, including whether the information will have practical utility;

The accuracy of the estimated burden associated with the proposed collection of information (see below);

How the quality, utility, and clarity of the information to be collected may be enhanced;

How the burden of complying with the proposed collections of information may be minimized, including through the application of automated collection techniques or other forms of information technology; and

Estimates of capital or start-up costs and costs of operations, maintenance, and purchase of service to provide information.

The collection of information is in § 1.6038–2(f)(11). This information is required by the IRS pursuant to section 6038 of the Code. The likely recordkeepers are business or other for-profit institutions. The estimated burden is as follows:

Estimated total annual reporting and/or recordkeeping burden: 1250 hours.

Estimated average annual burden per respondent: 15 minutes.

Estimated number of respondents: 5,000.

Estimated annual frequency of responses: Once.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid control number assigned by the Office of Management and Budget.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Background

Temporary regulations in the Rules and Regulations section of this issue of the **Federal Register** amend the Income Tax Regulations (26 CFR part 1) to clarify the existing rules under sections 6038 and 6038A of the Code with respect to the information required to be furnished regarding certain related party transactions of certain foreign corporations and certain foreign-owned domestic corporations. The text of the temporary regulations also serves as the text of these proposed regulations. The preamble to the temporary regulations explains the temporary regulations and these proposed regulations.

Special Analyses

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations. Because these regulations impose no new collection of information on small entities, a Regulatory Flexibility Analysis under the Regulatory Flexibility Act (5 U.S.C. chapter 6) is not required. Pursuant to section 7805(f) of the Code, this notice of proposed rulemaking will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small business.

Comments and Request for Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any written (a signed original and eight (8) copies) or electronic comments that are submitted timely to the IRS. All comments will be available for public inspection and copying. A public hearing may be scheduled if requested by any person who timely submits comments. If a public hearing is scheduled, notice of the date, time, and place for the hearing will be published in the **Federal Register**.

Drafting Information

The principal author of these regulations is Kate Y. Hwa, Office of the Associate Chief Counsel (International). However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

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

PART 1—INCOME TAXES

Paragraph 1. The authority citation for part 1 is amended by adding entries in numerical order to read in part as follows:

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

Par. 2. Section 1.6038–2 is amended to read as follows:

1. Paragraphs (f)(11), (k)(1), (k)(5) and (m) are revised.

2. Paragraph (f)(12) is added.

The additions and revisions read as follows:

§ 1.6038–2 Information returns required of United States persons with respect to annual accounting periods of certain foreign corporations beginning after December 31, 1962.

* * * * *

(f)(11) [The text of this proposed amendment is the same as the text of § 1.6038–2T(f)(11) published elsewhere in this issue of the **Federal Register**].

(f)(12) [The text of this proposed amendment is the same as the text of § 1.6038–2T(f)(12) published elsewhere in this issue of the **Federal Register**].

* * * * *

(k)(1) [The text of this proposed amendment is the same as the text of § 1.6038–2T(k)(1) published elsewhere in this issue of the **Federal Register**].

* * * * *

(5) * * *

Example 3. [The text of this proposed amendment is the same as the text of § 1.6038–2T(k)(5) *Example 3* published elsewhere in this issue of the **Federal Register**].

Example 4. [The text of this proposed amendment is the same as the text of § 1.6038–2T(k)(5) *Example 4* published elsewhere in this issue of the **Federal Register**].

* * * * *

(m) [The text of this proposed amendment is the same as the text of § 1.6038–2T(m) published elsewhere in this issue of the **Federal Register**.]

Par. 3. Section 1.6038A–2 is amended by revising paragraphs (b)(8) and (h) to read as follows:

§ 1.6038A–2 Requirement of return.

* * * * *

(b) * * *

(8) [The text of this proposed amendment is the same as the text of § 1.6038A–2T(b)(8) published elsewhere in this issue of the **Federal Register**].

* * * * *

(h) [The text of this proposed amendment is the same as the text of § 1.6038A–2T(h) published elsewhere in this issue of the **Federal Register**].

Mark E. Matthews,

Deputy Commissioner for Services and Enforcement.

[FR Doc. E6–9611 Filed 6–20–06; 8:45 am]

BILLING CODE 4830–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 262

[EPA–R01–RCRA–2006–0391; FRL–8186–2]

Extension of Site-Specific Regulations for University Laboratories XL Project

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to extend the expiration date of the New England University Laboratories XL Project (Labs XL Project) rule that EPA previously promulgated under the eXcellence and Leadership program (Project XL), allowing laboratories at certain universities in Massachusetts and Vermont to follow certain alternative RCRA generator requirements. In this action, EPA proposes to extend the expiration date from September 30, 2006 to April 15, 2009.

DATES: Written comments must be received by July 21, 2006.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R01–RCRA–2006–0391, by one of the following methods:

- *www.regulations.gov:* Follow the on-line instructions for submitting comments.
- *E-mail: biscaia.robin@epa.gov.*
- *Fax:* to the attention of Robin Biscaia, (617) 918–0642.
- *Mail:* Robin Biscaia, Hazardous Waste Unit, Office of Ecosystems Protection, EPA Region I, One Congress Street, Suite 1100, Mail Code: CHW, Boston, MA 02114–2023.
- *Hand Delivery:* Robin Biscaia, Hazardous Waste Unit, Office of Ecosystems Protection, EPA Region I, One Congress Street, Suite 1100, Mail Code: CHW, Boston, MA 02114. Such deliveries are only accepted during the EPA'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–R01–RCRA–2006–0391. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at www.regulations.gov, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through www.regulations.gov or e-mail. The www.regulations.gov Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through www.regulations.gov, your e-mail address will be 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: EPA has established a docket for this action under Docket ID No. EPA–R01–RCRA–2006–0391. All documents in the docket are listed on the www.regulations.gov Web site. Although listed in the index, some information may not be publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through www.regulations.gov or in hard copy at the EPA New England Library, One Congress Street—11th Floor, Boston, MA 02114–2023, business hours Monday through Thursday 10 a.m. to 3 p.m., telephone: (617) 918–1990. Records in these dockets are available

for inspection and copying during normal business hours.

FOR FURTHER INFORMATION CONTACT: Robin Biscaia, Hazardous Waste Unit, EPA Region I, One Congress Street, Suite 1100 (CHW), Boston, MA 02114–2023, telephone: (617) 918–1642, e-mail: *biscaia.robin@epa.gov.*

SUPPLEMENTARY INFORMATION: In the ''Rules and Regulations'' section of this **Federal Register**, EPA is taking direct final action on the proposed extension of the expiration date for the Labs XL, because EPA views the extension as non-controversial, and anticipates no adverse comments. EPA has explained its reasons for the proposed extension in the preamble to the direct final rule.

If EPA receives no adverse comments, the direct final rule will take effect and the EPA will take no further action on this proposed rule. If EPA receives adverse comments, EPA will withdraw the direct final rule, by publishing a timely withdrawal in the **Federal Register** indicating that the direct final rule is being withdrawn. If the direct final rule is withdrawn, comments will be addressed in a subsequent final rule based on this proposed rule. EPA may not institute a second comment period on the subsequent final rule. Any parties interested in commenting should do so at this time.

For additional information, please see the direct final rule in the ''Rules and Regulations'' section of this **Federal Register**.

Dated: June 12, 2006.

Robert W. Varney,

Regional Administrator, EPA New England.

[FR Doc. E6–9753 Filed 6–20–06; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 1

[WT Docket No. 05–211; FCC 06–52]

Implementation of the Commercial Spectrum Enhancement Act and Modernization of the Commission's Competitive Bidding Rules and Procedures

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: In this document the Commission seeks comment on whether the Commission should implement additional safeguards beyond those the Commission adopted in its Second Report and Order and whether the Commission should further modify its competitive bidding rules governing benefits reserved for designed entities. The Commission also seeks comment to obtain additional evidence regarding how and under what circumstances an entity's size might affect its relationships and agreements with designated entity applicants and licensees.

DATES: Comments due August 21, 2006; Reply Comments due September 19, 2006. Written comments on the Paperwork Reduction Act proposed information collection requirements must be submitted by the public, Office of Management and Budget (OMB) and other interested parties on or before August 21, 2006.

ADDRESSES: You may submit comments, identified by WT Docket No. 05–211, by any of the following methods:

- Federal eRulemaking Portal: *http://www.regulations.gov.* Follow the instructions for submitting comments.
- Federal Communications Commission's Web Site: *http://www.fcc.gov/cgb/ecfs/.* Follow the instructions for submitting comments.
- People with Disabilities: Contact the FCC to request reasonable accommodations (accessible format documents, sign language interpreters, CART, etc.) by e-mail: *FCC504@fcc.gov* or phone: 202–418–0530 or TTY: 202–418–0432.

In addition to filing comments with the Secretary, a copy of any comments on the Paperwork Reduction Act information collection requirements contained herein should be submitted to Judith B. Herman, Federal Communications Commission, Room 1–C804, 445 12th Street, SW., Washington, DC 20554, or via the Internet to *PRA@fcc.gov,* and to Kristy L. LaLonde, OMB Desk Officer, Room 10234 NEOB, 725 17th Street, NW., Washington, DC 20503, via the Internet to *Kristy_L. LaLonde@omb.eop.gov*, or via fax at 202–395–5167.

For detailed instructions for submitting comments and additional information on the rule making process, see the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Brian Carter, Auctions and Spectrum Access Division, Wireless Telecommunications Bureau at (202) 418–0660. For additional information concerning the Paperwork Reduction Act information collection requirements contained in this document, contact Judith B. Herman at (202) 418–0214, or via the Internet at *PRA@fcc.gov.*

SUPPLEMENTARY INFORMATION: This is a summary of the *Second Further Notice of Proposed Rule Making* released on April 25, 2006. The complete text of the *Second Further Notice of Proposed Rule Making* including attachments and related Commission documents is available for public inspection and copying from 8:00 a.m. to 4:30 p.m. Monday through Thursday or from 8:00 a.m. to 11:30 a.m. on Friday at the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY–A257, Washington, DC 20554. The *Second Further Notice of Proposed Rule Making* and related Commission documents may also be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc. (BCPI), Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC 20554, telephone 202–488–5300, facsimile 202–488–5563, or you may contact BCPI at its Web site: *http://www.BCPIWEB.com.* When ordering documents from BCPI please provide the appropriate FCC document number, for example, FCC 06–52. The *Second Further Notice of Proposed Rule Making* and related documents are also available on the Internet at the Commission's Web site: *http://wireless.fcc.gov/auctions.*

Pursuant to §§ 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. *All filings related to this Further Notice of Proposed Rule Making should refer to WT Docket No. 05–211.* Comments may be filed using: (1) The Commission's Electronic Comment Filing System (ECFS), (2) the Federal Government's eRulemaking Portal, or (3) by filing paper copies. *See* Electronic Filing of Documents in Rulemaking Proceedings, 63 FR 24121, May 1, 1998.

- Electronic Filers: Comments may be filed electronically using the Internet by accessing the ECFS: *http://www.fcc.gov/cgb/ecfs/* or the Federal eRulemaking Portal: *http://www.regulations.gov.* Filers should follow the instructions provided on the Web site for submitting comments. Filers should follow the instructions provided on the Web site for submitting comments.
- For ECFS filers, if multiple docket or rulemaking numbers appear in the caption of this proceeding, filers must transmit one electronic copy of the comments for each docket or rulemaking number referenced in the caption. In completing the transmittal screen, filers should include their full name, U.S. Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions, filers should send an e-

mail to *ecfs@fcc.gov,* and include the following words in the body of the message, ''get form.'' A sample form and directions will be sent in response.

• Paper Filers: Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rule making number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rule making number. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

• The Commission's contractor will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, NE., Suite 110, Washington, DC 20002. The filing hours at this location are 8 a.m. to 7 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building.

• Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.

• U.S. Postal Service first-class, Express, and Priority mail should be addressed to 445 12th Street, SW., Washington, DC 20554.

• People with Disabilities: Contact the FCC to request materials in accessible formats (Braille, large print, electronic files, audio format, etc.) by e-mail at *fcc504@fcc.gov* or call the Consumer and Governmental Affairs Bureau at (202) 418–0531 (voice), (202) 418–7365 (TTY).

Initial Paperwork Reduction Act of 1995 Analysis

This document may contain proposed information collection requirements. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and the Office of Management and Budget (OMB) to comment on the information collection requirements contained in this document, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. Public and agency comments are due August 21, 2006. Comments should address: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology. In addition, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4), the Commission seeks specific comment on how it might further reduce the information collection burden for small business concerns with fewer than 25 employees.

OMB Control Number: 3060–0600.

Title: Application to Participate in an Auction.

Form No.: FCC Form 175.

Type of Review: Revision of currently approved collection.

Respondents: Business or other for-profit, not-for-profit institutions and/or state, local or tribal governments.

Estimated Number of Respondents: 620 (60 respondents for this Second FNPRM and; 560 respondents in a previously approved submission to OMB.

Estimated Time per Response: 0.350 hours–1.5 hours.

Frequency of Response: On occasion reporting requirement.

Estimated Total Annual Burden: 775 hours (10 hours for this Second FRPRM and 765 hours for the previous submission approved by OMB).

Estimated Total Annual Costs: N/A.

Privacy Act Impact Assessment: N/A.

Needs and Uses: The information collected will be used by the Commission to determine if the applicant is legally, technically, and financially qualified to participate in an FCC auction and eligible for the status requested. The Commission's auction rules and requirements are designed to ensure that the competitive bidding process is limited to serious qualified applicants; to deter possible abuse of the bidding and licensing process; and to enhance the use of competitive bidding to assign Commission licenses in furtherance of the public interest.

Synopsis of the Second Further Notice of Proposed Rule Making

I. Introduction

1. The Commission issued a Second Further Notice of Proposed Rule Making (*Second FNPRM*) released on April 25, 2006 to consider whether it should modify further its general competitive bidding rules governing benefits reserved for designated entities.

2. Specifically, the Commission seeks guidance on whether it should implement additional safeguards beyond those adopted in its Second Report & Order (Second R&O) released April 25, 2006, 71 FR 26245, May 4, 2006, to ensure that its designated entity benefits are awarded to the entities and for the purposes intended by Congress. The Commission requests additional economic evidence regarding how and under what circumstances an entity's size might affect its relationships and agreements with designated entity applicants and licensees. Additionally, the Commission seeks further comment on whether it should adopt additional rule changes that would restrict the award of designated entity benefits under certain circumstances and in connection with relationships with certain entities.

A. Defining the Class

3. In the *FNPRM,* 71 FR 6992, February 10, 2006, the Commission tentatively concluded that it should restrict the award of designated entity benefits to an otherwise qualified applicant where it has a material relationship with a large in-region incumbent wireless service provider. The Commission sought comment on how to define the specific elements of such a restriction.

4. The *FNPRM* also sought comment on whether the Commission should instead apply the restriction to the award of designated entity benefits where an applicant had a material relationship with entities with significant interests in communications services in order to extend the scope of such a restriction to a broader category of businesses such as voice or data providers, content providers, equipment manufacturers, other media interests, and/or facilities or non-facilities based communications services providers. The Commission sought comment on whether all of these entities should be included as part of its definition of entities with significant interests in communications services or whether the Commission should consider excluding some of these entities from its proposed definition. The Commission also sought comment on whether it should consider including other entities as part of its proposed definition.

5. The Commission acknowledges that voice, data, and video services are converging and are being offered as bundled service packages. These bundled service offerings may include wireline, wireless, cable and or DBS services along with the required equipment such as handsets and receivers. In light of the continuing

dynamic technological developments and convergence occurring in the communications marketplace, the Commission seeks comment on the appropriate class of entity, if any, that should trigger any additional restriction the Commission may adopt regarding relationships with designated entities. For instance, would the Commission be better positioned to achieve its statutory mandates if it defined such an entity to include one that is subject to the Commission's jurisdiction under Titles I, II, III, or VI of the Communications Act, including any of the entity's controlling interests or affiliates as those terms are defined in § 1.2110 of the Commission's rules. The Commission seeks comment on whether adopting a definition of a class of entities with which a designated entity's agreements might trigger additional restrictions for designated entity benefits will better ensure that the Commission can continue to award such benefits to entities that Congress intended.

6. The Commission also seeks comment on the financial threshold, if any, that it should consider in defining the appropriate class of entity that might trigger any additional eligibility restrictions it adopts. It seeks further comment on the proposed financial benchmarks raised by commenters. Should the Commission consider a financial threshold of $5 billion in annual gross revenues as advocated by various parties or lower thresholds such as $1 billion or $125 million as suggested by other commenters? The Commission also seeks comment on whether an entity's size is relevant to its incentive and/or ability to influence a designated entity with respect to the type and scope of the service it might provide as well as relevant economic analysis to support such arguments.

7. Similarly, the Commission seeks comment on whether it should define a class of entities based on its particular spectrum interests, for instance those that have licenses for commercial mobile radio services (CMRS) spectrum. If the Commission were to define a class in this manner, should it define CMRS spectrum to include any spectrum for which the service specific rules permit the provision of commercial mobile radio services as that term is defined in § 20.9 of the Commission's rules? If the Commission determines to base any additional safeguards upon an entity's particular spectrum interests, should it consider including spectrum other than CMRS spectrum for the purposes of such restrictions? If so, what spectrum and why is it more or less relevant than other types of spectrum?

B. In-Region Limitation for Class of Entities

8. In the *FNPRM,* the Commission sought comment on whether geographic overlap should be an element in establishing any additional restriction on the availability of designated entity benefits for entities that have a material relationship with a large wireless service provider. The Commission also sought comment on whether it should apply a different, or any, geographic standard if it extends the restriction on designated entity benefits to applicants that have a material relationship. The Commission asked whether it should apply the standard set forth in the former spectrum aggregation rule to define the geographic overlap or if it should adopt a different definition of geographic overlap. Further, the Commission sought comment on how the Commission should implement such a restriction if the Commission determined that a significant geographic overlap did exist. The Commission asked whether an incumbent should be allowed to divest its interest in the subject service area to allow a designated entity applicant to maintain eligibility for a bidding credit, and if so, within what time period should it require the divestiture. The Commission also sought comment on whether the application of the standard set forth in § 20.6(c) of the Commission's rules or any other geographic overlap restriction would place an undue administrative burden on the Commission, making it difficult to monitor an applicant's compliance with any adopted geographic overlap restriction.

9. In response to the *FNPRM,* the Commission received comment both in support of and against an in-region element to any further designated entity restrictions. Many of these commenters suggested using the significant overlap, attributable interest, and divestiture standards from the sunset CMRS spectrum aggregation limit pursuant to § 20.6(c)(2) of the Commission's rules. Other commenters stated that significant overlap should not be a factor in determining eligibility for small business benefits.

10. In the *Second FNPRM,* the Commission seeks further comment on whether it should adopt an in-region component to defining relationships with any particular class or type of entity that could trigger any additional eligibility restrictions it might adopt. The Commission also seeks comment on whether all entities with in-region spectrum interests have the same ability and incentive to leverage an inappropriate level of influence over a designated entity with which it has financial and/or operational arrangements. Additionally, the Commission seeks comment on how the in-region component might protect the designated entity program from being subject to potential abuse from those entities that might seek to craft relationships with designated entity applicants in a manner intended to serve their self-interests.

11. Assuming the Commission does adopt an in-region component to any additional eligibility restrictions, the Commission seeks comment as to whether it should find that a geographic overlap that triggers the in-region restriction occurs when there is any overlap between the licensed service areas of the entity that has in-region spectrum, with whom the designated entity applicant has a material relationship, or any affiliate of the entity that has in-region spectrum as defined in § 1.2110 of the Commission's rules, and the licensed service area to be acquired by the designated entity applicant. Further, the Commission seeks comment on whether the adoption of an in-region component to any additional eligibility restrictions would be burdensome to implement.

12. Most entities responding to the *FNPRM* declined to discuss whether a restricted entity should be allowed to divest its interest in the subject service area to allow a designated entity applicant to maintain eligibility for designated entity benefits. Thus, in the *Second FNPRM,* the Commission seeks comment as to whether any class of entities on which any additional eligibility restriction is based should be allowed to divest its interest in the subject service area to allow a designated entity applicant to maintain eligibility for benefits. The Commission also seeks comment as to whether the Commission should adopt divestiture provisions similar to those found in the eliminated spectrum aggregation limit rules.

13. The Commission seeks comment on whether divestiture should be permitted. Specifically, the Commission seeks comment as to how such divestitures should be implemented. The Commission seeks comment on the time period for divestiture and whether the restricted entity should be allowed to market the spectrum or whether such marketing should be done by a trustee. The Commission seeks comment as to whether the award of designated entity licenses should be withheld until the restricted entity files the applications to divest or until the transaction to sell the divestiture spectrum has been consummated. The Commission also

seeks comment as to whether the Commission should receive reports detailing the progress made in identifying a buyer for the divestiture spectrum and how often such reports should be filed.

14. The Commission also asked commenters to discuss what should occur if the restricted entity that has in-region spectrum fails to divest. The Commission seeks comment on whether the designated entity must purchase the license without the benefit of the bidding credit and be subject to the Commission's default rules. The Commission also seeks comment on whether the requirement for a designated entity to purchase the license without the bidding credit maintains auction integrity and ensures that entities with in-region CMRS spectrum are not able to game the auction process.

C. Material Relationships

15. Following on its rule revisions adopted in the *Second R&O,* in the *Second FNPRM,* the Commission seeks comment on whether there is a need to even further modify its part 1 designated entity eligibility rules to include other types of agreements in its definitions of ''impermissible material relationships'' or ''attributable material relationships.''

16. In particular, the Commission seeks comment on the specific types of additional agreements, if any, that should fall within its definitions of impermissible material relationships and attributable material relationships. The Commission also seeks comment on whether its concern regarding relationships between designated entity applicants or licensees and other entities should differ depending upon the type of entity at issue and the circumstances surrounding the relationship. Should the Commission reconsider adopting a minimum equity requirement for designated entity applicants or define material relationship in a way that would prohibit a designated entity applicant from securing all of its capitalization from outside sources? The Commission also seeks comment on commenters' suggestions to include additional operational agreements in its definitions of material relationship and asks whether doing so creates technological and practical restrictions that could hinder a designated entity licensee's ability to become a provider of spectrum based services, as intended by Congress.

17. Based on the limited record developed in response to the *FNPRM,* and the Commission's extensive experience in administering the designated entity program, the Commission is concerned that additional types of relationships could have the potential to confer significant influence over the actions of a designated entity licensee thereby allowing an ineligible entity the ability to gain undue advantages in the communications marketplace through the benefits offered to a designated entity applicant. The Commission therefore seeks comment on the specific types of additional agreements that should fall within its definitions of ''impermissible material relationships'' and ''attributable material relationships'' so that it may be better able to prevent the potential for abuse of the designated entity program, thereby ensuring the award of our designated entity benefits only to legitimate small businesses.

18. The Commission generally does not have the same concerns regarding relationships between designated entity applicants and those who do not have interests in spectrum capacity or the provision of service, such as financial institutions or venture capital firms, provided that such entities do not have a controlling interest relationship with the applicant. The Commission presumes that for those entities, the overarching goal and primary incentive for partnering with a designated entity is to seek a return on investment rather than to provide service themselves using the designated entity's spectrum licenses. The Commission seeks comment on its presumption. Likewise, the Commission presumes that where an entity is not already providing communications services, there is no opportunity for it to bundle existing communications services with a strategic wireless partner, and there is less potential for those entities to exert undue influence over a designated entity licensee's decision making regarding its service provision or the use of its licensed spectrum. The Commission also seeks comment on this presumption. Assuming that its presumptions are valid, the Commission anticipates that such relationships will not require the additional safeguards the Commission may apply to relationships with other entities that have differing incentives and motivations. For instance, if the Commission includes financial relationships in its definition of either impermissible material relationships or attributable material relationship it might specifically exclude relationships with financial institutions from such a definition. The Commission seeks comment on whether it should specifically do so.

19. With regard to financial relationships, Commission asks whether it should conclude that the greater the financial stake an entity has in a designated entity the more incentive it has to significantly influence the designated entity licensee's decisions regarding its provision of service. The Commission also seeks comment on whether it should expand its definitions of impermissible material relationship or attributable material relationship to include any financial relationship(s) (including any combination of equity, debt, loan or credit agreements, as well as future interests for such financial arrangements) between a designated entity applicant or licensee and another entity that represents more than a certain percentage of the designated entity's total financing. If so, it asks what is the appropriate percentage? The Commission seeks comment on how the percentage of an entity's financial interest in a designated entity applicant or licensee should be considered in its definitions of impermissible material relationship or attributable material relationship. In this regard the Commission is concerned that it does not want to create a situation in which additional safeguards regarding financial interests render a designated entity without any avenues for access to much needed capital.

20. Additionally, the Commission asks whether there are circumstances in which it should define material relationships to include, without limitation, management agreements, trademark license agreements, joint marketing agreements, future interest agreements (such as puts, calls, options, and warrants), and long-term *de facto* and spectrum manager leasing arrangements? If so, should such relationships be considered to be impermissible material relationships or attributable material relationships? Likewise, the Commission seeks comment regarding the circumstances under which the existence of any agreement between a designated entity applicant or licensee and another entity will have the strong potential to convey influence over the operations of the designated entity and the deployment of its spectrum in a manner contrary to that intended by Congress.

21. The Commission also seeks comment upon whether it should adopt even tighter safeguards to prevent the development of relationships that might deter designated entities from evolving into independent facilities-based competitors. For example, are circumstances in which the Commission should define ''material relationship'' to include any relationship, financial and/

or operational, between a designated entity applicant or licensee and another entity? For instance, does the likelihood that certain relationships will influence a designated entity's provision of service increase when agreements are entered into with an entity that has existing self-interests in the same spectrum?

22. The Commission seeks comment on whether, if it includes all agreements, both financial and operational, as either impermissible material relationships or attributable material relationships between designated entities and entities that have existing spectrum interests in the same geographic areas, it can reduce the reliance of designated entities on those that might provide funding or operational support in a manner designed to complement their own services rather than for facilitating the emergence of new technologies and new facilities-based competitors.

23. The Commission also seeks comment on any and all of the agreements it should consider including in its definitions of impermissible material relationships or attributable material relationships and whether it should take into consideration whether such agreements are made with certain types of entities with certain geographic interests.

24. Moreover, the Commission seeks comment on whether it should include personal net worth in determining designated entity eligibility and if so, whether it should adopt the proposal to prohibit individuals with a net worth of $3 million or more (excluding the value of a primary residence) from having a controlling interest in a designated entity or whether it should place other net-worth-based restrictions on designated entity eligibility.

25. The Commission generally has not adopted personal net worth restrictions, including personal income and assets, for purposes of eligibility for designated entity provisions. The Commission has observed, for example, that personal net worth limits are difficult to apply and enforce and may be easily manipulated. The Commission seeks comment on whether it should reconsider its treatment of personal net worth in determining eligibility for designated entity benefits and if so, what changes the Commission should adopt and why.

II. Procedural Matters

A. Regulatory Flexibility Analysis

26. The Commission has prepared an Initial Regulatory Flexibility Analysis (IRFA) for the *Second FNPRM.* Comments on the IRFA should be labeled as IRFA Comments, and should be submitted pursuant to the filing dates and procedures.

III. Initial Regulatory Flexibility Analysis

27. As required by the Regulatory Flexibility Act (RFA), the Commission has prepared this Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on small entities by the policies and rules proposed in the Second Further Notice of Proposed Rule Making (*Second FNPRM*). Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments provided in the *Second FNPRM.* The Commission will send a copy of the *Second Further Notice,* including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (SBA). In addition, the *Second FNPRM* and the IRFA (or summaries thereof) will be published in the **Federal Register**.

A. Need for, and Objectives of, the Proposed Rules

28. The initial *FNPRM* proceeding tentatively concluded that it should restrict the award of designated entity benefits to an otherwise qualified applicant where it has a material relationship with a large in-region incumbent wireless service provider. The Commission sought comment on how it should define the elements of such a restriction. Based on the Commission's experience in administering the designated entity program and the record developed in response to the *FNPRM*, the *Second FNPRM* seeks further comment on those issues, including comment to obtain additional economic evidence regarding how and under what circumstances an entity's size might affect its relationships and agreements with designated entity applicants and licensees. The *Second FNPRM* also seeks comment on whether the Commission should adopt additional rule changes that would restrict the award of designated entity benefits under certain circumstances and in connection with relationships with certain types of entities and individuals with high personal net worth, including whether and how in-region relationships and personal net worth should be considered in determining eligibility for designated entity benefits.

29. Over the last decade, the Commission has engaged in numerous rulemakings and adjudicatory investigations to prevent companies from circumventing the objectives of the designated entity eligibility rules. To that end, in determining whether to award designated entity benefits, the Commission adopted a strict eligibility standard that focused on whether the applicant maintained control of the corporate entity. The Commission's objective in employing such a standard was to deter the establishment of sham companies in a manner that permits easy resolution of eligibility issues without the delay of administrative hearings. The Commission intends its small business provisions to be available only to bona fide small businesses.

B. Legal Basis

30. The proposed actions are authorized under sections 4(i), 303(r), and 309(j) of the Communications Act of 1934, as amended, 47 U.S.C. sections 154(i), 303(r), and 309(j).

C. Description and Estimate of the Number of Small Entities to Which the Proposed Rules Will Apply

31. The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that may be affected by the proposed rules, if adopted. The RFA generally defines the term small entity as having the same meaning as the terms small organization, small business, and small governmental jurisdiction. The term small business has the same meaning as the term small business concern under the Small Business Act. A small business concern is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA.

32. A small organization is generally any not-for-profit enterprise which is independently owned and operated and is not dominant in its field. Nationwide, as of 2002, there were approximately 1.6 million small organizations. The term small governmental jurisdiction is defined as governments of cities, towns, townships, villages, school districts, or special districts, with a population of less than fifty thousand. Census Bureau data for 2002 indicate that there were 87,525 local governmental jurisdictions in the United States. The Commission estimates that, of this total, 84,377 entities were small governmental jurisdictions. Thus, we estimate that most governmental jurisdictions are small. Nationwide, there are a total of approximately 22.4 million small businesses, according to SBA data.

33. Any proposed changes or additions to the Commission's Part 1 rules that may be made as a result of the

Second FNPRM would be of general applicability to all services, applying to all entities of any size that apply to participate in Commission auctions. Accordingly, this IRFA provides a general analysis of the impact of the proposals on small businesses rather than service by service analysis. The number of entities that may apply to participate in future Commission auctions is unknown. The number of small businesses that have participated in prior auctions has varied. In all of our auctions held to date, 1,975 out of a total of 3,545 qualified bidders either have claimed eligibility for small business bidding credits or have self-reported their status as small businesses as that term has been defined under rules adopted by the Commission for specific services. In addition, we note that, as a general matter, the number of winning bidders that qualify as small businesses at the close of an auction does not necessarily represent the number of small businesses currently in service. Also, the Commission does not generally track subsequent business size unless, in the context of assignments or transfers, unjust enrichment issues are implicated.

D. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

34. The Commission will not require additional reporting, recordkeeping or other compliance requirements pursuant to the *Second FNPRM*.

E. Steps Taken To Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered

35. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): (1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule or any part thereof for small entities.

36. The initial *FNPRM* in that proceeding tentatively concluded that it should restrict the award of designated entity benefits to an otherwise qualified applicant where it has a material relationship with a large in-region incumbent wireless service provider. The Commission sought comment on how it should define the elements of such a restriction. Based on the Commission's experience in administering the designated entity program and the record developed in response to the *FNPRM,* the *Second FNPRM* seeks further comment on those issues, including comment to obtain additional economic evidence regarding how and under what circumstances an entity's size might affect its relationships and agreements with designated entity applicants and licensees. The *Second FNPRM* also seeks comment on whether the Commission should adopt additional rule changes that would restrict the award of designated entity benefits under certain circumstances and in connection with relationships with certain types of entities and individuals with high personal net worth, including whether and how in-region relationships and personal net worth should be considered in determining eligibility for designated entity benefits. The *Second FNPRM* seeks guidance from the industry on how it should define the elements of any restrictions it might adopt regarding the award of designated entity benefits. Small entity comments are specifically requested.

F. Federal Rules That May Duplicate, Overlap, or Conflict With the Proposed Rule

37. None.

IV. Paperwork Reduction Act Analysis

38. The *Second FNPRM* may contain proposed new or modified information collection requirements. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and the Office of Management and Budget (OMB) to comment on the information collection requirements contained in this document, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. Public and agency comments are due August 21, 2006. Comments should address: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology. In addition, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, see 44 U.S.C. 3506(c)(4), the Commission seeks specific comment on how it might further reduce the information collection burden for small business concerns with fewer than 25 employees.

V. Ordering Clauses

39. *It is ordered* that pursuant to sections 4(i), 303(r), and 309(j) of the Communications Act of 1934, as amended, 47 U.S.C. sections 154(i), 303(r), and 309(j), this *Second Further Notice of Proposed Rule Making* is hereby adopted.

40. *It is further ordered* that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, shall send a copy of this *Second Further Notice of Proposed Rule Making,* including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects in 47 CFR Part 1

Administrative practice and procedure, Auctions, Licensing, Telecommunications.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Parts 21 and 22

RINs 1018–AG11 and 1018–AT60

Migratory Bird Permits; Changes in the Regulations Governing Falconry and Raptor Propagation; Draft Environmental Assessment on Take of Raptors From the Wild for Falconry and Raptor Propagation

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability.

SUMMARY: We, the U.S. Fish and Wildlife Service, announce the availability of a Draft Environmental Assessment (DEA) evaluating the take of raptors from the wild for use in falconry and in raptor propagation. We have prepared this DEA as part of the process we must follow to finalize two rules under the National Environmental Policy Act.

DATES: Send comments on the DEA by September 19, 2006.

ADDRESSES: You may pick up a copy of the DEA or hand-deliver your comments to the Division of Migratory Bird Management, U.S. Fish and Wildlife

Service, 4401 North Fairfax Drive, Mail Stop 4107, Arlington, Virginia 22203–1610. The DEA also is available on the Division of Migratory Bird Management Web pages at *http://www.fws.gov/migratorybirds/.*

FOR FURTHER INFORMATION CONTACT: Dr. George T. Allen, Division of Migratory Bird Management, U.S. Fish and Wildlife Service, at 703–358–1714.

SUPPLEMENTARY INFORMATION: We have prepared this DEA as part of the process we must follow under the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*) as we move toward finalizing two proposed rules on falconry and raptor propagation. We published proposed falconry regulations on February 9, 2005 (70 FR 6978), in which we proposed numerous changes governing the practice of falconry. We published proposed raptor propagation regulations on October 14, 2005 (70 FR 60052). We proposed few significant changes to the falconry regulations, but for both proposed rules we changed to simpler language for the regulations. We now make available our DEA on the effects of take from the wild for these two activities.

In the DEA, we considered three alternatives for take of raptors from the wild for use in falconry and in raptor propagation. The first, the No Action Alternative, would leave take regulated as it is now; take limits for falconry would not be established. Neither the dual Federal/State permitting system for falconry nor the permitting system for raptor propagation would be changed.

Under Alternative 2, we would establish upper limits on take of raptor species based on the published data for, and biology of, each species. We would not change falconry or captive propagation permitting; neither the dual Federal/State permitting system for falconry nor the permitting system for raptor propagation would be changed. Under this alternative, we would base allowed take on published data and evaluations of the effects of take for falconry and raptor propagation. Harvest of juvenile raptors would be limited to levels that would not harm wild populations.

Our preferred choice is Alternative 3. Under this alternative, we would establish upper limits on take of raptor species based on the published data for, and biology of, each species. We would eliminate Federal permitting for falconry, but would not change the captive propagation regulations in a manner that would impact take of raptors from the wild. We would base allowed take on published data and evaluations of the effects of take for falconry and raptor propagation. Harvest of juvenile raptors would be limited to levels that would not harm wild populations. The Federal/State permitting system for falconry would be changed, with the responsibility for falconry permitting resting with the States, subject to the requirements of revised falconry regulations. The current permitting for raptor propagation would be maintained.

Based on our modeling of raptor populations using the best available survival data, we have concluded that the impact of any of these alternatives on raptor populations would be imperceptible. Our analyses indicate that most raptor populations can sustain significantly more take for falconry and raptor propagation than will occur under any reasonable take scenario.

Public Comments

We welcome comments on the DEA. When submitting written comments, please include your name and return address in your letter and identify it as comments on the DEA. To facilitate our compilation of the Administrative Record for this action, you must submit written comments on 8½ inch by 11 inch paper. Or, you may submit comments electronically via the Migratory Bird Management Web page at *http://www.fws.gov/migratorybirds/,* where a link for comments will be available. Please submit comments by only one method, do not send duplicate submissions. All comments received, including any personal information provided, will be available for public inspection at the address given above for hand delivery of comments. We will not consider anonymous comments.

Dated: June 12, 2006.

H. Dale Hall,

Director, Fish and Wildlife Service.

[FR Doc. E6–9725 Filed 6–20–06; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 060606151–6151–01; I.D. 051906A]

RIN 0648–AU33

Fisheries of the Northeastern United States; Northeast (NE) Multispecies Fishery; Framework Adjustment 43

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes regulations to implement Framework Adjustment 43 (Framework 43) to the NE Multispecies Fishery Management Plan (FMP), which was developed by the New England Fishery Management Council (Council). Framework 43 proposes measures to address the incidental catch of NE multispecies by vessels fishing for Atlantic herring. The proposed measures would establish a Herring Exempted Fishery. Vessels issued a Category 1 Atlantic herring fishing permit (Category 1 vessels) would be authorized to possess incidentally caught haddock until the catch of haddock reached the level specified as an incidental haddock catch cap; upon attainment of the haddock catch cap, all herring vessels would be limited to 2,000 lb (907 kg) of herring per trip, if any of the herring on board was caught within the Gulf of Maine/Georges Bank (GOM/GB) Herring Exemption Area defined in Framework 43. Herring Category 1 vessels would also be authorized to possess up to 100 pounds (45 kg) of other regulated multispecies (cod, witch flounder, plaice, yellowtail flounder, pollock, winter flounder, windowpane flounder, redfish, and white hake), and would be required to provide advance notification of their intent to land for purposes of enforcement. Atlantic herring processors and dealers that sort herring catches as part of their operations would be required to cull and report all haddock.

DATES: Comments must be received by July 6, 2006.

ADDRESSES: Copies of supporting documents, including the Environmental Assessment, Regulatory Impact Review, Initial Regulatory Flexibility Analysis (RIR/IRFA), and Essential Fish Habitat Assessment are available from Paul J. Howard, Executive Director, New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950. The EA/RIR/IRFA is also accessible via the Internet at *http://www.nero.gov*.

Written comments on the proposed rule may be sent by any of the following methods: • Mail to Patricia A. Kurkul, Regional Administrator, NMFS, Northeast Regional Office, One Blackburn Drive, Gloucester, MA 01930. Mark the outside of the envelope ''Comments on Herring Framework 43'';

• Fax to Patricia A. Kurkul , 978–281–9135;

• E-mail to the following address: *HerringFramework43@NOAA.gov*. Include in the subject line of the e-mail comment the following document identifier: ''Comments on Herring Framework 43;'' or

• Electronically through the Federal e-Rulemaking portal: *http://www.regulations.gov*.

FOR FURTHER INFORMATION CONTACT: Eric Jay Dolin, Fishery Policy Analyst, 978–281–9259, e-mail at *eric.dolin@noaa.gov,* fax at 978–281–9135.

SUPPLEMENTARY INFORMATION:

Background

Currently, regulations established under the FMP for the Northeast (NE) multispecies (groundfish) fishery prohibit vessels fishing for Atlantic herring from possessing or landing any groundfish species, including haddock. In July 2004, NMFS's Office of Law Enforcement (OLE) observed prohibited juvenile haddock in catches being landed by midwater trawl vessels fishing for herring on GB. Representatives from the herring industry reported that they were encountering haddock unusually high in the water column and were unable to avoid catching them, even with midwater trawl gear. Many midwater trawl vessels ceased fishing for herring on GB in the summer of 2004 due to concerns about haddock bycatch and the fact that possession of haddock was prohibited, and the herring landings from the GB area decreased. As a result, NMFS, at the Council's request, implemented an emergency rule that established an incidental catch allowance for haddock to allow the herring fishery to operate on GB during 2005 while the Council developed a long-term solution. The emergency rule was published by NMFS in the **Federal Register** on June 13, 2005 (70 FR 34055), and extended for 180 days on December 8, 2005 (70 FR 72934). The emergency rule expires on June 6, 2006, and the Council developed Framework 43 to address this issue on a permanent basis.

The Council requested emergency action on March 30, 2005. The Council discussed the issue further at subsequent meetings and voted on November 17, 2005, to establish the Council meeting that day as the initial meeting to develop permanent measures to address the issue in Framework 43. The measures contained in Framework 43 were included in the Draft Environmental Impact Statement and public hearing document for Amendment 1 to the Atlantic Herring FMP (Amendment 1). The Council voted on February 2, 2006, to adopt the measures in Amendment 1 and Framework 43, but to submit Framework 43 in advance of Amendment 1 in order to establish measures for the fishery as soon as possible during the 2006 summer season.

The proposed measures would apply to all Category 1 vessels on all trips that do not use NE multispecies days-at-sea (DAS). The Atlantic herring regulations establish two vessel permits: Category 1 permits are issued to vessels that have landed, or intend to land, 500 metric tons (mt) or more of herring in the upcoming year; Category 2 permits are issued to vessels that do not intend to land 500 mt or more of herring. However, the public should be aware that the Council is proposing to revise the Atlantic herring vessel permit requirements in Amendment 1. Amendment, which has been submitted to NMFS for review, would revise the vessel permitting requirements for the herring fishery by establishing limited access permits for vessels that fish for large amounts of herring, and maintain an open access permit for vessels that catch herring incidentally. If the limited access permit measures proposed in Amendment 1 are approved and implemented by NMFS, the measures proposed in this rule would, in the future, be applicable to all vessels issued limited access permits

The proposed measures in Framework 43 would: (1) Authorize the possession of haddock by Category 1 vessels up to the amount established as a cap on total haddock catch by such vessels; (2) establish a cap on the amount of haddock that could be caught by Category 1 vessels that is equal to 0.2 percent of the total combined target total allowable catch (TAC) for GOM and GB haddock; and (3) establish a Herring Exempted Fishery and define a GOM/GB Herring Exemption Area in which any herring permitted vessel that catches any herring from this area would be limited to 2,000 lb (907 kg) per trip when the haddock catch cap is attained; (4) authorize Category 1 vessels to possess an incidental catch of up to 100 lb (45 kg) of regulated NE multispecies other than haddock (cod, witch flounder, plaice, yellowtail flounder, pollock, winter flounder, windowpane flounder, redfish, and white hake); (5) suspend the minimum fish size for NE multispecies possessed by Category 1 vessels; (6) prohibit Category 1 vessels from selling haddock for human consumption and prohibit dealers from purchasing haddock from such vessels for human consumption; (7) prohibit Category 1 vessels from discarding haddock at sea; (8) require herring processors that cull landings to report all culled haddock, and retain such haddock for 12 hr for inspection by enforcement officials; and (9) require Category 1 vessels to provide advance notification of landing via the Vessel Monitoring System (VMS).

The haddock catch cap specified would be applicable to the NE multispecies fishing year (May 1 April 30), which differs from the herring fishing year (January 1 December 31). If the haddock catch cap is attained by the herring fishery, the 2,000–lb (907–kg) limit on herring in the GOM/GB Herring Exemption Area would be in effect until the end of the NE multispecies fishing year. For example, the 2006 haddock catch cap would be specified for the period May 1, 2006 April 30, 2007, and the 2007 haddock catch cap for the period May 1, 2007 April 30, 2008. If the catch of haddock by Category 1 vessels reached the 2006 catch cap at any time prior to the end of the NE multispecies 2006 fishing year (April 30, 2007), the catch of herring by Category 1 vessels would be limited to 2,000 lb (907 kg) per trip in the GOM/GB Herring Exemption Area through April 30, 2007 (which is 4 months after the end of the 2006 herring fishing year), at which time the 2007 catch cap would go into effect. The final rule to establish the NE multispecies haddock TACs was published on April 28, 2006 (71 FR 25095). Based on the haddock TACs in that rule, the proposed haddock catch cap would be 161,377 lb (73.2 mt) for the period May 1, 2006 - April 30, 2007 [GB + GOM haddock TAC = 35,309 + 1,279 = 36,588 mt; 0.2 percent x 36,588 mt = 73.2 mt]. Upon implementation of Herring Amendment 1, if approved, the haddock landings from May 1, 2006 forward would be applied to the catch cap for the NE multispecies 2006 fishing year.

Prior to Framework 43, herring midwater trawl gear (single trawls and pair trawls) and purse seine gear were each defined by the NE Multispecies FMP as exempted gear, that is, gear that is not capable of catching NE multispecies. The Council determined that this classification was not consistent with the available information documenting catches of NE multispecies. Framework 43 would instead establish the Herring Exempted Fishery to enable the fishery to be prosecuted as an exempted fishery, and authorize an incidental catch of small amounts of NE multispecies. The total amount of haddock set-aside for the herring fishery is not expected to cause either the GB or GOM haddock TACs to be exceeded or impact the availability of

haddock for groundfish vessels, because the haddock set-aside is set in consideration of the fact that haddock bycatch has previously occurred in the herring fishery.

Management Measures

(1) Authorize the Possession of Haddock by Category 1 Vessels

While temporarily authorized under the emergency regulations, the NE multispecies regulations prohibit vessels using midwater trawl or purse seine gear from possessing or landing NE multispecies. This action would allow Category 1 vessels to possess and land haddock of unlimited amounts until the haddock bycatch cap is attained, and to possess and land up to 100 lb (45 kg) of other regulated multispecies (cod, witch flounder, plaice, yellowtail flounder, pollock, winter flounder, windowpane flounder, redfish, and white hake) on all trips that do not use a NE multispecies DAS. This provision is intended to reflect the incidental catch of NE multispecies by Category 1 vessels.

(2) Establish Cap on Amount of Haddock Caught by Category 1 Vessels

This action would establish a catch cap for Category 1 vessels equal to 0.2 percent of the total combined target TAC for GOM and GB haddock specified for each NE multispecies fishing year. The haddock catch cap specified for the period May 1, 2006 - April 30, 2007, would be 161,377 lb (73.2 mt). The haddock catch cap is intended to limit the total amount of haddock caught by the directed herring fishery while allowing the fishery to operate with a small amount of incidental catch. The information that would be used to monitor the haddock catch cap includes: at-sea observer reports, Federal dealer/processor reports, and haddock landings reported by law enforcement agents as a result of catch inspections. These measures are supported by the provisions that would require specified dealers/processors to report and retain culled haddock (see measure 8) and require vessels to provide advance notification of landing (see measure 9). Once the haddock cap has been caught, all vessels issued a herring permit or fishing in the Federal portion of the GOM/GB Herring Exemption Area (see 3) would be prohibited from fishing for, possessing, or landing herring in excess of 2,000 lb (907 kg) of herring per trip in or from the GOM/GB Herring Exemption Area, except that such vessels may possess more than 2,000 lb (907 kg) of herring that was caught outside of the area and may transit the area, with gear properly stowed.

(3) Define the GOM/GB Herring Exemption Area

The herring fishery is prosecuted at various times of the year throughout the GOM and GB. Herring vessels would be authorized to fish for amounts of herring allowed under their applicable permits until the haddock catch cap applicable to the fishery is projected to be attained. Framework 43 identifies the area where 90 percent of the haddock catch historically has occurred and defines the area as the GOM/GB Herring Exemption Area. Once the cap is determined to be attained, the Regional Administrator would announce that all herring vessels would be limited to the 2,000–lb (907–kg) catch limit for herring if any of the herring is caught in the GOM/GB Herring Exemption Area. In the event that the haddock catch cap is reached, the measures that would require processors/dealers to retain and report culled haddock, and the requirement for Category 1 vessels to provide advance notification of landing, would remain in effect to enhance the enforceability of the closure. Category 1 vessels and other herring vessels would not be subject to the 2,000–lb (907–kg) herring limit if all herring caught, possessed, or landed by the vessel is from outside the GOM/GB Herring Exemption Area, and provided the vessel complies with the gear stowage requirements in the Exemption Area as specified in the regulations.

(4) Establish a Regulated NE Multispecies Possession Allowance for Category 1 Vessels

This action would establish a possession allowance for Category 1 vessels to authorize them to possess and land up 100 lb (45 kg) of regulated multispecies other than haddock (cod, witch flounder, plaice, yellowtail flounder, pollock, winter flounder, windowpane flounder, redfish, and white hake) on all trips that do not use a NE multispecies DAS. Vessels fishing under a NE multispecies DAS would be subject to the possession limits specified for such fishing activity.

(5) Suspend the Minimum Fish Size for NE Multispecies Possessed by Category 1 Vessels

This action would exempt Category 1 vessels from the minimum size requirements for haddock and the other regulated multispecies (cod, witch flounder, plaice, yellowtail flounder, pollock, winter flounder, windowpane flounder, redfish, and white hake). The suspension of the minimum size is necessary because, in a high-volume fishery such as the herring fishery, it is difficult, if not impossible, to cull fish that resemble herring in size and shape. Herring are often pumped directly from the nets into the holds, with no sorting of the catch. Thus, it is impracticable to sort out haddock and other regulated multispecies that are smaller than the current minimum fish size.

(6) Prohibit the Purchase or Sale for Human Consumption of NE Multispecies Landed by Category 1 Vessels

To eliminate any incentive for Category 1 vessels to target haddock or other regulated multispecies, this action would prohibit the sale of haddock and those other species caught by Category 1 vessels for human consumption. It also prohibits Atlantic herring dealers and processors from purchasing such fish to be sold for human consumption. It is not feasible to establish a similar prohibition on the sale of haddock or the other regulated multispecies for use as bait because herring catches landed for use as bait are generally offloaded by pumping the fish from the vessel hold into tanker trucks. As a result, some haddock and other regulated multispecies could remain mixed in with the herring catch. The Council concluded that it would be impossible to require all such landings to be culled or sorted, and would be inequitable to make downstream purchasers of such bait legally liable for the presence of haddock or other regulated multispecies.

(7) Prohibit Discarding of Haddock at Sea by Category 1 Vessels

In order to more fully account for all the haddock caught by Category 1 vessels, this action would prohibit the discarding of haddock at sea.

(8) Require Specified Herring Dealers/ Processors to Retain Haddock Landed by Category 1 Vessels

This action would require herring dealers and processors that sort herring as part of their operations to separate out, report, and retain for 12 hr all haddock landed by a Category 1 vessel in order to facilitate monitoring and enforcement of the haddock catch cap. The haddock would have to be set aside and retained for 12 hr to facilitate inspection by enforcement officials, and the vessel that landed the haddock must be clearly identified. The sale of these culled haddock, for any purpose, would be prohibited. All herring dealers and processors would have to continue to comply with the current reporting requirements that require federally

permitted dealers and processors to report all fish purchased or received with a vessel trip identifier via the weekly electronic dealer reporting system as specified under § 648.7(a).

(9) Require Category 1 Vessels to Provide VMS Notification Prior to Landing

This action would require Category 1 vessels to provide notification to NMFS of their intent to land at least 6 hr prior to landing. This provision is intended to facilitate the enforcement and monitoring of the haddock catch cap by giving enforcement agents sufficient notice of landing to enable them to meet a fishing vessel at the dock to observe offloading or sample the catch.

Classification

This action is authorized by 50 CFR part 648 and has been determined to be not significant for purposes of Executive Order 12866.

The Council prepared an IRFA, as required by section 603 of the Regulatory Flexibility Act, which describes the economic impacts this proposed rule, if adopted, would have on small entities. A copy of the IRFA can be obtained from the Council or NMFS (see **ADDRESSES**) or via the Internet at *http://www.nero.noaa.gov*. A summary of the analysis follows:

Statement of Objective and Need

A description of the reasons why this action is being considered, and the objectives of and legal basis for this action, is contained in the preamble to this proposed rule and is not repeated here.

Description and Estimate of Number of Small Entities to Which the Rule Will Apply

During the 2005 fishing year, 115 vessels had Category 1 permits (the class to which this rule applies), with 38 of these vessels averaging more than 2,000 lb (907 kg) of herring per trip. There are no large entities, as defined in section 601 of the RFA, participating in this fishery. Therefore, there are no disproportionate economic impacts between large and small entities.

Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

The collection-of-information requirement in this proposed rule (requiring Category 1 vessels to provide notification to NMFS of their intent to land at least 6 hr prior to landing) has already been approved by OMB as follows: Haddock Bycatch Notification of Landing, Office of Management and Budget (OMB) control number 0648 0525, (5 min/response).

Minimizing Significant Economic Impacts on Small Entities

Three alternatives were considered in the development of this action. The first would have continued the program put into place by the emergency action. Specifically, this would have established a 1,000 lb (453 kg) incidental catch possession limit on haddock, and a 100 lb (45.3 kg) incidental catch possession limit on other regulated multispecies, with no limit on the total amount of haddock or other regulated multispecies that could be caught. The second alternative is the one proposed in this action. The third alternative is no action, under which the herring vessels would not be allowed to possess any multispecies.

Compared to the no-action alternative, the other alternatives significantly minimize the economic impacts on herring vessels. Both the proposed action and the non-selected alternative prevent direct economic loss resulting from herring harvest that would be foregone by vessel owners concerned about haddock bycatch and the potential for resulting regulatory violations under the no-action alternative. By allowing for the incidental catch of groundfish, both the proposed action and the other alternative would enable herring vessels to continue fishing even if they encounter groundfish. This is particularly important in herring Management Area 3 (GB), where herring vessels are most likely to encounter groundfish. The herring fishery has not fully harvested the allowed catch from Area 3 and the resource in that area can support increased fishing effort. Estimate foregone revenues from not fishing in Area 3 would be $2,123,727 based on preliminary reported herring landings during 2005 (13,029 mt) and an average price for herring of $163 per mt. Foregone revenues could be as high as $8,150,000 based on utilization of the entire available TAC from Area 3 (50,000 mt). This assumes that the herring fleet would not fish in Area 3 at all for fear of being in violation of the prohibition on the possession of haddock and other regulated groundfish on every trip and therefore represents an upper bound to the range of expected impacts. Also, the proposed action would have the least impact on small entities because it would not impose a 1,000 lb (453 kg) possession limit, thereby allowing vessels that unintentionally run into a large amount of haddock to continue fishing, while still imposing an upper limit on haddock catches by shutting down 90 percent of the area where haddock is caught if the herring fleet reaches the haddock TAC .

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: June 14, 2006.

James W. Balsiger,

Acting Deputy Assistant Administrator For Regulatory Programs, National Marine Fisheries Service.

PART 648—FISHERIES OF THE NORTHEASTERN UNITED STATES

1. The authority citation for part 648 continues to read as follows:

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

2. In § 648.2, the definition of ''Exempted gear'' is revised to read as follows:

§ 648.2 Definitions.

Exempted gear, with respect to the NE multispecies fishery, means gear that is deemed to be not capable of catching NE multispecies, and includes: Pelagic hook and line, pelagic longline, spears, rakes, diving gear, cast nets, tongs, harpoons, weirs, dipnets, stop nets, pound nets, pelagic gillnets, pots and traps, shrimp trawls (with a properly configured grate as defined under this part), and surfclam and ocean quahog dredges.

3. In § 648.14, paragraph (bb)(20) is revised, and paragraphs (a)(166), (a)(167), (a)(168), and (bb)(21) through (24) are added to read as follows:

§ 648.14 Prohibitions.

(a) * * *

(166) Sell, purchase, receive, trade, barter, or transfer haddock or other regulated multispecies, or attempt to sell, purchase, receive, trade, barter, or transfer haddock or other regulated multispecies (cod, witch flounder, plaice, yellowtail flounder, pollock, winter flounder, windowpane flounder, redfish, and white hake) for, or intended for, human consumption landed by a Category 1 herring vessel as defined in § 648.2.

(167) Fail to comply with requirements for herring processors/dealers that handle individual fish to separate out and retain all haddock offloaded from a Category 1 herring vessel, and to retain such catch for at least 12 hr with the vessel that landed the haddock clearly identified by name.

(168) Sell, purchase, receive, trade, barter, or transfer, or attempt to sell, purchase, receive, trade, barter, or transfer to another person any haddock or other regulated multispecies (cod,

witch flounder, plaice, yellowtail flounder, pollock, winter flounder, windowpane flounder, redfish, and white hake) separated out from a herring catch offloaded from a Category 1 herring vessel as defined in § 648.2.

(bb) * * *

(20) If the vessel has been issued a Category 1 herring permit and is fishing for herring, fail to notify the NMFS Office of Law Enforcement of the time and date of landing via VMS at least 6 hr prior to landing or crossing the VMS demarcation line on its return trip to port.

(21) Possess, land, transfer, receive, sell, purchase, trade, or barter, or attempt to transfer, receive, purchase, trade, or barter, or sell more than 2,000 lb (907 kg) of Atlantic herring per trip taken from the GOM/GB Herring Exemption Area defined in § 648.86(a)(3)(ii)(A)(1) following the effective date of the determination that the haddock cap has been reached pursuant to § 648.86(a)(3), unless all of the herring possessed or landed by a vessel was caught outside of that area.

(22) If fishing with midwater trawl or a purse seine gear, fail to comply with the requirements of § 648.80(d) and (e).

(23) Discard haddock at sea if a Category 1 herring vessel.

(24) Transit the GOM/GB Herring Exemption Area when that area is limited to the 2,000–lb (907–kg) limit specified in § 648.86(a)(3)(ii)(A)(1) with more than 2,000 lb (907 kg) of herring, unless all the herring on board was caught outside of that area and all fishing gear is stowed and not available for immediate use as required by § 648.23(b).

* * * * *

4. In § 648.15, paragraphs (d) and (e) are added to read as follows:

§ 648.15 Facilitation of enforcement.

* * * * *

(d) Retention of haddock by herring dealers and processors. (1) Federally permitted herring dealers and processors, including at-sea processors, that receive herring from Category 1 herring vessels, and that cull or separate out from the herring catch all fish other than herring in the course of normal operations, must separate out and retain all haddock offloaded from a Category 1 herring vessel. Such haddock may not be sold, purchased, received, traded, bartered, or transferred, and must be retained for at least 12 hours with the vessel that landed the haddock clearly identified, and law enforcement officials must be given access to inspect the haddock.

(2) All haddock separated out and retained is subject to reporting requirements specified at § 648.7.

(e) Retention of haddock by Category 1 herring vessels. All Category 1 herring vessels must retain all the haddock that they catch.

5. In § 648.80, paragraphs (d), (e), and (g)(3) are revised to read as follows:

§ 648.80 NE Multispecies regulated mesh areas and restrictions on gear and methods of fishing.

(d) *Midwater trawl gear exempted fishery.* Fishing may take place throughout the fishing year with midwater trawl gear of mesh size less than the applicable minimum size specified in this section, provided that:

(1) Midwater trawl gear is used exclusively;

(2) When fishing under this exemption in the GOM/GB Exemption Area, as defined in paragraph (a)(17) of this section, and in the area described in § 648.81(c)(1), the vessel has on board a letter of authorization issued by the Regional Administrator, and complies with the following restrictions:

(i) The vessel only fishes for, possesses, or lands Atlantic herring, blueback herring, or mackerel in areas north of 42°20′ N. lat. and in the areas described in § 648.81(a)(1), (b)(1), and (c)(1); and Atlantic herring, blueback herring, mackerel, or squid in all other areas south of 42°20′ N. lat.; and

(ii) The vessel is issued a letter of authorization for a minimum of 7 days.

(3) The vessel must carry a NMFS-approved sea sampler/observer, if requested by the Regional Administrator;

(4) The vessel does not fish for, possess or land NE multispecies, except that Category 1 herring vessels may possess and land haddock or other regulated NE multispecies (cod, witch flounder, plaice, yellowtail flounder, pollock, winter flounder, windowpane flounder, redfish, and white hake) consistent with the incidental catch allowance and bycatch caps specified in § 648.86(a)(3). Such haddock or other regulated NE multispecies may not be sold, purchased, received, traded, bartered, or transferred, or attempted to be sold, purchased, received, traded, bartered, or transferred for, or intended for, human consumption. Haddock or other regulated NE multispecies that is separated out from the herring catch pursuant to § 648.15(d) may not be sold, purchased, received, traded, bartered, or transferred, or attempted to be sold, purchased, received, traded, bartered, or transferred for any purpose. Category 1 vessels must retain all haddock they catch;

(5) To fish for herring under this exemption, vessels issued a Category 1 herring permit defined in § 648.2 must provide notice to NMFS of the vessel name; contact name for coordination of observer deployment; telephone number for contact; and the date, time, and port of departure, at least 72 hr prior to beginning any trip into these areas for the purposes of observer deployment; and

(6) All Category 1 herring vessels on a declared herring trip must notify NMFS Office of Law Enforcement through VMS of the time and place of offloading at least 6 hr prior to crossing the VMS demarcation line on their return trip to port, or, for vessels that have not fished seaward of the VMS demarcation line, at least 6 hr prior to landing. The Regional Administrator may adjust the prior notification minimum time through publication of a notice in the **Federal Register** consistent with the Administrative Procedure Act.

(e) *Purse seine gear exempted fishery.* Fishing may take place throughout the fishing year with purse seine gear of mesh size smaller than the applicable minimum size specified in this section, provided that:

(1) The vessel uses purse seine gear exclusively;

(2) When fishing under this exemption in the GOM/GB Exemption Area, as defined in paragraph (a)(17) of this section, the vessel has on board a letter of authorization issued by the Regional Administrator and complies with the following:

(i) The vessel only fishes for, possesses, or lands Atlantic herring, blueback herring, mackerel, or menhaden; and

(ii) The vessel must carry a NMFS-approved sea sampler/observer, if requested to do so by the Regional Administrator;

(3) The vessel is issued a letter of authorization for a minimum of 7 days, and cancels it only as instructed by the Regional Administrator; and

(4) The vessel does not fish for, possess or land NE multispecies, except that Category 1 herring vessels may possess and land haddock or other regulated multispecies (cod, witch flounder, plaice, yellowtail flounder, pollock, winter flounder, windowpane flounder, redfish, and white hake) consistent with the incidental catch allowance and bycatch caps specified in § 648.86(a)(3). Such haddock or other regulated multispecies may not be sold, purchased, received, traded, bartered, or transferred, or attempted to be sold, purchased, received, traded, bartered, or transferred for, or intended for, human consumption. Haddock or other

regulated multispecies that is separated out from the herring catch pursuant to § 648.15(d) may not be sold, purchased, received, traded, bartered, or transferred, or attempted to be sold, purchased, received, traded, bartered, or transferred for any purpose. Category 1 vessels must retain all haddock they catch;

(5) To fish for herring under this exemption, vessels issued a Category 1 herring permit as defined in § 648.2 must provide notice to NMFS of the vessel name; contact name for coordination of observer deployment; telephone number for contact; and the date, time, and port of departure, at least 72 hr prior to beginning any trip into these areas for the purposes of observer deployment; and

(6) All Category 1 herring vessels must notify NMFS Office of Law Enforcement through VMS of the time and place of offloading at least 6 hr prior to crossing the VMS demarcation line on their return trip to port, or, for vessels that have not fished seaward of the VMS demarcation line, at least 6 hr prior to landing. The Regional Administrator may adjust the prior notification minimum time through publication of a notice in the **Federal Register** consistent with the Administrative Procedure Act.

* * * * *

(g) * * *

(3) *Pair trawl prohibition.* No vessel may fish for NE multispecies while pair trawling, or possess or land NE multispecies that have been harvested by means of pair trawling, except as authorized under paragraph (d) of this section.

* * * * *

6. In § 648.83, paragraph (b)(4) is added to read as follows:

§ 648.83 Multispecies minimum fish sizes.

* * * * *

(b) * * *

(4) Category 1 herring vessels may possess and land haddock and other regulated multispecies (cod, witch flounder, plaice, yellowtail flounder, pollock, winter flounder, windowpane flounder, redfish, and white hake) that are smaller than the minimum size specified under § 648.83, consistent with the bycatch caps specified in §§ 648.86(a)(3) and 648.86 (j). Such fish may not be sold for human consumption.

* * * * *

7. In § 648.85, paragraph (d) is added to read as follows:

§ 648.85 Special management programs.

* * * * *

(d) *Incidental catch allowance for Category 1 herring vessels.* The incidental catch allowance for Category 1 herring vessels is defined as 0.2 percent of the combined target TAC for Gulf of Maine haddock and Georges Bank haddock (U.S. landings only) specified according to § 648.90(a) for a particular multispecies fishing year.

8. In § 648.86, paragraph (i) is moved and reserved and paragraphs (a)(3) and (k) are added to read as follows:

§ 648.86 Multispecies possession restrictions.

* * * * *

(a) * * *

(3)(i) *Incidental catch allowance for herring Category 1 vessels.* Category 1 herring vessels defined in § 648.2 may possess and land haddock on all trips that do not use a NE multispecies DAS, subject to the requirements specified in § 648.80(d) and (e).

(ii) *Haddock Incidental Catch Cap.* (A)(*1*) When the Regional Administrator has determined that the incidental catch allowance in § 648.85 (d) has been caught, all vessels issued a herring permit or fishing in the Federal portion of the GOM/GB Herring Exemption Area, defined below, are prohibited from fishing for, possessing, or landing herring in excess of 2,000 lb (907 kg) per trip in or from the GOM/GB Herring Exemption Area, unless all herring possessed and landed by the vessel were caught outside the GOM/GB Herring Exemption Area and the vessel complies with the gear stowage provisions specified in paragraph (a)(3)(ii)(A)(3) of this section while transiting the Exemption Area. Upon this determination, the haddock possession limit is reduced to 0 lb (0 kg) for all Category 1 herring vessels regardless of where they were fishing. In making this determination, the Regional Administrator shall use haddock landings observed by NMFS-approved observers and law enforcement officials, and reports of haddock catch submitted by vessels and dealers pursuant to the reporting requirements of this part. The GOM/GB Herring Exemption Area is defined by the straight lines connecting the following points in the order stated (copies of a map depicting the area are available from the Regional Administrator upon request):

GB/GOM HERRING EXEMPTION AREA

Point	N. lat.	W. long.
1	41° 33.05′	70° 00′
2	41° 20′	70° 00′
3	41° 20′	69° 50′
4	41° 10′	69° 50′
5	41° 10′	69° 30′
6	41° 00′	69° 30′
7	41° 00′	68° 50′
8	39° 50′	68° 50′
9	39° 50′	66° 40′
10	40° 30′	66° 40′
11	40° 30′	64° 44.34′
12	41° 50′	66° 51.94′
13	41° 50′	67° 40′
14	44° 00′	67° 40′
15	44° 00′	67° 50′
16	44° 10′	67° 50′
17	44° 27′	67° 59.18′
18	ME, NH, MA Coast lines	
19	41° 33.05′	70° 00′

(*2*) The haddock incidental catch cap specified is for the NE multispecies fishing year (May 1 April 30), which differs from the herring fishing year (January 1 December 31). If the haddock catch cap is attained by the Category 1 herring fishery, the 2,000–lb (907–kg) limit on herring possession and landings in the GOM/GB Herring Exemption Area will be in effect until the end of the NE multispecies fishing year. For example, the 2006 haddock catch cap would be specified for the period May 1, 2006 April 30, 2007, and the 2007 haddock catch cap would be specified for the period May 1, 2007 April 30, 2008. If the catch of haddock by Category 1 vessels reached the 2006 catch cap at any time prior to the end of the NE multispecies fishing year (April 30, 2007), the 2,000–lb (907–kg) limit on possession or landing herring in the GOM/GB Herring Exemption Area would extend through April 30, 2007, at which time the 2007 catch cap would go into effect.

(*3*) A vessel may transit the GOM/GB Herring Exemption Area with more than 2,000 lb (907 kg) of herring when the haddock catch cap in § 648.86 (a)(3)(ii)(A)(1) has been caught, providing that all of the herring possessed or landed by the vessel was caught outside of the GOM/GB Herring Exemption Area and all fishing gear is stowed and not available for immediate use as required by § 648.23(b).

* * * * *

(i) [Reserved.]

(k) *Other regulated NE multispecies possession restrictions for herring vessels. Incidental catch allowance for herring Category 1 vessels.* Category 1 herring vessels defined in § 648.2 may possess and land up to 100 lb (45 kg) of other regulated NE multispecies (cod,

witch flounder, plaice, yellowtail flounder, pollock, winter flounder, windowpane flounder, redfish, and white hake) on all trips that do not use a multispecies DAS, subject to the requirements specified in § 648.80(d) and (e). Such fish may not be sold for human consumption.

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Notices

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

DEPARTMENT OF AGRICULTURE

Forest Service

Plumas National Forest, Feather River Ranger District, CA; Sugarberry Project

AGENCY: Forest Service, USDA.

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

SUMMARY: The USDA Forest Service will prepare an environmental impact statement to disclose the environmental effects resulting from construction of fuel breaks known as defensible fuel profile zones (DFPZs); harvest and reforestation of timber stands; enhancement of black oak and aspen stands; improvement of aquatic and wildlife habitat; underburning rare plants occurrences; and road construction, reconstruction, and decommissioning.

DATES: Comments concerning the scope of the analysis must be received within 30 days of the publication of this notice in the **Federal Register.** The draft environmental impact statement is expected by December 2006, and the final environmental impact statement is expected by April 2007.

ADDRESSES: Send written comments to James M Peña, Forest Supervisor, Plumas National Forest, P.O. Box 11500, 159 Lawrence Street, Quincy, CA 95971–6025. Comments may be (1) mailed to the Responsible Official; (2) hand-delivered between the hours of 8 a.m.–4;30 p.m., Monday through Friday, excluding holidays; (3) faxed to (530) 283–7746; or (4) electronically mailed to: *comments-pacificsouthwest-plumas@fs.fed.us.*

FOR FURTHER INFORMATION CONTACT: Susan Joyce, Project Leader, Feather River District, 875 Mitchell Avenue, Oroville, CA 95965, or call (530) 534–6500.

SUPPLEMENTARY INFORMATION: The Sugarberry Project area is located within the Feather River Danger District of the Plumas National Forest in Yuba, Sierra and Plumas Counties. Encompassing approximately 45,000 acres, the project area is located south and east of Little Grass Valley Reservoir, from Gibsonville Ridge in the north to the North Yuba River in the south. Treatment units range in elevation from 2,400 to 6,500 feet above sea level. Communities in and near the project area include Clipper Mills, Strawberry Valley, and La Porte.

The Sugarberry Project is proposed as part of a broad resource management program to promote the ecological health of lands and economic health and stability of communities in the northern Sierra Nevada under the authority of the Herger-Feinstein Quincy Library Group Forest Recovery Act (HFQLG Act).

Purpose and Need for Action

The Forest Service has identified the following project objectives: (1) Protect rural communities and forest ecosystems from high-intensity wildfires; (2) promote a healthy all-aged, multistoried, fire-resilient forest; (3) contribute to the stability and economic health of rural communities; (4) promote the health of unique plant communities; and (5) promote healthy aquatic and riparian ecosystems.

Proposed Action

To achieve project objectives, the Forest Service proposes to construct approximately 2,100 acres of fuelbreaks known as Defensible Fuel Profile Zones (DFPZ). A DFPZ is a strategically located strip of land approximately ¼ mile in width on which fuels, both living and dead, have been modified in order to reduce the potential for sustained crown fire and to allow fire suppression personnel a safer location from which to take action against a wildfire. The DFPZs in the Sugarberry Project would be part of a larger, strategic system of DFPZs on the Plumas National Forest, adjacent private lands, and other national forests.

Proposed DFPZs are located primarily on ridges with tree crowns spaced at a distance that reduces the potential for crown fire spread (generally 40 percent canopy cover). DFPZs would be constructed through mechanical thinning and biomass removal on approximately 400 acres, mastication on approximately 300 acres, underburning on approximately 1,400 acres, and hand cutting, piling, and burning on approximately 40 acres.

The Forest Service proposes to harvest approximately 30 million board feet of timber from group selection units (1,300 acres), individual tree selection units (300 acres), and DFPZ mechanical thinning units (400 acres). Group selection involves harvest of trees less than 30-inches in diameter from small (one-half to two acres) groups. Over time, this would create an uneven-aged (all-aged) forests made up of a patchwork of small groups of same-aged trees. Individual tree selection harvest would combine removal of diseased or otherwise unhealthy trees with thinning from below to improve forest health and favor fire resilient tree species. Existing and temporary roads would be needed to access timber and DFPZ treatment areas. An estimated 27 miles of existing road would be reconstructed with 3 additional miles of new classified road construction and 12 miles of new temporary spur construction. Another estimated 5 miles of road, no longer in use or needed, would be decommissioned or closed by various methods, such as ripping and seeding, re-contouring, and installing barriers. Projects that promote the health of unique plant communities include enhancement of approximately 100 acres of black oak stands and 20 acres of aspen stands, along with underburning occurrences of the rare clustered lady's slipper on 5–10 acres and monitoring results.

Aquatic and riparian restoration projects include restoring and enhancing aquatic, native plant, and riparian habitat by replacing or upgrading six culverts; restoring meadows; stabilizing stream channels and banks; and constructing one sediment settling pond.

Responsible Official

James M. Peña, Forest Supervisor, P.O. Box 11500, 159 Lawrence Street, Quincy, CA 95971–6025 is the Responsible Official.

Nature of Decision To Be Made

The Responsible Official will decide whether to implement this proposal, an alternative design that moves the project area towards the desired condition, or

not to implement any project at this time.

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 related to the proposed actions, comments should be as specific as possible.

Information about 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 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 local newspaper and media. A meeting in a community in the project area is planned for July 2006, although specific information is not available at this time.

Preliminary Issues

The following preliminary issues have been identified for this proposal: (a) Impacts from ground disturbing activities within watersheds that may be approaching or over the threshold of concern, (b) potential impacts on soil productivity and soil hydrologic function of erodible or easily compacted soils, (c) economic feasibility of the project due to high treatment and regeneration costs, and (d) alteration of habitat components utilized by the California spotted owl, e.g., canopy cover and medium to large trees. Continued analysis will determine the relevance of preliminary issues. Additional issues may be identified during the scoping process.

Permits or Licenses Required

No Federal permits, licenses, or entitlements are necessary to implement the proposed project. State requirements, based on Federal laws, and administered by the County Agricultural Commissioner for air quality management will be followed. These requirements include burning only on permissive burn days or receiving a special variance prior to ignition. Smoke permits are required from the Northern Sierra and Feather River Air Quality Management Districts (AQMD) prior to any understory or pile burning. Timber Harvest Activity Waivers are required from the California Regional Water Quality Control Board.

Comment Requested

This notice of intent initiates the scoping proces which guides the development of the environmental impact statement. The public is encouraged to take part in the process and is encouraged to visit with Forest Service officials at any time during the analysis and prior to the decision. The Forest Service will be seeking information, comments, and assistance from Federal, State, and local agencies and other individuals or organizations that may be interested in, or affected by, the proposed vegetation management activities.

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 theser 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 disucssed 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: June 14, 2006.

Michael Condon,

Acting Forest Supervisor.

[FR Doc. 06–5546 Filed 6–20–06; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

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

Agency: Bureau of Economic Analysis (BEA), Commerce.

Title: Quarterly Survey of Financial Services Transactions Between U.S. Financial Services Providers and Unaffiliated Foreign Persons.

Form Number(s): BE–85.

Agency Approval Number: 0608–0065.

Type of Request: Extension of a currently approved collection.

Burden: 5,000 hours.

Number of Respondents: 125 per quarter, 500 annually.

Average Hours Per Response: 10 hours.

Needs and Uses: The BE–85, Quarterly Survey of Financial Services Transactions Between U.S. Financial Services Providers and Unaffiliated Foreign Persons, obtains quarterly data from financial services providers that have receipts from or payments to unaffiliated foreign persons in the financial services covered by the survey. The data are needed to monitor trade in financial services, analyze its impact on the U.S. and foreign economies, compile and improve the U.S. economic accounts, support U.S. commercial policy on financial services, conduct trade promotion, and improve the ability of U.S. businesses to identify and evaluate market opportunities.

The data from the survey are primarily intended as general purpose statistics. They are needed to answer any number of research and policy questions related to cross-border trade in financial services.

Affected Public: U.S. businesses, state and local governments, non-profit institutions or other for-profit institutions.

Frequency: Quarterly.

Respondent's Obligation: Mandatory.

Legal Authority: International Investment and Trade in Services Survey Act (Pub. L. 94–472, 22 U.S.C. 3101–3108) and section 5408 of the Omnibus Trade and Competitiveness Act of 1988 (Pub. L. 100–418, 15 U.S.C. 4908(b)).

OMB Desk Officer: Paul Bugg, (202) 395–3093.

You may obtain copies of the above information collection proposal by writing Diana Hynek, Departmental Paperwork Clearance Officer, Office of the Chief Information Officer, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW., Washington, DC 20230, or e-mail *dhynek@doc.gov*.

Send comments on the proposed information collection within 30 days of publication of this notice to the Office of Management and Budget, O.I.R.A., Attention PRA Desk Officer for BEA, e-mail *pbugg@omb.eop.gov,* or by FAX at 202–395–7245.

Dated: June 15, 2006.

Madeleine Clayton,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. E6–9685 Filed 6–20–06; 8:45 am]

BILLING CODE 3510–06–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

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

Agency: Bureau of Economic Analysis (BEA), Commerce.

Title: Quarterly Survey of Insurance Transactions by U.S. Insurance Companies with Foreign Persons.

Form Number(s): BE–45.

Agency Approval Number: 0608–0066.

Type of Request: Extension of a currently approved collection.

Burden: 7,200 hours.

Number of Respondents: 225 per quarter, 900 annually.

Average Hours Per Response: 8 hours.

Needs and Uses: The BE–45, Quarterly Survey of Insurance Transactions by U.S. Insurance Companies with Foreign Persons, obtains quarterly data from U.S. insurance companies that have engaged in reinsurance transactions with foreign persons, that have earned premiums from, or incurred losses to, foreign persons in the capacity of primary insurers, or that have engaged in auxiliary insurance services transactions with foreign persons. The data are needed to monitor U.S. international trade in insurance services, analyze its impact on the U.S. and foreign economies, compile and improve the U.S. economic accounts, support U.S. commercial policy on insurance services, conduct trade promotion, and improve the ability of U.S. businesses to identify and evaluate market opportunities.

The data from the survey are primarily intended as general purpose statistics. They are needed to answer any number of research and policy questions related to cross-border trade in services.

Affected Public: U.S. insurance companies that transact with foreign persons in insurance services.

Frequency: Quarterly.

Respondent's Obligation: Mandatory.

Legal Authority: International Investment and Trade in Services Survey Act (Pub. L. 94–472, 22 U.S.C. 3101–3108).

OMB Desk Officer: Paul Bugg, (202) 395–3093.

You may obtain copies of the above information collection proposal by calling or writing Diana Hynek, Departmental Paperwork Clearance Officer, Office of the Chief Information Officer, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW., Washington, DC 20230, or e-mail *dhynek@doc.gov*.

Send comments on the proposed information collection within 30 days of publication of this notice to the Office of Management and Budget, O.I.R.A., Attention PRA Desk Officer for BEA, e-mail *pbugg@omb.eop.gov,* or by FAX at 202–395–7245.

Dated: June 15, 2006.

Madeleine Clayton,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. E6–9686 Filed 6–20–06; 8:45 am]

BILLING CODE 3510–06–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

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

Agency: Bureau of Economic Analysis (BEA), Commerce.

Title: Quarterly Survey of Transactions Between U.S. and Unaffiliated Foreign Persons in Selected Services and in Intangible Assets.

Form Number(s): BE–25.

Agency Approval Number: 0608–0067.

Type of Request: Extension of a currently approved collection.

Burden: 35,200 hours.

Number of Respondents: 550 per quarter, 2,200 annually.

Average Hours Per Response: 16 hours.

Needs and Uses: The BE–25, Quarterly Survey of Transactions Between U.S. and Unaffiliated Foreign Persons in Selected Services and in Intangible Assets, obtains quarterly data from companies that have receipts from or payments to unaffiliated foreign persons in any of the types of transactions covered by the survey. The data are needed to monitor trade in services and in intangible assets, analyze its impact on the U.S. and foreign economies, compile and improve the U.S. economic accounts, support U.S. commercial policy on services and intangible assets, conduct trade promotion, and improve the ability of U.S. businesses to identify and evaluate market opportunities.

The data from the surveys are primarily intended as general purpose statistics. They are needed to answer any number of research and policy questions related to cross-border trade in services.

Affected Public: U.S. businesses, state and local governments, non-profit institutions or other for-profit institutions.

Frequency: Quarterly.

Respondent's Obligation: Mandatory.

Legal Authority: International Investment and Trade in Services Survey Act (Pub. L. 94–472, 22 U.S.C. 3101–3108).

OMB Desk Officer: Paul Bugg, (202) 395–3093.

You may obtain copies of the above information collection proposal by writing Diana Hynek, Departmental Paperwork Clearance Officer, Office of

the Chief Information Officer, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW., Washington, DC 20230, or e-mail *dhynek@doc.gov.*

Send comments on the proposed information collection within 30 days of publication of this notice to the Office of Management and Budget, O.I.R.A., Attention PRA Desk Officer for BEA, e-mail *pbugg@omb.eop.gov,* or by FAX at 202–395–7245.

Dated: June 15, 2006

Madeleine Clayton,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. E6–9687 Filed 6–20–06; 8:45 am]

BILLING CODE 3510–06–P

DEPARTMENT OF COMMERCE

Foreign–Trade Zones Board

[Docket 26–2006]

Foreign–Trade Zone 231—Stockton, CA, Application for Subzone Status, Medline Industries, Inc., (Medical Supply Distribution)

An application has been submitted to the Foreign–Trade Zones Board (the Board) by the Port of Stockton, grantee of FTZ 231, requesting special–purpose subzone status for the medical supply distribution facility of Medline Industries, Inc., located in Lathrop, 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 June 15, 2006.

The Medline facility (277,200 sq. ft./12.49 acres/30 employees) is located at 18250 Murphy Parkway, Lathrop, California. The facility is used for warehousing and distribution of foreign–origin and domestic medical supplies for the U.S. market and export. FTZ procedures would be utilized to support Medline's import and domestic distribution activity. Finished medical supplies to be admitted to the proposed subzone for distribution would include: medical gloves of natural rubber, surgical/medical gloves of plastic, apparel items of cotton and man–made fibers (gowns, shirts, overalls, caps, baby shirts, scrubs, covers, socks, pajamas, slippers), woven/non–woven bed linens, towels, pillows, diapers, aprons, canes, walkers, wheelchairs, scooters, grab bars, beds, commodes, wooden bedroom furniture, folios, leather and man–made fiber travel bags, thermometers, vacuum pumps, watch cases, and toiletry items. The application states that all quota–class textile and apparel products classified under Textile Import Quota categories would be admitted to the proposed subzone under domestic (duty–paid) status (19 CFR § 146.43), and any products subject to antidumping duties would be admitted under domestic (duty–paid) or privileged foreign status (19 CFR § 146.41).

FTZ procedures would exempt Medline from Customs duty payments on foreign products that are re–exported. On domestic sales, the company would be able to defer payments until merchandise is shipped from the facility and entered for U.S. consumption. Medline also plans to utilize certain logistical benefits that will help facilitate the distribution of domestic and foreign merchandise in a consolidated manner. The application indicates that all of the above–cited savings from FTZ procedures would help improve the 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 August 21, 2006. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period to September 5, 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, 1301 Clay Street, Oakland Federal Building North Tower, Suite 630N, Oakland, California 94612; 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: June 15, 2006.

Pierre V. Duy,

Acting Executive Secretary.

[FR Doc. E6–9799 Filed 6–20–06; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

Foreign–Trade Zones Board

[Docket 25–2006]

Foreign–Trade Zone 231 -- Stockton, California, Application for Expansion

An application has been submitted to the Foreign–Trade Zones (FTZ) Board (the Board) by the Stockton Port District, grantee of FTZ 231, requesting authority to expand its zone in the Stockton area within and adjacent to the San Francisco/Oakland/Sacramento Consolidated Customs port of entry. The application was submitted pursuant to the provisions of the Foreign–Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR part 400). It was formally filed on June 14, 2006.

FTZ 231 was approved on April 15, 1998 (Board Order 967, 63 FR 23719, 4/30/98). The general–purpose zone currently consists of three sites (3,111 acres) in the Stockton area: *Site 1* (600 acres) -- within the Port of Stockton complex on the Stockton Deepwater Ship Channel; *Site 2* (1,058 acres) -- Rough and Ready Island on the Stockton Deepwater Ship Channel; and, *Site 3* (1,453 acres) -- Stockton Metropolitan Airport.

The applicant is now requesting authority to expand an existing site and to include four new sites in the area: Expand *Site 2* to include an additional 375 acres within the Port's Rough and Ready Island (total acreage - 1,433 acres); *Proposed Site 4* (67 acres) -- within the 72–acre ProLogis Park Tracy I, located at Grant Line Road and Paradise Avenue, Tracy; *Proposed Site 5* (168 acres) -- ProLogis Park Tracy II, 1941 North Chrisman Road, Tracy; *Proposed Site 6* (77 acres) -- within the 600–acre ProLogis Park Patterson Pass, 25882 South Corporate Court, Tracy; and, *Proposed Site 7* (106 acres) -- ProLogis Park Duck Creek, 4720 East Farmington Road, Stockton. The sites will provide public warehousing and distribution services to area businesses. No specific manufacturing authority is being requested at this time. Such requests would be made to the Board on a case–by-case basis.

In accordance with the Board's regulations, a member of the FTZ Staff has been designated examiner to investigate the application and report to the Board.

Public comment 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 August 21, 2006.

Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15–day period to September 5, 2006.

A copy of the application and accompanying exhibits will be available for public inspection at each of the following locations: Port of Stockton Executive Office, 2201 W. Washington Street, Stockton, CA 95201; and, Office of the Executive Secretary, Foreign–Trade Zones Board, Room 1115, U.S. Department of Commerce, 1401 Constitution Avenue, NW., Washington, DC 20230.

Dated: June 14, 2006.

Pierre V. Duy,

Acting Executive Secretary.

[FR Doc. E6–9820 Filed 6–20–06; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

Foreign–Trade Zones Board

[Docket 24–2006]

Foreign–Trade Zone 126 -- Reno, Nevada, Application for Expansion/ Reorganization

An application has been submitted to the Foreign–Trade Zones Board (the Board) by the Economic Development Authority of Western Nevada, grantee of FTZ 126, requesting authority to expand and reorganize its zone in the Reno, Nevada, area, in the Reno Customs port of entry. The application was submitted pursuant to the provisions of the Foreign–Trade Zones Act (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR Part 400). It was formally filed on June 14, 2006.

FTZ 126 was approved on April 4, 1986 (Board Order 328, 51 FR 12904, 4/16/86) and expanded on February 25, 1997 (Board Order 872, 62 FR 10520, 3/7/97), and on December 15, 1999 (Board Order 1066, 64 FR 72642, 12/28/99). The general–purpose zone currently consists of seven sites in the Reno area: *Site 1* (15 acres) -- located on Spice Island Drive near the Reno International Airport, Sparks; *Site 2* (9 acres, 482,000 sq. ft.) -- located at 450–475 Lillard Drive, Sparks; *Site 3* (30 acres) -- consisting of four related but non–contiguous parcels located at 205 Parr Blvd., 365 Parr Circle, 345 Parr Circle and 800 Stillwell Road in Reno; *Site 4* (1,281 acres) -- Nevada Pacific Industrial Park, Nevada Pacific Parkway & East Newlands Drive, Fernley (expires 8/1/07); *Site 5* (1,215 acres) -- Asamera Ranch Industrial Center, Waltham Way Bridge and the Patrick Exit, Sparks (expires 8/1/07); *Site 6* (2,035 acres) -- Reno–Tahoe International Airport (expires 8/1/07); *Site 7* (2,953 acres) -- Reno–Stead Airport, including a 33–acre TNT Logistics/Michelin North America, Inc., facility located at 14551 Industry Circle, Reno (expires 8/1/07).

The applicant is now requesting authority to expand and reorganize the zone project as described below. Sites 1, 2 and 3 will remain unchanged. Sites 4–7 will be reorganized with certain existing areas being removed and, in some cases, new areas added. Proposed Sites 4 and 5 are based on existing Site 4. Proposed Site 6 is drawn from existing Site 5. Proposed Sites 7 and 8 are related to existing Site 7. Proposed Sites 9–13 are based on existing Site 6. The site plan (except for Sites 1–3) will be reorganized as follows:

Proposed Site 4 (200 acres) -- within the 5,000–acre Crossroads Commerce Center, Nevada Pacific Parkway and East Newlands Drive, Fernley (Lyon County);

Proposed Site 5 (20 acres) -- within the 110–acre Fernley Industrial Park, Lyon Drive and Industrial Drive, Fernley;

Proposed Site 6 (768 acres) -- consists of seven parcels located within the Tahoe Reno Industrial Center located in Patrick (Storey County): *Proposed Site 6A* (622 acres, 2 parcels) located at Tahoe Reno Industrial Center southwest of Denmark and USA Parkway; and, *Proposed Site 6B* (146 acres, 5 parcels) located at Patrick Business Park on Waltham Way;

Proposed Site 7 (38 acres) consists of two parcels at the Reno–Stead Airport in Reno (Washoe County): *Proposed Site 7A* (33 acres) -- TNT Logistics/Michelin North America Inc. warehouse facility located at 14551 Industry Circle; and, *Proposed Site 7B* (5 acres) -- Reno Stead Airport located at 4895 Texas Avenue;

Proposed Site 8 (53 acres, 4 parcels) -- Sage Point Business Park located on or near Lear Boulevard at Military Road, Reno;

Proposed Site 9 (25 acres) -- consists of three parcels within the Dermody Business Park at 5360 Capital Court and 1312 and 1316 Capital Boulevard, Reno;

Proposed Site 10 (10 acres) -- Dermody Aircenter, 4879 Aircenter Circle, Reno;

Proposed Site 11 (18 acres) -- warehouse located at 45 Vista Boulevard, Sparks;

Proposed Site 12 (100 acres, 6 parcels) -- South Meadows Business Park located at 1150, 1160, 1170, 1175, 1190 and 1195 Trademark Drive, Reno; and,

Proposed Site 13 (10 acres) -- within the Reno–Tahoe International Airport, 700 South Rock Boulevard, Reno.

The proposed sites are owned by Sonterra Development Company (Site 4), DP Industrial LLC (Sites 5, 6B, 8–12), Tahoe–Reno Industrial Center LLC (Site 6A), Paul and Eleanor Sade Trust (Site 7A), and Reno–Tahoe Airport Authority (Sites 7B & 13). No specific manufacturing requests are being made at this time. Such requests would be made to the Board on a case–by-case basis.

In accordance with the Board's regulations, a member of the FTZ Staff has been designated examiner to investigate the application and report to the Board.

Public comment 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 August 21, 2006. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15–day period (to September 5, 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, One East First Street, 16th Floor, Reno, Nevada 89501; and, Office of the Executive Secretary, Foreign–Trade Zones Board, U.S. Department of Commerce, 1401 Constitution Avenue, NW., Room 1115, Washington, DC 20230.

Dated: June 14, 2006.

Pierre V. Duy,

Acting Executive Secretary.

[FR Doc. E6–9821 Filed 6–20–06; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

Foreign–Trade Zones Board

[Docket 23–2006]

Foreign–Trade Zone 49 -- Newark, New Jersey, Area, Application For Expansion

An application has been submitted to the Foreign–Trade Zones (FTZ) Board (the Board), by the Port Authority of New York and New Jersey, grantee of Foreign–Trade Zone 49, requesting authority to expand its zone to include four additional sites in the Newark, New

Jersey area, within the Newark/New York Customs port of entry. The application was submitted pursuant to the provisions of the Foreign–Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR part 400). It was formally filed on June 14, 2006.

FTZ 49 was approved on April 6, 1979 (Board Order 146, 44 FR 22502, 4/16/79) and expanded as follows: on May 26, 1983 (Board Order 211, 48 FR 24958, 6/3/83); on October 23, 1987 (Board Order 365, 52 FR 41599, 10/29/87); on April 19, 1990 (Board Order 470, 55 FR 17478, 4/25/90); on December 15, 1999 (Board Order 1067, 64 FR 72642, 12/28/99); and, on April 14, 2006 (Board Order 1446, 71 FR 23895, 4/25/06).

The general–purpose zone project currently consists of six sites: *Site 1* (2,077 acres) -- Port Newark/Elizabeth Port Authority Marine Terminal; *Site 2* (64 acres) -- Global Terminal and Container Services and adjacent Jersey Distribution Services facility in Jersey City and Bayonne; *Site 3* (124 acres) -- Port Authority Industrial Park, adjacent to the Port Newark/Elizabeth Port Authority Marine terminal; *Site 4* (198 acres) -- Port Authority Auto Marine Terminal and adjacent Greenville Industrial Park in Bayonne and Jersey City; *Site 5* (40 acres) -- the jet fuel storage and distribution system at Newark International Airport in Newark and Elizabeth; and, *Site 6* (407 acres) -- within the 441–acre South Kearny Industrial Park located 100 Central Avenue in Kearny (Hudson County).

The applicant is now requesting authority to expand the general–purpose zone to include four additional sites in Middlesex and Union Counties: *Proposed Site 7* (114 acres) -- I–Port 12 industrial park located at exit 12 of the New Jersey Turnpike in Carteret (listed as Site ''A'' in the application); *Proposed Site 8* (176 acres) -- within the 183–acre I–Port 440 industrial park, located east of State Street and north of the Outer Bridge Crossing in Perth Amboy (listed as Site ''B'' in the application); *Proposed Site 9* (317 acres) -- Port Reading Business Park located on Port Reading Avenue in Woodbridge (listed as Site ''C'' in the application); and,*Proposed Site 10* (73 acres) -- Port Elizabeth Business Park located at 10 North Avenue East in Elizabeth (listed as Site ''D'' in the application). The proposed sites are owned by Titan–PDC Carteret Urban Renewal, LLC (Site 7); P/A PDC Perth Amboy LLC (Site 8); and, ProLogis (Sites 9 and 10). The sites are either vacant or partially developed and will be used for warehousing and distribution activities.

No specific manufacturing requests are being made at this time. Such requests would be made to the Board on a case–by-case basis.

In accordance with the Board's regulations, a member of the FTZ staff has been designated examiner to investigate the application and report to the Board.

Public comment is invited from interested parties. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at the address listed below. The closing period for their receipt is August 21, 2006. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15–day period (to September 5, 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, 744 Broad Street, Suite 1505, Newark, NJ 07102; and, Office of the Executive Secretary, Foreign–Trade Zones Board, Room 1115, U.S. Department of Commerce, 1401 Constitution Avenue, NW., Washington, DC 20230.

Dated: June 14, 2006.

Pierre V. Duy,

Acting Executive Secretary.

[FR Doc. E6–9822 Filed 6–20–06; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

Foreign–Trade Zones Board

[Docket 22–2006]

Foreign–Trade Zone 84 - Houston, TX, Application for Subzone Status, Academy Sports and Outdoors, (Apparel, Footwear, and Sporting Goods)

An application has been submitted to the Foreign–Trade Zones Board (the Board) by the Port of Houston Authority, grantee of FTZ 84, requesting special–purpose subzone status for the warehousing and distribution facilities (apparel, footwear, and sporting goods) of Academy Sports and Outdoors (Academy), located in Katy and Brookshire, Texas. 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 June 13, 2006.

The proposed subzone would include Academy's warehousing facilities at two sites near Houston, Texas: *Site 1* - (5 parcels) Mason Road Distribution Center (warehouse/94 acres/1,471,000 sq.ft. under roof/300 employees) - 1800 N. Mason Road, Katy (Harris County), Texas, about 15 miles west of Houston; and *Site 2* - (2 parcels) West Distribution Center (future warehouse/165 acres) situated on FM 362 North near FM 359, Brookshire (Waller County), Texas, about eight miles west of Site 1. The facilities are used for warehousing and distribution of foreign–origin and domestic sporting goods, outdoor recreational equipment, apparel, and footwear for the U.S. market. FTZ procedures would be utilized to support Academy's distribution activity. Finished products to be admitted to the proposed subzone for distribution would include: camping gear, fishing gear, bicycles, games machines, sleds, travel/sports bags (not of cotton; Other - Textile Quota Category 870, will be admitted under privileged foreign (PF) status), men's/boys' and women's/girls' apparel, furniture, appliances, footwear, knives, pumps, hunting rifles, tools, sporting goods, and garden equipment. All quota–class textile and apparel products classified under Textile Import Quota categories shall be admitted to the proposed subzone under privileged foreign status (19 CFR 146.41).

FTZ procedures would exempt Academy from Customs duty payments on foreign products that are re–exported. On domestic sales, the company would be able to defer payments until merchandise is shipped from the facility and entered for U.S. consumption. Academy also plans to realize logistical benefits through the use of weekly entry procedures. The application indicates that all of the above–cited savings from FTZ procedures would help improve the 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 August 21, 2006. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15–day period to September 5, 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, 15600 John F. Kennedy Blvd., Suite 530,

Houston, TX 77032; 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: June 13, 2006.

Pierre V. Duy,

Acting Executive Secretary.

[FR Doc. E6–9823 Filed 6–20–06; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–504]

Petroleum Wax Candles From the People's Republic of China: Preliminary Results of the 2004–2005 Administrative Review

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

SUMMARY: The Department of Commerce (''the Department'') is currently conducting an administrative review of the antidumping duty order on petroleum wax candles from the People's Republic of China (''PRC'') covering the period August 1, 2004, through July 31, 2005. This review covers imports of subject merchandise from one manufacturer/exporter: Qingdao Youngson Industrial Co., Ltd. (''Youngson'').

We preliminarily find that adverse facts available (''AFA'') are appropriate for Youngson. If these preliminary results are adopted in our final results of review, we will instruct U.S. Customs and Border Protection (''CBP'') to assess antidumping duties on all appropriate entries in accordance with these results. We invite interested parties to comment on these preliminary review results and will issue the final review results no later than 120 days from the date of publication of this notice.

DATES: *Effective Date:* June 21, 2006.

FOR FURTHER INFORMATION CONTACT: Alex Villanueva or Cindy Lai Robinson, AD/CVD Operations, Office 9, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–3208 or 202 482–3797, respectively.

SUPPLEMENTARY INFORMATION:

Case History

On August 28, 1986, the Department published in the **Federal Register** the antidumping duty order on petroleum wax candles from the PRC. *See Antidumping Duty Order: Petroleum Wax Candles From the People's Republic of China,* 51 FR 30686 (August 28, 1986) (''*Candles Order*'').

On September 28, 2005, in response to Youngson's request and in accordance with section 751(a)(1) of the Tariff Act of 1930, as amended (the ''Act''), and section 351.213(b) of the Department's regulations, the Department initiated the 2004–2005 administrative review of petroleum wax candles from the PRC on one company. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part,* 70 FR 56631 (September 28, 2005).

On October 19, 2005, the Department issued an antidumping duty questionnaire to Youngson. On November 23, 2005, Youngson submitted its Section A response to the Department's antidumping duty questionnaire.[1] On December 9, 2005, Youngson submitted its Sections C and D questionnaire response. On December 23, 2005, the Department issued its first Section A supplemental questionnaire to Youngson, and on January 17, 2006, Youngson submitted its response. On January 24, 2006, the Department issued its first Sections C&D supplemental questionnaire to Youngson, and on February 21, 2006, Youngson submitted its response. On February 21, 2006, the Department issued a second Section A supplemental questionnaire, and on March 20, 2006, Youngson submitted its response. On March 9, 2006, the Department issued a second Sections C&D supplemental questionnaire to Youngson. On March 20, 2006, Youngson requested a two-week extension to respond to the Department's March 9, 2006, supplemental questionnaire; the Department granted a one-week extension until March 30, 2006. On March 24, 2006, the Department issued its third Sections A, C, and D supplemental questionnaires to Youngson. Youngson did not submit any responses to the Department's second Sections C&D supplemental questionnaires. Additionally, Youngson did not submit responses to the Department's third Sections A, C, and D supplemental questionnaires.

On January 4, 2006, the Department issued an importer questionnaire to Youngson's importer. The Department received the importer's response on February 9, 2006.

On February 1, 2006, the National Candle Association (''NCA''), the Petitioner, submitted its comments on Youngson's Sections A (original and supplemental), C, and D responses. On March 14, 2006, the Petitioner submitted its second set of comments on Youngson's original and supplemental Section D responses. On March 29, 2006, the Petitioner submitted its third set of comments on Youngson's responses.

On February 24, 2006, the Department provided all interested parties the opportunity to submit information pertinent to selecting a surrogate country and valuing factors of production (''FOP'') for this administrative review. On March 16, 2006, Youngson requested, and the Department granted, a six-week extension of time to file its surrogate values submission. The deadline for submitting surrogate values information was extended until May 1, 2006. On March 20, 2006, the Department issued a surrogate country memorandum to all interested parties. *See Memorandum to the File ''Antidumping Duty Administrative Review of Petroleum Wax Candles from the People's Republic of China: Selection of a Surrogate Country*'' dated March 20, 2006, from Cindy Lai Robinson through Alex Villanueva, Program Manager, Office 9, Import Administration and James C. Doyle, Director, Office 9, Import Administration.

On March 30, 2006, the Department extended the time limit for the preliminary results of this administrative review from May 3, 2006, to June 19, 2006. *See Petroleum Wax Candles from the People's Republic of China: Extension of Time Limit for Preliminary Results of the Antidumping Duty Administrative Review,* 71 FR 16120 (March 30, 2006).

On March 30, 2006, Youngson advised the Department by telephone that it would not submit responses to the Department's letters dated March 9 and 24, 2006. Furthermore, Youngson stated that it was withdrawing from the instant proceeding. *See Memorandum to the File from Cindy Robinson, Case Analyst, 7th Administrative Review of the Antidumping Duty Order on Petroleum Wax Candles from the People's Republic of China: Regarding Telephone Call with Counsel to Qingdao Youngson Industrial Co., Ltd. (''Youngson'',)* dated March 30, 2006. On March 31, 2006, Youngson filed a letter withdrawing its request for an administrative review. Youngson did

[1] Section A (Organization, Accounti8ng Practices, Markets and Merchandise), C (Sales to the United States), D (Factors of Production), E (Cost of Further Manufacturing Performed in the United States) and Sales and Factors of Production Reconciliations.

not reply to the Department's third supplemental questionnaire.

Period of Review

The POR covers August 1, 2004, through July 31, 2005.

Scope of the Order

The products covered by *Candles Order* are certain scented or unscented petroleum wax candles made from petroleum wax and having fiber or paper-cored wicks. They are sold in the following shapes: Tapers, spirals, and straight-sided dinner candles; round, columns, pillars, votives; and various wax-filled containers. The products were classified under the Tariff Schedules of the United States (''TSUS'') 755.25, Candles and Tapers. The product covered are currently classified under the Harmonized Tariff Schedule of the United States (''HTSUS'') item 3406.00.00. Although the HTSUS subheading is provided for convenience purposes, our written description remains dispositive. *See Candles Order* and *Notice of Final Results of the Antidumping Duty New Shipper Review: Petroleum Wax Candles from the People's Republic of China,* 69 FR 77990 (December 29, 2004).

Youngson's Request for Withdrawal of Administrative Review

As noted above, Youngson submitted a letter to the Department withdrawing its request for an administrative review on March 31, 2006. Pursuant to 19 CFR 351.213(d)(1), ''the Secretary will rescind an administrative review under this section, in whole or in part, if a party that requested a review withdraws the request within 90 days of the date of publication of notice of initiation of the requested review. The Secretary may extend this time limit if the Secretary decides that it is reasonable to do so.'' The 90-day deadline for withdrawing from this administrative review expired on December 28, 2005. Therefore, Youngson's request to withdraw from the administrative review was submitted 94 days after the deadline established by the Department.

During the course of conducting this review, the Department reviewed Youngson's submissions and prepared and sent questionnaires to Youngson and Youngson's importer. As a result of Youngson's deficient and/or incomplete questionnaire responses, the Department sent three supplemental questionnaires for each section of the Department's questionnaire in an attempt to gather necessary information from Youngson. Although Youngson submitted two Section A and the first Sections C&D supplemental questionnaire responses, Youngson did not submit the second Sections C&D supplemental questionnaire responses or the third Sections A, C&D supplemental questionnaire responses. Because of Youngson's supplemental questionnaire responses, the Department had also extended the preliminary results and selected a surrogate country. The Department expended considerable effort and resources in its analysis of Youngson, prior to its late withdrawal during an advanced stage of the review. Therefore, the Department is not rescinding the review of the *Candles Order* with respect to Youngson. This is consistent with past Department practice. *See Antifriction Bearings and Parts Thereof from France, Germany, Italy, Japan, Singapore, and the United Kingdom: Preliminary Results of Antidumping Duty Administrative Reviews, Partial Rescission of Administrative Reviews, Notice of Intent to Rescind Administrative Reviews, And Notice of Intent to Revoke Order in Part,* 69 FR 5950 (February 9, 2004) (''Although we have accepted untimely withdrawals of requests for review elsewhere, the circumstances surrounding the review of INA [2] are different from other situations * * * we had expended effort and resources in our analysis of INA prior to the untimely withdrawal such that we were quite advanced in the review''). *See, also, Antifriction Bearings and Parts Thereof From France, Germany, Italy, Japan, Singapore, and the United Kingdom: Final Results of Antidumping Duty Administrative Reviews, Rescission of Administrative Reviews in Part, and Determination To Revoke Order in Part,* 69 FR 55574 (September 15, 2004) (the Department's decision remained unchanged in the final results).

Separate Rates

The Department has treated the PRC as a non-market economy (''NME'') country in all previous antidumping cases. *See Brake Rotors From the People's Republic of China: Final Results of the Twelfth New Shipper Review,* 71 FR 4112 (January 25, 2006). In accordance with section 771(18)(C)(i) of the Act, any determination that a foreign country is an NME country shall remain in effect until revoked by the administering authority. We have no evidence suggesting that this determination should be changed. Therefore, we treated the PRC as an NME country for purposes of this review and calculated normal value (''NV'') by valuing the FOPs in a surrogate country.

It is the Department's policy to assign all exporters of the merchandise subject to reviews that are located in NME countries, a single antidumping duty rate unless an exporter can demonstrate an absence of governmental control, both in law (*de jure*) and in fact (*de facto*), with respect to its export activities. To establish whether an exporter is sufficiently independent of governmental control to be entitled to a separate rate, the Department analyzes the exporter using the criteria established in the *Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China,* 56 FR 20588 (May 6, 1991) (''*Sparklers*''), as amplified in the *Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People's Republic of China,* 59 FR 22585 (May 2, 1994) (''*Silicon Carbide*''). Under the separate rates criteria established in these cases, the Department assigns separate rates to NME exporters only if they can demonstrate the absence of both *de jure* and *de facto* governmental control over their export activities.

Because Youngson withdrew from the current administrative review with critical data potentially relevant to separate rates still outstanding, the Department was prevented from conducting a thorough separate rates analysis or from verifying Youngson's information. Therefore, we find that Youngson has not demonstrated that it is entitled to a separate rate, and it is deemed to be included in the PRC-wide entity and will be assigned a single margin as discussed below.

Application of Adverse Facts Available (''AFA'')

Section 776(a)(2) of the Act provides that, if an interested party: (A) Withholds information that has been requested by the Department; (B) fails to provide such information in a timely manner or in the form or manner requested, subject to sections 782(c)(1) and (e) of the Act; (C) significantly impedes a proceeding under the antidumping statute; or (D) provides such information but the information cannot be verified, the Department shall, subject to subsection 782(d) of the Act, use facts otherwise available in reaching the applicable determination.

Furthermore, section 776(b) of the Act states that if the Department ''finds that an interested party has failed to cooperate by not acting to the best of its ability to comply with a request for information,'' the Department, ''in

[2] A ball bearings company in Germany, INA-Schaeffler KG (INA).

reaching the applicable determination under this title, may use an inference that is adverse to the interests of that party in selecting from among the facts otherwise available.'' *See also* Statement of Administrative Action (''SAA'') accompanying the Uruguay Round Agreements Act (''URAA''), H.R. Rep. No. 103–316 at 870 (1994).

Despite the Department having issued two supplemental Sections A, C&D questionnaires, significant questions affecting separate rates and the margin calculation remain. For example, Youngson failed to provide clarification on its relationship with a ''start-up company,'' which Youngson claimed never received a business license and was owned by someone who later became an officer of Youngson. The Department requested that Youngson clarify whether the start-up company is the predecessor of Youngson in the Department's first and second Section A supplemental questionnaires. Information regarding Youngson's relationship with this start-up company potentially affects Youngson's U.S. sales, factors of production and separate rates. Additionally, Youngson failed to provide the information in the manner requested. Finally, Youngson's actions have impeded the administrative review procedures such that a verification of Youngson's sales, cost and separate rates information could not be performed. Therefore, the Department has no choice but to rely on the facts otherwise available in order to determine a margin for Youngson, pursuant to section 776(a)(2) of the Act. *See Stainless Steel Sheet and Strip in Coils From Japan: Preliminary Results of Antidumping Duty Administrative Review,* 70 FR 18369 (April 11, 2005), (''because this company refused to participate in this administrative review, we find that, * * * the use of total facts available is appropriate'') and *Notice of Preliminary Determination of Sales at Less Than Fair Value and Affirmative Preliminary Determination of Critical Circumstances: Wax and Wax/Resin Thermal Transfer Ribbons From Japan,* 68 FR 71072 (December 22, 2003), (''Since UC and DNP withheld information requested by the Department, the Department has no choice but to rely on the facts otherwise available in order to determine a margin for these parties''). As facts available, we find Youngson is not separate from the PRC-wide entity.

In applying facts otherwise available, section 776(b) of the Act states that if an interested party has failed to cooperate by not acting to the best of its ability to comply with a request for information from the administering authority or the International Trade Commission, the administering authority or the Commission, in reaching the applicable determination under section 776(b) of the Act, may use an inference that is adverse to the interests of that party in selecting from among the facts otherwise available. In the instant proceeding, we find it appropriate to use an inference that is adverse to the interests of Youngson in selecting from among the facts otherwise available. By withdrawing from this administrative review 94 days after the Department's established deadline rather than submitting a response to the Department's March 9 and 24, 2006, supplemental questionnaires, Youngson has failed to cooperate to the best of its ability in this proceeding. In addition, because we have determined that Youngson is not entitled to a separate rate and is part of the PRC-wide entity, the PRC-wide entity is under review. As the PRC-wide entity, in this instance, was uncooperative, we have determined an antidumping duty margin for it based on total AFA pursuant to section 776(b) of the Act. *See e.g., Certain Cased Pencils from the People's Republic of China; Final Results and Partial Rescission of Antidumping Duty Administrative Review*, 67 FR 48612 (July 25, 2002). *See,* also, *Porcelain-on-Steel Cooking Ware from the People's Republic of China: Notice of Final Results of Antidumping Duty Administrative Review,* 71 FR 24641 (April 26, 2006). As a result, Youngson receives the 108.3 percent, the PRC-wide entity rate. *See* the ''Corroboration'' section below for a discussion of the probative value of the PRC-wide 108.30 percent rate.

Corroboration of AFA Rate for Youngson

Section 776(c) of the Act requires that the Department corroborate, to the extent practicable, a figure which it applies as facts available. To be considered corroborated, information must be found to be both reliable and relevant. We are applying as AFA the PRC-wide rate, which is the highest rate from any segment of this administrative proceeding.

The information upon which the AFA rate being assigned to Youngson (the PRC-wide rate of 108.30 percent) is based on the highest rate in this proceeding, a rate calculated in the 2001–2002 administrative review. *See Amended Notice of Final Results of the Antidumping Duty Administrative Review: Petroleum Wax Candles from the People's Republic of China (''Amended Final)* 69 FR 20858 (April 19, 2004). For purposes of corroboration, the Department will consider whether that margin is both reliable and relevant. The AFA rate we are applying for the current review was corroborated in the most recently completed new shipper review subsequent to the *Amended Final. See Notice of Final Results of the Antidumping Duty New Shipper Review: Petroleum Wax Candles from the People's Republic of China* (''*2002–2003 New Shipper Review*'') 69 FR 77990 (December 29, 2004). Furthermore, no information has been presented in the current review that calls into question the reliability of this information.

With respect to the relevance aspect of corroboration, the Department will consider information reasonably at its disposal to determine whether a margin continues to have relevance. Where circumstances indicate that the selected margin is not appropriate as AFA, the Department will disregard the margin and determine an appropriate margin. For example, in *Fresh Cut Flowers from Mexico: Final Results of Antidumping Administrative Review,* 61 FR 6812 (February 22, 1996), the Department disregarded the highest margin in that case as adverse best information available (the predecessor to ''facts available'') because the margin was based on another company's uncharacteristic business expense resulting in an unusually high margin. Similarly, the Department does not apply a margin that has been discredited. *See D&L Supply Co.* v. *United States,* 113 F.3d 1220, 1221 (Fed. Cir. 1997) (the Department will not use a margin that has been judicially invalidated). The information used in calculating this margin was based on sales and production data submitted by the respondents in the 2001–2002 administrative review, together with the most appropriate surrogate value information available to the Department, chosen from submissions by the parties in the 2001–2002 administrative review, as well as gathered by the Department itself. Furthermore, the calculation of this margin was subject to comment from interested parties in the proceeding. Moreover, as there is no information on the record of this review that demonstrates that this rate is not appropriately used as AFA, we determine that this rate has relevance.

Based on our analysis as described above, we find that the margin of 108.30 percent is reliable and has relevance. As the rate is both reliable and relevant, we determine that it has probative value. Accordingly, we determine that the calculated rate of 108.30 percent, which is the current PRC-wide rate, is in accordance with the requirement of

section 776(c) of the Act that secondary information be corroborated (that it have probative value). Consequently, we have assigned this AFA rate to exports of the subject merchandise from Youngson subject to the PRC-wide rate.

Preliminary Results of Review

We preliminarily determine that the following margin exists during the period August 1, 2004, through July 31, 2005:

PETROLEUM WAX CANDLES FROM THE PRC

Manufacturer/Exporter	Weighted-average margin (percent)
PRC-wide Entity (including Qingdao Youngson Industrial Co., Ltd.)	108.30

Public Comment

The Department will disclose to parties of this proceeding the information utilized in reaching the preliminary results within ten days of the date of announcement of the preliminary results. An interested party may request a hearing within 30 days of publication of the preliminary results. *See* 19 CFR 351.310(c). Interested parties may submit written comments (case briefs) within 30 days of publication of the preliminary results and rebuttal comments (rebuttal briefs), which must be limited to issues raised in the case briefs, within five days after the time limit for filing case briefs. *See* 19 CFR 351.309(c)(1)(ii) and 19 CFR 351.309(d). Parties who submit arguments are requested to submit with the argument: (1) A statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities. Further, the Department requests that parties submitting written comments provide the Department with a diskette containing the public version of those comments. Unless the deadline is extended pursuant to section 751(a)(3)(A) of the Act, the Department will issue the final results of this administrative review, including the results of our analysis of the issues raised by the parties in their comments, within 120 days of publication of the preliminary results. The assessment of antidumping duties on entries of merchandise covered by this review and future deposits of estimated duties shall be based on the final results of this review.

Assessment Rates

Upon issuing the final results of the review, the Department shall determine, and CBP shall assess, antidumping duties on all appropriate entries. The Department will issue appropriate appraisement instructions for the company subject to this review directly to CBP within 15 days of publication of the final results of this review. Pursuant to 19 CFR 351.212(b)(1), we will calculate importer-specific ad valorem duty assessment rates based on the ratio of the total amount of the dumping margins calculated for the examined sales to the total entered value of those same sales. We will instruct CBP to assess antidumping duties on all appropriate entries covered by this review if any importer-specific assessment rate calculated in the final results of this review is above *de minimis*.

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final results of this administrative review for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(2)(C) of the Act: (1) For previously investigated or reviewed PRC and non-PRC exporters not listed above that have separate rates, the cash deposit rate will continue to be the exporter-specific rate published for the most recent period; (2) for all PRC exporters of subject merchandise which have not been found to be entitled to a separate rate (including Youngson), the cash deposit rate will be the PRC-wide rate of 108.30 percent; and (3) the cash deposit rate for all non-PRC exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to the PRC exporters that supplied that non-PRC exporter. These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

Notification to Importers

This notice serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

We are issuing and publishing this determination in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: June 12, 2006.

David M. Spooner,

Assistant Secretary for Import Administration.

[FR Doc. E6–9800 Filed 6–20–06; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

A–570–879

Polyvinyl Alcohol from the People's Republic of China: Amended Final Results of Administrative Review

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

SUMMARY: On May 15, 2006, the Department of Commerce (the ''Department'') published *Polyvinyl Alcohol from the People's Republic of China: Final Results of Antidumping Duty Administrative Review*, 71 FR 27991 (May 15, 2006) (''*Final Results*''), covering the period of review (''POR'') August 11, 2003, through September 30, 2004. We are amending the *Final Results* to correct a ministerial error made in the calculation of the dumping margin for Sinopec Sichuan Vinylon Works (''SVW''), pursuant to section 751(h) of the Tariff Act of 1930, as amended (''the Act'').

EFFECTIVE DATE: June 21, 2006.

FOR FURTHER INFORMATION CONTACT: Lilit Astvatsatrian, AD/CVD Operations, Office 8, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–6412.

SUPPLEMENTARY INFORMATION:

Scope of the Order

The merchandise covered by this order is PVA. This product consists of all PVA hydrolyzed in excess of 80 percent, whether or not mixed or diluted with commercial levels of defoamer or boric acid, except as noted below.

The following products are specifically excluded from the scope of this investigation:

1) PVA in fiber form.
2) PVA with hydrolysis less than 83 mole percent and certified not for use in the production of textiles.
3) PVA with hydrolysis greater than 85 percent and viscosity greater than or equal to 90 cps.
4) PVA with a hydrolysis greater than 85 percent, viscosity greater than or equal to 80 cps but less than 90 cps, certified for use in an ink jet application.
5) PVA for use in the manufacture of an excipient or as an excipient in the manufacture of film coating systems which are components of a drug or dietary supplement, and accompanied by an end–use certification.
6) PVA covalently bonded with cationic monomer uniformly present on all polymer chains in a concentration equal to or greater than one mole percent.
7) PVA covalently bonded with carboxylic acid uniformly present on all polymer chains in a concentration equal to or greater than two mole percent, certified for use in a paper application.
8) PVA covalently bonded with thiol uniformly present on all polymer chains, certified for use in emulsion polymerization of non–vinyl acetic material.
9) PVA covalently bonded with paraffin uniformly present on all polymer chains in a concentration equal to or greater than one mole percent.
10) PVA covalently bonded with silan uniformly present on all polymer chains certified for use in paper coating applications.
11) PVA covalently bonded with sulfonic acid uniformly present on all polymer chains in a concentration level equal to or greater than one mole percent.
12) PVA covalently bonded with acetoacetylate uniformly present on all polymer chains in a concentration level equal to or greater than one mole percent.
13) PVA covalently bonded with polyethylene oxide uniformly present on all polymer chains in a concentration level equal to or greater than one mole percent.
14) PVA covalently bonded with quaternary amine uniformly present on all polymer chains in a concentration level equal to or greater than one mole percent.
15) PVA covalently bonded with diacetoneacrylamide uniformly present on all polymer chains in a concentration level greater than three mole percent, certified for use in a paper application.

The merchandise subject to this order is currently classifiable under subheading 3905.30.00 of the *Harmonized Tariff Schedule of the United States* (''HTSUS''). Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the scope of this order is dispositive.

Background

On May 15, 2006, the Department published the *Final Results* in the **Federal Register**. On May 16, 2006, we received a ministerial error allegation from SVW. A ministerial error is defined in section 751(h) of the Act and further clarified in 19 CFR 351.224(f) as ''an error in addition, subtraction, or other arithmetic function, ministerial error resulting from inaccurate copying, duplication, or the like, and any other similar type of unintentional error which the Secretary considers ministerial.'' No other party filed a ministerial error allegation or a rebuttal comment. After analyzing SVW's comments, we agree that a ministerial error existed in the calculations in the *Final Results* with respect to SVW. As a result, we are amending the final results to revise the antidumping margin for SVW, in accordance with 19 CFR 351.224(e).

Allegation: Calculation Error for the Methanol Factor of Production

SVW argues that the Department made a ministerial error in calculating the methanol factor of production in its final results. SVW states that it properly reported all inputs used in the production of methanol. SVW alleges that the Department did not include the input 0.6 megapascal (''MPA'') steam by–product in the total factor value of methanol. SVW maintains that this error constitutes a ministerial error because the Department failed to add the input 0.6 MPA steam by–product to its calculation of methanol.

Petitioners and Solutia, Inc., a domestic producer of PVA, did not comment on this issue.

Department's Position: We agree with SVW that we inadvertently excluded 0.6 MPA steam by–product in calculating the total cost of methanol. It was our intention to sum all the inputs used in the production of methanol. In correcting this error, we also noticed that we did not add the input 0.6 MPA steam by–product in our second methanol calculation. For these amended final results, we have also corrected this inadvertent error. *See* the memorandum to the file from Lilit Astvatsatrian, Case Analyst, through Robert Bolling, Program Manager, ''Amended Final Analysis Memorandum for the Amended Final Results of Antidumping Review of the Order on Polyvinyl Alcohol (''PVA'') from the People's Republic of China,'' dated June 14, 2006. Therefore, for the amended final results, we have included the value of 0.6 MPA steam by–product in the calculation of self–produced methanol in all of our methanol calculations.

Amended Final Results

As a result of the correction of ministerial errors and amended margin calculations, the following weighted–average margin exists for SVW, for the period August 11, 2003, through September 30, 2004.

POLYVINYL ALCOHOL FROM THE PRC

Producer/Exporter	Weighted–Average Margin (Percent)
SVW	0.03*

* This rate is *de minimis*.

The Department shall determine, and U.S. Customs and Border Protection (''CBP'') shall assess, antidumping duties on all appropriate entries based on the amended final results. For details on the assessment of antidumping duties on all appropriate entries, *see Final Results*, 71 FR 27991, 27993.

These amended final results are published in accordance with sections 751(h) and 777(i)(1) of the Act.

Dated: June 14, 2006.

David M. Spooner,

Assistant Secretary for Import Administration.

[FR Doc. E6–9766 Filed 6–20–06; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

U.S. Travel and Tourism Advisory Board: Meeting of the U.S. Travel and Tourism Advisory Board

AGENCY: International Trade Administration, U.S. Department of Commerce.

ACTION: Notice of an Open Meeting.

SUMMARY: The U.S. Travel and Tourism Advisory Board (Board) will hold a meeting to discuss topics related to the travel and tourism industry. The Board was established on October 1, 2003, and reconstituted October 1, 2005, to advise the Secretary of Commerce on matters relating to the travel and tourism industry.

DATES: July 13, 2006. *Time:* 3:30 p.m. to 5 p.m. (CDT)

ADDRESSES: Specific location TBD, Chicago, Illinois. This program will be physically accessible to people with disabilities. Seating is limited and will be on a first come, first served basis. Requests for sign language interpretation, other auxiliary aids, or pre-registration, should be submitted no later than June 30, 2006, to J. Marc Chittum, U.S. Travel and Tourism Advisory Board, Room 4043, 1401 Constitution Avenue, NW., Washington, DC 20230, telephone 202–482–4501, *Marc.Chittum@mail.doc.gov.*

FOR FURTHER INFORMATION CONTACT: J. Marc Chittum, U.S. Travel and Tourism Advisory Board, Room 4043, 1401 Constitution Avenue, NW., Washington, DC, 20230, telephone: 202–482–4501, e-mail: *Marc.Chittum@mail.doc.gov.*

Dated: June 15, 2006.

Sarah Ellis,

Executive Secretary, U. S. Travel and Tourism Advisory Board.

[FR Doc. 06–5542 Filed 6–16–06; 9:32 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–201–822]

Stainless Steel Sheet and Strip in Coils from Mexico; Preliminary Results of Antidumping Duty Administrative Review

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

ACTION: Notice of Preliminary Results of Antidumping Duty Administrative Review.

SUMMARY: In response to requests from respondent ThyssenKrupp Mexinox S.A. de C.V. (Mexinox S.A.) and Mexinox USA, Inc. (Mexinox USA) (collectively, Mexinox) and petitioners,[1] the Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on stainless steel sheet and strip in coils (S4 in coils) from Mexico. This administrative review covers imports of subject merchandise from Mexinox S.A. during the period July 1, 2004, to June 30, 2005.

We preliminarily determine that sales of S4 in coils from Mexico have been made below normal value (NV). If these preliminary results are adopted in our final results of administrative review, we will instruct United States Customs and Border Protection (CBP) to assess antidumping duties based on the difference between the constructed export price (CEP) and NV. Interested parties are invited to comment on these preliminary results. Parties who submit argument in these proceedings are requested to submit with the argument: (1) A statement of the issues, (2) a brief summary of the argument, and (3) a table of authorities.

EFFECTIVE DATE: June 21, 2006.

FOR FURTHER INFORMATION CONTACT: Maryanne Burke or Robert James, AD/CVD Operations, Enforcement Office 7, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–5604 or (202) 482–0649, respectively.

SUPPLEMENTARY INFORMATION:

Background

On July 27, 1999, the Department published in the **Federal Register** the *Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order; Stainless Steel Sheet and Strip in Coils from Mexico*, 64 FR 40560 (July 27, 1999). On July 1, 2005, the Department published a notice entitled *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review*, covering *inter alia*, S4 in coils from Mexico for the period July 1, 2004, through June 30, 2005, 70 FR 38099 (July 1, 2005).

In accordance with 19 CFR 351.213(b)(1), Mexinox and petitioners requested that we conduct an administrative review. On August 29, 2005, we published in the **Federal Register** a notice of initiation of this antidumping duty administrative review covering the period July 1, 2004, through June 30, 2005. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part*, 70 FR 51009 (August 29, 2005).

On September 7, 2005, the Department issued an antidumping duty questionnaire to Mexinox. Mexinox submitted its response to section A of the questionnaire on September 29, 2005, and its response to sections B through E of the questionnaire on November 8, 2005. On January 27, 2006, the Department issued its first supplemental questionnaire[2] for sections A through C, as well as for section E, which pertains to an affiliated U.S. reseller, Ken–Mac Metals, Inc. (Ken–Mac). Mexinox responded to this first supplemental questionnaire on March 8, 2006. The Department also issued a supplemental questionnaire for section D on February 16, 2006, to which Mexinox submitted its response on March 21, 2006. On May 4, 2006, the Department issued a second supplemental questionnaire for sections A through C, and Mexinox filed its response on May 23, 2006.

Because it was not practicable to complete this review within the normal time frame, on March 10, 2006, we published in the **Federal Register** our notice of the extension of time limits for this review. *Stainless Steel Sheet and Strip in Coils from Mexico; Extension of Time Limit for Preliminary Results of Antidumping Duty Administrative Review*, 71 FR 12343 (March 10, 2006). This extension established the deadline for these preliminary results as June 14, 2006.

Period of Review

The period of review (POR) is July 1, 2004, through June 30, 2005.

Scope of the Order

For purposes of this order, the products covered are certain stainless steel sheet and strip in coils. Stainless steel is an alloy steel containing, by weight, 1.2 percent or less of carbon and 10.5 percent or more of chromium, with or without other elements. The subject sheet and strip is a flat–rolled product in coils that is greater than 9.5 mm in width and less than 4.75 mm in thickness, and that is annealed or otherwise heat treated and pickled or

[1] Petitioners are Allegheny Ludlum Corporation, North American Stainless, United Auto Workers Local 3303, Zanesville Armco Independent Organization, Inc. and the United Steelworkers of America, AFL-CIO/CLC.

[2] On February 6, 2006, the Department issued a revised version of the January 27, 2006, supplemental questionnaire correcting specific invoice numbers with respect to certain questions.

otherwise descaled. The subject sheet and strip may also be further processed (*e.g.*, cold–rolled, polished, aluminized, coated, *etc.*) provided that it maintains the specific dimensions of sheet and strip following such processing.

The merchandise subject to this order is currently classifiable in the Harmonized Tariff Schedule of the United States (HTSUS) at subheadings: 7219.13.00.31, 7219.13.00.51, 7219.13.00.71, 7219.13.00.81, 7219.14.00.30, 7219.14.00.65, 7219.14.00.90, 7219.32.00.05, 7219.32.00.20, 7219.32.00.25, 7219.32.00.35, 7219.32.00.36, 7219.32.00.38, 7219.32.00.42, 7219.32.00.44, 7219.33.00.05, 7219.33.00.20, 7219.33.00.25, 7219.33.00.35, 7219.33.00.36, 7219.33.00.38, 7219.33.00.42, 7219.33.00.44, 7219.34.00.05, 7219.34.00.20, 7219.34.00.25, 7219.34.00.30, 7219.34.00.35, 7219.35.00.05, 7219.35.00.15, 7219.35.00.30, 7219.35.00.35, 7219.90.00.10, 7219.90.00.20, 7219.90.00.25, 7219.90.00.60, 7219.90.00.80, 7220.12.10.00, 7220.12.50.00, 7220.20.10.10, 7220.20.10.15, 7220.20.10.60, 7220.20.10.80, 7220.20.60.05, 7220.20.60.10, 7220.20.60.15, 7220.20.60.60, 7220.20.60.80, 7220.20.70.05, 7220.20.70.10, 7220.20.70.15, 7220.20.70.60, 7220.20.70.80, 7220.20.80.00, 7220.20.90.30, 7220.20.90.60, 7220.90.00.10, 7220.90.00.15, 7220.90.00.60, and 7220.90.00.80. Although the HTSUS subheadings are provided for convenience and customs purposes, the Department's written description of the merchandise under review is dispositive.

Excluded from the scope of this order are the following: (1) Sheet and strip that is not annealed or otherwise heat treated and pickled or otherwise descaled; (2) sheet and strip that is cut to length; (3) plate (*i.e.*, flat–rolled stainless steel products of a thickness of 4.75 mm or more); (4) flat wire (*i.e.*, cold–rolled sections, with a prepared edge, rectangular in shape, of a width of not more than 9.5 mm); and 5) razor blade steel. Razor blade steel is a flat–rolled product of stainless steel, not further worked than cold–rolled (cold–reduced), in coils, of a width of not more than 23 mm and a thickness of 0.266 mm or less, containing, by weight, 12.5 to 14.5 percent chromium, and certified at the time of entry to be used in the manufacture of razor blades. *See* Chapter 72 of the HTSUS, ''Additional U.S. Note'' 1(d).

In response to comments by interested parties, the Department has determined that certain specialty stainless steel products are also excluded from the scope of this order. These excluded products are described below.

Flapper valve steel is defined as stainless steel strip in coils containing, by weight, between 0.37 and 0.43 percent carbon, between 1.15 and 1.35 percent molybdenum, and between 0.20 and 0.80 percent manganese. This steel also contains, by weight, phosphorus of 0.025 percent or less, silicon of between 0.20 and 0.50 percent, and sulfur of 0.020 percent or less. The product is manufactured by means of vacuum arc remelting, with inclusion controls for sulphide of no more than 0.04 percent and for oxide of no more than 0.05 percent. Flapper valve steel has a tensile strength of between 210 and 300 ksi, yield strength of between 170 and 270 ksi, plus or minus 8 ksi, and a hardness (Hv) of between 460 and 590. Flapper valve steel is most commonly used to produce specialty flapper valves for compressors.

Also excluded is a product referred to as suspension foil, a specialty steel product used in the manufacture of suspension assemblies for computer disk drives. Suspension foil is described as 302/304 grade or 202 grade stainless steel of a thickness between 14 and 127 microns, with a thickness tolerance of plus–or-minus 2.01 microns, and surface glossiness of 200 to 700 percent Gs. Suspension foil must be supplied in coil widths of not more than 407 mm, and with a mass of 225 kg or less. Roll marks may only be visible on one side, with no scratches of measurable depth. The material must exhibit residual stresses of 2 mm maximum deflection, and flatness of 1.6 mm over 685 mm length.

Certain stainless steel foil for automotive catalytic converters is also excluded from the scope of this order. This stainless steel strip in coils is a specialty foil with a thickness of between 20 and 110 microns used to produce a metallic substrate with a honeycomb structure for use in automotive catalytic converters. The steel contains, by weight, carbon of no more than 0.030 percent, silicon of no more than 1.0 percent, manganese of no more than 1.0 percent, chromium of between 19 and 22 percent, aluminum of no less than 5.0 percent, phosphorus of no more than 0.045 percent, sulfur of no more than 0.03 percent, lanthanum of between 0.002 and 0.05 percent, and total rare earth elements of more than 0.06 percent, with the balance iron.

Permanent magnet iron–chromium-cobalt alloy stainless strip is also excluded from the scope of this order. This ductile stainless steel strip contains, by weight, 26 to 30 percent chromium, and 7 to 10 percent cobalt, with the remainder of iron, in widths 228.6 mm or less, and a thickness between 0.127 and 1.270 mm. It exhibits magnetic remanence between 9,000 and 12,000 gauss, and a coercivity of between 50 and 300 oersteds. This product is most commonly used in electronic sensors and is currently available under proprietary trade names such as ''Arnokrome III.''[3]

Certain electrical resistance alloy steel is also excluded from the scope of this order. This product is defined as a non–magnetic stainless steel manufactured to American Society of Testing and Materials (ASTM) specification B344 and containing, by weight, 36 percent nickel, 18 percent chromium, and 46 percent iron, and is most notable for its resistance to high temperature corrosion. It has a melting point of 1390 degrees Celsius and displays a creep rupture limit of 4 kilograms per square millimeter at 1000 degrees Celsius. This steel is most commonly used in the production of heating ribbons for circuit breakers and industrial furnaces, and in rheostats for railway locomotives. The product is currently available under proprietary trade names such as ''Gilphy 36.''[4]

Certain martensitic precipitation–hardenable stainless steel is also excluded from the scope of this order. This high–strength, ductile stainless steel product is designated under the Unified Numbering System (UNS) as S45500–grade steel, and contains, by weight, 11 to 13 percent chromium, and 7 to 10 percent nickel. Carbon, manganese, silicon and molybdenum each comprise, by weight, 0.05 percent or less, with phosphorus and sulfur each comprising, by weight, 0.03 percent or less. This steel has copper, niobium, and titanium added to achieve aging, and will exhibit yield strengths as high as 1700 Mpa and ultimate tensile strengths as high as 1750 Mpa after aging, with elongation percentages of 3 percent or less in 50 mm. It is generally provided in thicknesses between 0.635 and 0.787 mm, and in widths of 25.4 mm. This product is most commonly used in the manufacture of television tubes and is currently available under proprietary trade names such as ''Durphynox 17.''[5]

Finally, three specialty stainless steels typically used in certain industrial blades and surgical and medical instruments are also excluded from the

[3] ''Arnokrome III'' is a trademark of the Arnold Engineering Company.

[4] ''Gilphy 36'' is a trademark of Imphy, S.A.

[5] ''Durphynox 17'' is a trademark of Imphy, S.A.

scope of this order. These include stainless steel strip in coils used in the production of textile cutting tools (*e.g.*, carpet knives).[6] This steel is similar to ASTM grade 440F, but containing, by weight, 0.5 to 0.7 percent of molybdenum. The steel also contains, by weight, carbon of between 1.0 and 1.1 percent, sulfur of 0.020 percent or less, and includes between 0.20 and 0.30 percent copper and between 0.20 and 0.50 percent cobalt. This steel is sold under proprietary names such as ''GIN4 Mo.'' The second excluded stainless steel strip in coils is similar to AISI 420–J2 and contains, by weight, carbon of between 0.62 and 0.70 percent, silicon of between 0.20 and 0.50 percent, manganese of between 0.45 and 0.80 percent, phosphorus of no more than 0.025 percent and sulfur of no more than 0.020 percent. This steel has a carbide density on average of 100 carbide particles per square micron. An example of this product is ''GIN5'' steel. The third specialty steel has a chemical composition similar to AISI 420 F, with carbon of between 0.37 and 0.43 percent, molybdenum of between 1.15 and 1.35 percent, but lower manganese of between 0.20 and 0.80 percent, phosphorus of no more than 0.025 percent, silicon of between 0.20 and 0.50 percent, and sulfur of no more than 0.020 percent. This product is supplied with a hardness of more than Hv 500 guaranteed after customer processing, and is supplied as, for example, ''GIN6.''[7]

Sales Made Through Affiliated Resellers

A. U.S. Market

Mexinox USA, a wholly–owned subsidiary of Mexinox S.A., which in turn is a subsidiary of ThyssenKrupp AG, sold subject merchandise in the United States during the POR to unaffiliated customers. Mexinox USA also made sales of subject merchandise to an affiliated company, Ken–Mac, located in the United States. Ken–Mac is an operating division of ThyssenKrupp Materials Inc., which is a subsidiary of ThyssenKrupp USA, Inc. (TKUSA), the primary holding company for ThyssenKrupp AG in the U.S. market. Ken–Mac purchased subject merchandise from Mexinox USA and further manufactured and/or resold the subject merchandise to unaffiliated customers in the United States. *See* Mexinox's September 29, 2005, questionnaire response at A–10, A–18 and A–38 through A–39. For purposes of this review, we have included both Mexinox USA's and Ken–Mac's sales of subject merchandise to unaffiliated customers in the United States in our margin calculation.

B. Home Market

Mexinox Trading, S.A. de C.V. (Mexinox Trading), a wholly–owned subsidiary of Mexinox S.A., resold the foreign like product as well as other merchandise in the home market. Mexinox S.A.'s sales to Mexinox Trading represented a small portion of Mexinox S.A.'s total sales of the foreign like product in the home market and constituted less than five percent of all home market sales. *See*, *e.g.*, Mexinox's September 29, 2005, questionnaire response at A–3 to A–4 and its March 8, 2006, supplemental questionnaire response at Attachment A–12 (quantity and value chart). Because sales to Mexinox Trading of the foreign like product were below the five percent threshold established under 19 CFR 351.403(d), we did not require Mexinox S.A. to report Mexinox Trading's downstream sales to its first unaffiliated customer. This is consistent to date with our practice and the methodology we have employed in past administrative reviews of S4 in coils from Mexico. *See*, *e.g.*, *Stainless Steel Sheet and Strip in Coils from Mexico; Final Results of Antidumping Duty Administrative Review*, 70 FR 73444 (December 12, 2005) and accompanying Issues and Decisions Memorandum at Comment 2 (*2003–2004 Final Results*).

Fair Value Comparisons

To determine whether sales of S4 in coils from Mexico to the United States were made at less than fair value, we compared CEP sales made in the United States by Mexinox USA to unaffiliated purchasers, to NV as described in the ''Constructed Export Price'' and ''Normal Value'' sections of this notice, below. In accordance with section 777A(d)(2) of the Tariff Act of 1930, as amended (the Tariff Act), we compared individual CEPs to monthly weighted–average NVs.

Product Comparisons

In accordance with section 771(16) of the Tariff Act we considered all products produced by Mexinox S.A. covered by the description in the ''Scope of the Review'' section, above, and sold in the home market during the POR, to be foreign like products for purposes of determining appropriate product comparisons to U.S. sales. We relied on nine characteristics to match U.S. sales of subject merchandise to comparison sales of the foreign like product (listed in order of priority): (1) Grade; (2) cold/hot rolled; (3) gauge; (4) surface finish; (5) metallic coating; (6) non–metallic coating; (7) width; (8) temper; and (9) edge trim. Where there were no sales of identical merchandise in the home market to compare to U.S. sales, we compared U.S. sales to the next most similar foreign like product on the basis of the characteristics and reporting instructions listed in the Department's September 7, 2005, questionnaire.

Level of Trade

In accordance with section 773(a)(1)(B) of the Tariff Act, to the extent practicable, we base NV on sales made in the comparison market at the same level of trade (LOT) as the export transaction. The NV LOT is defined as the starting–price sales in the home market or, when NV is based on constructed value (CV), as the sales from which selling, general, and administrative (SG&A) expenses and profit are derived. With respect to CEP transactions in the U.S. market, the CEP LOT is defined as the level of the constructed sale from the exporter to the importer. *See* section 773(a)(7)(A) of the Tariff Act.

To determine whether NV sales are at a different LOT than CEP sales, we examine stages in the marketing process and selling functions along the chain of distribution between the producer and the unaffiliated customer. *See* 19 CFR 351.412(c)(2). If the comparison–market sales are at a different LOT, and the difference affects price comparability, as manifested in a pattern of consistent price differences between the sales on which NV is based and comparison–market sales at the LOT of the export transaction, we make a LOT adjustment under section 773(a)(7)(A) of the Tariff Act. For CEP sales, if the NV level is more remote from the factory than the CEP level and there is no basis for determining whether the difference in the levels between NV and CEP affects price comparability, we adjust NV under section 773(a)(7)(B) of the Tariff Act (the CEP offset provision). *See*, *e.g.*, *Final Determination of Sales at Less Than Fair Value: Greenhouse Tomatoes From Canada*, 67 FR 8781 (February 26, 2002) and accompanying Issues and Decisions Memorandum at Comment 8; *see also Certain Hot–Rolled Flat–Rolled Carbon Quality Steel Products from Brazil; Preliminary Results of Antidumping Duty Administrative Review*, 70 FR 17406, 17410 (April 6, 2005); unchanged in *Notice of Final Results of Antidumping Duty Administrative Review of Certain Hot–*

[6] This list of uses is illustrative and provided for descriptive purposes only.

[7] ''GIN4 Mo,'' ''GIN5'' and ''GIN6'' are the proprietary grades of Hitachi Metals America, Ltd.

Rolled Flat–Rolled Carbon Quality Steel Products from Brazil, 70 FR 58683 (October 7, 2005). For CEP sales, we consider only the selling activities reflected in the price after the deduction of expenses and CEP profit under section 772(d) of the Tariff Act. *See Micron Technology, Inc. v. United States*, 243 F.3d 1301, 1314–1315 (Fed. Cir. 2001). We expect that if the claimed LOTs are the same, the functions and activities of the seller should be similar. Conversely, if a party claims that the LOTs are different for different groups of sales, the functions and activities of the seller should be dissimilar. *See Porcelain–on-Steel Cookware from Mexico: Final Results of Administrative Review*, 65 FR 30068 (May 10, 2000) and accompanying Issues and Decisions Memorandum at Comment 6 .

We obtained information from Mexinox regarding the marketing stages involved in making its reported foreign market and U.S. sales to both affiliated and unaffiliated customers. Mexinox provided a description of all selling activities performed, along with a flowchart and tables comparing the levels of trade among each channel of distribution and customer category for both markets. *See* Mexinox's September 29, 2005, questionnaire response at A–30 through A–35 and Attachments A–4–A through A–4–C; *see also* Mexinox's March 8, 2006, supplemental questionnaire response at Attachment A–18. Mexinox sold S4 in coils to end–users and retailers/distributors in the home market and to end–users and distributors/service centers in the United States.

For the home market, Mexinox identified two channels of distribution described as follows: (1) Direct shipments (*i.e.*, products produced to order) and (2) sales from inventory. Within each of these two channels of distribution, Mexinox S.A. made sales to affiliated and unaffiliated distributors/retailers and end–users. *See* Mexinox's September 29, 2005, questionnaire response at A–3 and A–22 through A–23. We reviewed the performance intensity of all selling functions with respect to channel of distribution and customer category. In certain activities, such as pre–sale technical assistance, processing of customer orders, sample analysis, prototypes and trial lots, freight and delivery, price negotiation/customer communications, sales calls and visits and warranty services, the level of performance for both direct shipments and sales through inventory was identical across all types of customers. Only a few functions exhibited differences, including inventory maintenance/just–in-time performance, further processing, credit collection, low volume orders and shipment of small packages. *See* Mexinox's March 8, 2006, supplemental questionnaire response at Attachment A–18. In regards to Mexinox S.A.'s affiliated home market reseller, Mexinox Trading, only credit collection differed in comparison to Mexinox S.A.'s performance to unaffiliated distributors/retailers. While we find differences in the levels of intensity performed for some of these functions, such differences are minor and do not establish distinct, multiple levels of trade in Mexico. Based on our analysis of all of Mexinox S.A.'s home market selling functions, we find all home market sales were made at the same LOT, the NV LOT.

We then compared the NV LOT, based on the selling activities associated with the transactions between Mexinox S.A. and its unaffiliated customers in the home market, to the CEP LOT, which is based on the selling activities associated with the transaction between Mexinox S.A. and its affiliated importer, Mexinox USA. Our analysis indicates the selling functions performed for home market customers are either performed at a higher degree of intensity or are greater in number than the selling functions performed for Mexinox USA. For example, in comparing Mexinox's selling activities, we find there are more functions performed in the home market which are not a part of CEP transactions (*e.g.*, pre–sale technical assistance, sample analysis, prototypes and trial lots, price negotiation/customer communications, inventory maintenance, just–in-time performance, sales calls and visits, and warranty services). For selling activities performed for both home market sales and CEP sales (*e.g.*, processing customer orders, freight and delivery arrangements), we find Mexinox S.A. actually performed each activity at a higher level of intensity in the home market. We note that CEP sales from Mexinox S.A. to Mexinox USA generally occur at the beginning of the distribution chain, representing essentially a logistical transfer of inventory that resembles ex–factory sales. In contrast, all sales in the home market occur closer to the end of the distribution chain and involve smaller volumes and more customer interaction which, in turn, require the performance of more selling functions. *See* Mexinox's September 29, 2005, questionnaire response at A–31 through A–35 and Attachments A–4–A through A–4–C; *see also* Mexinox's March 8, 2006, supplemental questionnaire response at Attachment A–18. Based on the foregoing, we conclude that the NV LOT is at a more advanced stage than the CEP LOT.

Because we found the home market and U.S. sales were made at different LOTs, we examined whether a LOT adjustment or a CEP offset may be appropriate in this review. As we found only one LOT in the home market, it was not possible to make a LOT adjustment to home market sales, because such an adjustment is dependent on our ability to identify a pattern of consistent price differences between the home market sales on which NV is based and home market sales at the LOT of the export transaction. *See* 19 CFR 351.412(d)(1)(ii). Furthermore, we have no other information that provides an appropriate basis for determining a LOT adjustment. Because the data available do not form an appropriate basis for making a LOT adjustment, and because the NV LOT is at a more advanced stage of distribution than the CEP LOT, we have made a CEP offset to NV in accordance with section 773(a)(7)(B) of the Tariff Act.

Constructed Export Price

Mexinox indicated it made CEP sales through its U.S. affiliate, Mexinox USA, through the following four channels of distribution: (1) Direct shipments to unaffiliated customers; (2) stock sales from the San Luis Potosi (SLP) factory; (3) sales to unaffiliated customers through Mexinox USA's inventory/warehouses; and (4) sales through Ken–Mac. *See* Mexinox's September 29, 2005, questionnaire response at A–23 through A–25. Ken–Mac is an affiliated service center located in the United States which purchases S4 in coils produced by Mexinox S.A. and then resells the merchandise (after, in some instances, further manufacturing) to unaffiliated U.S. customers.

In accordance with section 772(b) of the Tariff Act, CEP is the price at which the subject merchandise is first sold (or agreed to be sold) in the United States before or after the date of importation by or for the account of the producer or exporter of such merchandise, or by a seller affiliated with the producer or exporter, to a purchaser not affiliated with the producer or exporter. We find Mexinox properly classified all of its U.S. sales of subject merchandise as CEP transactions because such sales were made in the United States by Mexinox S.A.'s affiliate, Mexinox USA, to unaffiliated purchasers. We based CEP on packed prices to unaffiliated purchasers in the United States sold by Mexinox USA or its affiliated processor

Ken Mac. We made adjustments for billing adjustments, discounts and rebates, and commissions, where applicable. We also made deductions for movement expenses in accordance with section 772(c)(2)(A) of the Tariff Act. These expenses included, where appropriate: foreign inland freight, foreign brokerage and handling, inland insurance, U.S. customs duties, U.S. inland freight, U.S. brokerage, and U.S. warehousing expenses. As directed by section 772(d)(1) of the Tariff Act, we deducted those selling expenses associated with economic activities occurring in the United States, including direct selling expenses (*i.e.*, credit costs, warranty expenses, and another expense not subject to public disclosure), inventory carrying costs, and other indirect selling expenses. We also made an adjustment for profit in accordance with section 772(d)(3) of the Tariff Act. We used the adjustments as reported by Mexinox, with the exception of the U.S. indirect selling expense ratio which we recalculated. *See* Analysis of Data Submitted by ThyssenKrupp Mexinox S.A. de C.V. for the Preliminary Results of the Antidumping Duty Administrative Review of S4 in Coils from Mexico (Preliminary Analysis Memorandum) from Maryanne Burke to the File dated June 14, 2006.

For sales in which the material was sent to an unaffiliated U.S. processor, we made an adjustment based on the transaction–specific further–processing expenses incurred by Mexinox USA. In addition, the U.S. affiliated reseller Ken–Mac performed some further manufacturing for its sales to unaffiliated U.S. customers. For these sales, we deducted the cost of further processing in accordance with section 772(d)(2) of the Tariff Act. In calculating the cost of further manufacturing for Ken–Mac, we relied upon Ken–Mac's reported cost of further manufacturing materials, labor and overhead. We also included amounts for further manufacturing general and administrative expenses (G&A), as reported in the March 21, 2006, supplemental section D questionnaire response, and revised financial expense ratio (INTEX). *See* the Department's Cost of Production and Constructed Value Calculation Adjustments for the Preliminary Results - ThyssenKrupp Mexinox S.A. de C.V. from Margaret Pusey to Neal M. Halper, dated June 14, 2006 (Cost Calculation Memorandum), and Preliminary Analysis Memorandum.

Normal Value

A. Selection of Comparison Market

To determine whether there is a sufficient volume of sales in the home market to serve as a viable basis for calculating NV (*i.e.*, the aggregate volume of home market sales of the foreign like product is greater than five percent of the aggregate volume of U.S. sales), we compared Mexinox's volume of home market sales of the foreign like product to the volume of its U.S. sales of the subject merchandise, in accordance with section 773(a)(1)(B) of the Tariff Act. Because Mexinox's aggregate volume of home market sales of the foreign like product was greater than five percent of its aggregate volume of U.S. sales for subject merchandise, we determined the home market was viable. *See*, *e.g.*, Mexinox's March 8, 2006, supplemental questionnaire response at Attachment A–12.

B. Affiliated–Party Transactions and Arm's–Length Test

Sales to affiliated customers in the home market not made at arm's–length prices are excluded from our analysis because we consider them to be outside the ordinary course of trade. *See* section 773(f)(2) of the Tariff Act; *see*, *also* 19 CFR 351.102(b). Consistent with 19 CFR 351.403(c) and (d) and agency practice to date, ''the Department may calculate NV based on sales to affiliates if satisfied that the transactions were made at arm's length.'' *See China Steel Corp. v. United States*, 264 F. Supp. 2d 1339, 1365 (CIT 2003). To test whether the sales to affiliates were made at arm's–length prices, we compared on a model–specific basis, the starting prices of sales to affiliated and unaffiliated customers, net of all direct selling expenses, discounts and rebates, movement charges and packing. Where prices to the affiliated party were, on average, within a range of 98 to 102 percent of the price of identical or comparable merchandise to the unaffiliated parties, we determined that the sales made to the affiliated party were at arm's length. *See Antidumping Proceedings: Affiliated Party Sales in the Ordinary Course of Trade*, 67 FR 69186, 69194 (November 15, 2002). We found one affiliated home market customer failed the arm's length test and, in accordance with the Department's practice, we excluded sales to this affiliate from our analysis.

C. Cost of Production Analysis

Because we disregarded sales of certain products made at prices below the cost of production (COP) in the most recently completed review of S4 in coils from Mexico (*see Stainless Steel Sheet and Strip in Coils from Mexico; Preliminary Results of Antidumping Duty Administrative Review*, 69 FR 47905, 47909 (August 6, 2004); unchanged in *Stainless Steel Sheet and Strip in Coils from Mexico; Final Results of Antidumping Duty Administrative Review*, 70 FR 3677 (January 26, 2005) (*2002–2003 Final Results*), we had reasonable grounds to believe or suspect that sales of the foreign like product under consideration for the determination of NV in this review for Mexinox may have been made at prices below the COP, as provided by section 773(b)(2)(A)(ii) of the Tariff Act. Pursuant to section 773(b)(1) of the Tariff Act, we initiated a COP investigation of sales by Mexinox.

We adjusted material costs from the transfer price to market price in accordance with section 773(f)(2) of the Act. We also recalculated Mexinox's G&A to include employee profit sharing in the numerator and exclude production and planning and market administration expenses from the cost of goods sold denominator. In addition, we revised INTEX to exclude the interest income offset for accounts receivable and miscellaneous net financial expenses and adjusted ThyssenKrupp AG's cost of goods sold to exclude packing expenses. *See* Cost Calculation Memorandum and Preliminary Analysis Memorandum. We added material and fabrication costs for the foreign like product, plus amounts for SG&A and packing costs, in accordance with section 773(b)(3) of the Tariff Act. To determine whether these sales had been made at prices below the COP, we computed weighted–average COPs during the POR, and compared the weighted–average COP figures to home market sales prices of the foreign like product as required under section 773(b) of the Tariff Act. On a product–specific basis, we compared the COP to the home market prices net of billing adjustments, discounts and rebates, any applicable movement charges, selling expenses and packing expenses.

In determining whether to disregard home market sales made at prices below the COP, we examined, in accordance with sections 773(b)(1)(A) and (B) of the Tariff Act, whether, within an extended period of time, such sales were made in substantial quantities, and whether such sales were made at prices which permitted the recovery of all costs within a reasonable period of time in the normal course of trade. Where less than 20 percent of the respondent's home market sales of a given model were at prices below the COP, we did not disregard any below–cost sales of

that model because we determined that the below–cost sales were not made within an extended period of time and in ''substantial quantities.'' Where 20 percent or more of the respondent's home market sales of a given model were at prices less than the COP, we disregarded the below–cost sales because: (1) they were made within an extended period of time in ''substantial quantities,'' in accordance with sections 773(b)(2)(B) and (C) of the Tariff Act; and (2) based on our comparison of prices to the weighted–average COPs for the POR, they were at prices which would not permit the recovery of all costs within a reasonable period of time, in accordance with section 773(b)(2)(D) of the Tariff Act.

Our cost test for Mexinox revealed that, for home market sales of certain models, less than 20 percent of the sales of those models were at prices below the COP. We therefore retained all such sales in our analysis and used them as the basis for determining NV. Our cost test also indicated that for home market sales of other models, more than 20 percent were sold at prices below the COP within an extended period of time and were at prices which would not permit the recovery of all costs within a reasonable period of time. Thus, in accordance with section 773(b)(1) of the Tariff Act, we excluded these below–cost sales from our analysis and used the remaining above–cost sales as the basis for determining NV.

D. Constructed Value

In accordance with section 773(e) of the Tariff Act, we calculated CV based on the sum of Mexinox's material and fabrication costs, SG&A expenses, profit, and U.S. packing costs. We calculated the COP component of CV as described above in the ''Cost of Production Analysis'' section of this notice. In accordance with section 773(e)(2)(A) of the Tariff Act, we based SG&A expenses and profit on the amounts incurred and realized by the respondent in connection with the production and sale of the foreign like product in the ordinary course of trade, for consumption in the foreign country.

E. Price–to-Price Comparisons

We calculated NV based on prices to unaffiliated customers or prices to affiliated customers we determined to be at arm's length. Mexinox S.A. reported home market sales in Mexican pesos, but noted certain home market sales were invoiced in U.S. dollars during the POR. *See* Mexinox's November 8, 2005, questionnaire response at B–26. In our margin calculation we used the currency of the sale invoice at issue and applied relevant adjustments in the currency invoiced or incurred by Mexinox. We accounted for billing adjustments, discounts, rebates and interest revenue, where appropriate. We made deductions, where appropriate, for foreign inland freight, insurance, handling, and warehousing, pursuant to section 773(a)(6)(B) of the Tariff Act. In addition, we made adjustments for differences in cost attributable to differences in physical characteristics of the merchandise compared pursuant to section 773(a)(6)(C)(ii) of the Tariff Act and 19 CFR 351.411. We also made adjustments for differences in circumstances of sale (COS) in accordance with section 773(a)(6)(C)(iii) of the Tariff Act and 19 CFR 351.410. We made COS adjustments for imputed credit expenses and warranty expenses. As noted above in the ''Level of Trade'' section of this notice, we also made an adjustment for the CEP offset in accordance with section 773(a)(7)(B) of the Tariff Act. Finally, we deducted home market packing costs and added U.S. packing costs in accordance with sections 773(a)(6)(A) and (B) of the Tariff Act.

We used Mexinox's adjustments and deductions as reported, except for certain handling expenses and imputed credit expenses. We have recalculated the handling expenses incurred by home market affiliate, Mexinox Trading, and applied the revised ratio to those home market sales where Mexinox reported a handling expense. We calculated imputed credit expenses based on the short–term borrowing rate associated with the currency of each home market sale transaction. *See* Preliminary Analysis Memorandum. Our methodology for calculating handling charges and imputed credit expenses are consistent with past administrative reviews of this case. *See, e.g., 2003–2004 Final Results*, 70 FR 73444 and accompanying Issues and Decisions Memorandum at Comment 1.

F. Price–to-CV Comparisons

If we were unable to find a home market match of such or similar merchandise, in accordance with section 773(a)(4) of the Tariff Act, we based NV on CV. Where appropriate, we made adjustments to CV in accordance with section 773(a)(8) of the Tariff Act.

Facts Available

In accordance with section 776(a)(1) of the Tariff Act, for these preliminary results we find it necessary to use partial facts available in those instances where the respondent did not provide certain information necessary to conduct our analysis.

In our September 7, 2005, questionnaire at G–6, we requested that Mexinox provide sales and cost data for all affiliates involved with the production or sale of the merchandise under review during the POR in both home and U.S. markets. In its September 29, 2005, questionnaire response at A–2, Mexinox indicated that its affiliated reseller, Ken–Mac, sold subject merchandise in the United States during the POR which it had purchased from various suppliers, both affiliated and unaffiliated. In its November 8, 2005, submission at KMC–2 and KMC–3, Mexinox provided data related to Ken–Mac's resales of subject merchandise to unaffiliated customers in the United States and notified the Department that a small subset of sale transactions could not be traced to an original stock item or supplier. In its supplemental questionnaire response dated March 8, 2006, Mexinox reported those sale transactions (unattributed sales) where the origin of the original stock item could not be determined. *See* Mexinox's March 8, 2006, supplemental questionnaire response at 71.

Because of the unknown origin of certain of Ken–Mac resales, Mexinox was not able to provide all the information necessary to complete our analysis. Pursuant to section 776(a)(1) of the Tariff Act, it is appropriate to use the facts otherwise available in calculating a margin on Ken–Mac's unattributed sales. Section 776(a)(1) of the Tariff Act provides that the Department will, subject to section 782(d) of the Tariff Act, use the facts otherwise available in reaching a determination if ''necessary information is not available on the record.'' For these preliminary results, we have calculated a margin on Ken–Mac's unattributed sales by applying the overall margin calculated on Mexinox's other U.S. sales of subject merchandise to the weighted–average price of Ken–Mac's unattributed sales. This methodology is consistent to date with that employed in past administrative reviews of S4 in coils from Mexico. *See, e.g., Stainless Steel Sheet and Strip in Coils from Mexico; Preliminary Results of Antidumping Duty Administrative Review*, 70 FR 45675, 45681 (August 8, 2005); unchanged in *2003–2004 Final Results*.

Prior to applying the overall margin calculated on other sales/resales of subject merchandise to Ken–Mac's unattributed sales, we calculated the portion of the unattributed sales quantity that could be reasonably allocated to subject stainless steel merchandise purchased from Mexinox.

We based our allocation on the relative percentage (by volume) of subject stainless steel merchandise that Ken–Mac had purchased from Mexinox as compared to the total stainless steel merchandise it had purchased from all vendors. See Mexinox's March 8, 2006, supplemental questionnaire response at Attachment KMC–12. The Department finds that Mexinox, to the best of its ability, complied with the Department's request for information; thus, the application of an adverse inference, as provided under section 776(b) of the Tariff Act, is not warranted in calculating a margin on Ken–Mac's unattributed sales.

Currency Conversion

We made currency conversions into U.S. dollars based on the exchange rates in effect on the dates of the U.S. sales, as certified by the Federal Reserve Bank, in accordance with section 773A(a) of the Tariff Act.

Preliminary Results of Review

As a result of our review we preliminarily determine the following weighted–average dumping margin exists for the period July 1, 2003 through June 30, 2004:

Manufacturer / Exporter	Weighted Average Margin (percentage)
ThyssenKrupp Mexinox S.A. de C.V.	1.22%

The Department will disclose calculations performed within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b). An interested party may request a hearing within thirty days of publication of these preliminary results. *See* 19 CFR 351.310(c). Any hearing, if requested, will be held 37 days after the date of publication, or the first business day thereafter, unless the Department alters the date per 19 CFR 351.310(d). Interested parties may submit case briefs no later than 30 days after the date of publication of these preliminary results of review. *See* 19 CFR 351.309 (c). Rebuttal briefs limited to issues raised in the case briefs, may be filed no later than 35 days after the date of publication of this notice. *See* 19 CFR 351.309(d). Parties who submit argument in these proceedings are requested to submit with the argument: (1) A statement of the issue, (2) a brief summary of the argument and (3) a table of authorities. Further, parties submitting case briefs and/or rebuttal briefs are requested to provide the Department with an additional copy of the public version of any such argument on diskette. The Department will issue final results of this administrative review, including the results of our analysis of the issues in any such argument or at a hearing, within 120 days of publication of these preliminary results.

Duty Assessment

Upon completion of this administrative review, the Department shall determine, and United States Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries. In accordance with 19 CFR 351.212(b)(1), we will calculate importer–specific *ad valorem* assessment rates for the merchandise based on the ratio of the total amount of antidumping duties calculated for the examined sales made during the POR to the total customs value of the sales used to calculate those duties. The total customs value is based on the entered value reported by Mexinox for all U.S. entries of subject merchandise initially purchased for consumption to the United States made during the POR. *See* Preliminary Analysis Memorandum. In accordance with 19 CFR 356.8(a), the Department will issue appropriate assessment instructions directly to CBP on or after 41 days following the publication of the final results of review.

The Department clarified its ''automatic assessment'' regulation on May 6, 2003. *See Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties*, 68 FR 23954 (May 6, 2003). This clarification will apply to entries of subject merchandise during the POR produced by the company included in these preliminary results for which the reviewed company did not know their merchandise was destined for the United States. In such instances, we will instruct CBP to liquidate unreviewed entries at the all–others rate if there is no rate for the intermediate company or companies involved in the transaction.

Cash Deposit Requirements

Furthermore, the following cash deposit requirements will be effective for all shipments of S4 in coils from Mexico entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(2)(C) of the Tariff Act: (1) the cash deposit rate for the reviewed company will be the rate established in the final results of this review, except if the rate is less than 0.50 percent (*de minimis* within the meaning of 19 CFR 351.106(c)(1)), the cash deposit will be zero; (2) for previously investigated companies not listed above, the cash deposit rate will continue to be the company–specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, or the original less than fair value (LTFV) investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will continue to be the ''all others'' rate of 30.85 percent, which is the ''All Others'' rate established in the LTFV investigation. *Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order; Stainless Steel Sheet and Strip in Coils from Mexico*, 64 FR 40560 (July 27, 1999). These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

Notification to Importers

This notice serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

We are issuing and publishing this notice in accordance with sections 751(a)(1) and 777(i)(1) of the Tariff Act.

Dated: June 14, 2006.

David Spooner,

Assistant Secretary for Import Administration.

[FR Doc. E6–9768 Filed 6–20–06; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 061406B]

Magnuson-Stevens Act Provisions; General Provisions for Domestic Fisheries; Application for Exempted Fishing Permit

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

ACTION: Notice; request for comments.

SUMMARY: The Assistant Regional Administrator for Sustainable Fisheries, Northeast Region, NMFS (Assistant Regional Administrator) has made a preliminary determination that the subject Exempted Fishing Permit (EFP) application from the Massachusetts Division of Marine Fisheries (MADMF) for an exemption from the gear requirements of the Eastern U.S./Canada Area, for the purpose of testing a cod-avoiding haddock trawl, contains all of the required information and warrants further consideration. The Assistant Regional Administrator has also made a preliminary determination that the activities authorized under the EFP would be consistent with the goals and objectives of the Northeast (NE) Multispecies Fishery Management Plan (FMP). However, further review and consultation may be necessary before a final determination is made to issue the EFP. Therefore, NMFS announces that the Assistant Regional Administrator proposes to issue an EFP that would allow vessels to conduct fishing operations that are otherwise restricted by the regulations governing the fisheries of the Northeastern United States.

Regulations under the Magnuson-Stevens Fishery Conservation and Management Act require publication of this notification to provide interested parties the opportunity to comment on applications for proposed EFPs.

DATES: Comments must be received on or before July 6, 2006.

ADDRESSES: Comments on this notice may be submitted by e-mail. The mailbox address for providing e-mail comments is *DA6__153@noaa.gov*. Include in the subject line of the e-mail comment the following document identifier: ''Comments on MADMF haddock trawl (DA6–153).'' Written comments should be sent to Patricia A. Kurkul, Regional Administrator, NMFS, Northeast Regional Office, 1 Blackburn Drive, Gloucester, MA 01930. Mark the outside of the envelope ''Comments on MADMF haddock trawl (DA6–153).'' Comments may also be sent via facsimile (fax) to (978) 281–9135.

FOR FURTHER INFORMATION CONTACT: Moira Kelly, Fishery Management Specialist, phone: 978–281–9218, fax: 978–281–9135.

SUPPLEMENTARY INFORMATION: An application for an EFP was submitted by MADMF, on May 8, 2006. The EFP would exempt one federally permitted commercial fishing vessel from the following requirement of the FMP: Gear requirements of vessels fishing in the Eastern U.S./Canada Area, as specified at § 648.85(a)(3)(iii)(A).

MADMF has requested an exemption from the gear requirements of the Eastern U.S./Canada Area (i.e., an exemption from the requirement to fish with either a haddock separator trawl or a flounder net) in order to test the effectiveness of a sweepless raised footrope trawl, designed to minimize the catch of Atlantic cod (*Gadus morhua*) while maximizing the catch of haddock (*Melanogrammus aeglefinus*). This project is funded under the MADMF/SMAST/MRI Program. The project proposes that a twin trawl with one experimental net and one standard trawl net would be fished under A days-at-sea (DAS) in the Eastern U.S./Canada Area, outside of Closed Area II, by one vessel. The experimental portion of the twin trawl, the five-point trawl, is a sweepless (no ground gear) raised footrope trawl, which was designed based on differences in behavior of haddock and cod in relation to towed gears. Similar to the haddock separator trawl, this experimental net proposes to reduce cod mortality; however, it avoids some of the complexities associated with separator trawls, since the cod would not pass through meshes, or encounter grids or escape vents. Although this study would focus on reducing cod-haddock interactions, this net could also reduce the bycatch of flatfish species such as winter flounder, witch flounder, and American plaice. MADMF staff would be aboard the vessel at all times during testing.

The experimental design calls for 200 hours of towing time from June 2006 through December 2006. Two trawl nets, with similar footrope lengths, would be towed simultaneously from the same vessel. Both the experimental and the control net would conform to or exceed the minimum regulation standards with regard to mesh sizes and shapes throughout the body, extension, and codend. The experimental portion of the twin trawl would be a modified three-bridle, four-panel box trawl, modeled after the sweepless raised footrope trawl, which is a semi-pelagic net that fishes about 1–2 m off the bottom. This design is expected to allow cod to pass under the net, while retaining the haddock that swim upward into the net. The control net would be a standard, non-separator trawl net, with legal mesh size. The two-warp twin trawl uses one set of doors, with a weight/sled in the middle bridle. This design allows the nets to fish independently of each other, while trying to ensure identical fishing conditions for both the control and the experimental catches. Underwater video would be used to show cod escapement and haddock capture of the experimental net.

The researchers expect an average level of interaction with regulated groundfish. The researchers have concluded that the twin trawl would be less efficient than two standard (non-separator, non-twin) trawls, and have estimated the potential catch rates for the project based on these calculations. The researchers estimate the following removal rates:

Atlantic cod	5.7 mt
Haddock	23 mt
Pollock	0.6 mt
Yellowtail Flounder	2.6 mt
Winter Flounder	13.1 mt

Vessels would be subject to all applicable trip limits and would be prohibited from fishing in the Eastern U.S./Canada Area, should the area close due to the attainment of any of the U.S./Canada total allowable catches (TAC) of cod, haddock, or yellowtail flounder. All of the catch caught under this experiment would be applied to any and all applicable TAC limitations. Legal catch would be sold and the proceeds would be retained and recycled into the project by MADMF.

The applicant may make requests to NMFS for minor modifications and extensions to the EFP throughout the year. EFP modifications and extensions may be granted by NMFS without further notice if they are deemed essential to facilitate completion of the proposed experiment and result in only a minimal change in the scope or impact of the initially approved EFP request. In accordance with NOAA Administrative Order 216–6, a Categorical Exclusion, or other appropriate NEPA document, would be completed prior to the issuance of the EFP. Further review and consultation may be necessary before a final determination is made to issue the EFP. After publication of this document in the **Federal Register**, the EFP, if approved, may become effective following a 15-day public comment period.

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

Dated: June 15, 2006.

James P. Burgess,

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

[FR Doc. E6–9702 Filed 6–20–06; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 061506B]

Mid-Atlantic Fishery Management Council; Public Meetings

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

ACTION: Notice of public meetings.

SUMMARY: The Mid-Atlantic Fishery Management Council's (Council) Summer Flounder Monitoring Committee, Scup Monitoring Committee, Black Sea Bass Monitoring Committee, and Bluefish Monitoring Committee will hold public meetings.

DATES: The meetings will be held on Tuesday, July 18, 2006, beginning at 10 a.m.

ADDRESSES: The meetings will be held at the Renaissance Philadelphia Airport, 500 Stevens Drive, Philadelphia, PA 19113; telephone: (610) 521–5900.

Council address: Mid-Atlantic Fishery Management Council, Room 2115, 300 S. New Street, Dover, DE 19904.

FOR FURTHER INFORMATION CONTACT: Daniel T. Furlong, Executive Director, Mid-Atlantic Fishery Management Council; telephone: (302) 674–2331, ext. 19.

SUPPLEMENTARY INFORMATION: The purpose of these meetings is to recommend the 2007 commercial management measures, commercial quotas, and recreational harvest limits for the summer flounder, scup, and black sea bass fisheries. The Bluefish Monitoring Committee will meet to recommend commercial management measures, recreational management measures, and a commercial quota for the bluefish fishery for 2007.

Although non-emergency issues not contained in this agenda may come before these groups for discussion, those issues may not be the subject of formal action during the meetings. Action will be restricted to those issues specifically identified in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

The meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Jan Saunders, (302) 674–2331 ext: 18, at the Council office at least 5 days prior to the meeting date.

Dated: June 16, 2006.

Tracey L. Thompson,

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

[FR Doc. E6–9703 Filed 6–20–06; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 061306C]

U.S. Climate Change Science Program Synthesis and Assessment Product 2.1

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Department of Commerce.

ACTION: Notice of availability and request for public comments.

SUMMARY: The National Oceanic and Atmospheric Administration publishes this notice to announce the availability of the U.S. Climate Change Science Program (CCSP) Synthesis and Assessment draft Product 2.1 addressing the CCSP Topic: ''Scenarios of Greenhouse Gas Emissions and Atmospheric Concentrations and Review of Integrated Scenario Development and Application'' for public comment. Following the public comment period, the lead authors will revise the Product, taking into consideration the submitted comments. The lead agency will then submit the revised Synthesis and Assessment Product to the CCSP Interagency Committee for approval and eventual release in accordance with the procedure described in the approved Prospectus for Synthesis and Assessment Product 2.1 that is posted on the CCSP Program Office web site: *http://www.climatescience.gov/Library/sap/sap2–1/default.htm*

DATES: Comments must be received by August 7, 2006.

ADDRESSES: The Synthesis and Assessment draft Product and detailed instructions for making comments on the draft Product are posted, along with the Prospectus, on the CCSP Program Office Web site at *http://www.climatescience.gov/Library/sap/sap2–1/default.htm.*

Please make certain that submitted comments are prepared in accordance with these instructions.

FOR FURTHER INFORMATION CONTACT: Vanessa Richardson,Climate Change Science Program Office, 1717 Pennsylvania Avenue NW., Suite 250, Washington, DC 20006, Telephone: (202) 419–3465.

SUPPLEMENTARY INFORMATION: The CCSP was established by the President in 2002 to coordinate and integrate scientific research on global and climate changes sponsored by 13 participating departments and agencies of the U.S. Government. The CCSP is charged with preparing information resources that support climate-related discussions and decisions, including scientific synthesis and assessment analyses that support evaluation of important policy issues. The Synthesis and Assessment draft Product addressing the CCSP Topic: ''Scenarios of Greenhouse Gas Emissions and Atmospheric Concentrations and Review of Integrated Scenario Development and Application'' is one of 21 such products that will be produced by the CCSP.

Dated: June 15, 2006.

Conrad C. Lautenbacher, Jr.,

Vice Admiral, U.S. Navy (Ret.), Under Secretary of Commerce for Oceans and Atmosphere.

[FR Doc. E6–9744 Filed 6–20–06; 8:45 am]

BILLING CODE 3510–12–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 061306D]

U.S. Climate Change Science Program Synthesis and Assessment Product Prospectus

AGENCY: National Oceanic and Atmospheric Administration (NOAA),Department of Commerce.

ACTION: Notice of availability and request for public comments.

SUMMARY: The National Oceanic and Atmospheric Administration publish this notice to announce the availability of the draft Prospectus for one of the U.S. Climate Change Science Program (CCSP) Synthesis and Assessment Products (Products) for public comment. This draft Prospectus addresses the following CCSP Topic:
Product 4.3 The Effects of Climate Change on Agriculture, Biodiversity, Land, and Water Resources

After consideration of comments received on the draft Prospectus, the final Prospectus along with the comments received will be published on the CCSP web site.

DATES: Comments must be received by July 21, 2006.

ADDRESSES: The draft Prospectus is posted on the CCSP Program Office web site. The web addresses to access the draft Prospectus is:
Product 4.3 (Resources):
http://www.climatescience.gov/Library/sap/sap4–3/default.htm

Detailed instructions for making comments on the draft Prospectus is provided with the Prospectus. Comments should be prepared in accordance with these instructions.

FOR FURTHER INFORMATION CONTACT: Vanessa Richardson, Climate Change Science Program Office, 1717 Pennsylvania Avenue NW., Suite 250, Washington, DC 20006, Telephone: (202) 419–3465.

SUPPLEMENTARY INFORMATION: The CCSP was established by the President in 2002 to coordinate and integrate scientific research on global change and climate change sponsored by 13 participating departments and agencies of the U.S. Government. The CCSP is charged with preparing information resources that support climate-related discussions and decisions, including scientific synthesis and assessment analyses that support evaluation of important policy issues. The Prospectus addressed by this notice provides a topical overview and describes plans for scoping, drafting, reviewing, producing, and disseminating one of 21 final synthesis and assessment Products that will be produced by the CCSP.

Dated: June 15, 2006.

Conrad C. Lautenbacher, Jr.,

Vice Admiral, U.S. Navy (Ret.), Under Secretary of Commerce for Oceans and Atmosphere.

[FR Doc. E6–9745 Filed 6–20–06; 8:45 am]

BILLING CODE 3510–12–S

DEPARTMENT OF COMMERCE

Patent and Trademark Office

[Docket No. PTO–P–2006–0035]

Grant of Interim Extension of the Term of U.S. Patent No. 4,826,811; PolyHeme® (Acellular Red Blood Cell Substitute)

AGENCY: United States Patent and Trademark Office, DOC.

ACTION: Notice of interim patent term extension.

SUMMARY: The United States Patent and Trademark Office has issued a certificate under 35 U.S.C. 156(d)(5) for a fourth one-year interim extension of the term of U.S. Patent No. 4,826,811.

FOR FURTHER INFORMATION CONTACT: Mary C. Till by telephone at (571) 272–7755; by mail marked to her attention and addressed to the Commissioner for Patents, Mail Stop Patent Ext., P.O. Box 1450, Alexandria, VA 22313–1450; by fax marked to her attention at (571) 273–7755, or by e-mail to *Mary.Till@uspto.gov*.

SUPPLEMENTARY INFORMATION: Section 156 of Title 35, United States Code, generally provides that the term of a patent may be extended for a period of up to five years if the patent claims a product, or a method of making or using a product, that has been subject to certain defined regulatory review, and that the patent may be extended for interim periods of up to a year if the regulatory review is anticipated to extend beyond the expiration date of the patent.

On May 31, 2006, patent owner, Northfield Laboratories Inc., timely filed an application under 35 U.S.C. 156(d)(5) for an interim extension of the term of U.S. Patent No. 4,826,811. The patent claims the human biological product PolyHeme® (acellular red blood cell substitute), a method of use of the biological product, and a method of manufacturing the biological product. The application indicates, and the Food and Drug Administration has confirmed, that an investigational new drug application for the human biological product PolyHeme® has been filed and is currently undergoing regulatory review before the Food and Drug Administration for permission to market or use the product commercially.

Review of the application indicates that, except for permission to market or use the product commercially, the subject patent would be eligible for an extension of the patent term under 35 U.S.C. 156, and that the patent should be extended for an additional year as required by 35 U.S.C. 156(d)(5)(B). Because it is apparent that the regulatory review period will continue beyond the extended expiration date of the patent (June 20, 2006), interim extension of the patent term under 35 U.S.C. 156(d)(5) is appropriate.

An interim extension under 35 U.S.C. 156(d)(5) of the term of U.S. Patent No. 4,826,611 is granted for a period of one year from the extended expiration date of the patent, i.e., until June 20, 2007.

Dated: June 15, 2006.

Jon W. Dudas,

Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.

[FR Doc. E6–9767 Filed 6–20–06; 8:45 am]

BILLING CODE 3510–16–P

COMMODITY FUTURES TRADING COMMISSION

Comprehensive Review of the Commitments of Traders Reporting Program

AGENCY: Commodity Futures Trading Commission.

ACTION: Request for comments.

SUMMARY: The Commitments of Traders (''COT'') reports are weekly reports, published by the Commodity Futures Trading Commission (''CFTC'' or ''Commission''), showing aggregate trader positions in certain futures and options markets. Over time, both the trading activity that is the subject of the COT reports, and the reports themselves, have continued to change and evolve. As part of its ongoing efforts both to maintain an information system that reflects changing market conditions, and to provide the public with useful information regarding futures and options markets, the Commission is undertaking a comprehensive review of the COT reporting program. This release is intended to: (1) Provide useful background information regarding the COT reports; (2) lay out various issues and questions regarding the COT reports; and (3) solicit public comment regarding the reports, including suggestions as to possible changes in the COT reporting system.

DATES: Responses must be received by August 21, 2006.

ADDRESSES: Written responses should be sent to Eileen Donovan, Acting Secretary, Commodity Futures Trading Commission, Three Lafayette Center, 1155 21st Street, NW., Washington, DC 20581. Responses may also be submitted via e-mail at *secretary@cftc.gov*. ''COT reports'' must be in the subject field of responses submitted via e-mail, and clearly indicated in written submissions. This document is also available for comment at *http://www.regulations.gov*.

FOR FURTHER INFORMATION CONTACT: Donald H Heitman, Senior Special Counsel, Division of Market Oversight, Commodity Futures Trading Commission, Three Lafayette Center, 1155 21st Street, NW., Washington, DC 20581. Telephone: 202–418–5041. E-mail: *dheitman@cftc.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

A. The COT Reports

The COT reports provide a breakdown of each Tuesday's open interest [1] for all futures and option markets in which 20 or more traders hold positions equal to or above the reporting levels [2] established by the CFTC. The weekly reports for *Futures-Only Commitments of Traders* and for *Futures-and-Options-Combined Commitments of Traders* are released every Friday at 3:30 p.m. Eastern time. Reports are available in both a short and long format. The short report shows open interest separately by reportable and nonreportable [3] positions. For reportable positions, additional data are provided for commercial and non-commercial holdings.

When an individual reportable trader is identified to the Commission, the trader is classified either as ''commercial'' or ''non-commercial.'' All of a trader's reported futures positions in a commodity are classified as commercial if the trader uses futures contracts in that particular commodity for hedging as defined in the Commission's regulations (17 CFR 1.3(z)). A trading entity generally gets classified as a ''commercial'' by filing a statement with the Commission (on CFTC Form 40) that it is commercially '' * * * engaged in business activities hedged by the use of the futures or option markets.'' In order to ensure that traders are classified with accuracy and consistency, the Commission staff reviews this self-classification and may re-classify a trader if the staff has additional information about the trader's use of the markets. A trader may be classified as a commercial in some commodities and as a non-commercial in other commodities. A single trading entity cannot be classified as both a commercial and non-commercial in the same commodity. Nonetheless, a multi-functional organization that has more than one trading entity may have each trading entity classified separately in a commodity. For example, a financial organization trading in financial futures may have a banking entity whose positions are classified as commercial and have a separate money-management entity whose positions are classified as non-commercial.

The short report also provides additional data for reportable positions regarding spreading,[4] changes from the previous report,[5] percent of open interest by category,[6] and numbers of traders.[7] The long report, in addition to the information in the short report, also groups the data by crop year,[8] where appropriate, and shows the concentration of positions held by the largest four and eight reportable traders, without regard to whether they are classified as commercial or non-commercial. Current COT data are available on the internet at the Commission's Web site, *http://www.cftc.gov*.[9]

B. Evolution of the COT Reports and the Marketplace

The COT reports can trace their antecedents all the way back to 1924. In that year, the U.S. Department of Agriculture's (''USDA'') Grain Futures Administration, predecessor of the USDA's Commodity Exchange Authority, which is in turn the predecessor of the Commission, published its first comprehensive annual report. The report was published pursuant to the provisions of the Grain Futures Act of 1922,[10] the predecessor statute of today's Commodity Exchange Act (''CEA'' or ''the Act''), which was enacted in 1936.[11]

The Grain Futures Administration noted that the general objectives of the Grain Futures Act included ''[t]o obtain for the use of Congress and the enlightenment of the public authentic and comprehensive information regarding trading in grain futures.''[12] To that end, that legislation imposed recordkeeping and reporting requirements on boards of trade. One requirement of the implementing regulations was that records should be made in such a manner as to show whether the persons for whom transactions were executed were ''engaged in the cash grain business.''[13] The express purpose of this requirement was

[1] Open interest is the total of all futures and/or option contracts entered into and not yet offset by a transaction, by delivery, by exercise, *etc.* The aggregate of all long open interest is equal to the aggregate of all short open interest. Open interest held or controlled by a trader is referred to as that trader's position. For the *COT Futures & Options Combined* report, option open interest and traders' option positions are computed on a futures-equivalent basis using delta factors supplied by the exchanges. Long-call and short-put open interest are converted to long futures-equivalent open interest. Likewise, short-call and long-put open interest are converted to short futures-equivalent open interest. For example, a trader holding a long put position of 500 contracts with a delta factor of 0.50 is considered to be holding a short futures-equivalent position of 250 contracts. A trader's long and short futures-equivalent positions are added to the trader's long and short futures positions to give ''combined-long'' and ''combined-short'' positions. Open interest, as reported to the Commission and as used in the COT report, does not include open futures contracts against which notices of deliveries have been stopped by a trader or issued by the clearing organization of an exchange.

[2] Clearing members, futures commission merchants, and foreign brokers (collectively called ''reporting firms'') file daily reports with the Commission. Those reports show the futures and option positions of traders that hold positions above specific reporting levels set by CFTC regulations. These reporting levels range from 25 contracts for new or relatively small markets to 3,000 contracts for three-month Eurodollar time deposit rates (*See* 17 CFR 15.03). If, at the daily market close, a reporting firm has a trader with a position at or above the Commission's reporting level in any single futures month or option expiration, it reports that trader's entire position in all futures and options expiration months in that commodity, regardless of size. The aggregate of all traders' positions reported to the Commission usually represents 70 to 90 percent of the total open interest in any given market. From time to time, the Commission will raise or lower the reporting levels in specific markets to strike a balance between collecting sufficient information to oversee the markets and minimizing the reporting burden on the futures industry.

[3] The long and short open interest shown as ''Nonreportable Positions'' are derived by subtracting total long and short ''Reportable Positions'' from the total open interest. Accordingly, for ''Nonreportable Positions,'' the number of traders involved and the commercial/non-commercial classification of each trader are unknown.

[4] For the futures-only report, spreading measures the extent to which each non-commercial trader holds equal long and short futures positions. For the options-and-futures-combined report, spreading measures the extent to which each non-commercial trader holds equal combined-long and combined-short positions. For example, if a non-commercial trader in Eurodollar futures holds 5,000 long contracts and 4,500 short contracts, 500 contracts will appear in the ''Long'' category and 4,500 contracts will appear in the ''Spreading'' category. These figures do not include intermarket spreading (*e.g.,* spreading Eurodollar futures against Treasury Note futures).

[5] Changes in commitments from the previous report represent the differences between the data for the current report date and the data published in the previous report.

[6] Percents are calculated against the total open interest for the futures-only report and against the total futures-equivalent open interest for the options-and-futures-combined report. Percents less than 0.05 are shown as 0.0, and the percents may not add to exactly 100.0 due to rounding.

[7] To determine the total number of reportable traders in a market, a trader is counted only once regardless whether the trader appears in more than one category (non-commercial traders may be long or short only and may be spreading; commercial traders may be long and short). To determine the number of traders in each category, however, a trader is counted in each category in which the trader holds a position. Therefore, the sum of the numbers of traders in each category will often exceed the ''Total'' number of traders in that market.

[8] For selected commodities where there is a well-defined marketing season or crop year, the COT data are broken down by ''old'' and ''other'' crop years.

[9] Also available at that site are historical COT data going back to 1986 for futures-only reports and to 1995 for option-and-futures-combined reports.

[10] 42 Stat. 998, September 21, 1922.

[11] 49 Stat. 1491, June 15, 1936, 7 U.S.C. 1 *et seq.*.

[12] Annual Reports of the Department of Agriculture for 1924, Report of the Grain Futures Administration on Administration of the Grain Futures Act, at 2, September 9, 1924.

[13] *Id.* at 6.

to insure that the basic records of all transactions in grain futures will contain information which can be utilized for distinguishing transactions originating with persons engaged in the cash grain business (and therefore presumably representing in considerable part ''hedging'') from transactions originating with persons not so engaged (and therefore presumably representing for the most part ''speculation'').[14]

The report characterized the distinction between hedging and speculation as being of ''fundamental significance from the public point of view'' and one that ''deserves systematic reflection in the records kept of transactions in grain futures.''

Over the years, the Grain Futures Administration and, after 1936, its successor organization the Commodity Exchange Authority, continued to publish annual statistics concerning hedging versus speculative transactions. Beginning with the adoption of the Commodity Exchange Act in 1936, and as part of amendments to that Act on a number of subsequent occasions, the Commodity Exchange Authority's jurisdiction was expanded beyond grains to cover additional agricultural commodities. The Commodity Exchange Authority designated the exchanges where futures contracts in those commodities were traded as ''contract markets'' in such commodities.[15] As contract markets in additional commodities were designated, the Authority expanded its annual reports of hedging and speculative positions in futures markets to include additional commodities.[16]

In 1962, the Commodity Exchange Authority took what it called ''another step forward in the policy of providing the public with current and basic data on futures market operations'' by moving beyond an annual statistical recap and initiating the publication of monthly COT reports. The original COT reports were compiled on an end-of-month basis and published on the 11th or 12th calendar day of the following month. The first COT report, covering 13 agricultural commodities, was published on June 13, 1962.

Over the 44 years since then, both the COT reports and the underlying futures markets have undergone a number of significant changes. With respect to the COT reports, the number of commodities covered in the COT reports has continued to expand. In April 1975, the newly formed CFTC succeeded the Commodity Exchange Authority. The Commission continued to publish the COT reports, but expanded the reports' content to include new commodities first brought under the Commission's jurisdiction by the Commodity Futures Trading Commission Act of 1974.[17] In the years since then, scores of new futures and option products have been listed for trading on designated futures exchanges. As noted above, not all these commodities are included in the COT reports, since reports are published only for commodities in which 20 or more traders hold reportable positions. The most recent COT reports published cover 85 to 90 commodities trading on six different DCMs.[18]

In addition to covering additional commodities, the Commission has improved the COT reports in several other ways as well. The Commission has changed the publication schedule several times to provide information to the public more frequently—switching publication from monthly to twice monthly (mid-month and month-end) in 1990, to every two weeks in 1992, and to weekly in 2000. The Commission has also acted to improve the timeliness of the reports—moving publication to the sixth business day after the ''as of'' date in 1990, and then to the third business day after the ''as of'' date in 1992. The Commission has also expanded the scope of the information included in the reports—adding data on the numbers of traders in each category, a crop-year breakout and concentration ratios in the early 1970s and adding data on option positions in 1992. Finally, the Commission has made the COT reports more widely available—moving from a paid subscription-based mailing list to fee-based electronic access in 1993 and, since 1995, making the COT data freely available on the Commission's internet website.

C. Issues Regarding COT Data

1. Elimination of the Series '03 Reports

One of the historical changes in the COT reports has raised questions with respect to the usage of the COT data in today's market environment. In 1981, the Commission adopted regulations[19] to eliminate the routine filing of series '03 reports by large traders.[20] The purpose of these rules was to reduce paperwork burdens on large traders and the Commission.

Because the series '03 reports included both position information for all reportable traders and the traders' classification of how much of their positions was speculative and how much was hedging, the series '03 reports had provided the data that went to make up the COT reports. In its rulemaking eliminating the series '03 reports, the Commission stated its intention to continue publishing the COT reports using data from the series '01 reports and Form 102,[21] as well as the Form 40,

[14] *Id.*

[15] In this context, a ''contract market designation'' refers to designating an exchange where futures contracts on a particular commodity are traded as a ''contract market'' in that commodity. For example, after the 1936 Act brought a number of additional agricultural commodities within the Commodity Exchange Authority's jurisdiction, the Authority designated the New York Cotton Exchange as a contract market in cotton and the Chicago Mercantile Exchange as a contract market in butter, eggs and potatoes. As subsequent amendments brought additional commodities within the scope of the Act, further contract market designations followed, including soybeans (1940), soybean oil (1950), soybean meal (1951), frozen concentrated orange juice (1968), and livestock futures (live and feeder cattle, live hogs and frozen pork bellies—all in 1968). Under the Commodity Futures Modernization Act of 2000 (''CFMA''), however, a ''contract market designation'' refers to the Commission designating (licensing) a board of trade (exchange) as a ''designated contract market'' (''DCM''). Once designated, a DCM can trade any number of commodities. A DCM can list any new product by filing with the Commission a copy of the rules pursuant to which the product will trade, along with a certification that the product complies with the Act and the Commission's rules thereunder.

[16] In addition, starting in 1942, the Commodity Exchange Authority began issuing ''Commodity Futures Statistics'' as a separate publication, distinct from the USDA annual report. The Commodity Futures Statistics were also expanded to include monthly data, but were still published only on an annual basis.

[17] Public Law 93–463, 88 Stat. 1389, October 23, 1974. The new commodities added in 1974 included coffee, sugar, cocoa, metals, energy products and financial products, among other things.

[18] The COT reports are the most frequently visited section of the Commission's Web site. During 2005, nearly half of the visitors to the Commission's Web site were there primarily to access the COT reports, with approximately 460,000 visitors viewing the reports.

[19] 46 FR 59960, December 8, 1981.

[20] Series '03 reports were required to be filed with the Commission by any trader who owned or controlled a reportable futures position. Once traders acquired a reportable position in a commodity, they were required to report trades, positions, exchanges of futures for physicals and delivery information regarding that commodity on series '03 reports, and to classify how much of their position was speculative and how much was hedging.

[21] Series '01 reports are reports filed by futures commission merchants (''FCMs''), foreign brokers and exchange clearing members clearing their own trades, with respect to all customer or (for the exchange clearing members) proprietary accounts that attain a reportable position. A series '01 report itemizes the account number and certain positions, deliveries and exchanges of futures (including exchanges of futures for physicals [''EFPs''], swaps [''EFSs''], risk [''EFRs''] and options [''EFOs''] or other exchanges of futures for a commodity or for a derivatives position) associated with each account carrying a reportable position (*See* 17 CFR 17.00). The name, address and occupation of the person or persons who own such accounts are separately identified on Form 102 (*See* 17 CFR 17.01). By aggregating the series '01 and Form 102 information filed with respect to traders with accounts at multiple FCMs or foreign brokers, the Commission can determine the size of each reportable trader's overall position.

Statement(s) of Reporting Trader.[22] However, publication of the COT reports was suspended for approximately 18 months in order to implement computer system changes that would enable the Commission to generate COT data under the revised reporting system.[23] When the COT reports resumed, reportable positions were no longer classified as ''hedging'' or ''speculative'' (the series '03 forms that required traders to make these classifications no longer being available). Rather, reportable positions were classified as ''commercial'' or ''non-commercial,'' based on the declarations made in the reporting traders'' Form 40 statements.

The Commission believes that the public perception was, and is, that the ''commercial vs. non-commercial'' classification in current COT reports is analogous (if not identical) to the ''hedging vs. speculation'' distinction in the pre-1982 COT reports. Over time, however, derivatives markets (including both exchange-traded and over-the-counter [''OTC''] markets), as well as derivatives trading patterns and practices, have evolved tremendously. Changes have been particularly evident over the last 15 years. As a result of these changes in markets and trading practices, questions have been raised as to whether the ''commercial'' and ''non-commercial'' categories of today's COT reports appropriately classify trading practices that were not contemplated when the ''hedging vs. speculation'' categories were removed in 1982.

2. The Impact of Speculative Position Limit and Hedge Exemption Rules

To protect futures markets from excessive speculation that can cause unreasonable or unwarranted price fluctuations, and to reduce the potential threat of market manipulation, the Act and Commission regulations require the Commission [24] and the exchanges [25] to impose limits on the size of speculative positions in futures markets. For certain agricultural markets, the speculative limits are determined by the Commission and set out in federal regulations.[26] For all other markets, the speculative limits are determined as necessary by the exchanges according to standards established by the Commission.[27] The Commission and exchanges grant exemptions from their respective speculative position limits for ''bona fide hedging.'' A hedge is a futures or option transaction or position that normally represents a substitute for transactions to be made or positions to be taken at a later time in a physical marketing channel. Hedges must be ''economically appropriate to the reduction of risks in the conduct and management of a *commercial enterprise*'' [emphasis supplied] and must arise from a change in the value of a hedger's (current or anticipated) assets or liabilities.[28]

3. Hedge Exemptions and the COT Reports

Because both the hedge exemption rules and the standards whereby positions are classified for purposes of the COT reports refer to ''commercial'' positions, the Commission has considered the classification of a position as ''commercial'' under the hedge exemption rule as being an appropriate indicator for how the position, and the trader holding it, should be classified for COT purposes. In other words, if an entity holding a particular futures or option position has received a hedge exemption with respect to that position, the position is, by definition, held by a ''commercial enterprise.'' Accordingly, that position should be reported (via the series '01 reports, Forms 102 and Forms 40) to the Commission as a ''commercial'' position, and it would be included within the ''commercial'' category on the COT reports. Entities in the same type of business, holding similar hedge positions (as reported on their Form 40) are likewise treated as commercials for purposes of the COT reports, even though the entities may not have sought hedge exemptions because they are trading below the level of the position limit so no exemption is required.

As trading practices in the derivatives markets (both exchange and OTC) have continued to evolve over the past 5 years, the Commission has granted hedge exemptions from the Commission speculative limits for certain agricultural commodities to entities whose futures positions reflected various innovative, non-traditional risk management strategies. Based on their classification for hedge exemption purposes, positions based on these non-traditional strategies have been classified in the COT reports as ''commercial.'' The result is that, over time, the nature of the positions carried in the COT reports for some commodities has changed significantly, raising questions as to whether the COT reports should be reviewed to determine if revisions are needed to reflect changing market conditions.

This issue may be illustrated by reviewing the history of hedge exemption requests.[29] For example, in 1991, the Commission received a request from a ''large commodity merchandising firm,'' that ''engage[d] in commodity related swaps [30] as a part of a commercial line of business.'' The firm, through an affiliate, wished to enter into an OTC swap transaction, with a qualified counterparty (a large pension fund), involving an index based on the returns afforded by investments in exchange-traded futures contracts on certain non-financial commodities meeting specified criteria. The commodities making up the index included wheat, corn and soybeans, all of which were (and still are) subject to Commission speculative position limits. As a result of the swap, the swap dealing firm would, in effect, be going short the index. In other words, it would be required to make payments to the counterparty if the value of the index was higher at the end of the swap payment period than at the beginning.

[22] Each person that holds or controls a reportable position is required to file a Form 40. The Form 40 requires a trader to list its principal business or occupation and to state whether it is ''commercially engaged in business activities hedged by the use of the futures or option markets.'' If the trader answers ''yes,'' it is instructed to complete a separate schedule ''listing the futures or option contract used, the cash commodity(ies) hedged, or the risk exposure covered, and the marketing occupations associated with hedging uses.''

[23] The Commission notes that eliminating the series '03 forms as the basis for the COT reports improved the timing and accuracy of the COT reports because: (1) Series '03 forms were mostly mailed to the Commission from wherever the trader resided, in some cases taking several days to arrive and be processed, whereas series '01 reports are filed electronically by the following morning; and (2) series '03 forms were only required to be filed when a reportable trader's position changed, so that a trader's delay or failure to file a report often led to an erroneous assumption that the position had not changed.

[24] *See* section 4a of the Act.

[25] *See* section 5(d)(5) of the Act and 17 CFR 150.5.

[26] Speculative position limits for corn, oats, wheat, soybeans, soybean oil, soybean meal, and cotton are set out at 17 CFR 150.2.

[27] Pursuant to those standards, some markets are subject to position accountability rules in lieu of speculative position limits.

[28] *See* 17 CFR 1.3(z) for the full regulatory definition of ''bona fide hedging.''

[29] Specific requests, and the Commission's responses granting or denying those requests, by their very nature, include information regarding the nature of the requesting entity's trading activities. The express terms of the Act prohibit the Commission from publicly disclosing such information. Section 8(a)(1) of the Act provides in relevant part that ''the Commission may not publish data and information that would separately disclose the business transactions or market positions of any person and trade secrets or names of customers.'' However, it is possible, without disclosing prohibited information, to provide an overview of certain hedge exemption letters that will illustrate how the nature of the information included in the COT reports has changed over time.

[30] A swap is a privately negotiated exchange of one asset or cash flow for another asset or cash flow. In a commodity swap, at least one of the assets or cash flows is related to the price of one or more commodities.

In order to hedge itself against this risk, the swap dealer planned to establish a portfolio of long futures positions in the commodities making up the index, in such amounts as would replicate its exposure under the swap transaction. By design, the index did not include contract months that had entered the delivery period and the swap dealer, in replicating the index, stated that it would not maintain futures positions based on index-related swap activity into the delivery month. The result of the hedge was that the composite return on the futures portfolio would offset the net payments the swap dealer would be required to make to the counterparty.

Because the futures positions the swap dealer would have to establish to hedge its exposure on the swap transaction would be in excess of the speculative position limits on wheat, corn and soybeans, it requested, and was granted, a hedge exemption for those positions. As discussed above, when those reportable futures positions were incorporated into the COT reports, they were reported as ''commercial'' positions. Similar hedge exemptions were subsequently granted in other cases where the futures positions clearly offset risks related to swaps or similar OTC positions involving both individual commodities and commodity indexes. These non-traditional hedges were all subject to the same limitations as the original hedge exemption—that the futures positions must offset specific price exposure on a non-discretionary basis (*i.e.*, would not over-weight or under-weight the size or mix of futures based upon a market outlook), would be of equal dollar value to the underlying risk (*i.e.*, be unleveraged), and would not be carried into the delivery month.

4. The Effect on the COT Report

The effect of the entry of these non-traditional hedgers into the marketplace has been to change the composition of the COT reports. Prior to 1991, both the long and the short side of the commercial open interest listed in the COT reports represented traditional hedgers (producers, processors, manufacturers or merchants handling the commodity or its products or byproducts). Since that time, though, trading practices have evolved to such an extent that today, a significant proportion of the long side open interest in a number of major physical commodity futures contracts is held by non-traditional hedgers (*e.g.*, swap dealers), while the traditional hedgers may be either net long or net short (more often, the latter). This has raised questions as to whether the COT report can reliably be used to assess futures hedging activity by persons hedging exposure in the underlying physical commodity markets.

It should be noted that the Commission's treatment of professionally managed funds[31] in the COT reports generally does not raise the same issue. Professionally managed funds, although they may be appropriately treated as commercials with respect to markets in financial commodities,[32] are usually treated as non-commercials for COT purposes in the markets for physical commodities (including not only agricultural commodities, but energy products, metals and other physical commodities as well).

II. Alternatives in Addressing Issues Related to the COT Reports

In view of the changes in markets and trading patterns described above, the Commission is now seeking public comment concerning whether it should adopt any changes to the way data are presented in the COT reports. Such action could be taken as part of the Commission's ongoing efforts both to maintain an information system that reflects changing market conditions, and to provide the public with useful information regarding futures and option markets. In addition, the Commission is seeking comment as to whether it should stop publishing the COT reports altogether if it is determined that either: (1) There are data anomalies in the reports for which no satisfactory solution can be found; or (2) the data in the reports provide no public benefit.[33]

III. Questions

The Commission has formulated the following questions based upon its initial review of issues relating to the COT reports. Responses from interested parties will advance the Commission's understanding of these issues and, it is hoped, point the way to a satisfactory resolution of any problems that are identified regarding the COT reports. Each enumerated question should be addressed individually. Interested parties are also welcome to address other topics or issues that they believe are relevant to the COT reports.

1. What types of traders in the futures and option markets use the COT reports in their current form, and how are they using the COT data? More specifically:

(a) How do traders use the COT information on commercial positions?

(b) How do they use the COT information on non-commercial positions?

(c) In particular, with respect to information on non-commercial positions, what information or insights do traders gain from the COT reports regarding the possible impact of futures trading on the underlying cash market?

2. Are other individuals or entities (academic researchers or others) using the COT reports and, if so, how?

3. Do the COT reports, in their current form, provide any particular segment of traders with an unfair advantage?

4. Should the Commission continue to publish the COT reports?

5. If the Commission continues to publish the COT reports, should the reports be revised to include additional categories of data—for example, non-traditional commercial positions, such as those held by swap dealers?

6. As a general matter, would creating a separate category in the COT report for ''non-traditional commercials'' potentially put swap dealers or other non-traditional commercials at a competitive disadvantage (since other market participants would generally know that their positions are usually long, are concentrated in a single futures month, and are typically rolled to a deferred month on a specific schedule before the spot month)?

7. More specifically, if the data in the COT reports are made subject to further, and finer, distinctions, such as adding a category for non-traditional commercials:

(a) Would it increase the likelihood that persons reading the reports would be able to deduce the identity of the position holders, or other proprietary information, from the reports?

(b) Could such persons use information gleaned from the reports to gain a trading advantage over the reported position holders?

(c) In such case, in order to reduce the likelihood of publishing categories with few traders, which might provide information giving other traders a competitive advantage over the reported traders, should the Commission consider raising the threshold number of reportable traders needed to publish

[31] For these purposes, ''professionally managed funds'' includes traders registered as commodity trading advisors and commodity pool operators, as well as funds commonly referred to as ''hedge funds.'' A hedge fund has been described as a private investment fund or pool that trades and invests in various assets such as securities, commodities, currency, and derivatives on behalf of its clients.

[32] A professionally managed fund trading in futures markets for financial products (equity, debt or foreign currency) might very well be hedging various OTC or exchange-traded products.

[33] The COT reporting program is not mandated by either the Act or Commission regulations. Therefore, if, after reviewing the comments received in response to this notice, the Commission decides to take any action with respect to the COT reporting program, it can do so without further notice or opportunity for comment.

data for a market from 20 traders to some larger number of traders?

8. If the data in the COT reports are made subject to further, and finer, distinctions, should the reports be revised for all commodities, or only for those physical commodity markets in which non-traditional commercials participate?

9. If a non-traditional commercial category were added to markets in physical commodities, what should be done with financial commodities, where ''non-traditional commercials'' would be essentially an empty category (since, in financial commodities, swap dealers would fall within the pre-existing ''commercial'' category)?

10. The Commission has observed that the non-traditional commercials tend to be long only and tend not to shift their futures positions dramatically—even in the face of substantial price movements. If the data in the COT reports are made subject to further, and finer, distinctions, would issuing the additional data on a periodic basis, in the form of a quarterly or monthly supplement, be sufficient?

11. Some reportable traders engage in both traditional (physical) and non-traditional (financial) commercial activity in the same commodity market. If the data in the COT reports are made subject to further, and finer, distinctions, such traders would have to break out their non-traditional commercial OTC hedging activity into a separate account. Would such a requirement represent an undue burden to those traders?

Issued in Washington, DC, on June 15, 2006, by the Commission.

Eileen Donovan,

Acting Secretary of the Commission.

[FR Doc. E6–9722 Filed 6–20–06; 8:45 am]

BILLING CODE 6351–01–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[DOD–2006–OS–0150]

Privacy Act of 1974; System of Records

AGENCY: Office of the Secretary, DoD.

ACTION: Notice to add a system of records.

SUMMARY: The Office of the Secretary of Defense proposes to add a system of records to its inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

DATES: The changes will be effective on July 21, 2006 unless comments are received that would result in a contrary determination.

ADDRESSES: Send comments to OSD Privacy Act Coordinator, Records Management Section, Washington Headquarters Services, 1155 Defense Pentagon, Washington, DC 20301–1155.

FOR FURTHER INFORMATION CONTACT: Ms. Juanita Irvin at (703) 696–4940.

SUPPLEMENTARY INFORMATION: The Office of the Secretary of Defense notices for systems of records subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The proposed systems reports, as required by 5 U.S.C. 552a(r) of the Privacy Act of 1974, as amended, were submitted on June 14, 2006, to the House Committee on Government Reform, the Senate Committee on Homeland Security and Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A–130, ''Federal Agency Responsibilities for Maintaining Records About Individuals,'' dated February 8, 1996 (February 20, 1996, 61 FR 6427).

Dated: June 15, 2006.

C.R. Choate,

Alternate, OSD Federal Register Liaison Officer, Department of Defense.

DHA14

SYSTEM NAME:

Computer/Electronic Accommodations Program for People with Disabilities.

SYSTEM LOCATION:

Computer/Electronic Accommodations Program (CAP) Data Management System (eCMDS), 5109 Leesburg Pike, Sky 6, Suite 504, Falls Church, VA 22041–3891.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Prospective DoD and other Federal agency employees, current DoD and other Federal agency employees, and members of the Armed Forces.

CATEGORIES OF RECORDS IN THE SYSTEM:

Information includes but is not limited to name, address, phone number, medical and disability data, history of accommodations being sought and their disposition, and other documentation, e.g., CAP Speech Form, Telework Agreement, etc., used in support of the request for an assistive technology solution. Product and vendor contact information to include order/invoices/declination/cancellation data for the product and identification of vendors, vendor products used, and product costs.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Rehabilitation Act of 1973, as amended; EEOC Enforcement Guidance: Reasonable Accommodation and Undue Hardship Under the Americans with Disabilities Act, March 1, 1999 and Special Work Arrangements As Accommodations for Individuals with disabilities, USD(P&R) Memorandum, February 26, 1999; E.O. 13160, 23 June 2000.

PURPOSE(S):

To administer the Computer/Electronic Accommodations Program, a centrally funded Federal program, which provides assistive (computer/electronic) technology solutions to individuals who have disabilities so that an accessible work environment is provided to individuals with hearing, visual, dexterity, cognitive, and/or communications impairments. The system identifies the computer/electronic accommodations being provided and tracks all such accommodations for DoD as well as 64 partner agencies.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act , these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to U.S.C. 552a(b)(3) as follows:

To Federal agencies participating in the Computer/Electronic Accommodations Program for purposes of providing information as necessary to permit the agency to carry out its responsibilities under the program.

To commercial vendors for purposes of providing information as necessary to permit the vendor to identify and provide assistive technology solutions for individuals with disabilities.

The DoD ''Blanket Routine uses'' set forth at the beginning of OSD's compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained on electronic storage media.

RETRIEVABILITY:

Records are retrieved by employee name address, telephone, and disability information.

SAFEGUARDS:

Records are maintained in controlled areas accessible only to authorized personnel. Access to personal information is further restricted by the use of passwords. Paper records are maintained in a controlled facility where physical entry is restricted by the use of locks, guards, or administrative procedures.

RETENTION AND DISPOSAL:

Records are destroyed 6 years, 3 months after the record is closed.

SYSTEM MANAGER(S) AND ADDRESS:

Computer/Electronic Accommodations Program (CAP) Data Management System (eCMDS), 5109 Leesburg Pike, Sky 6, Suite 504, Falls Church, VA 22041–3891.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the TRICARE Management Activity, Department of Defense, ATTN: TMA Privacy Officer, 5111 Leesburg Pike, Suite 810, Falls Church, VA 22041–3206.

Request should contain full name, address and telephone number.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system of records should address written inquiries to Computer/Electronic Accommodations Program (CAP) Data Management System (eCMDS), 5109 Leesburg Pike, Sky 6, Suite 504, Falls Church, VA 22041–3891.

Request should contain full name, address and telephone number.

CONTESTING RECORD PROCEDURES:

The OSD rules for accessing records, for contesting contents and appealing initial agency determinations are contained in OSD Administrative Instruction 81; 32 CFR part 311; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Information is obtained from the individual and Human Resources databases.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 06–5551 Filed 6–20–06; 8:45 am]

BILLING CODE 5001–06–M

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

SUMMARY: The IC Clearance Official, Regulatory Information Management Services, Office of Management invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before July 21, 2006.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Rachel Potter, Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, NW., Room 10222, New Executive Office Building, Washington, DC 20503 or faxed to (202) 395–6974.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The IC Clearance Official, Regulatory Information Management Services, Office of Management, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g. new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

Dated: June 15, 2006.

Angela C. Arrington,

IC Clearance Official, Regulatory Information Management Services, Office of Management.

Institute of Education Sciences

Type of Review: Revision.

Title: Early Childhood Longitudinal Study Birth Cohort, Kindergarten Year.

Frequency: One time.

Affected Public: Individuals or household; Businesses or other for-profit; Not-for-profit institutions; State, Local, or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 25,258.

Burden Hours: 13,770.

Abstract: The Early Childhood Longitudinal Study—Part B (ECLS–B) is part of a longitudinal studies program. The ECLS–B is designed to follow a national representative sample of children born in 2001 from nine months of age through kindergarten. The cohort has already been seen at nine months and at two years. The current effort is directed towards seeing them in their kindergarten year. The children will all turn five in 2006 and the majority will be eligible for kindergarten.

Requests for copies of the information collection submission for OMB review may be accessed from *http://edicsweb.ed.gov*, by selecting the ''Browse Pending Collections'' link and by clicking on link number 3126. When you access the information collection, click on ''Download Attachments'' to view. Written requests for information should be addressed to U.S. Department of Education, 400 Maryland Avenue, SW., Potomac Center, 9th Floor, Washington, DC 20202–4700. Requests may also be electronically mailed to *ICDocketMgr@ed.gov* or faxed to 202–245–6623. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be electronically mailed to *ICDocketMgr@ed.gov.* Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. E6–9716 Filed 6–20–06; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

SUMMARY: The IC Clearance Official, Regulatory Information Management Services, Office of Management, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before August 21, 2006.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested

Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The IC Clearance Official, Regulatory Information Management Services, Office of Management, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g. new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: June 15, 2006.

Angela C. Arrington,

IC Clearance Official, Regulatory Information Management Services, Office of Management.

Office of Elementary and Secondary Education

Type of Review: Extension.

Title: Application for the Teacher Incentive Fund.

Frequency: Annually.

Affected Public: State, Local, or Tribal Gov't, SEAs or LEAs; Not-for-profit institutions.

Reporting and Recordkeeping Hour Burden:

Responses: 40.

Burden Hours: 3,200.

Abstract: This application will be used to award grants to local education agencies, state education agencies, or partnerships with a local or state education agency for the purpose of creating a performance-based compensation system for teachers and principals.

Requests for copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov*, by selecting the ''Browse Pending Collections'' link and by clicking on link number 3141. When you access the information collection, click on ''Download Attachments'' to view. Written requests for information should be addressed to U.S. Department of Education, 400 Maryland Avenue, SW., Potomac Center, 9th Floor, Washington, DC 20202–4700. Requests may also be electronically mailed to *ICDocketMgr@ed.gov* or faxed to 202–245–6623. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be electronically mailed to *ICDocketMgr@ed.gov*. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. E6–9717 Filed 6–20–06; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Office of Science; Biological and Environmental Research Advisory Committee

AGENCY: Department of Energy.

ACTION: Notice of Open Meeting.

SUMMARY: This notice announces a meeting of the Biological and Environmental Research Advisory Committee. Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) requires that public notice of these meetings be announced in the **Federal Register**.

DATES: Monday, July 10, 2006, 10 a.m. to 5 p.m.; and Tuesday, July 11, 2006, 9 a.m. to 12 p.m.

ADDRESSES: American Geophysical Union, 2000 Florida Avenue, NW., Washington, DC 20009.

FOR FURTHER INFORMATION CONTACT: Dr. David Thomassen (301–903–3251 *david.thomassen@science.doe.gov*) Designated Federal Officer, Biological and Environmental Research Advisory Committee, U.S. Department of Energy, Office of Science, Office of Biological and Environmental Research, SC–23/Germantown Building, 1000 Independence Avenue, SW., Washington, DC 20585–1290. The most current information concerning this meeting can be found on the Web site: *http://www.science.doe.gov/ober/berac/announce.html*

SUPPLEMENTARY INFORMATION: *Purpose of the Meeting:* To provide advice on a continuing basis to the Director, Office of Science of the Department of Energy, on the many complex scientific and technical issues that arise in the development and implementation of the Biological and Environmental Research Program.

Tentative Agenda:

Monday, July 10, and Tuesday, July 11, 2006:

- Comments from the Office of Science.
- Report on Subcommittee review of Environmental Molecular Sciences Laboratory (EMSL).
- EMSL Dashboard—a way to measure science.
- Science talk on atmospheric sciences, aerosols and Mexico City field campaign.
- Science talk on biofuels and DOE biofuels workshop.
- Report by Dr. David Thomassen, Acting Associate Director of Science for Biological and Environmental Research.
- Updated status reports on BER for BERAC's review of BER's progress toward meeting its long-term performance goals.
- New business.
- Public comment (10 minute rule).

Public Participation: The day and a half meeting is open to the public. If you would like to file a written statement with the Committee, you may do so either before or after the meeting. If you would like to make oral statements regarding any of the items on the agenda, you should contact David Thomassen at the address or telephone number listed above. You must make your request for an oral statement at least five business days before the meeting. Reasonable provision will be made to include the scheduled oral statements on the agenda. The Chairperson of the Committee will conduct the meeting to facilitate the orderly conduct of business. Public comment will follow the 10-minute rule.

Minutes: The minutes of this meeting will be available for public review and copying within 30 days at the Freedom of Information Public Reading Room, IE–190, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC, between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC on June 16, 2006.

Rachel M. Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. E6–9735 Filed 6–20–06; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER03–509–003, ER99–3197–003, ER99–3077–003, ER92–521–001, ER01–751–007, ER05–698–005, and ER04–1027–001]

Centennial Power, Inc.; BIV Generation Company, LLC; Colorado Power Partners; Hartwell Energy Limited Partnership; Mountain View Power Partners, LLC; San Joaquin Cogen LLC; and Rocky Mountain Power, Inc.; Notice of Filing

June 13, 2006.

Take notice that on May 18, 2006, Centennial Power, Inc, BIV Generation Company, LLC; Colorado Power Partners; Hartwell Energy Limited Partnership; Mountain View Power Partners, LLC; San Joaquin Cogen LLC and Rocky Mountain Power, Inc. filed a notice of change in status to reflect the transfer by NAPG San Joaquin, LLC of its member interests in San Joaquin Cogen, LLC to Centennial Power, Inc.

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 June 23, 2006.

Magalie R. Salas,

Secretary.

[FR Doc. E6–9771 Filed 6–20–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP06–387–000]

Crossroads Pipeline Company; Notice of Proposed Changes in FERC Gas Tariff

June 13, 2006.

Take notice that on June 8, 2006, Crossroads Pipeline Company (Crossroads) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following revised tariff sheets with a proposed effective date of July 8, 2006:

First Revised Sheet No. 78.
First Revised Sheet No. 79.
Original Sheet No. 79A.
First Revised Sheet No. 80.
First Revised Sheet No. 81.
First Revised Sheet No. 476.
First Revised Sheet No. 556.

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. E6–9782 Filed 6–20–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER06–911–000, ER06–911–001; ER06–912–000, ER06–912–001; ER06–913–000, ER06–913–001; ER06–914–000, ER06–914–001; ER06–915–000, ER06–915–001]

DC Energy Midwest, LLC; DC Energy New York, LLC; DC Energy Mid-Atlantic, LLC; DC Energy New England, LLC; DC Energy LLC; Notice of Issuance of Order

June 14, 2006.

DC Energy New York, LLC, DC Energy Mid-Atlantic, LLC and DC Energy New England, LLC (DC Companies) filed applications for market-based rate authority, with accompanying rate schedules. The proposed market-based rate schedules provide for the sale of energy, capacity and ancillary services at market-based rates. DC Companies also requested waiver of various Commission regulations. In particular, DC Companies requested that the Commission grant blanket approval under 18 CFR Part 34 of all future issuances of securities and assumptions of liability by DC Companies.

On June 7, 2006, pursuant to delegated authority, the Director, Division of Tariffs and Market Development—West, granted the request for blanket approval under Part 34. The Director's order also stated that

the Commission would publish a separate notice in the **Federal Register** establishing a period of time for the filing of protests. Accordingly, any person desiring to be heard or to protest the blanket approval of issuances of securities or assumptions of liability by DC Companies should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. 18 CFR 385.211, 385.214 (2004).

Notice is hereby given that the deadline for filing motions to intervene or protest is July 6, 2006.

Absent a request to be heard in opposition by the deadline above, DC Companies are authorized to issue securities and assume obligations or liabilities as a guarantor, indorser, surety, or otherwise in respect of any security of another person; provided that such issuance or assumption is for some lawful object within the corporate purposes of DC Companies compatible with the public interest, and is reasonably necessary or appropriate for such purposes.

The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by continued approval of DC Companies' issuances of securities or assumptions of liability.

Copies of the full text of the Director's Order are available from the Commission's Public Reference Room, 888 First Street, NE., Washington, DC 20426. The Order may also be viewed on the Commission's Web site at *http://www.ferc.gov*, using the eLibrary link. Enter the docket number excluding the last three digits in the docket number field to access the document. Comments, protests, and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings.

Magalie R. Salas,

Secretary.

[FR Doc. E6–9792 Filed 6–20–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP06–319–002]

Distrigas of Massachusetts LLC; Notice of Compliance Filing

June 13, 2006.

Take notice that, on June 8, 2006, Distrigas of Massachusetts LLC (DOMAC) submitted a compliance filing pursuant to the Commission's order issued on May 26, 2006 in Docket Nos. RP06–319–000 and RP06–319–001.

DOMAC states that copies of the compliance filing were served on all affected buyers and state regulatory 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. E6–9780 Filed 6–20–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP05–422–014]

El Paso Natural Gas Company; Notice of Compliance Filing

June 13, 2006.

Take notice that on June 12, 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 in Appendix A to the filing, to become effective June 1, 2006.

EPNG states that copies of the filing were served on parties on the official service list 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. E6–9777 Filed 6–20–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER06–857–000, ER06–857–001]

Energy Resource Management Corp.; Notice of Issuance of Order

June 14, 2006.

Energy Resource Management Corp. (ERM) filed an application for market-based rate authority, with an accompanying rate schedule. The proposed market-based rate schedule provides for the sale of energy and capacity at market-based rates. ERM also requested waiver of various Commission regulations. In particular, ERM requested that the Commission grant blanket approval under 18 CFR part 34 of all future issuances of securities and assumptions of liability by ERM.

On June 7, 2006, pursuant to delegated authority, the Director, Division of Tariffs and Market Development—West, granted the request for blanket approval under part 34. The Director's order also stated that the Commission would publish a separate notice in the **Federal Register** establishing a period of time for the filing of protests. Accordingly, any person desiring to be heard or to protest the blanket approval of issuances of securities or assumptions of liability by ERM should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. 18 CFR 385.211, 385.214 (2004).

Notice is hereby given that the deadline for filing motions to intervene or protest is July 6, 2006.

Absent a request to be heard in opposition by the deadline above, ERM is authorized to issue securities and assume obligations or liabilities as a guarantor, indorser, surety, or otherwise in respect of any security of another person; provided that such issuance or assumption is for some lawful object within the corporate purposes of ERM, compatible with the public interest, and is reasonably necessary or appropriate for such purposes.

The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by continued approval of ERM's issuances of securities or assumptions of liability.

Copies of the full text of the Director's Order are available from the Commission's Public Reference Room, 888 First Street, NE., Washington, DC 20426. The Order may also be viewed on the Commission's Web site at *http://www.ferc.gov*, using the eLibrary link. Enter the docket number excluding the last three digits in the docket number field to access the document. Comments, protests, and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings.

Magalie R. Salas,

Secretary.

[FR Doc. E6–9791 Filed 6–20–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP06–314–001]

Florida Gas Transmission Company; Notice of Compliance Filing

June 13, 2006.

Take notice that on June 7, 2006, Florida Gas Transmission Company (FGT) tendered for filing a compliance filing pursuant to the Commission Order issued May 19, 2006, in Docket No. RP06–314–000.

FGT 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 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. E6–9779 Filed 6–20–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP06–320–001]

Florida Gas Transmission Company; Notice of Compliance Filing

June 13, 2006.

Take notice that on June 9, 2006, Florida Gas Transmission Company (FGT) submitted a compliance filing pursuant to the Commission's order issued May 25, 2006 in Docket No. RP06–320–000.

FGT 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 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. E6–9781 Filed 6–20–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–518–091]

Gas Transmission Northwest Corporation; Notice of Negotiated Rates

June 13, 2006.

Take notice that on June 8, 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 sheets, to become effective June 9, 2006:

Tenth Revised Sheet No. 24
Original Sheet No. 29B

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 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. E6–9770 Filed 6–20–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP06–370–000]

Minnesota Energy Resources Corporation; Notice of Application

June 14, 2006.

Take notice that on May 31, 2006, Minnesota Energy Resources Corporation (''MERC''), 700 North Adams Street P.O. Box 19001 Green Bay, WI 54307–9001, filed in Docket No. CP06–370–000, an abbreviated application pursuant to section 7(f) of the Natural Gas Act requesting the determination of a service area within which MERC may, without further commission authorization, enlarge or expand its natural gas distribution facilities. MERC also requests: (i) A finding that MERC qualifies as a local distribution company (''LDC'') for purposes of section 311 of the Natural Gas Policy Act of 1978 (''NGPA''); (ii) a waiver of the Commission's accounting and reporting requirements and other regulatory requirements ordinarily applicable to natural gas companies under the NGA and NGPA; and (iii) such further relief as the Commission may deem appropriate, 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, contact FERC at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

Any questions regarding this application should be directed to Karl Hoesly, Minnesota Energy Resources Corporation c/o WPS Resources Corporation, 700 North Adams Street P.O. Box 19001 Green Bay, WI 54307–9001; (920) 433–1464 (telephone) or (920) 433–5734 (fax), *KJHoesly@wpsr.com* or Elizabeth W. Whittle, Nixon Peabody, L.L.P., 401 Ninth Street, NW., Suite 900 Washington, DC 20004; 202–585–8338 (telephone) or 202–585–8080 (fax), *ewhittle@nixonpeabody.com*.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the comment date, file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 14 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

The Commission strongly encourages electronic filings of comments, protests, and interventions via the Internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site (*http://www.ferc.gov*) under the ''e-Filing'' link.

Comment Date: 5 p.m. Eastern Time on June 26, 2006.

Magalie R. Salas,

Secretary.

[FR Doc. E6–9794 Filed 6–20–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP06–388–000]

Mojave Pipeline Company; Notice of Proposed Changes in FERC Gas Tariff

June 13, 2006.

Take notice that on June 8, 2006, Mojave Pipeline Company (Mojave) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 2, the following tariff sheets, to become effective August 1, 2006:

Fourteenth Revised Sheet No. 11.
Second Revised Sheet No. 105.
Third Revised Sheet No. 106.
Second Revised Sheet No. 134.
Second Revised Sheet No. 135.
Third Revised Sheet No. 203A.
First Revised Sheet No. 243.
First Revised Sheet No. 244.
Second Revised Sheet No. 433.
Second Revised Sheet No. 452.
First Revised Sheet No. 487.

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. E6–9784 Filed 6–20–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP06–109–003]

Northern Natural Gas Company; Notice of Compliance Filing

June 13, 2006.

Take notice that on June 7, 2006, Northern Natural Gas Company (Northern) tendered for filing to become part of its FERC Gas Tariff, Fifth Revised Volume No. 1, the following tariff, with a date of May 24, 2006:

Second Revised Sheet No. 206A.
Substitute Eleventh Revised Sheet No. 259.
First Revised Sheet No. 259A.

Northern 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 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. E6–9778 Filed 6–20–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. TS04–281–000]

Northern States Power Company, Northern States Power Company (Wisconsin); Notice of Filing

June 14, 2006.

Take notice that on September 7, 2004, Northern States Power Company and Northern States Power Company (Wisconsin) filed a petition for limited exemption from certain Order No. 2004 requirements and conditional request for extension of time.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and

interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on June 21, 2006.

Magalie R. Salas,

Secretary.

[FR Doc. E6–9787 Filed 6–20–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP06–389–000]

Northwest Pipeline Corporation; Notice of Proposed Changes in FERC Gas Tariff and Filing of Non-Conforming Service Agreement

June 13, 2006.

Take notice that on June 12, 2006, Northwest Pipeline Corporation (Northwest) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, Third Revised Sheet No. 374 to become effective July 13, 2006. Northwest also tendered for filing a Rate Schedule TF–1 non-conforming service 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. E6–9785 Filed 6–20–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP06–382–000]

Northwest Pipeline Corporation; Notice of Request Under Blanket Authorization

June 14, 2006.

Take notice that on June 5, 2006, Northwest Pipeline Corporation (Northwest), 295 Chipeta Way, Salt Lake City, Utah 84158, filed in Docket No. CP06–382–000 a request pursuant to sections 157.205(b) and 157.216(b)(2) of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 157.216) for authorization to abandon, by removal, its Thomas Bullock Tap facilities for deliveries to Intermountain Gas Company in Bannock County, Idaho, under the authorization issued in Docket No. CP82–433–000 pursuant to section 7 of the Natural Gas Act, all as more fully described in the request.

This filing is 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.

Any questions concerning this request may be directed to Gary K. Kotter, Manager, Certificates and Tariffs, Northwest Pipeline Corporation, P.O. Box 58900, Salt Lake City, Utah 84158, at (801) 584–7117.

Northwest states that the Thomas Bullock Tap facilities originally were installed to deliver natural gas to Intermountain for distribution to the Thomas Bullock service station, café and motel in the vicinity of McCammon, Idaho. Northwest indicates that it currently has no contractual obligation to make deliveries at this point, and made its last deliveries to this point on May 9, 2006. Northwest avers that Intermountain has reconfigured its distribution facilities to serve the subject end-users from Northwest's nearby McCammon Meter Station delivery point in order to accommodate landowner plans to develop the land where the Thomas Bullock Tap facilities are located.

Northwest contends that Intermountain, the only customer served by the Thomas Bullock Tap during the past twelve months, has provided its written consent to the abandonment.

Any person or the Commission's Staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and, pursuant to section 157.205 of the Commission's Regulations under the Natural Gas Act (NGA) (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the NGA.

Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the

''e-filing'' link. The Commission strongly encourages electronic filings.

Magalie R. Salas,

Secretary.

[FR Doc. E6–9788 Filed 6–20–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. TS04–252–001]

Ohio Valley Electric Corporation, Indiana-Kentucky Electric Corporation; Notice of Filing

June 14, 2006.

Take notice that on October 20, 2004, Ohio Valley Electric Corporation and Indiana-Kentucky Electric Corporation filed a compliance filing pursuant to the Commission's Order issued September 20, 2004.

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 June 21, 2006.

Magalie R. Salas,

Secretary.

[FR Doc. E6–9793 Filed 6–20–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP06–354–000]

Rockies Express Pipeline LLC; Notice of Application

June 12, 2006.

Take notice that on May 31, 2006, Rockies Express Pipeline LLC (Rockies Express), formerly Entrega Gas Pipeline LLC, 370 Van Gordon Street, Lakewood, Colorado 80228, filed an application in Docket No. CP06–354–000, pursuant to section 7(c) of the Natural Gas Act (NGA) and Part 157 of the Commission's regulations requesting a certificate of public convenience and necessity to construct certain pipeline facilities to provide up to 1,500,000 Dth per day of transportation capacity, referred to as the REX-West project, as well as authorization to lease capacity from Questar Overthrust Pipeline Company (Overthrust), all as more fully set forth in the application which is on file with the Commission and open for public inspection. 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.

Specifically, Rockies Express requests authorization to construct: (1) 713 miles of 42-inch pipeline in Weld, Logan and Sedgwick Counties, Colorado, Laramie County, Wyoming, Kimball, Perkins, Lincoln, Dawson, Frontier, Gosper Phelps, Kearney, Franklin, Webster, Nuckolls, Thayer, Jefferson and Gage Counties, Nebraska, Marshall, Nemaha, Brown and Doniphan Counties, Kansas, and Buchannan, Clinton, Caldwell Carroll, Chariton, Randolph and Audrain Counties, Missouri; (2) a 5-mile, 24-inch gas supply lateral (Echo Springs Lateral) in Carbon and Sweetwater Counties, Wyoming; (3) five new compressor stations in Weld and Sedgwick Counties, Colorado, Gage County, Nebraska, Clinton County, Missouri, and Sweetwater County, Wyoming; and (4) additional compressor units at currently authorized compressor stations in Sweetwater County, Wyoming (Wamsmutter CS—one unit), and Rio Blanco County, Colorado (Meeker Hub—three units), and at the proposed new compressor station in Weld County, Colorado (Cheyenne CS Hub—one unit).

On November 18, 2005, the Commission staff granted Rockies Express' request to utilize the National Environmental Policy Act (NEPA) Pre-Filing Process and assigned Docket No. PF06–3–000 to staff activities involving the Rockies Express project. Now, as of the filing of Rockies Express' application on May 31, 2006, the NEPA Pre-Filing Process for this project has ended. From this time forward, Rockies Express' proceeding will be conducted in Docket No. CP06–354–000, as noted in the caption of this Notice.

Rockies Express also seeks authorization to lease capacity of 625,000 Dth per day on the facilities of Overthrust. In order to fulfill its lease commitment, Overthrust intends to construct 77 miles of 36-inch pipeline, for which Overthrust has commenced environmental consultation under the NEPA Pre-Filing Process in Docket No. PF06–19–000, and will add compression at two locations on the facilities for which it is currently seeking authority in Docket No. CP06–167–000. Additionally, Rockies Express states that TransColorado Gas Transmission Company (TransColorado) will seek authority to construct facilities, with a capacity of 250,000 Dth per day, from the Blanco Hub in New Mexico to the Meeker Hub in Colorado where TransColorado will interconnect with Rockies Express. TransColorado has commenced environmental consultation under the NEPA Pre-Filing Process in Docket No. PF06–20–000.

The estimated cost of the REX-West project is approximately $1.6 Billion. Rockies Express proposes two rate zones. Rockies Express proposes to charge its approved, existing recourse rates for Zone 1 (points west of and including the Cheyenne Hub), and proposes to establish new, initial recourse rates for Zone 2 (points east of the Cheyenne Hub to and including the proposed interconnect with Panhandle Eastern Pipe Line Company in Audrain County, Missouri). Rockies Express also proposes to charge incremental rates related to the costs of the proposed Overthrust lease, the Meeker Hub facilities, and the Cheyenne Hub facilities.

Any questions regarding this application should be directed to Bentley W. Breland, Vice President of Certificates and Rates, Rockies Express Pipeline LLC, P.O. Box 281304, Lakewood, Colorado 80228–8304, phone (303) 763–3581.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the below listed comment date, file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 14 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commenters 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 commenters will not be required to serve copies of filed documents on all other parties. However, the non-party commenters 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.

Motions to intervene, protests and comments may be filed electronically via the internet in lieu of paper; see, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings.

Comment Date: July 5, 2006.

Magalie R. Salas,

Secretary.

[FR Doc. E6–9765 Filed 6–20–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP06–379–000]

Transcontinental Gas Pipe Line Corporation; Notice of Application for Abandonment

June 13, 2006.

Take notice that on June 8, 2006, Transcontinental Gas Pipe Line Corporation (Transco), filed with the Commission an application under section 7 of the Natural Gas Act to abandon a portion of the firm transportation service provided to the City of Kings Mountain, North Carolina (Kings Mountain) under Transco's Rate Schedule FT.

Transco states that it currently provides firm transportation service to Kings Mountain under a Rate Schedule FT Service Agreement dated February 1, 1992. This service agreement is a result of a conversion from firm sales service to firm transportation service for which pre-granted abandonment does not apply. As a result, Transco requires specific section 7(b) authorization to abandon service to Kings Mountain. As more fully explained in the application, Transco seeks authorization to abandon 1,000 Dt/day of Kings Mountain's firm transportation service.

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 June 29, 2006.

Magalie R. Salas,

Secretary.

[FR Doc. E6–9786 Filed 6–20–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER06–1030–000]

U.S. Bank National Association and James A. Goodman; Notice of Issuance of Order

June 14, 2006.

U.S. Bank National Association and James A. Goodman (the Receiver) filed an application for market-based rate authority, with an accompanying tariff. The proposed market-based rate tariff provides for the sale of energy, capacity and ancillary services at market-based rates. The Receiver also requested waiver of various Commission regulations. In particular, the Receiver requested that the Commission grant blanket approval under 18 CFR part 34 of all future issuances of securities and assumptions of liability by the Receiver.

On June 12, 2006, pursuant to delegated authority, the Director, Division of Tariffs and Market Development—West, granted the request for blanket approval under part 34. The Director's order also stated that the Commission would publish a separate notice in the **Federal Register** establishing a period of time for the filing of protests. Accordingly, any person desiring to be heard or to protest the blanket approval of issuances of securities or assumptions of liability by the Receiver should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. 18 CFR 385.211, 385.214 (2004).

Notice is hereby given that the deadline for filing motions to intervene or protest is July 12, 2006.

Absent a request to be heard in opposition by the deadline above, the Receiver is authorized to issue securities and assume obligations or liabilities as a guarantor, indorser, surety, or otherwise in respect of any security of another person; provided that such issuance or assumption is for some lawful object within the corporate purposes of the Receiver, compatible with the public interest, and is reasonably necessary or appropriate for such purposes.

The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by continued approval of the Receiver's issuances of securities or assumptions of liability.

Copies of the full text of the Director's Order are available from the Commission's Public Reference Room, 888 First Street, NE., Washington, DC 20426. The Order may also be viewed on the Commission's Web site at *http://www.ferc.gov*, using the eLibrary link. Enter the docket number excluding the last three digits in the docket number field to access the document. Comments, protests, and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings.

Magalie R. Salas,

Secretary.

[FR Doc. E6–9790 Filed 6–20–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER06–301–000, ER06–301–001]

Xcel Energy Services Inc.; Notice Allowing Post-Technical Conference Comments

June 13, 2006.

A technical conference was convened on Monday, June 12, 2006, from 10 a.m. to 11:30 p.m. at the offices of the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. The technical conference addressed, among other things, the two issues related to Xcel Energy Services Inc.'s (XES) proposed Service Schedules H and I, as discussed in the Commission's order issued on May 5, 2006.[1] Prior to the technical conference, a notice was issued on May 31, 2006, that set forth two questions; namely, why the transfer price proposed in Service Schedule H is different from the transfer price proposed in Service Schedule I, and why XES needs both service schedules. These questions were discussed at the technical conference.

Take notice that the Commission will accept comments pursuant to the discussion at the technical conference. Initial comments are due no later than 5 p.m. Eastern Time on Wednesday, July 19, 2006. Reply comments are due no later than 5 p.m. Eastern Time on Friday, August 4, 2006.

For further information please contact Christopher Daignault at (202) 502–8286 or e-mail *christopher.daignault@ferc.gov*.

Magalie R. Salas,

Secretary.

[FR Doc. E6–9772 Filed 6–20–06; 8:45 am]

BILLING CODE 6717–01–P

[1] *Xcel Energy Services Inc.*, 115 FERC ¶ 61,148 (2006).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

June 12, 2006.

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC06–128–000.

Applicants: RockGen OL–4, LLC; RockGen OL–1, LLC, RockGen OL–2, LLC; RockGen OL–3, LLC; RockGen Energy, LLC.

Description: RockGen OL–1, LLC, RockGen OL–2, LLC, et al. submit their application for approval and expedited consideration under Section 203 of the Federal Power Act and Part 33 of the Regulations.

Filed Date: 5/26/2006.

Accession Number: 20060609–0113.

Comment Date: 5 p.m. Eastern Time on Friday, June 23, 2006.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER98–2783–009; ER99–3822–008; ER00–3696–005; ER99–2602–005; ER96–1947–019; ER05–1266–003; ER98–2682–011; ER01–1619–008; ER02–443–007; ER98–2681–011; ER98–2680–011; ER99–1785–010.

Applicants: Bridgeport Energy LLC; Casco Bay Energy Company; Griffith Energy LLC; LSP–Kendall Energy, LLC; LS Power Marketing, LLC; Ontelaunee Power Operating Company, LLC; LSP Oakland, LLC; LSP Mohave, LLC; LSP Arlington Valley, LLC; LSP Morro Bay, LLC; LSP Moss Landing; LSP South Bay, LLC.

Description: Bridgeport Energy LLC et al., submit a notice of non-material change in status with respect to the characteristics that the Commission previously relied upon in granting market-based rate authority.

Filed Date: 6/2/2006.

Accession Number: 20060608–0623.

Comment Date: 5 p.m. Eastern Time on Friday, June 23, 2006.

Docket Numbers: ER06–194–001.

Applicants: Midwest Independent Transmission System Operator, Inc.

Description: Midwest Independent Transmission System Operator, Inc submits a Large Generator Interconnection Agreement with American Transmission Co., LLC in compliance with FERC's 1/9/06 Order.

Filed Date: 6/5/2006.

Accession Number: 20060608–0593.

Comment Date: 5 p.m. Eastern Time on Monday, June 26, 2006.

Docket Numbers: ER06–717–001.

Applicants: Southern California Edison Company.

Description: Southern California Edison Co. submits a compliance refund report pursuant to the Commission's Order issued 5/8/06.

Filed Date: 6/7/2006.

Accession Number: 20060609–0153.

Comment Date: 5 p.m. Eastern Time on Wednesday, June 28, 2006.

Docket Numbers: ER06–883–001.

Applicants: American Electric Power Service Corporation.

Description: American Electric Power Service Corp. as agent for its affiliate

Indiana Michigan Power Co. submits an amendment to the second revised Interconnection and Local Delivery Service Agreement with Wabash Valley Association.

Filed Date: 6/7/2006.

Accession Number: 20060609–0152.

Comment Date: 5 p.m. Eastern Time on Wednesday, June 28, 2006.

Docket Numbers: ER06–1080–000.

Applicants: American Electric Power Service Corporation; Indiana Michigan Power Company.

Description: Indiana Michigan Power Co. submits a Cost-Based Formula Agreement for Full Requirements Electric Service (including Appendices A through C) dated 5/24/06 with the City of Sturgis, Michigan.

Filed Date: 6/2/2006.

Accession Number: 20060607–0098.

Comment Date: 5 p.m. Eastern Time on Friday, June 23, 2006.

Docket Numbers: ER06–1087–000.

Applicants: American Electric Power Service Corporation.

Description: American Electric Power Service Corp., agent for Michigan Power Co., submits an original interconnection & local delivery services agreement with the City of South Haven, MI.

Filed Date: 6/1/2006.

Accession Number: 20060612–0192.

Comment Date: 5 p.m. Eastern Time on Thursday, June 22, 2006.

Docket Numbers: ER06–1092–000.

Applicants: Westar Energy, Inc.

Description: Westar Energy, Inc. submits its Fourth Revised Sheet 11 of Rate Schedule 303 with Missouri Joint Municipal Electric Utility Commission.

Filed Date: 6/1/2006.

Accession Number: 20060608–0625.

Comment Date: 5 p.m. Eastern Time on Thursday, June 22, 2006.

Docket Numbers: ER06–1094–005.

Applicants: Baconton Power LLC.

Description: Baconton Power LLC. submits a request for waiver of FERC's OASIS-related standards of Order 676.

Filed Date: 5/26/2006.

Accession Number: 20060608–0595.

Comment Date: 5 p.m. Eastern Time on Friday, June 16, 2006.

Docket Numbers: ER06–1094–008.

Applicants: Fitchburg Gas and Electric Light Company; Unitil Energy Systems.

Description: Fitchburg Gas & Elec Light Co. and Unitil Energy Systems submit their request for a waiver of the Commission's Standards for Business Practices and Communication Protocols for Public Utilities pursuant to FERC's Order 676.

Filed Date: 6/1/2006.

Accession Number: 20060608–0588.

Comment Date: 5 p.m. Eastern Time on Thursday, June 22, 2006.

Docket Numbers: ER06–1094–009.

Applicants: California Independent System Operator Corporation.

Description: California Independent System Operator Corporation submits its Petition for renewal of waiver of certain OASIS business procedures pursuant to Rule 207 of FERC's Rules of Practice and Procedure.

Filed Date: 6/1/2006.

Accession Number: 20060608–0586.

Comment Date: 5 p.m. Eastern Time on Thursday, June 22, 2006.

Docket Numbers: ER06–1094–010.

Applicants: Long Sault Division of Alcoa Power Generating Inc.

Description: Long Sault Division of Alcoa Power Generating, Inc. submits its requests for the Commission to extend its consideration of waiver of the OASIS requirements for the MAL Transmission Lines etc. pursuant to Order 676.

Filed Date: 6/1/2006.

Accession Number: 20060608–0585.

Comment Date: 5 p.m. Eastern Time on Thursday, June 22, 2006.

Docket Numbers: ER06–1099–001.

Applicants: Midwest Independent Transmission System Operator, Inc.

Description: The Midwest Independent Transmission System Operator, Inc. submits an amendment to its 6/5/06 filing, proposed revisions to its OAT&EM Tariff, FERC Electric Tariff, Volume 1.

Filed Date: 6/7/2006.

Accession Number: 20060609–0154.

Comment Date: 5 p.m. Eastern Time on Wednesday, June 28, 2006.

Docket Numbers: ER06–1101–000.

Applicants: Tampa Electric Company.

Description: Tampa Electric Co. submits Service Schedules AF, BF and DF for inclusion in its Rate Schedule and proposed charges for the services under these schedules.

Filed Date: 6/5/2006.

Accession Number: 20060608–0594.

Comment Date: 5 p.m. Eastern Time on Monday, June 26, 2006.

Docket Numbers: ER06–1114–000.

Applicants: MidAmerican Energy Company.

Description: MidAmerican Energy Co. submits a Network Operating and Interconnection Agreement with the Municipal Electric Utility of City of Cedar Falls, Iowa dated 6/6/06.

Filed Date: 6/7/2006.

Accession Number: 20060609–0157.

Comment Date: 5 p.m. Eastern Time on Wednesday, June 28, 2006.

Docket Numbers: ER06–1115–000.

Applicants: American Electric Power Service Corporation.

Description: American Electric Power Service Corp. on behalf of Appalachian Power Service Co et al submits revisions to the Annual Transmission Rates—AEP East Operating Companies for Network Integration Transmission Service.

Filed Date: 6/7/2006.

Accession Number: 20060609–0156.

Comment Date: 5 p.m. Eastern Time on Wednesday, June 28, 2006.

Docket Numbers: ER06–1116–000.

Applicants: ISO New England Inc.; New England Power Pool Participants Committee.

Description: ISO New England, Inc. and the New England Power Pool Participants Committee submit revisions to Market Rule 1 of its Tariff at Section 3.

Filed Date: 6/7/2006.

Accession Number: 20060609–0155.

Comment Date: 5 p.m. Eastern Time on Wednesday, June 28, 2006.

Docket Numbers: ER06–1117–000.

Applicants: Indiana Michigan Power Company; American Electric Power Service Corporation.

Description: Indiana Michigan Power Co. submits a Cost-Based Formula Rate Agreement (FERC Electric Rate Schedule 103) for Full Requirements Electric Service with the City of New Carlisle, Indiana.

Filed Date: 6/7/2006.

Accession Number: 20060609–0200.

Comment Date: 5 p.m. Eastern Time on Wednesday, June 28, 2006.

Take notice that the Commission received the following electric securities filings:

Docket Numbers: ES06–51–000.

Applicants: Southwest Power Pool, Inc.

Description: Southwest Power Pool, Inc. submits its application under section 204 of the Federal Power Act for an Order authorizing the Issuance of Securities.

Filed Date: 5/26/2006.

Accession Number: 20060609–0044.

Comment Date: 5 p.m. Eastern Time on Friday, June 16, 2006.

Docket Numbers: ES06–52–000.

Applicants: Indianapolis Power & Light Company.

Description: Indianapolis Power & Light Company submit its application under section 204 of the Federal Power Act for an order authorizing the issuance of short-term instruments.

Filed Date: 6/9/2006.

Accession Number: 20060609–5027.

Comment Date: 5 p.m. Eastern Time on Friday, June 30, 2006.

Take notice that the Commission received the following foreign utility company status filings:

Docket Numbers: FC06–7–000.

Applicants: EPCOR Transmission Inc.; EPCOR Energy Inc.; EPCOR Distribution, Inc.; EPCOR Energy Alberta Inc.; EPCOR Utilities Inc.

Description: EPCOR Energy Inc., EPCOR Energy Alberta Inc., et al., submit a self-certification of foreign utility status application, pursuant to sections 366.1 and 366.7(a) of the Commission's Regulations.

Filed Date: 6/9/2006.

Accession Number: 20060609–5043.

Comment Date: 5 p.m. Eastern Time on Friday, June 30, 2006.

Take notice that the Commission received the following public utility holding company filings:

Docket Numbers: PH06–71–000.

Applicants: Questar Corporation.

Description: Questar Corp submits its 65A–Exemption Notification from requirements of PUHCA of 2005.

Filed Date: 6/2/2006.

Accession Number: 20060601–5088.

Comment Date: 5 p.m. Eastern Time on Friday, June 23, 2006.

Docket Numbers: PH06–72–000.

Applicants: Questar Corporation.

Description: Questar Corporation submits its 65B–Waiver Notification from requirements PUCHA Act 2005.

Filed Date: 6/2/2006.

Accession Number: 20060601–5089.

Comment Date: 5 p.m. Eastern Time on Friday, June 23, 2006.

Docket Numbers: PH06–73–000.

Applicants: C&T Enterprises, Inc.

Description: C&T Enterprises, Inc. submits its notification of Exemption From Or, In The Alternative, Notification of Waiver of PUHCA 2005 Compliance Obligations.

Filed Date: 6/2/2006.

Accession Number: 20060602–5023.

Comment Date: 5 p.m. Eastern Time on Friday, June 23, 2006.

Docket Numbers: PH06–74–000.

Applicants: NWO Resources, Inc.

Description: NOW Resources, Inc. submits its notification of Exemption Form or, in the Alternative, Notification of Waiver of the PUHCA 2005 Compliance Obligations.

Filed Date: 6/2/2006.

Accession Number: 20060602–5038.

Comment Date: 5 p.m. Eastern Time on Friday, June 23, 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 e-mail 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. E6–9760 Filed 6–20–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 516–418]

South Carolina Electric & Gas Company; Notice of Availability of Environmental Assessment

June 12, 2006.

An environmental assessment (EA) is available for public review. The EA was prepared for an application filed by South Carolina Electric & Gas Company (licensee) on February 21, 2006 requesting commission approval for non-project use of project lands and waters at the Saluda Hydroelectric Project. The project is located on Lake Murray in Saluda County, South Carolina. The non-project use would include a water withdrawal of 15.0 million gallons per day for public drinking water, and a conveyance of 0.23 acres of project property along with a 40-foot wide ingress and egress easement for the purpose of constructing a raw-water pumping station and associated facilities. The water withdrawal would involve an inter-basin transfer from the Saluda River basin for use and discharge into the Lower Savannah River basin and the Edisto River basin.

The EA evaluates the environmental impacts that would result from approving the licensee's proposed water withdrawal and the construction of associated facilities. Some land disturbance and lake-bottom excavation would occur, but impacts to the terrestrial and aquatic resources are expected to be minor and short term. The EA finds that approval of the application for non-project use of project lands and waters would not constitute a major Federal action significantly affecting the quality of the human environment.

A copy of the EA is attached to a Commission order titled ''Order Modifying and Approving Non-Project Use of Project Lands and Waters'' issued June 9, 2006 and 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 documents. For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at 1–866–208–3676, or for TTY, (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E6–9764 Filed 6–20–06; 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

June 12, 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.:* 12674–000.

c. *Date filed:* May 8, 2006.

d. *Applicant:* Tidewater Associates.

e. *Name of Project:* Cutler Tidal Power Project.

f. *Location:* The project would be located on Little Machias Bay, in Washington County, Maine. The project would use lands owned by the U.S. Navy.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Normand Laberge, Tidewater Associates, 46 Place Cove Road, Trescott, ME 04652, (207) 733–5513.

i. *FERC Contact:* Robert Bell, (202) 502–6062.

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) Proposed 4,200-foot-long, 23-foot-high dam, (2) a proposed powerhouse containing three generating units having a total installed capacity of 1200-kilowatts, (2) a proposed 0.25-mile-long, 6.9-kilovolt transmission line; and (3) appurtenant facilities. The project would have an annual generation of 5 gigawatt hours that would be sold to a local utility. The project will operate as a single pool project. The dam in combination with emptying/filling gates will be used to establish a hydroelectric head in a manner similar to most conventional hydroelectric dams. The main difference is that a reservoir will not be created since the dam will hold back tidal water until creation of optimal conditions for generating power.

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 with18 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'', ''COMPETING APPLICATION'', ''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. 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. E6–9762 Filed 6–20–06; 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

June 12, 2006.

Take notice that the following application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Non-Capacity Amendment of License.

b. *Project No.:* 2423–024.

c. *Date Filed:* March 13, 2006.

d. *Applicant:* Great Lakes Hydro America, LLC

e. *Name of Project:* Riverside Hydroelectric Project

f. *Location:* The project is located on the Connecticut River, in Cheshire County, New Hampshire and Windham County, Vermont.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791a–825r.

h. *Applicant Contact:* Mr. Kevin Bernier, Environmental and FERC Compliance Specialist, Great Lakes Hydro America, LLC, 1024 Central Street, Millinocket, ME 04462, telephone: (207) 723–4341.

i. *FERC Contact:* Any questions on this notice should be addressed to Mrs. Anumzziatta Purchiaroni at (202) 502–6191, or e-mail address: *anumzziatta.purchiaroni@ferc.gov*.

j. *Deadline for filing comments and or motions:* July 10, 2006.

k. *Description of Request:* The licensee filed a non-capacity related amendment application to decrease the installed capacity of the project from 12.4 MW to 7.9 MW. The licensee proposes to remove a new additional 4.5 MW installed capacity that was approved in the license, but was never installed at the project.

l. *Locations of the Application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE., Room 2A, Washington, DC 20426, or by calling (202) 502–8371. Information about 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. You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via e-mail of new filings and issuances related to this or other pending projects. For assistance, call 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. *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.

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. All documents (original and eight copies) should be filed with: Magalie R. Salas, 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.

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. E6–9763 Filed 6–20–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application for Transfer of License and Soliciting Comments, Motions To Intervene, and Protests

June 13, 2006.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Transfer of License.

b. *Project No.:* 2375–074.

c. *Date Filed:* June 5, 2006.

d. *Applicants:* International Paper Company (IPC) and CMP Androscoggin LLC (CMP Androscoggin).

e. *Name and Location of Project:* The Riley-Jay-Livermore Project is located on the Androscoggin River, in the Village of Riley and the towns of Canton, Jay, Livermore and Livermore Falls at the junction of Franklin, Androscoggin, and Oxford Counties, Maine.

f. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

g. *Applicant Contacts:* For IPC: Mr. Micheal K. Chapman, International Paper Company, 6400 Popular Avenue, Memphis, TN 38197, (901) 419–3805. Ms. June Broadstone, Mr. Robert W. Warnement, Skadden, Arps, Slate, Meagher & Flom, LLP, 1440 New York Avenue, NW., Washington, DC 20005, (202) 371–7000. For CMP Androscoggin: Mr. Scott Kleinman, CMP Androscoggin LLC, c/o Apollo Managements VI, L.P., 9 West 57th Street, Floor 43, New York, NY 10019, (212) 515–3200. Mr. Michael J. Gergen, Mr. Jared W. Johnson, Latham & Watkins LLP, 555 11th Street, NW., Washington, DC 20004, (202) 637–2200.

h. *FERC Contact:* Etta L. Foster (202) 502–8769.

i. *Deadline for filing comments, protests, and motions to intervene:* June 30, 2006.

All documents (original and eight copies) should be filed with Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Comments, protests, and interventions may be filed electronically via the Internet in lieu of paper, see 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings. Please include the project number (P–2375–074) on any comments, protests, or motions filed. The Commission's Rules of Practice and Procedure require all intervenors filing a document 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 documents on that resource agency.

j. *Description of Application:* Applicants request approval, under section 8 of the Federal Power Act, of a transfer of license for the Riley-Jay-Livermore Project No. 2375 from the International Paper Company to CMP Androscoggin LLC.

k. This filing is 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 project number excluding the last three digits (P–2375) in the docket number field to access the document. For online assistance, contact *FERCOnlineSupport@ferc.gov* or call toll-free (866) 208–3676, for TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at the addresses in item g.

l. Individual desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

m. *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.

n. *Filing and Service of Responsive Documents:* Any filings must bear in all capital letters the title ''COMMENTS'', ''PROTESTS'', 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.

o. *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 assumed 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. E6–9773 Filed 6–20–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Intent To File License Application, Filing of Pre-Application Document, Commencement of Licensing Proceeding, Scoping Meetings, Solicitation of Comments on the Pad and Scoping Document, and Identification of Issues and Associated Study Requests

June 13, 2006.

a. *Type of Filing:* Notice of Intent to File License Application for a New License and Commencing Licensing Proceeding.

b. *Project No.:* 2985–004.

c. *Dated Filed:* April 14, 2006.

d. *Applicant:* MeadWestvaco.

e. *Name of Project:* Willow Mill Hydroelectric Project.

f. *Location:* On the Housatonic River in Berkshire County, Massachusetts. The project does not occupy Federal lands.

g. *Filed Pursuant to:* 18 CFR Part 5 of the Commission's Regulations.

h. *Applicant Contact:* Mr. Scott Phelps, MeadWestvaco, 40 Willow Street, South Lee, Massachusetts 01260, (413) 243–5963.

i. *FERC Contact:* Kristen Murphy, (202) 502–6236, or via e-mail at *kristen.murphy@ferc.gov.*

j. We are asking Federal, State, local, and tribal agencies with jurisdiction and/or special expertise with respect to environmental issues to cooperate with us in the preparation of the environmental document. Agencies who would like to request cooperating status should follow the instructions for filing comments described in paragraph o below. Cooperating agencies should note the Commission's policy that agencies that cooperate in the preparation of the environmental document cannot also intervene. *See,* 94 FERC ¶ 61,076 (2001).

k. *With this notice, we are initiating informal consultation with:* (a) The U.S. Fish and Wildlife Service and/or NOAA Fisheries under section 7 of the Endangered Species Act and the joint agency regulations thereunder at 50 CFR, Part 402; and (b) the State Historic Preservation Officer, as required by section 106, National Historical Preservation Act, and the implementing regulations of the Advisory Council on Historic Preservation at 36 CFR 800.2.

l. With this notice, we are designating MeadWestvaco as the Commission's non-Federal representative for carrying out informal consultation, pursuant to section 7 of the Endangered Species Act and section 106 of the National Historic Preservation Act.

m. MeadWestvaco filed a Pre-Application Document (PAD) pursuant to 18 CFR 5.6 of the Commission's regulations. The Commission issued Scoping Document 1 (SD1) on June 12, 2006.

n. A copy of the PAD and SD1 are available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site (*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 1–866–208–3676, or for TTY, (202) 502–8659. Copies are also available for inspection and reproduction at the address in paragraph h.

Register online at *http://ferc.gov/esubscribenow.htm* to be notified via e-mail of new filing and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

o. With this notice, we are soliciting comments on the PAD and SD1, as well as study requests. All comments on the PAD and SD1, and study requests should be sent to the address above in paragraph h. In addition, all comments on the PAD and SD1, study requests, requests for cooperating agency status, and all communications to and from Commission staff related to the merits of the potential application (original and eight copies) must be filed with the Commission at the following address: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. All filings with the Commission must include on the first page, the project name (Willow Mill Project) and number (P–2985–004), and bear the heading ''Comments on Pre-Application Document,'' ''Study Requests,''

''Comments on Scoping Document 1,'' ''Request for Cooperating Agency Status,'' or ''Communications to and from Commission Staff.'' Any individual or entity interested in submitting study requests, commenting on the PAD or SD1, and any agency requesting cooperating status must do so by August 12, 2006.

Comments on the PAD and SD1, study requests, requests for cooperating agency status, and other permissible forms of communications with the Commission may be filed electronically via the Internet in lieu of paper. The Commission strongly encourages electronic filings. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site (*http://www.ferc.gov*) under the ''efiling'' link.

p. Although our current intent is to prepare an environmental assessment (EA), there is the possibility that an Environmental Impact Statement (EIS) will be required. Nevertheless, this scoping process will satisfy the NEPA scoping requirements, irrespective of whether an EA or EIS is issued by the Commission.

Scoping Meetings

Commission staff will hold two scoping meetings in the vicinity of the project at the times and places noted below. The daytime meeting will focus on resource agency, Indian tribes, and non-governmental organization concerns, while the evening meeting is primarily for receiving input from the public. We invite all interested individuals, organizations, and agencies to attend these meetings, and to assist staff in identifying particular study needs, as well as the scope of environmental issues to be addressed in the environmental document. The times and locations of these meetings are as follows:

Evening Scoping Meeting

Date and Time: Wednesday, July 12, 2006, 7 p.m., EST.

Location: First Congregational Church of Stockbridge, 4 Main Street, Stockbridge, MA 01262. (413) 298–3137.

Daytime Scoping Meeting

Date and Time: Thursday, July 13, 2006, 10 a.m., EST.

Location: First Congregational Church of Stockbridge, 4 Main Street, Stockbridge, MA 01262. (413) 298–3137.

For Directions: please call Mr. Scott Phelps at (413) 243–5963.

SD1, which outlines the subject areas to be addressed in the environmental document, was mailed to the individuals and entities on the Commission's mailing list. Copies of SD1 will be available at the scoping meetings, or may be viewed on the Web at *http://www.ferc.gov*, using the ''eLibrary'' link. Follow the directions for accessing information in paragraph n. Depending on the extent of comments received, Scoping Document 2 may or may not be issued.

Site Visit

MeadWestvaco will conduct a site visit of the project on Wednesday, July 12, 2006, starting at 3 p.m. All participants should meet at the Willow Mill located off Willow Street on the south side of the Housatonic River. All participants are responsible for their own transportation. Anyone with questions about the site visit should contact Mr. Scott Phelps of MeadWestvaco at (413) 243–5963 on or before July 7, 2006.

Scoping Meeting Objectives

At the scoping meetings, staff will: (1) Present a proposed list of issues to be addressed in the EA; (2) review and discuss existing conditions and resource agency management objectives; (3) review and discuss existing information and identify preliminary information and study needs; (4) review and discuss the process plan and schedule for pre-filing activity that incorporates the time frames provided for in Part 5 of the Commission's regulations and, to the extent possible, maximizes coordination of federal, state, and tribal permitting and certification processes; and (5) discuss requests by any federal or state agency or Indian tribe acting as a cooperating agency for development of an environmental document.

Meeting participants should come prepared to discuss their issues and/or concerns. Please review the PAD in preparation for the scoping meetings. Directions on how to obtain a copy of the PAD and SD1 are included in item n of this document.

Scoping Meeting Procedures

The meetings will be recorded by a stenographer and will become part of the formal Commission record on the project.

Magalie R. Salas,

Secretary.

[FR Doc. E6–9774 Filed 6–20–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application for Transfer of License and Soliciting Comments, Motions To Intervene, and Protests

June 13, 2006.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Transfer of License.

b. *Project No.:* 8277–048.

c. *Date Filed:* June 5, 2006.

d. *Applicants:* International Paper Company (IPC) and CMP Androscoggin LLC (CMP Androscoggin).

e. *Name and Location of Project:* The Otis Project is located on the Androscoggin River, in Franklin, Oxford, and Androscoggin Counties, Maine.

f. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

g. *Applicant Contacts:* For IPC: Mr. Micheal K. Chapman, International Paper Company, 6400 Popular Avenue, Memphis, TN 38197, (901) 419–3805. Ms. June Broadstone, Mr. Robert W. Warnement, Skadden, Arps, Slate, Meagher & Flom, LLP, 1440 New York Avenue, NW., Washington, DC 20005, (202) 371–7000. For CMP Androscoggin: Mr. Scott Kleinman, CMP Androscoggin LLC, c/o Apollo Managements VI, L.P., 9 West 57th Street, Floor 43, New York, NY 10019, (212) 515–3200. Mr. Michael J. Gergen, Mr. Jared W. Johnson, Latham & Watkins LLP, 555 11th Street, NW., Washington, DC 20004, (202) 637–2200.

h. *FERC Contact:* Etta L. Foster (202) 502–8769.

i. *Deadline for filing comments, protests, and motions to intervene:* June 30, 2006.

All documents (original and eight copies) should be filed with Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Comments, protests, and interventions may be filed electronically via the Internet in lieu of paper, see 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings. Please include the project number (P–8277–048) on any comments, protests, or motions filed. The Commission's Rules of Practice and Procedure require all intervenors filing a document 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 documents on that resource agency.

j. *Description of Application:* Applicants request approval, under section 8 of the Federal Power Act, of a transfer of license for the Otis Project No. 8277 from the International Paper Company to CMP Androscoggin LLC.

k. This filing is 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 project number excluding the last three digits (P–8277) in the docket number field to access the document. For online assistance, contact *FERCOnlineSupport@ferc.gov* or call toll-free (866) 208–3676, for TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at the addresses in item g.

l. Individual desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

m. *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.

n. *Filing and Service of Responsive Documents:* Any filings must bear in all capital letters the title ''COMMENTS'', ''PROTESTS'', 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.

o. *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 filling comments, it will be assumed 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. E6–9775 Filed 6–20–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application for Transfer of License and Soliciting Comments, Motions To Intervene, and Protests

June 13, 2006.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Transfer of License.

b. *Project No.:* 8315–007.

c. *Date Filed:* June 5, 2006.

d. *Applicants:* International Paper Company (IPC) and CMP Sartell LLC (CMP Sartell).

e. *Name and Location of Project:* The Sartell Project is located on the Mississippi River, near Sartell, Stearns and Benton Counties, Minnesota.

f. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

g. *Applicant Contacts:* For IPC: Mr. Micheal K. Chapman, International Paper Company, 6400 Popular Avenue, Memphis, TN 38197, (901) 419–3805. Ms. June Broadstone, Mr.Robert W. Warnement, Skadden, Arps, Slate, Meagher & Flom, LLP, 1440 New York Avenue, NW., Washington, DC 20005, (202) 371–7000. For CMP Sartell: Mr. Scott Kleinman, CMP Androscoggin LLC, c/o Apollo Managements VI, L.P., 9 West 57th Street, Floor 43, New York, NY 10019, (212) 515–3200. Mr. Michael J. Gergen, Mr. Jared W. Johnson, Latham & Watkins LLP, 555 11th Street, NW., Washington, DC 20004, (202) 637–2200.

h. *FERC Contact:* Etta L. Foster (202) 502–8769.

i. *Deadline for filing comments, protests, and motions to intervene:* June 30, 2006.

All documents (original and eight copies) should be filed with Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Comments, protests, and interventions may be filed electronically via the Internet in lieu of paper, see 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings. Please include the project number (P–8315–007) on any comments, protests, or motions filed. The Commission's Rules of Practice and Procedure require all intervenors filing a document 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 documents on that resource agency.

j. *Description of Application:* Applicants request approval, under section 8 of the Federal Power Act, of a transfer of license for the Sartell Project No. 8315 from the International Paper Company to CMP Sartell LLC.

k. This filing is 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 project number excluding the last three digits (P–8315) in the docket number field to access the document. For online assistance, contact *FERCOnlineSupport@ferc.gov* or call toll-free (866) 208–3676, for TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at the addresses in item g.

l. Individual desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

m. *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.

n. *Filing and Service of Responsive Documents:* Any filings must bear in all capital letters the title ''COMMENTS'', ''PROTESTS'', 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.

o. *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 filling comments, it will be assumed 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. E6–9776 Filed 6–20–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Declaration of Intention and Soliciting Comments, Protests, and/or Motions To Intervene

June 14, 2006.

Take notice that the following application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Declaration of Intention.

b. *Docket No:* DI06–2–000.

c. *Date Filed:* June 7, 2006.

d. *Applicant:* Carl Smid.

e. *Name of Project:* French Creek Micro Hydro Project.

f. *Location:* The proposed French Creek Micro Hydro Project will be located on French Creek, tributary to the Salmon River, near the town of Riggins, Idaho County, Idaho, affecting T. 24 N., R. 3 E., secs. 13 and 24, Boise Meridian. The powerhouse would be approximately one mile from the confluence of French Creek with the Salmon River.

g. *Filed Pursuant to:* section 23(b)(1) of the Federal Power Act, 16 U.S.C. 817(b).

h. *Applicant Contact:* Chuck Cuddy, PLS, Cuddy and Associates, P.O. Box 64, Orofino, ID 83544; telephone: (208) 476–4643, fax: (208) 476–5042; e-mail: *chuckcuddy@valint.net*

i. *FERC Contact:* Any questions on this notice should be addressed to Henry Ecton, (202) 502–8768, or E-mail address: *henry.ecton@ferc.gov.*

j. *Deadline for filing comments, protests, and/or motions:* July 14, 2006.

All documents (original and eight copies) should be filed with: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Comments, protests, and/or interventions may be filed electronically via the Internet in lieu of paper. Any questions, please contact the Secretary's Office. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site at *http://www.ferc.gov.*

Please include the docket number (DI06–2–000) on any comments, protests, and/or motions filed.

k. *Description of Project:* The proposed run-of-river French Creek Micro Hydro Project would include: (1) A 2900-foot-long, 10-inch-diameter PCV penstock, diverting 2 cfs from French Creek; (2) a powerhouse containing a 15-kW Pelton-type turbine; and (3) appurtenant facilities. The power would be used on-site at the owner's residence and ranch. The project would not be connected to an interstate grid.

When a Declaration of Intention is filed with the Federal Energy Regulatory Commission, the Federal Power Act requires the Commission to investigate and determine if the interests of interstate or foreign commerce would be affected by the project. The Commission also determines whether or not the project: (1) Would be located on a navigable waterway; (2) would occupy or affect public lands or reservations of the United States; (3) would utilize surplus water or water power from a government dam; or (4) if applicable, has involved or would involve any construction subsequent to 1935 that may have increased or would increase the project's head or generating capacity, or have otherwise significantly modified the project's pre-1935 design or operation.

l. *Locations of the Application:* Copies of this filing are on file with the Commission and are available for public inspection. This filing may be viewed on the Web at *http://www.ferc.gov* using the ''eLibrary'' link, select ''Docket#'' and follow the instructions. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (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, .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.

o. *Filing and Service of Responsive Documents:* Any filings must bear in all capital letters the title ''COMMENTS'', ''PROTESTS'', and/or ''MOTIONS TO INTERVENE'', as applicable, and the Docket 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.

Magalie R. Salas,

Secretary.

[FR Doc. E6–9789 Filed 6–20–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–245–016]

Transcontinental Gas Pipe Line Corporation; Notice of Informal Settlement Conference

June 12, 2006.

Take notice that an informal settlement conference will be convened in this proceeding commencing at 10 a.m. on Tuesday, June 27, 2006 at the offices of the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, for the purpose of exploring the possible settlement of the above-referenced remanded docket.

Any party, as defined by 18 CFR 385.102(c), or any participant as defined by 18 CFR 385.102(b), is invited to attend. Persons wishing to become a party must move to intervene and receive intervenor status pursuant to the

Commission's regulations (18 CFR 385.214).

FERC conferences are accessible under section 508 of the Rehabilitation Act of 1973. For accessibility accommodations please send an e-mail to *accessibility@ferc.gov* or call toll free 1–866–208–3372 (voice) or 202–208–1656 (TTY); or send a FAX to 202–208–2106 with the required accommodations.

For additional information, please contact Bill Collins at (202) 502–8248, *william.collins@ferc.gov* or Lorna Hadlock at (202) 502–8737, *lorna.hadlock@ferc.gov.*

Magalie R. Salas,

Secretary.

[FR Doc. E6–9761 Filed 6–20–06; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[Docket ID Numbers EPA–HQ–OECA–2006–0411 to 0418, 0420, 0421, 0425 to 0427, 0430 to 0434, 0437 to 0445, and 0447 to 0451; FRL–8185–7]

Agency Information Collection Activities: Request for Comments on Thirty-Two Proposed Information Collection Requests (ICRs)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that EPA is planning to submit the following 32 existing, approved, continuing Information Collection Requests (ICR) to the Office of Management and Budget (OMB) for the purpose of renewing the ICRs. Before submitting the ICRs to OMB for review and approval, EPA is soliciting comments on specific aspects of the information collections as described under **SUPPLEMENTARY INFORMATION.**

DATES: Comments must be submitted on or before August 21, 2006.

ADDRESSES: Comments may be submitted electronically, by mail, or through hand delivery/courier service. Follow the detailed instructions as provided under **SUPPLEMENTARY INFORMATION,** section A.

FOR FURTHER INFORMATION CONTACT: The contact individuals for each ICR are listed under **SUPPLEMENTARY INFORMATION,** section II.

SUPPLEMENTARY INFORMATION:

A. How Can I Access the Docket and/or Submit Comments?

1. Docket Access Instructions

EPA has established a public docket for the ICRs listed in the **SUPPLEMENTARY INFORMATION,** section II. B. The docket is available for online viewing at *http://www.regulations.gov,* or in person viewing at the Enforcement and Compliance Docket and Information Center (ECDIC), in the EPA Docket Center (EPA/DC), EPA West, Room B102, 1301 Constitution Avenue, NW., Washington, DC. The EPA/DC Public Reading Room is open from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566–1744, and the telephone number for the Enforcement and Compliance Docket and Information Center (ECDIC) docket is (202) 566–1752.

Use *http://www.regulations.gov* to obtain a copy of the draft collection of information, submit or view public comments, access the index listing of the contents of the docket, and to access those documents in the public docket that are available electronically. When in the system, select ''search,'' then key in the docket ID number identified in this document.

2. Instructions for Submitting Comments

Submit your comments by one of the following methods:

a. *Electronic Submission:* Access *http://www.regulations.gov* and follow the on-line instructions for submitting comments.

b. *E-mail: docket.oeca@epa.gov*

c. *Fax:* (202) 566–1511

d. *Mail:* Enforcement and Compliance Docket and Information Center (ECDIC), Environmental Protection Agency, EPA Docket Center (EPA/DC), Mailcode: 2201T, 1200 Pennsylvania Avenue, NW., Washington, DC 20460.

e. *Hand Delivery:* Enforcement and Compliance Docket and Information Center (ECDIC), Environmental Protection Agency, EPA Docket Center (EPA/DC), EPA West, Room B102, 1301 Constitution Avenue, NW., Washington, DC. The EPA Docket Center is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. Deliveries are only accepted during the Docket Center's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Direct your comments to the specific docket listed in **SUPPLEMENTARY INFORMATION,** section II. B, and reference the OMB Control Number for the ICR. It is EPA's policy 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 *www.regulations.gov* or e-mail. The Web site, *http://www.regulations.gov,* is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *www.regulations.gov,* your e-mail address will be 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.*

B. What Information Is EPA Particularly Interested In?

Pursuant to section 3506(c)(2)(A) of the Paperwork Reduction Act (PRA), EPA is soliciting comments and information to enable it to:

(1) Evaluate whether the proposed collections of information are necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility.

(2) Evaluate the accuracy of the Agency's estimates of the burdens of the proposed collections of information.

(3) Enhance the quality, utility, and clarity of the information to be collected.

(4) Minimize the burden of the collections of information on those who are to respond, including through the use of appropriate automated or electronic collection technologies or other forms of information technology, e.g., permitting electronic submission of responses.

C. What Should I Consider When I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing comments:

1. Explain your views as clearly as possible and provide specific examples.
2. Describe any assumptions that you used.
3. Provide copies of any technical information and/or data you used that support your views.
4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.
5. Offer alternative ways to improve the collection activity.
6. Make sure to submit your comments by the deadline identified under **DATES.**
7. To ensure proper receipt by EPA, be sure to identify the docket ID number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

ICRs To Be Renewed

A. For All ICRs

The Agency computed the burden for each of the recordkeeping and reporting requirements applicable to the industry for the currently approved ICRs listed in this notice. Where applicable, the Agency identified specific tasks and made assumptions, while being consistent with the concept of the PRA.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions to; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements which have subsequently changed; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

The listed ICRs address Clean Air Act information collection requirements in standards (i.e., regulations) that have mandatory recordkeeping and reporting requirements. Records collected under the New Source Performance Standards (NSPS) must be retained by the owner or operator for at least two years and the records collected under the National Emission Standards for Hazardous Air Pollutants (NESHAP) must be retained by the owner or operator for at least five years. In general, the required collections consist of emissions data and other information deemed not to be private.

In the absence of such information collection requirements, enforcement personnel would be unable to determine whether the standards are being met on a continuous basis as required by the Clean Air Act.

An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information, unless the Agency displays a currently valid OMB control number. The OMB control numbers for EPA's regulations under Title 40 of the Code of Federal Regulations are published in the **Federal Register,** or on the related collection instrument or form. The display of OMB control numbers for certain EPA regulations is consolidated at 40 CFR part 9.

B. What Information Collection Activity or ICR Does This Apply to?

In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 et seq.), this notice announces that EPA is planning to submit the following 32 existing, approved, continuing Information Collection Requests (ICR) to the Office of Management and Budget (OMB):

(1) *Docket ID Number:* EPA–HQ–OECA–2006–0452.

Title: NESHAP for Miscellaneous Organic Chemical Manufacturing (40 CFR Part 63, Subpart FFFF).

ICR Numbers: EPA ICR Number 1969.03, OMB Control Number 2060–0533.

ICR Status: This ICR is scheduled to expire on October 31, 2006.

(2) *Docket ID Number:* EPA–HQ–OECA–2006–0441.

Title: NESHAP for Perchloroethylene Dry Cleaning Facilities (40 CFR Part 63, Subpart M).

ICR Numbers: EPA ICR Number 1415.07, OMB Control Number 2060–0234.

ICR Status: This ICR is scheduled to expire on October 31, 2006.

(3) *Docket ID Number:* EPA–HQ–OECA–2006–0439.

Title: NSPS for Phosphate Fertilizer Industry (40 CFR Part 60, Subparts T, U, V, W and X).

ICR Numbers: EPA ICR Number 1061.10, OMB Control Number 2060–0037.

ICR Status: This ICR is scheduled to expire on November 30, 2006.

(4) *Docket ID Number:* EPA–HQ–OECA–2006–0448.

Title: NSPS for Steel Plants: Electric Arc Furnace and Argon Oxygen Decarbonization Vessels (40 CFR Part 60, Subparts AA and AAa).

ICR Numbers: EPA ICR Number 1060.14, OMB Control Number 2060–0038.

ICR Status: This ICR is scheduled to expire on November 30, 2006.

(5) *Docket ID Number:* EPA–HQ–OECA–2006–0425.

Title: NSPS for Industrial/Commercial/Institutional Steam Generating Units (40 CFR Part 60, Subpart Db).

ICR Numbers: EPA ICR Number 1088.11, OMB Control Number 2060–0072.

ICR Status: This ICR is scheduled to expire on November 30, 2006.

(6) *Docket ID Number:* EPA–HQ–OECA–2006–0426.

Title: NSPS for Fossil Fuel Fired Steam Generating Units (40 CFR Part 60, Subpart D).

ICR Numbers: EPA ICR Number 1052.08, OMB Control Number 2060–0026.

ICR Status: This ICR is scheduled to expire on November 30, 2006.

(7) *Docket ID Number:* EPA–HQ–OECA–2006–0417.

Title: NSPS for Surfacing Coating of Plastic Parts for Business Machines (40 CFR Part 60, Subpart TTT).

ICR Numbers: EPA ICR Number 1093.08, OMB Control Number 2060–0162.

ICR Status: This ICR is scheduled to expire on November 30, 2006.

(8) *Docket ID Number:* EPA–HQ–OECA–2006–0440.

Title: Federal Emission Guidelines for Existing Municipal Solid Waste Landfills (40 CFR Part 62, Subpart GGG).

ICR Numbers: EPA ICR Number 1893.04, OMB Control Number 2060–0430.

ICR Status: This ICR is scheduled to expire on November 30, 2006.

(9) *Docket ID Number:* EPA–HQ–OECA–2006–0427.

Title: NSPS for Nonmetallic Mineral Processing (40 CFR Part 60, Subpart OOO).

ICR Numbers: EPA ICR Number 1084.08, OMB Control Number 2060–0050.

ICR Status: This ICR is scheduled to expire on November 30, 2006.

(10) *Docket ID Number:* EPA–HQ–OECA–2006–0413.

Title: NSPS for Secondary Lead Smelters (40 CFR Part 60, Subpart L).

ICR Numbers: EPA ICR Number 1128.08, OMB Control Number 2060–0080.

ICR Status: This ICR is scheduled to expire on November 30, 2006.

(11) *Docket ID Number:* EPA–HQ–OECA–2006–0445.

Title: NESHAP Site Remediation (40 CFR Part 63, Subpart GGGGG).

ICR Numbers: EPA ICR Number 2062.03, OMB Control Number 2060–0534.

ICR Status: This ICR is scheduled to expire on December 31, 2006.

(12) *Docket ID Number:* EPA–HQ–OECA–2006–0450.

Title: NESHAP for the Secondary Lead Industry (40 CFR Part 63, Subpart X).

ICR Numbers: EPA ICR Number 1686.06, OMB Control Number 2060–0296.

ICR Status: This ICR is scheduled to expire on December 31, 2006.

(13) *Docket ID Number:* EPA–HQ–OECA–2006–0421.

Title: NESHAP for Mercury Cell Chlor-Alkali Plants (40 CFR Part 63, Subpart IIIII).

ICR Numbers: EPA ICR Number 2046.03, OMB Control Number 2060–0542.

ICR Status: This ICR is scheduled to expire on January 31, 2007.

(14) *Docket ID Number:* EPA–HQ–OECA–2006–0447.

Title: NESHAP for Iron and Steel Foundries (40 CFR Part 63, Subpart EEEEE).

ICR Numbers: EPA ICR Number 2096.03, OMB Control Number 2060–0543.

ICR Status: This ICR is scheduled to expire on January 31, 2007.

(15) *Docket ID Number:* EPA–HQ–OECA–2006–0431.

Title: NESHAP for Lime Manufacturing (40 CFR Part 63, Subpart AAAAA).

ICR Numbers: EPA ICR Number 2072.03, OMB Control Number 2060–0544.

ICR Status: This ICR is scheduled to expire on January 31, 2007.

(16) *Docket ID Number:* EPA–HQ–OECA–2006–0432.

Title: NESHAP for Primary Magnesium Refining (40 CFR Part 63, Subpart TTTTT).

ICR Numbers: EPA ICR Number 2098.03, OMB Control Number 2060–0536.

ICR Status: This ICR is scheduled to expire on January 31, 2007.

(17) *Docket ID Number:* EPA–HQ–OECA–2006–0433.

Title: NESHAP for Plastic Parts and Products Surface Coating (40 CFR Part 63, Subpart PPPP).

ICR Numbers: EPA ICR Number 2044.03, OMB Control Number 2060–0537.

ICR Status: This ICR is scheduled to expire on January 31, 2007.

(18) *Docket ID Number:* EPA–HQ–OECA–2006–0430.

Title: NESHAP for Taconite Iron Ore Processing (40 CFR Part 63, Subpart RRRRR).

ICR Numbers: EPA ICR Number 2050.03, OMB Control Number 2060–0538.

ICR Status: This ICR is scheduled to expire on January 31, 2007.

(19) *Docket ID Number:* EPA–HQ–OECA–2006–0438.

Title: NESHAP for Printing and Publishing Industry (40 CFR Part 63, Subpart KK).

ICR Numbers: EPA ICR Number 1739.05, OMB Control Number 2060–0335.

ICR Status: This ICR is scheduled to expire on January 31, 2007.

(20) *Docket ID Number:* EPA–HQ–OECA–2006–0412.

Title: NSPS for Ammonium Sulfate Manufacturing Plants 40 CFR Part 60, Subpart PP).

ICR Numbers: EPA ICR Number 1066.06, OMB Control Number 2060–0032.

ICR Status: This ICR is scheduled to expire on February 28, 2007.

(21) *Docket ID Number:* EPA–HQ–OECA–2006–0414.

Title: NSPS for Pressure Sensitive Tape and Label Surface Coating Operations (40 CFR Part 60, Subpart RR).

ICR Numbers: EPA ICR Number 0658.09, OMB Control Number 2060–0004.

ICR Status: This ICR is scheduled to expire on February 28, 2007.

(22) *Docket ID Number:* EPA–HQ–OECA–2006–0416.

Title: NSPS for Automobile and Light Duty Truck Surface Coating Operations (40 CFR Part 60, Subpart MM).

ICR Numbers: EPA ICR Number 1064.11, OMB Control Number 2060–0034.

ICR Status: This ICR is scheduled to expire on February 28, 2007.

(23) *Docket ID Number:* EPA–HQ–OECA–2006–0411.

Title: NSPS for Flexible Vinyl and Urethane Coating and Printing (40 CFR Part 60, Subpart FFF).

ICR Numbers: EPA ICR Number 1157.08, OMB Control Number 2060–0073.

ICR Status: This ICR is scheduled to expire on February 28, 2007.

(24) *Docket ID Number:* EPA–HQ–OECA–2006–0420.

Title: NSPS for Wool Fiberglass Insulation Manufacturing Plants (40 CFR Part 60, Subpart PPP and 40 CFR Part 63, Subpart NNN).

ICR Numbers: EPA ICR Number 1160.08, OMB Control Number 2060–0114.

ICR Status: This ICR is scheduled to expire on February 28, 2007.

(25) *Docket ID Number:* EPA–HQ–OECA–2006–0415.

Title: NSPS for Lead Acid Battery Manufacturing (40 CFR Part 60, Subpart KK).

ICR Numbers: EPA ICR Number 1072.08, OMB Control Number 2060–0081.

ICR Status: This ICR is scheduled to expire on March 31, 2007.

(26) *Docket ID Number:* EPA–HQ–OECA–2006–0449.

Title: NSPS for Storage Vessels for Petroleum Liquids for Which Construction, Reconstruction or Modification Commenced After June 11, 1973 prior to July 23, 1984 (40 CFR Part 60, Subpart Ka).

ICR Numbers: EPA ICR Number 1797.04, OMB Control Number 2060–0442.

ICR Status: This ICR is scheduled to expire on March 31, 2007.

(27) *Docket ID Number:* EPA–HQ–OECA–2006–0442.

Title: NSPS for Commercial and Industrial Solid Waste Incineration Units (40 CFR Part 60, Subpart CCCC)

ICR Numbers: EPA ICR Number 1926.04, OMB Control Number 2060–0450.

ICR Status: This ICR is scheduled to expire on March 31, 2007.

(28) *Docket ID Number:* EPA–HQ–OECA–2006–0418.

Title: NESHAP for Miscellaneous Coating Manufacturing (40 CFR Part 63, Subpart EEEE).

ICR Numbers: EPA ICR Number 2115.02, OMB Control Number 2060–0535.

ICR Status: This ICR is scheduled to expire on April 30, 2007.

(29) *Docket ID Number:* EPA–HQ–OECA–2006–0451.

Title: NESHAP for Organic Liquids Distribution (40 CFR Part 63, Subpart EEEE).

ICR Numbers: EPA ICR Number 1963.03, OMB Control Number 2060–0539.

ICR Status: This ICR is scheduled to expire on April 30, 2007.

(30) *Docket ID Number:* EPA–HQ–OECA–2006–0444.

Title: Emission Guidelines for Commercial and Industrial Solid Waste Incineration Units (40 CFR Part 60, Subpart DDDD).

ICR Numbers: EPA ICR Number 1927.04, OMB Control Number 2060–0451.

ICR Status: This ICR is scheduled to expire on April 30, 2007.

(31) *Docket ID Number:* EPA–HQ–OECA–2006–0443.

Title: NESHAP for Halogenated Solvent Cleaners/Halogenated Hazardous Air Pollutants (40 CFR Part 63, Subpart T).

ICR Numbers: EPA ICR Number 1652.06, OMB Control Number 2060–0273.

ICR Status: This ICR is scheduled to expire on April 30, 2007.

(32) *Docket ID Number:* EPA–HQ–OECA–2006–0437.

Title: NSPS for Nitric Acid Plants (40 CFR Part 60, Subpart G).

ICR Numbers: EPA ICR Number 1056.09, OMB Control Number 2060–0019.

ICR Status: This ICR is scheduled to expire on April 30, 2007.

C. Contact Individuals for ICRs

(1) NESHAP for Miscellaneous Organic Chemical Manufacturing (40 CFR Part 63, Subpart FFFF); Marcia B. Mia of the Office of Compliance at 202–564–7042 (phone) or 202–564–0050 (fax), or via e-mail to: *mia.marcia@epa.gov*; EPA ICR Number 1969.03; OMB Control Number 2060–0533; expiration date October 31, 2006.

(2) NESHAP for Perchloroethylene Dry Cleaning Facilities (40 CFR Part 63, Subpart M); Learia Williams of the Office of Compliance at (202) 564–4113 or via e-mail to: *williams.learia@epa.gov*; EPA ICR Number 1415.07; OMB Control Number 2060–0234; expiration date October 31, 2006.

(3) NSPS for Phosphate Fertilizer Industry (40 CFR Part 60, Subparts T, U, V, W and X); Learia Williams of the Office of Compliance at (202) 564–4113 or via e-mail to: *williams.learia@epa.gov*; EPA ICR Number 1061.10; OMB Control Number 2060–0037; expiration date November 30, 2006.

(4) NSPS for Steel Plants: Electric Arc Furnace and Argon Oxygen Decarbonization Vessels (40 CFR Part 60, Subparts AA and AAa); Maria Malave of the Office of Compliance at (202) 564–7027 or via e-mail to: *malave.maria@epa.gov*; EPA ICR Number 1060.14; OMB Control Number 2060–0038; expiration date November 30, 2006.

(5) NSPS for Industrial/Commercial/Institutional Steam Generating Units (40 CFR Part 60, Subpart Db); Gregory Fried of the Office of Compliance at (202) 564–7016 or via e-mail to: *fried.gregory@epa.gov*; EPA ICR Number 1088.11; OMB Control Number 2060–0072; expiration date November 30, 2006.

(6) NSPS for Fossil Fuel Fired Steam Generating Units (40 CFR Part 60, Subpart D); Gregory Fried of the Office of Compliance at (202) 564–7016 or via e-mail to: *fried.gregory@epa.gov*; EPA ICR Number 1052.08; OMB Control Number 2060–0026; expiration date November 30, 2006.

(7) NSPS for Surfacing Coating of Plastic Parts for Business Machines (40 CFR Part 60, Subpart TTT); Robert C. Marshall, Jr. of the Office of Compliance at (202) 564–7021 or via e-mail to: *marshall.robert@epa.gov*; EPA ICR Number 1093.08; OMB Control Number 2060–0162; expiration date November 30, 2006.

(8) Federal Emission Guidelines for Existing Municipal Solid Waste Landfills (40 CFR Part 62, Subpart GGG); Learia Williams of the Office of Compliance at (202) 564–4113 or via e-mail to: *williams.learia@epa.gov*; EPA ICR Number 1893.04; OMB Control Number 2060–0430; expiration date November 30, 2006.

(9) NSPS for Nonmetallic Mineral Processing (40 CFR Part 60, Subpart OOO); Gregory Fried of the Office of Compliance at (202) 564–7016 or via e-mail to: *fried.gregory@epa.gov*; EPA ICR Number 1084.08; OMB Control Number 2060–0050; expiration date November 30, 2006.

(10) NSPS for Secondary Lead Smelters (40 CFR Part 60, Subpart L); Robert C. Marshall, Jr. of the Office of Compliance at (202) 564–7021 or via e-mail to: *marshall.robert@epa.gov;* EPA ICR Number 1128.08; OMB Control Number 2060–0080; expiration date November 30, 2006.

(11) NESHAP Site Remediation (40 CFR Part 63, Subpart GGGGG); Learia Williams of the Office of Compliance at (202) 564–4113 or via e-mail to: *williams.learia@epa.gov;* EPA ICR Number 2062.03; OMB Control Number 2060–0534; expiration date December 31, 2006.

(12) NESHAP for the Secondary Lead Industry (40 CFR Part 63, Subpart X); Maria Malave of the Office of Compliance at (202) 564–7027 or via e-mail to: *malave.maria@epa.gov;* EPA ICR Number 1686.06; OMB Control Number 2060–0296; expiration date December 31, 2006.

(13) NESHAP for Mercury Cell Chlor-Alkali Plants (40 CFR Part 63, Subpart IIIII); Robert C. Marshall, Jr. of the Office of Compliance at (202) 564–7021 or via e-mail to: *marshall.robert@epa.gov;* EPA ICR Number 2046.03; OMB Control Number 2060–0542; expiration date January 31, 2007.

(14) NESHAP for Iron and Steel Foundries (40 CFR Part 63, Subpart EEEEE); Maria Malave of the Office of Compliance at (202) 564–7027 or via e-mail to: *malave.maria@epa.gov;* EPA ICR Number 2096.03; OMB Control Number 2060–0543; expiration date January 31, 2007.

(15) NESHAP for Lime Manufacturing (40 CFR Part 63, Subpart AAAAA); Len Lazarus of the Office of Compliance at (202) 564–6369 or via e-mail to: *lazarus.leonard@epa.gov;* EPA ICR Number 2072.03; OMB Control Number 2060–0544; expiration date January 31, 2007.

(16) NESHAP for Primary Magnesium Refining (40 CFR Part 63, Subpart TTTTT); Len Lazarus of the Office of Compliance at (202) 564–6369 or via e-mail to: *lazarus.leonard@epa.gov;* EPA ICR Number 2098.03; OMB Control Number 2060–0536; expiration date January 31, 2007.

(17) NESHAP for Plastic Parts and Products Surface Coating (40 CFR Part 63, Subpart PPPP); Len Lazarus of the Office of Compliance at (202) 564–6369 or via e-mail to: *lazarus.leonard@epa.gov;* EPA ICR Number 2044.03; OMB Control Number 2060–0537; expiration date January 31, 2007.

(18) NESHAP for Taconite Iron Ore Processing (40 CFR Part 63, Subpart RRRRR); Len Lazarus of the Office of Compliance at (202) 564–6369 or via e-mail to: *lazarus.leonard@epa.gov;* EPA ICR Number 2050.03; OMB Control Number 2060–0538; expiration date January 31, 2007.

(19) NESHAP for Printing and Publishing Industry (40 CFR Part 63, Subpart KK); Learia Williams of the Office of Compliance at (202) 564–4113 or via e-mail to: *williams.learia@epa.gov;* EPA ICR Number 1739.05; OMB Control Number 2060–0335; expiration date January 31, 2007.

(20) NSPS for Ammonium Sulfate Manufacturing Plants 40 CFR Part 60, Subpart PP); Robert C. Marshall, Jr. of the Office of Compliance at (202) 564–7021 or via e-mail to: *marshall.robert@epa.gov;* EPA ICR Number 1066.06; OMB Control Number 2060–0032; expiration date February 28, 2007.

(21) NSPS for Pressure Sensitive Tape and Label Surface Coating Operations (40 CFR Part 60, Subpart RR); Robert C. Marshall, Jr. of the Office of Compliance at (202) 564–7021 or via e-mail to: *marshall.robert@epa.gov;* EPA ICR Number 0658.09; OMB Control Number 2060–0004; expiration date February 28, 2007.

(22) NSPS for Automobile and Light Duty Truck Surface Coating Operations (40 CFR Part 60, Subpart MM); Robert C. Marshall, Jr. of the Office of Compliance at (202) 564–7021 or via e-mail to: *marshall.robert@epa.gov;* EPA ICR Number 1064.11; OMB Control Number 2060–0034; expiration date February 28, 2007.

(23) NSPS for Flexible Vinyl and Urethane Coating and Printing (40 CFR Part 60, Subpart FFF); Robert C. Marshall, Jr. of the Office of Compliance at (202) 564–7021 or via e-mail to: *marshall.robert@epa.gov;* EPA ICR Number 1157.08; OMB Control Number 2060–0073; expiration date February 28, 2007.

(24) NSPS for Wool Fiberglass Insulation Manufacturing Plants (40 CFR Part 60, Subpart PPP and 40 CFR Part 63, Subpart NNN); Robert C. Marshall, Jr. of the Office of Compliance at (202) 564–7021 or via e-mail to: *marshall.robert@epa.gov;* EPA ICR Number 1160.08; OMB Control Number 2060–0114; expiration date February 28, 2007.

(25) NSPS for Lead Acid Battery Manufacturing (40 CFR Part 60, Subpart KK); Robert C. Marshall, Jr. of the Office of Compliance at (202) 564–7021 or via e-mail to: *marshall.robert@epa.gov;* EPA ICR Number 1072.08; OMB Control Number 2060–0081; expiration date March 31, 2007.

(26) NSPS for Storage Vessels for Petroleum Liquids for Which Construction, Reconstruction or Modification Commenced After June 11, 1973 prior to July 23, 1984 (40 CFR Part 60, Subpart Ka); Maria Malave of the Office of Compliance at (202) 564–7027 or via e-mail to: *malave.maria@epa.gov;* EPA ICR Number 1797.04; OMB Control Number 2060–0442; expiration date March 31, 2007.

(27) NSPS for Commercial and Industrial Solid Waste Incineration Units (40 CFR Part 60, Subpart CCCC); Learia Williams of the Office of Compliance at (202) 564–4113 or via e-mail to: *williams.learia@epa.gov;* EPA ICR Number 1926.04; OMB Control Number 2060–0450; expiration date March 31, 2007.

(28) NESHAP for Miscellaneous Coating Manufacturing (40 CFR Part 63, Subpart EEEE); Robert C. Marshall, Jr. of the Office of Compliance at (202) 564–7021 or via e-mail to: *marshall.robert@epa.gov;* EPA ICR Number 2115.02; OMB Control Number 2060–0535; expiration date April 30, 2007.

(29) NESHAP for Organic Liquids Distribution (40 CFR Part 63, Subpart EEEE); Marcia B. Mia of the Office of Compliance at 202–564–7042 (phone) or 202–564–0050 (fax), or via e-mail to: *mia.marcia@epa.gov;* EPA ICR Number 1963.03, OMB Control Number 2060–0539; expiration date April 30, 2007.

(30) Emission Guidelines for Commercial and Industrial Solid Waste Incineration Units (40 CFR Part 60, Subpart DDDD); Learia Williams of the Office of Compliance at (202) 564–4113 or via e-mail to: *williams.learia@epa.gov;* EPA ICR Number 1927.04; OMB Control Number 2060–0451; expiration date April 30, 2007.

(31) NESHAP for Halogenated Solvent Cleaners/Halogenated Hazardous Air Pollutants (40 CFR Part 63, Subpart T); Learia Williams of the Office of Compliance at (202) 564–4113 or via e-mail to: *williams.learia@epa.gov;* EPA ICR Number 1652.06; OMB Control Number 2060–0273; expiration date April 30, 2007.

(32) NSPS for Nitric Acid Plants (40 CFR Part 60, Subpart G); Learia Williams of the Office of Compliance at (202) 564–4113 or via e-mail to: *williams.learia@epa.gov*; EPA ICR Number 1056.09; OMB Control Number 2060–0019; expiration date April 30, 2007.

D. Information for Individual ICRs

(1) NESHAP for Miscellaneous Organic Chemical Manufacturing (40 CFR Part 63, Subpart FFFF); EPA ICR Number 1969.03; OMB Control Number 2060–0533; expiration date October 31, 2006.

Affected Entities: Entities potentially affected by this action are owners or operators of new and existing facilities that manufacture a miscellaneous organic chemical and are located at, or are part of, major sources of hazardous air pollutant (HAP) emissions.

Abstract: The National Emissions Standards for Hazardous Air Pollutants (NESHAP) for Miscellaneous Organic Chemical Manufacturing (40 CFR Part 63, Subpart FFFF) were promulgated on November 10, 2003.

The affected entities are subject to the General Provisions of NESHAP at 40 CFR part 63, subpart A and any changes, or additions to the General Provisions specified at 40 CFR part 63, subpart FFFF.

Respondents/Affected Entities: Potential respondents are owners or operators of any facilities that engage in the manufacture of miscellaneous organic chemicals and are classified as major sources under section 112 of the CAA.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average approximately 57 hours per response.

Estimated Number of Respondents: 251.

Frequency of Response: Initially and semiannually.

Estimated Total Annual Hour Burden: 17,745.

Estimated Total Annual Cost: $348,000 which is comprised of annualized capital/startup costs of $256,000 and O&M costs of $92,000.

(2) NESHAP for Perchloroethylene Dry Cleaning Facilities (40 CFR Part 63, Subpart M), Docket ID Number EPA–HQ–OECA–2006–0441 EPA ICR Number 1415.07, OMB Control Number 2060–0234, and expiration date October 31, 2006.

Affected Entities: Entities potentially affected by this action are owners or operators of dry cleaning facilities using perchloroethylene as a solvent.

Abstract: The National Emission Standards for Hazardous Air Pollutants (NESHAP) for Perchloroethylene Dry Cleaning Facilities (40 CFR Part 63, Subpart M) were proposed on December 9, 1991, and promulgated on September 22, 1993.

The affected entities are subject to the General Provisions of NESHAP at 40 CFR part 63, subpart A and any changes, or additions to the General Provisions specified at 40 CFR part 63, subpart M.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average approximately 42 hours per response.

Respondents/Affected Entities: Perchloroethylene dry cleaning facilities.

Estimated Number of Respondents: 34,240.

Frequency of Response: On occasion.

Estimated Total Annual Hour Burden: 1,537,784 .

Estimated Total Annual Cost: $53,000 which is comprised of no annualized capital/startup costs and O&M costs of $53,000.

(3) NSPS for Phosphate Fertilizer Industry (40 CFR Part 60, Subparts T, U, V, W and X), Docket ID Number EPA–HQ–OECA–2006–0439, EPA ICR Number 1061.10, OMB Control Number 2060–0037, and expiration date November 30, 2006.

Affected Entities: Entities potentially affected by this action are owners or operators of wet-process phosphoric plant, each superphosphoric acid plant, each granular diammonium phosphate plant, and each triple superphosphate plant, having a design capacity of more than 15 tons of equivalent phosphorous pentoxide (P_2O_5) feed per calendar day.

Abstract: The New Source Performance Standards (NSPS) for Phosphate Fertilizer Industry (40 CFR Part 60, Subparts T, U, V, W, and X) were proposed on October 22, 1974, and promulgated on August 6, 1975.

The affected entities are subject to the General Provisions of NSPS at 40 CFR part 60, subpart A and any changes, or additions to the General Provisions

specified at 40 CFR part 60, subparts T, U, V, W, and X.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average approximately 46 hours per response.

Respondents/Affected Entities: Phosphate fertilizer industry.

Estimated Number of Respondents: 13.

Frequency of Response: Initially and semiannually.

Estimated Total Annual Hour Burden: 1,194.

Estimated Total Annual Cost: $320,000 which is comprised of no annualized capital/startup costs and O&M costs of $320,000.

(4) NSPS for Steel Plants: Electric Arc Furnace and Argon Oxygen Decarbonization Vessels (40 CFR Part 60, Subparts AA and AAa); Docket ID Number EPA–HQ–OECA–2006–0448, EPA ICR Number 1060.14, OMB Control Number 2060–0038, and expiration date November 30, 2006.

Affected Entities: Entities potentially affected by this action are owners or operators of steel plants that produce carbon, alloy, or specialty steels.

Abstract: The New Source Performance Standards (NSPS) for Steel Plants: Electric Arc Furnace and Argon Oxygen Decarbonization Vessels (40 CFR Part 60, Subparts AA and AAa) were proposed on October 21, 1974, and promulgated on September 23, 1975, and proposed on August 17, 1983, and promulgated on October 31, 1984 respectively.

The affected entities are subject to the General Provisions of NESHAP at 40 CFR part 60, subpart A and any changes, or additions to the General Provisions specified at 40 CFR part 60, subparts AA and AAa.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average approximately 315 hours per response.

Respondents/Affected Entities: Plants with electric arc furnaces, AOD vessels, and dust handling systems that produce carbon, alloy, or specialty steels.

Estimated Number of Respondents: 95.

Frequency of Response: Initially and semiannually.

Estimated Total Annual Hour Burden: 60,400.

Estimated Total Annual Cost: $290,000 which is comprised of annualized capital/startup costs of $4,000 and O&M costs of $286,000.

(5) NSPS for Industrial/Commercial/Institutional Steam Generating Units (40 CFR Part 60, Subpart Db), Docket ID Number EPA–HQ–OECA–2006–0425, EPA ICR Number 1088.11, and OMB Control Number 2060–0072 and expiration date November 30, 2006.

Affected Entities: Entities potentially affected by this action are steam generating units with a heat capacity input greater than 29 MW (100 mmBTU/hour).

Abstract: This standard applies to owners or operators of steam generating units that commenced construction, modification, or reconstruction after June 19, 1984, and have a heat capacity input greater than 29 MW (100 mmBTU/hour). The affected entities are subject to the General Provisions of the New Source Performance Standards (NSPS) at 40 CFR part 60, subpart A and any changes, or additions to the General Provisions specified at 40 CFR part 60, subpart Da.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 200 hours per response.

Respondents/Affected Entities: Steam Generating Units with a heat input capacity greater than 29 MW (100 mmBTU/hour).

Estimated Number of Respondents: 1,230.

Frequency of Response: Quarterly and semiannually.

Estimated Total Annual Hour Burden: 591,389.

Estimated Total Annual Cost: $26,775,000 which is comprised of annualized capital/startup costs of $9,000,000 and O&M costs of $17,775,000.

(6) NSPS for Fossil Fuel Fired Steam Generating Units (40 CFR Part 60, Subpart D), Docket ID Number EPA–HQ–OECA–2006–0426, EPA ICR Number 1052.08, and OMB Control Number 2060–0026 and expiration date November 30, 2006.

Affected Entities: Entities potentially affected by this action are fossil fuel fired steam generating units greater than 73 MW (250 mmBTU/hour).

Abstract: This standard applies to owners or operators of fossil fuel fired steam generating units that commenced construction, modification, or reconstruction after August 17, 1971, and have a heat capacity input greater than 73 MW (250 mmBTU/hour). The affected entities are subject to the General Provisions of the New Source Performance Standards (NSPS) at 40 CFR part 60, subpart A and any changes, or additions to the General Provisions specified at 40 CFR part 60, subpart D.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 47 hours per response.

Respondents/Affected Entities: Fossil fuel fired steam generating units greater than 73 MW (250 mmBTU/hour).

Estimated Number of Respondents: 660

Frequency of Response: Semiannual.

Estimated Total Annual Hour Burden: 61,545

Estimated Total Annual Cost: $9,900,000 which is comprised of annualized capital/startup costs of $9,900,000 and no O&M costs.

(7) NSPS for Surfacing Coating of Plastic Parts for Business Machines (40 CFR Part 60, Subpart TTT), Docket ID Number EPA–HQ–OECA–2006–0417, EPA ICR Number 1093.08, OMB Control Number 2060–0162, expiration date November 30, 2006.

Affected Entities: Entities potentially affected by this action are business machine manufacturers.

Abstract: The New Source Performance Standards (NSPS) for business machine manufacturing industry were promulgated on January 29, 1988.

The affected entities are subject to the General Provisions of the New Source Performance Standards (NSPS) at 40 CFR part 60, subpart A and any changes, or additions to the General Provisions specified at 40 CFR part 60, subpart TTT.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 35 hours per response.

Respondents/Affected Entities: Business machine manufacturers

Estimated Number of Respondents: 28.

Frequency of Response: Initially, quarterly and semiannually.

Estimated Total Annual Hour Burden: 978

Estimated Total Annual Cost: There are no annualized capital/startup or O&M costs associated with this ICR.

(8) Federal Emission Guidelines for Existing Municipal Solid Waste Landfills (40 CFR Part 62, Subpart GGG), Docket ID Number EPA–HQ–OECA–2006–0440, EPA ICR Number 1893.04, OMB Control Number 2060–0430, and expiration date November 30, 2006.

Affected Entities: Entities potentially affected by this action are owners or operators of existing landfills that handle everyday household waste and were in operation from November 8, 1987 to May 30, 1991, or had capacity available for future waste disposition.

Abstract: The Federal Emission Guidelines for Existing Municipal Solid

Waste Landfills (40 CFR Part 62, Subpart GGG) were promulgated on November 8, 1999.

The affected entities are subject to the General Provisions of NSPS at 40 CFR part 62, subpart A and any changes, or additions to the General Provisions specified at 40 CFR part 62, subpart GGG.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average approximately 68 hours per response.

Respondents/Affected Entities: Existing municipal solid waste landfills

Estimated Number of Respondents: 173.

Frequency of Response: Monthly, quarterly and annually.

Estimated Total Annual Hour Burden: 11,678.

Estimated Total Annual Cost: $242,000 which is comprised of no annualized capital/startup costs and O&M costs of $242,000.

(9) NSPS for Nonmetallic Mineral Processing, Docket ID Number EPA–HQ–OECA–2006–0427, EPA ICR Number 1084.08, and OMB Control Number 2060–0050 and expiration date November 30. 2006.

Affected Entities: Entities potentially affected by this action are nonmetallic mineral processing plants.

Abstract: This standard applies to owners or operators of new, modified, or reconstructed facilities at nonmetallic mineral processing plants that commenced construction, modification, or reconstruction after August 1, 1985. The affected entities are subject to the General Provisions of the New Source Performance Standards (NSPS) at 40 CFR part 60, subpart A and any changes, or additions to the General Provisions specified at 40 CFR part 60, subpart OOO.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 5.6 hours per response.

Respondents/Affected Entities: Nonmetallic mineral processing plants.

Estimated Number of Respondents: 3,825.

Frequency of Response: Initial.

Estimated Total Annual Hour Burden: 31,026.

Estimated Total Annual Cost: There are no annualized capital/startup or O&M costs associated with this standard.

(10) NSPS for Secondary Lead Smelters (40 CFR Part 60, Subpart L), Docket ID Number EPA–HQ–OECA–2006–0413, EPA ICR Number 1128.08, OMB Control Number 2060–0080, expiration date November 30, 2006.

Affected Entities: Entities potentially affected by this action are secondary lead smelters.

Abstract: The New Source Performance Standards (NSPS) for the secondary lead smelter industry were promulgated on July 25, 1977.

The affected entities are subject to the General Provisions of the New Source Performance Standards (NSPS) at 40 CFR part 60, subpart A and any changes, or additions to the General Provisions specified at 40 CFR part 60, subpart L.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 1.5 hours per response.

Respondents/Affected Entities: Secondary lead smelters.

Estimated Number of Respondents: 25.

Frequency of Response: Initially, on occasion and semiannually.

Estimated Total Annual Hour Burden: 38.

Estimated Total Annual Cost: There are no annualized capital or O&M costs associated with this ICR.

(11) NESHAP Site Remediation (40 CFR Part 63, Subpart GGGGG), Docket ID Number EPA–HQ–OECA–2006–0445, EPA ICR Number 2062.03, OMB Control Number 2060–0534, and expiration date December 31, 2006.

Affected Entities: Entities potentially affected by this action are owners or operators of a site remediation activity.

Abstract: The National Emission Standards for Hazardous Air Pollutants (NESHAP) for Site Remediation (40 CFR Part 63, Subpart GGGGG) were promulgated on October 8, 2003.

The affected entities are subject to the General Provisions of NESHAP at 40 CFR part 63, subpart A and any changes, or additions to the General Provisions specified at 40 CFR part 63, subpart GGGGG.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average approximately 149 hours per response.

Respondents/Affected Entities: Site Remediation.

Estimated Number of Respondents: 286.

Frequency of Response: Initially, on occasion, monthly and semiannually.

Estimated Total Annual Hour Burden: 341,737.

Estimated Total Annual Cost: $2,522,000 which is comprised of annualized capital/startup costs of $1,239,000 and O&M costs of $1,283,000.

(12) NESHAP for the Secondary Lead Industry (40 CFR Part 63, Subpart X), Docket ID Number EPA–HQ–OECA–2006–0450, EPA ICR Number 1686.06, OMB Control Number 2060–0296, and expiration date December 31, 2006.

Affected Entities: Entities potentially affected by this action are owners or operators of secondary lead smelters.

Abstract: The National Emission Standards for Hazardous Air Pollutants (NESHAP) for Secondary Lead Industry (40 CFR Part 63, Subpart X) were proposed on June 9, 1994, and promulgated on June 23, 1995.

The affected entities are subject to the General Provisions of NSPS at 40 CFR part 63, subpart A and any changes, or additions to the General Provisions specified at 40 CFR part 63, subpart X.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average approximately 229 hours per response.

Respondents/Affected Entities: Owners or operators of secondary lead smelters.

Estimated Number of Respondents: 23.

Frequency of Response: Initially and semiannually.

Estimated Total Annual Hour Burden: 16,034.

Estimated Total Annual Cost: $150,000 which is comprised of no annualized capital/startup costs and O&M costs of $150,000.

(13) NESHAP for Mercury Cell Chlor-Alkali Plants (40 CFR Part 63, Subpart IIIII), Docket ID Number EPA–HQ–OECA–2006–0421, EPA ICR Number 2046.03, OMB Control Number 2060–0542, expiration date January 31, 2007.

Affected Entities: Entities potentially affected by this action are Mercury cell chlor-alkali plants.

Abstract: The New Source Performance Standards (NSPS) for mercury cell chlor-alkali industry were promulgated on December 19, 2003.

The affected entities are subject to the General Provisions of the National Emission Standards for Hazardous Air Pollutants (NESHAP) at 40 CFR part 63, subpart A and any changes, or additions to the General Provisions specified at 40 CFR part 63, subpart IIIII.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 248 hours per response.

Respondents/Affected Entities: mercury cell chlor-alkali plants.

Estimated Number of Respondents: 9.

Frequency of Response: On occasion and semiannually.

Estimated Total Annual Hour Burden: 2,231

Estimated Total Annual Cost: $209,000, which is comprised of

annualized capital/startup costs of $87,000 and O&M costs of $122,000.

(14) NESHAP for Iron and Steel Foundries (40 CFR Part 63, Subpart EEEEE), Docket ID Number EPA–HQ–OECA–2006–0447, EPA ICR Number 2096.03, OMB Control Number 2060–0543, and expiration date January 31, 2007.

Affected Entities: Entities potentially affected by this action are owners or operators of iron and steel foundries.

Abstract: The National Emission Standards for Hazardous Air Pollutants (NESHAP) for Iron and Steel Foundries (40 CFR Part 63, Subpart EEEEE) were promulgated on May 20, 2005.

The affected entities are subject to the General Provisions of NSPS at 40 CFR part 63, subpart A and any changes, or additions to the General Provisions specified at 40 CFR part 63, subpart EEEEE.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average approximately 343 hours per response.

Respondents/Affected Entities: Owners or operators of iron and steel foundries.

Estimated Number of Respondents: 33.

Frequency of Response: Semiannual.

Estimated Total Annual Hour Burden: 22,325

Estimated Total Annual Cost: $272,000 which is comprised of annualized capital/startup costs of $139,000 and O&M costs of $133,000.

(15) NESHAP for Lime Manufacturing (40 CFR Part 63, Subpart AAAAA); EPA–HQ–OECA–2006–0431; EPA ICR Number 2072.03; OMB Control Number 2060–0544; expiration date January 31, 2007.

Affected Entities: Entities potentially affected by this action are owners or operators of new or existing lime manufacturing plants.

Abstract: The National Emission Standards for Hazardous Air Pollutants (NESHAP) for Lime Manufacturing were promulgated on January 5, 2004. The affected entities are subject to the General Provisions of the National Emission Standards for Hazardous Air Pollutants (NESHAP) at 40 CFR part 63, subpart A and any changes, or additions to the General Provisions specified at 40 CFR part 63, subpart AAAAA.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 45 hours per response.

Respondents/Affected Entities: Owners and operators of lime manufacturing plants.

Estimated Number of Respondents: 19.

Frequency of Response: Initially, on occasion and semiannually.

Estimated Total Annual Hour Burden: 7,766.

Estimated Total Annual Cost: $377,000 which is comprised of annualized capital/startup costs of $171,000 and O&M costs of $206,000.

(16) NESHAP for Primary Magnesium Refining (40 CFR Part 63, Subpart TTTTT); EPA–HQ–OECA–2006–0432; EPA ICR Number 2098.03, OMB Control Number 2060–0536; expiration date January 31, 2007.

Affected Entities: Entities potentially affected by this action are owners or operators of primary magnesium refining plants.

Abstract: The National Emission Standards for Hazardous Air Pollutants (NESHAP) for Primary Magnesium Refining were promulgated on October 10, 2003. The affected entities are subject to the General Provisions of the National Emission Standards for Hazardous Air Pollutants (NESHAP) at 40 CFR part 63, subpart A and any changes, or additions to the General Provisions specified at 40 CFR part 63, subpart TTTTT.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 122 hours per response.

Respondents/Affected Entities: Owners and operators of primary magnesium refining plants.

Estimated Number of Respondents: 1.

Frequency of Response: Initially, on occasion and semiannually.

Estimated Total Annual Hour Burden: 731.

Estimated Total Annual Cost: There are no annualized capital/startup or O&M costs associated with this ICR.

(17) NESHAP for Plastic Parts and Products Surface Coating (40 CFR Part 63, Subpart PPPP); EPA–HQ–OECA–2006–0433; EPA ICR Number 2044.03; OMB Control Number 2060–0537; expiration date January 31, 2007.

Affected Entities: Entities potentially affected by this action are plastic parts and products surface coating operations.

Abstract: The National Emission Standards for Hazardous Air Pollutants (NESHAP) for Plastic Parts and Products Surface Coating were promulgated on April 19, 2004. The affected entities are subject to the General Provisions of the National Emission Standards for Hazardous Air Pollutants (NESHAP) at 40 CFR part 63, subpart A and any changes, or additions to the General Provisions specified at 40 CFR part 63, subpart PPPP.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 210 hours per response.

Respondents/Affected Entities: Owners and operators of plastic parts and products surface coating operations.

Estimated Number of Respondents: 203.

Frequency of Response: Initially, on occasion and semiannually.

Estimated Total Annual Hour Burden: 42,553.

Estimated Total Annual Cost: $45,000 which is comprised of annualized capital/startup costs of $44,000 and O&M costs of $1,0000.

(18) NESHAP for Taconite Iron Ore Processing (40 CFR Part 63, Subpart RRRRR); EPA–HQ–OECA–2006–0430; EPA ICR Number 2050.03; OMB Control Number 2060–0538; expiration date January 31, 2007.

Affected Entities: Entities potentially affected by this action are owners and operators of taconite iron ore processing plants.

Abstract: The National Emission Standards for Hazardous Air Pollutants (NESHAP) for Taconite Iron Ore Processing were promulgated on October 30, 2003. The affected entities are subject to the General Provisions of the National Emission Standards for Hazardous Air Pollutants (NESHAP) at 40 CFR part 63, subpart A and any changes, or additions to the General Provisions specified at 40 CFR part 63, subpart RRRRR.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 159 hours per response.

Respondents/Affected Entities: Owners and operators of taconite iron ore processing plants.

Estimated Number of Respondents: 8.

Frequency of Response: Initially, on occasion and semiannually.

Estimated Total Annual Hour Burden: 1,272.

Estimated Total Annual Cost: $510,000 which is comprised of annualized capital/startup costs of $393,000 and O&M costs of $117,000.

(19) NESHAP for Printing and Publishing Industry (40 CFR Part 63, Subpart KK), Docket ID Number EPA–HQ–OECA–2006–0438, EPA ICR Number 1739.05, OMB Control Number 2060–0335, and expiration date January 31, 2007.

Affected Entities: Entities potentially affected by this action are owners or operators of the printing and publishing industry.

Abstract: The National Emission Standards for Hazardous Air Pollutants

(NESHAP) for Printing and Publishing Industry (40 CFR Part 63, Subpart KK) were proposed on March 14, 1995, and promulgated on May 30, 1996.

The affected entities are subject to the General Provisions of NESHAP at 40 CFR part 63, subpart A and any changes, or additions to the General Provisions specified at 40 CFR part 63, subpart KK.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average approximately 100 hours per response.

Respondents/Affected Entities: Owners and Operators of the printing and publishing industry.

Estimated Number of Respondents: 352.

Frequency of Response: Initially, on occasion and semiannually.

Estimated Total Annual Hour Burden: 50,796.

Estimated Total Annual Cost: $412,000 which is comprised of annualized capital/startup costs of $7,000 and O&M costs of $405,000.

(20) NSPS for Ammonium Sulfate Manufacturing Plants (40 CFR Part 60, Subpart PP), Docket ID Number EPA–HQ–OECA–2006–0412, EPA ICR Number 1066.06, OMB Control Number 2060–0032, expiration date February 28, 2007.

Affected Entities: Entities potentially affected by this action are ammonium sulfate manufacturing plants.

Abstract: The New Source Performance Standards (NSPS) for ammonium sulfate manufacturing industry were promulgated on November 12, 1980.

The affected entities are subject to the General Provisions of the New Source Performance Standards (NSPS) at 40 CFR part 60, subpart A and any changes, or additions to the General Provisions specified at 40 CFR part 60, subpart PP.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 91 hours per response.

Respondents/Affected Entities: Ammonium sulfate manufacturing plants

Estimated Number of Respondents: 2.

Frequency of Response: Initially and semiannually.

Estimated Total Annual Hour Burden: 181.

Estimated Total Annual Cost: There are no annualized capital or O&M costs associated with this ICR.

(21) NSPS for Pressure Sensitive Tape and Label Surface Coating Operations (40 CFR Part 60, Subpart RR), Docket ID Number EPA–HQ–OECA–2006–0414, EPA ICR Number 0658.09, OMB Control Number 2060–0004, expiration date February 28, 2007.

Affected Entities: Entities potentially affected by this action are pressure sensitive tape and label surface coating operations.

Abstract: The New Source Performance Standards (NSPS) for the pressure sensitive tape and label surface coating industry were promulgated on October 18, 1983.

The affected entities are subject to the General Provisions of the New Source Performance Standards (NSPS) at 40 CFR part 60, subpart A and any changes, or additions to the General Provisions specified at 40 CFR part 60, subpart RR.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 35 hours per response.

Respondents/Affected Entities: Pressure sensitive tape and label surface coating operations

Estimated Number of Respondents: 37.

Frequency of Response: Initially, on occasion, quarterly and semiannually.

Estimated Total Annual Hour Burden: 3,179.

Estimated Total Annual Cost: $72,000, which is comprised of annualized capital/startup costs of $7,000 and O&M costs of $65,000.

(22) NSPS for Automobile and Light Duty Truck Surface Coating Operations (40 CFR Part 60, Subpart MM), Docket ID Number EPA–HQ–OECA–2006–0416, EPA ICR Number 1064.11, OMB Control Number 2060–0034, expiration date February 28, 2007.

Affected Entities: Entities potentially affected by this action are automobile and light duty truck surface coating operations.

Abstract: The New Source Performance Standards (NSPS) for the automobile and light duty truck surface coating industry were promulgated on December 24, 1980.

The affected entities are subject to the General Provisions of the New Source Performance Standards (NSPS) at 40 CFR part 60, subpart A and any changes, or additions to the General Provisions specified at 40 CFR part 60, subpart MM.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 745 hours per response.

Respondents/Affected Entities: Automobile and light duty truck surface coating operations

Estimated Number of Respondents: 210.

Frequency of Response: Initially and quarterly.

Estimated Total Annual Hour Burden: 156,362.

Estimated Total Annual Cost: $93,000, which is comprised of annualized capital/startup costs of $2,000 and O&M costs of $91,000.

(23) NSPS for Flexible Vinyl and Urethane Coating and Printing (40 CFR Part 60, Subpart FFF), Docket ID Number EPA–HQ–OECA–2006–0411, EPA ICR Number 1157.08, OMB Control Number 2060–0073, expiration date February 28, 2007.

Affected Entities: Entities potentially affected by this action are flexible vinyl and urethane coating and printing operations.

Abstract: The New Source Performance Standards (NSPS) for the flexible vinyl and urethane coating and printing industry were promulgated on June 29, 1984.

The affected entities are subject to the General Provisions of the New Source Performance Standards (NSPS) at 40 CFR part 60, subpart A and any changes, or additions to the General Provisions specified at 40 CFR part 60, subpart FFF.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 14 hours per response.

Respondents/Affected Entities: Flexible Vinyl and Urethane Coating and Printing operations.

Estimated Number of Respondents: 41.

Frequency of Response: Initially and semiannually.

Estimated Total Annual Hour Burden: 593.

Estimated Total Annual Cost: $61,000, which is comprised of annualized capital/startup costs of $7,000 and O&M costs of $54,000.

(24) NSPS for Lead Acid Battery Manufacturing (40 CFR Part 60, Subpart KK), Docket ID Number EPA–HQ–OECA–2006–0415, EPA ICR Number 1072.08, OMB Control Number 2060–0081, expiration date March 31, 2007.

Affected Entities: Entities potentially affected by this action are lead acid battery manufacturers.

Abstract: The New Source Performance Standards (NSPS) for the lead acid battery manufacturing industry were promulgated on June 29, 1984.

The affected entities are subject to the General Provisions of the New Source Performance Standards (NSPS) at 40 CFR part 60, subpart A and any changes, or additions to the General Provisions specified at 40 CFR part 60, subpart KK.

Burden Statement: The annual public reporting and recordkeeping burden for

this collection of information is estimated to average 62 hours per response.

Respondents/Affected Entities: Lead acid battery manufacturers.

Estimated Number of Respondents: 52.

Frequency of Response: Initial.

Estimated Total Annual Hour Burden: 4,053.

Estimated Total Annual Cost: $12,000, which is comprised of no annualized capital/startup costs and O&M costs of $12,000.

(25) NSPS for Storage Vessels for Petroleum Liquids for Which Construction, Reconstruction or Modification Commenced After June 11, 1973 prior to July 23, 1984 (40 CFR Part 60, Subpart Ka), Docket ID Number EPA–HQ–OECA–2006–0449, EPA ICR Number 1797.04, OMB Control Number 2060–0442, and expiration date March 31, 2007.

Affected Entities: Entities potentially affected by this action are owners or operators of storage vessels for petroleum liquids for which construction, reconstruction or modification commended after June 11, 1973 prior to July 23, 1984.

Abstract: The New Source Performance Standards (NSPS) for Storage Vessels for Petroleum Liquids for Which Construction, Reconstruction or Modification Commenced After June 11, 1973 prior to July 23, 1984 (40 CFR Part 60, Subpart Ka), were promulgated on March 8, 1974.

The affected entities are subject to the General Provisions of NSPS at 40 CFR part 60, subpart A and any changes, or additions to the General Provisions specified at 40 CFR part 60, subpart Ka.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average approximately 3 hours per response.

Respondents/Affected Entities: Owners or operators of facilities that store petroleum liquids for which construction, reconstruction or modification commenced after June 11, 1973, and prior to July 23, 1984.

Estimated Number of Respondents: 220.

Frequency of Response: On occasion.

Estimated Total Annual Hour Burden: 669.

Estimated Total Annual Cost: $43,000 which is comprised of no annualized capital/startup costs and O&M costs of $43,000.

(26) NSPS for Commercial and Industrial Solid Waste Incineration Units (40 CFR Part 60, Subpart CCCC), Docket ID Number EPA–HQ–OECA–2006–0442, EPA ICR Number 1926.04, OMB Control Number 2060–0450, and expiration date March 31, 2007.

Affected Entities: Entities potentially affected by this action are owners or operators of commercial and industrial solid waste incineration units.

Abstract: The New Source Performance Standards (NSPS) for Commercial and Industrial Solid Waste Incineration Units (40 CFR Part 60, Subpart CCCC) were proposed on November 30, 1999, and promulgated on December 1, 2000.

The affected entities are subject to the General Provisions of NSPS at 40 CFR part 60, subpart A and any changes, or additions to the General Provisions specified at 40 CFR part 60, subpart CCCC.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average approximately 325 hours per response.

Respondents/Affected Entities: Commercial and industrial solid waste incineration units

Estimated Number of Respondents: 30.

Frequency of Response: Initially, annually, and semiannually.

Estimated Total Annual Hour Burden: 16,899.

Estimated Total Annual Cost: $18,000 which is comprised of annualized capital/startup costs of $13,000 and O&M costs of $5,000.

(27) NESHAP for Miscellaneous Coating Manufacturing (40 CFR Part 63, Subpart EEEE), Docket ID Number EPA–HQ–OECA–2006–0418, EPA ICR Number 2115.02, OMB Control Number 2060–0535, expiration date April 30, 2007.

Affected Entities: Entities potentially affected by this action are miscellaneous coating manufacturers.

Abstract: The New Source Performance Standards (NSPS) for the miscellaneous coating manufacturing industry were promulgated on December 11, 2003.

The affected entities are subject to the General Provisions of the National Emission Standards for Hazardous Air Pollutants (NESHAP) at 40 CFR part 63, subpart A and any changes, or additions to the General Provisions specified at 40 CFR part 60, subpart HHHHH.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 84 hours per response.

Respondents/Affected Entities: Miscellaneous coating manufacturers.

Estimated Number of Respondents: 121.

Frequency of Response: Initially and semiannually.

Estimated Total Annual Hour Burden: 10,139.

Estimated Total Annual Cost: $44,000, which is comprised of annualized capital/startup costs of $10,000 and O&M costs of $34,000.

(28) NESHAP for Organic Liquids Distribution (40 CFR Part 63, Subpart EEEE); EPA ICR Number 1963.03; OMB Control Number 2060–0539; expiration date April 30, 2007.

Affected Entities: Owners or operators of organic liquids distribution operations that are located at, or are part of, major sources of hazardous air pollutant emissions.

Abstract: The National Emissions Standards for Hazardous Air Pollutants (NESHAP) for Liquids Distribution (40 CFR Part 63, Subpart EEEE) were promulgated on February 3, 2004.

The affected entities are subject to the General Provisions of NESHAP at 40 CFR part 63, subpart A and any changes, or additions to the General Provisions specified at 40 CFR part 63, subpart EEEE.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average approximately 197 hours per response.

Respondents/Affected Entities: Owners or operators of organic liquids distribution operations that are located at, or are part of, major sources of hazardous air pollutant emissions.

Estimated Number of Respondents: 381.

Frequency of Response: Initially and semiannually.

Estimated Total Annual Hour Burden: 137,170.

Estimated Total Annual Cost: $1,800,000 which is comprised of annualized capital/startup cost of $264,000 and O&M costs of $1,536,000.

(29) Emission Guidelines for Commercial and Industrial Solid Waste Incineration Units (40 CFR Part 60, Subpart DDDD), Docket ID Number EPA–HQ–OECA–2006–0444, EPA ICR Number 1927.04, OMB Control Number 2060–0451, and expiration date April 30, 2007.

Affected Entities: Entities potentially affected by this action are emission guidelines for commercial and industrial solid waste incineration units.

Abstract: The New Source Performance Standards (NSPS) for Emission Guidelines for Commercial and Industrial Solid Waste Incineration Units (40 CFR Part 60, Subpart DDDD) were promulgated on December 1, 2000.

The affected entities are subject to the General Provisions of NSPS at 40 CFR part 60, subpart A and any changes, or

additions to the General Provisions specified at 40 CFR part 60, subpart DDDD.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average approximately 262 hours per response.

Respondents/Affected Entities: Owners or operators of commercial and industrial solid waste incineration units.

Estimated Number of Respondents: 97.

Frequency of Response: Initially, annually and semiannually.

Estimated Total Annual Hour Burden: 72,423.

Estimated Total Annual Cost: $99,000 which is comprised of annualized capital/startup costs of $87,000 and O&M costs of $12,000.

(30) NESHAP for Halogenated Solvent Cleaners/Halogenated Hazardous Air Pollutants (40 CFR Part 63, Subpart T), Docket ID Number EPA–HQ–OECA–2006–0443, EPA ICR Number 1652.06, OMB Control Number 2060–0273, and expiration date April 30, 2007.

Affected Entities: Entities potentially affected by this action are owners or operators of halogenated solvent cleaners.

Abstract: The National Emission Standards for Hazardous Air Pollutants (NESHAP) for Halogenated Solvent Cleaners/Halogenated Hazardous Air Pollutants (40 CFR Part 63, Subpart T) were promulgated on December 2, 1994.

The affected entities are subject to the General Provisions of NESHAP at 40 CFR part 63, subpart A and any changes, or additions to the General Provisions specified at 40 CFR part 63, subpart T.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average approximately 14 hours per response.

Respondents/Affected Entities: Owners or operators of halogenated solvent cleaners.

Estimated Number of Respondents: 1,431.

Frequency of Response: Quarterly, semiannually, and initially.

Estimated Total Annual Hour Burden: 41,035.

Estimated Total Annual Cost: $1,015,000 which is comprised of no annualized capital/startup costs and O&M costs of $1,015,000.

(31) NSPS for Nitric Acid Plants (40 CFR Part 60, Subpart G), Docket ID Number EPA–HQ–OECA–2006–0437, EPA ICR Number 1056.09, OMB Control Number 2060–0019, and expiration date April 30, 2007.

Affected Entities: Entities potentially affected by this action are owners or operators of nitric acid plants.

Abstract: The New Source Performance Standards (NSPS) for Nitric Acid Plants (40 CFR Part 60, Subpart G) were proposed on August 17, 1971, and promulgated on June 14, 1974.

The affected entities are subject to the General Provisions of NSPS at 40 CFR part 60, subpart A and any changes, or additions to the General Provisions specified at 40 CFR part 60, subpart G.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average approximately 25 hours per response.

Respondents/Affected Entities: Owners or operators of nitric acid plants.

Estimated Number of Respondents: 24.

Frequency of Response: Initially and semiannually.

Estimated Total Annual Hour Burden: 1,290.

Estimated Total Annual Cost: $2,468,000 which is comprised of annualized capital/startup costs of $68,000 and O&M costs of $2,400,000.

EPA will consider any comments received and may amend any of the above ICRs, as appropriate. Then the final ICR packages will be submitted to OMB for review and approval pursuant to 5 CFR 1320.12. At that time, EPA will issue one or more **Federal Register** notices pursuant to 5 CFR 1320.5(a)(1)(iv) to announce the submission of the ICR(s) to OMB and the opportunity to submit additional comments to OMB. If you have any questions about any of the above ICRs or the approval process, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

Dated: June 12, 2006.

Michael M. Stahl,

Director, Office of Compliance.

[FR Doc. 06–5533 Filed 6–20–06; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–8186–1]

EPA Board of Scientific Counselors; Notice of Charter Renewal

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Charter Renewal.

The Charter for the Environmental Protection Agency's Board of Scientific Counselors (BOSC) will be renewed for an additional two-year period, as a necessary committee which is in the public interest, in accordance with the provisions of the Federal Advisory Committee Act (FACA), 5 U.S.C. app. 2 section 9(c). The purpose of BOSC is to counsel the Assistant Administrator for Research and Development (AA/ORD), on the operation of ORD's research program. It is determined that BOSC is in the public interest in connection with the performance of duties imposed on the Agency by law.

Inquiries may be directed to Ms. Lorelei Kowalski, Designated Federal Officer, BOSC, U.S. EPA, Office of Research and Development (mail code 8104–R), 1200 Pennsylvania Avenue, NW., Washington, DC 20460, Telephone (202) 564–3408 or *kowalski.lorelei@epa.gov*.

Dated: April 12, 2006.

George Gray,

Assistant Administrator for Research and Development.

[FR Doc. E6–9752 Filed 6–20–06; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2006–0081; FRL–7769–8]

2006 Tribal Pesticide and Special Projects; Request for Proposals

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA's Office of Pesticide Programs (OPP), in coordination with the EPA regional offices, is soliciting pesticide and special project proposals from eligible tribes, Alaska native villages, and intertribal consortia for fiscal year (FY) 2006 funding. Under this program, cooperative agreement awards will provide financial assistance to eligible tribal governments, Alaska native village governments, or intertribal consortia to carry out projects that assess or reduce risks to human health and the environment from pesticide exposure. The total amount of funding available for award in FY 2006 is expected to be approximately $400,000, with a maximum funding level of $50,000 per project.

DATES: Proposals must be postmarked on or beforeAugust 7, 2006.

FOR FURTHER INFORMATION CONTACT: Ron Kendall, Office of Pesticide Programs (7506P), Tribal Grants Coordinator, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number:

(703) 305–5561; e-mail: *kendall.ron@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

Potentially affected entities include federally recognized Tribal governments, federally recognized Alaska native villages, or any intertribal consortium. Only one project proposal from each tribal government or intertribal consortium will be considered for funding. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Copies of this Document and Other Related Documents?

1. *Docket*. EPA has established a docket for this action under docket identification (ID) number EPA–HQ–OPP–2006–0081. Publicly available docket materials are available in the electronic docket at *http://www.regulations.gov*, or, if only available in hard copy, at the OPP Regulatory Public Docket in Rm. S-4400, One Potomac Yard (South Building), 2777 S. Crystal Drive, Arlington VA. This docket facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The docket telephone number is (703) 305–5805.

2. *Electronic access*. You may obtain electronic copies of this document through the EPA Internet under the ''**Federal Register**'' listings at *http://www.epa.gov/fedrgstr/*.

You may access the full text of the grant announcement at *http://www.epa.gov/pesticides/grants/index.htm*. Go to *http://www.grants.gov* to electronically find and apply for competitive grant opportunities from all Federal grant-making agencies. Grants.gov is the single access point for over 1,000 grant programs offered by the 26 Federal grant-making agencies.

II. Overview

The following list provides key information concerning this funding opportunity:

- *Federal agency name*: Environmental Protection Agency.
- *Funding opportunity title*: Tribal Pesticide and Special Projects; Request for Proposals.
- *Funding opportunity number*: EPA–OPP–06–001.
- *Announcement type*: Announcement of a funding opportunity.
- *Catalog of Federal Domestic Assistance (CFDA) number*: 66.716.
- *Dates*: Proposals must be postmarked on or before August 7, 2006.

For detailed information concerning the grant announcement refer to the Agency website at *http://www.epa.gov/pesticides/grants/index.htm*. The full text of the grant announcement includes specific information regarding the: Purpose and scope; activities to be funded; award information; eligibility requirements; application and submission information; award review information; and regional agency contacts if applicable.

List of Subjects

Environmental protection, Pesticides.

Dated: June 7, 2006.

Susan B. Hazen,

Acting Assistant Administrator, Office of Prevention, Pesticides and Toxic Substances.

[FR Doc. E6–9751 Filed 6–20–06; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[FRL–8186–8]

Science Advisory Board Staff Office; Invitation to a Public Session on Web Site Development

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The EPA Science Advisory Board (SAB) Staff Office is inviting the public to register and attend a public session to provide feedback on the SAB Web site development.

DATES: A public meeting of the EPA SAB will be held July 26, 2006 from 10 a.m. to approximately 12 p.m. Eastern Time.

ADDRESSES: The meeting will take place at the SAB Conference Center, 1025 F Street, NW., Suite 3700, Washington, DC 20004.

FOR FURTHER INFORMATION CONTACT: Members of the public who wish to obtain further information about this session may contact Ms. Alisha Lingenfelter, EPA Washington Center Intern, EPA Science Advisory Board Staff Office by e-mail at *Lingenfelter.Alisha@epa.gov* or by telephone at (202) 343–9986.

SUPPLEMENTARY INFORMATION:

Background: This public session is being held by the EPA SAB Staff Office as part of its efforts to continuously improve public outreach. The purpose of this session is to obtain feedback on the redesign of the SAB's public access Web site (*http://www.epa.gov/sab*).

The SAB Staff Office is seeking public views regarding the clarity, navigability, and usefulness of the site. The SAB Staff Office is specifically requesting participants' views on the most valuable features and suggestions for features or functions to add or change. This redesign effort builds on input received at a previous public session held September 26, 2002 [67 FR 56831–56832]. A summary of that session is available on the SAB Web site at *http://www.epa.gov/sab/02minutes/pubsession092602m.pdf.*

Registration for the July 26, 2006 Public Session: Persons wishing to register should contact Ms. Lingenfelter, contact information provided above.

Availability of Meeting Materials: Updated website materials to be viewed at the public session are available upon request and may be obtained from Ms. Lingenfelter at the contact information provided above.

Procedures for Providing Public Input: Members of the public may submit relevant written or oral information for the SAB Staff Office to consider. Oral Statements: In general, individuals or groups requesting an oral presentation at this public meeting will be limited to five minutes per speaker with no more than a total of thirty minutes for all speakers. Interested parties should contact Ms. Lingenfelter, contact information provided above, in writing via e-mail seven days before the meeting in order to be placed on the public speaker list. Written Statements: Written statements should be received in the SAB Staff Office at least seven days before the meeting so that the information may be made available to the SAB Staff Office for its consideration. Written statements should be supplied to Ms. Lingenfelter in the following formats: one hard copy with original signature, and one electronic copy via e-mail (acceptable file format: Adobe Acrobat, WordPerfect, Word, or Rich Text files (in IBM–PC/Windows 98/2000/XP format).

Meeting Accommodations: For information on access or services for individuals with disabilities, please contact Ms. Lingenfelter at the contact information provided above. To request accommodation of a disability, please contact Ms. Lingenfelter, preferably at least ten days prior to the meeting, to give EPA as much time as possible to process your request.

Dated: June 15, 2006.

Richard Albores,

Deputy Director for Management, EPA Science Advisory Board Staff Office.

[FR Doc. E6–9749 Filed 6–20–06; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2005–0481; FRL–8065–4]

Triazine Cumulative Risk Assessment; Notice of Availability

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the availability of EPA's cumulative risk assessment for the chlorinated triazine group of pesticides and opens a public comment period on this document and other support documents. As required by the Food Quality Protection Act (FQPA), a cumulative risk assessment, which evaluates exposures based on a common mechanism of toxicity, was conducted to evaluate the risk from food, drinking water, and non-occupational exposure resulting from all registered uses of chlorinated triazine pesticides. The chlorinated triazine group includes the pesticides atrazine, simazine, and propazine, in addition to their three chlorinated degradates. Propazine, however, was not incorporated into the cumulative risk assessment because no dietary, drinking water, or residential human exposure to propazine is anticipated from any of the currently registered uses. The Agency is concurrently issuing for public comment the Reregistration Eligibility Decision (RED) for simazine and the Tolerance Reassessment Progress and Risk Management Decision (TRED) for propazine. See EPA–HQ–OPP–2005–0151 and EPA–HQ–OPP–2005–0496 in the Notices section of this issue of the **Federal Register**. A memo finalizing the Interim Reregistration Eligibility Decision for atrazine is being added to docket EPA–HQ–OPP–2003–0367.

DATES: Comments must be received on or before August 21, 2006.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2005–0481, by one of the following methods:

- Federal eRulemaking Portal: *http://www.regulations.gov*. Follow the on-line instructions for submitting comments.
- *Mail*: Office of Pesticide Programs (OPP) Regulatory Public Docket (7502P), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001.
- *Delivery*: OPP Regulatory Public Docket (7502P), Environmental Protection Agency, Rm. S-4400, One Potomac Yard (South Building), 2777 S. Crystal Drive, Arlington, VA. Deliveries are only accepted during the Docket's normal hours of operation (8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays). Special arrangements should be made for deliveries of boxed information. The Docket telephone number is (703) 305–5805.

Instructions: Direct your comments to docket ID number EPA–HQ–OPP–2005–0481. EPA's policy is that all comments received will be included in the docket without change and may be made available on-line at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through regulations.gov or e-mail. The Federal regulations.gov website is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the 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 docket are listed in the docket 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, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either in the electronic docket at *http://www.regulations.gov*, or, if only available in hard copy, at the OPP Regulatory Public Docket in Rm. S-4400, One Potomac Yard (South Building), 2777 S. Crystal Drive, Arlington, VA. The hours of operation of this Docket Facility are from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket telephone number is (703) 305–5805.

FOR FURTHER INFORMATION CONTACT: Diane Sherman, Special Review and Reregistration Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 308–0128; fax number: (703) 308–8005; e-mail address: *sherman.diane@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general, and may be of interest to a wide range of stakeholders including environmental, human health, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the sale, distribution, or use of pesticides. Since others also may be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

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

1. *Submitting CBI*. Do not submit this information to EPA through regulations.gov or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD ROM that you mail to EPA, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments*. When submitting comments, remember to:

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

ii. Follow directions. The agency may ask you to respond to specific questions or organize comments by referencing a

Code of Federal Regulations (CFR) part or section number.

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

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

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

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

vii. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

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

II. Background

A. What Action is the Agency Taking?

EPA is making available the completed cumulative risk assessment for the chlorinated triazine pesticides. The Agency developed this risk assessment as part of its ongoing process for making pesticide reregistration eligibility and tolerance reassessment decisions. Through these programs, EPA is ensuring that pesticides meet current standards under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and the Federal Food, Drug, and Cosmetic Act (FFDCA), as amended by the FQPA.

Section 408(b)(2)(D)(v) of the FFDCA directs the Agency to consider available information on the cumulative risk from substances sharing a common mechanism of toxicity. In 2002 the Agency determined that the chlorinated triazine pesticides atrazine, simazine, and propazine, in addition to their three chlorinated degradates, share a common neuroendocrine mechanism of toxicity which results in both reproductive and developmental consequences. This determination can be found in the document entitled ''The Grouping of a Series of Triazine Pesticides Based on a Common Mechanism of Toxicity'' available at *http://www.epa.gov/oppsrrd1/cumulative/triazines/triazinestransmittalmemo.htm*.

The Agency has concluded that the cumulative risks associated with the chlorinated triazine pesticides are below the Agency's level of concern. While making final reregistration eligibility and tolerance reassessment decisions on individual chlorinated triazines, the Agency evaluated the cumulative risk posed by this group. Although individual risk assessments were conducted for each of the chlorinated triazine pesticides, propazine was not incorporated into the cumulative risk assessment because no dietary, drinking water, or residential human exposure to propazine is anticipated from any of the currently registered uses.

The Interim Reregistration Eligibility Decision previously issued for atrazine in docket OPP–2003–0072 (68 FR 9652, February 28, 2003) (FRL–7296–1) and revised in docket OPP–2003–0367 (68 FR 63085, November 7, 2003) (FRL–7334–9) is now considered final; the tolerance reassessment and reregistration eligibility process for atrazine is complete. EPA has determined that the established tolerances for atrazine meet the FFDCA safety standard and that no further risk mitigation is necessary as a result of the triazine cumulative risk assessment.

EPA is providing an opportunity, through this notice, for interested parties to provide comments and input on the Agency's completed cumulative risk assessment for the triazines. Such comments and input could address the Agency's risk assessment methodologies and assumptions as applied to this cumulative assessment. The Agency will consider all comments received, and make changes, if appropriate, to the triazine cumulative assessment.

EPA seeks to achieve environmental justice, the fair treatment and meaningful involvement of all people, regardless of race, color, national origin, or income, in the development, implementation, and enforcement of environmental laws, regulations, and policies. To help address potential environmental justice issues, the Agency seeks information on any groups or segments of the population who, as a result of their location, cultural practices, or other factors, may have atypical, unusually high exposure to chlorinated triazine pesticides, compared to the general population.

EPA is applying the principles of public participation to all pesticides undergoing reregistration and tolerance reassessment. The Agency's Pesticide Tolerance Reassessment and Reregistration; Public Participation Process, published in the **Federal Register** on May 14, 2004, (69 FR 26819) (FRL–7357–9) explains that in conducting these programs, EPA is tailoring its public participation process to be commensurate with the level of risk, extent of use, complexity of issues, and degree of public concern associated with each pesticide. Both atrazine and simazine have had extensive opportunties for public comment as part of their reregistration eligibility and tolerance reassessment process.

Comments should be limited to issues raised within the triazine risk assessment and associated documents. Failure to comment on any such issues as part of this opportunity will not limit a commenter's opportunity to participate in any later notice and comment processes on this matter. All comments should be submitted using the methods in **ADDRESSES**, and must be received by EPA on or before the closing date. Comments will become part of the Agency Docket for the triazine cumulative risk assessment. Comments received after the close of the comment period will be marked ''late.'' EPA is not required to consider these late comments.

B. What is the Agency's Authority for Taking this Action?

Section 4(g)(2)(A) of FIFRA, as amended, requires the Administrator to make ''a determination as to the eligibility for reregistration (i) for all active ingredients subject to reregistration under this section for which tolerances or exemptions from tolerances are required under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.), not later than the last date for tolerance reassessment established under section 408(q)(1)(C) of that Act (21 U.S.C. 346a(q)(1)(C)) . . . .''

Section 408(q) of the FFDCA, 21 U.S.C. 346a(q), requires EPA to review tolerances and exemptions for pesticide residues in effect as of August 2, 1996, to determine whether the tolerance or exemption meets the requirements of section 408(b)(2) or (c)(2) of FFDCA. This review is to be completed by August 3, 2006. A tolerance or exemption meets the requirements of section 408(b)(2) or (c)(2), respectively, if ''the Administrator determines the pesticide chemical residue is safe'', i.e., ''that there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' 21 U.S.C. 346a(b)(2)(A), and (c)(2)(A). In making this safety finding, FFDCA requires the Administrator to consider, among other factors, ''available information concerning the cumulative effects of such residues and other substances that have a common mechanism of toxicity . . . .'' 21 U.S.C. 346a(b)(2)(D)(v), and (c)(2)(B).

List of Subjects

Environmental protection, Pesticides and pests.

Dated: June 9, 2006.

Debra Edwards,

Director, Special Review and Reregistration Division, Office of Pesticide Programs.

[FR Doc. 06–5456 Filed 6–20–06; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2005–0496;FRL–8065–3]

Propazine; Tolerance Reassessment Progress and Risk Management Decision for Low Risk Pesticide; Notice of Availability

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the availability of EPA'sTolerance Reassessment Progress and Risk Management Decision (TRED) for the chlorinated triazine pesticide propazine, and opens a public comment period on this document, related risk assessments, and other support documents. EPA has reviewed the low risk pesticide propazine through a modified, streamlined version of the public participation process that the Agency uses to involve the public in developing pesticide tolerance reassessment and reregistration decisions. Through the tolerance reassessment program, EPA is ensuring that all pesticides meet current health and food safety standards. The Agency is concurrently issuing for public comment the Triazine Cumulative Risk Assessment; see EPA–HQ–OPP–2005–0481 in the Notices section of this issue of the **Federal Register**.

DATES: Comments must be received on or before August 21, 2006.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2005–0496, by one of the following methods:

- Federal eRulemaking Portal: *http://www.regulations.gov*. Follow the on-line instructions for submitting comments.
- *Mail*: Office of Pesticide Programs (OPP) Regulatory Public Docket (7502P), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001.
- *Delivery*: OPP Regulatory Public Docket (7502P), Environmental Protection Agency, Rm. S–4400, One Potomac Yard (South Building), 2777 S. Crystal Drive, Arlington, VA. Deliveries are only accepted during the Docket's normal hours of operation (8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays). Special arrangements should be made for deliveries of boxed information. The Docket telephone number is (703) 305–5805.

Instructions: Direct your comments to docket ID number EPA–HQ–OPP–2005–0496. EPA's policy is that all comments received will be included in the docket without change and may be made available on-line at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through regulations.gov or e-mail. The Federal regulations.gov website is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the 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 docket are listed in the docket 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, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either in the electronic docket at *http://www.regulations.gov*,or, if only available in hard copy, at the OPP Regulatory Public Docket in Rm. S–4400, One Potomac Yard (South Building), 2777 S. Crystal Drive, Arlington, VA. The hours of operation of this Docket Facility are from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket telephone number is (703) 305–5805.

FOR FURTHER INFORMATION CONTACT: Diane Sherman,Special Review and Reregistration Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 308–0128; fax number: (703) 308–8005; e-mail address:*diane.sherman@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general, and may be of interest to a wide range of stakeholders including environmental, human health, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the sale, distribution, or use of pesticides. Since others also may be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

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

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2. *Tips for preparing your comments*. When submitting comments, remember to:

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

ii. Follow directions. The agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.

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

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

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

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

vii. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

viii. Make sure to submit your comments by the comment period deadlineidentified.

II. Background

A. What Action is the Agency Taking?

EPA has reassessed the uses of propazine, reassessed four existing tolerances or legal residue limits, and on April 6, 2006, reached a tolerance reassessment decision for this low risk chlorinated triazine pesticide. The Agency is now issuing for comment the resulting Report onFood Quality Protection Act (FQPA) Tolerance Reassessment Progress and Risk Management Decision for propazine, known as a TRED, as well as related risk assessments and technical support documents. Propazine is a systemic herbicide that is usually applied to the soil, absorbed through leaves and roots, and acts by inhibiting photosynthesis within the targeted plant. It isused as a selective herbicide to control most annual grasses and broadleaf weeds before the weeds emerge or after removal of weed growth. Propazine is formulated as a flowable concentrate, is registered for use on container grown ornamentals in greenhouses, and is to be applied through flood or drench nozzles only. The Agency has received a new use petition forsorhgum from the Griffin Corporation (PP 7F4837 as announced in a **Federal Register** Notice published on June 22, 2005, 70 FR 36159), and potential risks resulting from this use will be assessed when the petition is considered.

EPA developed the propazine TRED through a modified, streamlined version of its public process for making tolerance reassessment and reregistration eligibility decisions. Through these programs, the Agency is ensuring that pesticides meet current standards under the Federal Food, Drug, and Cosmetic Act (FFDCA) and the Federal Insecticide, Fungicide, andRodenticide Act (FIFRA), as amended by FQPA. EPA must review tolerances and tolerance exemptions that were in effect when FQPA was enacted, to ensure that these existing pesticide residue limits for food and feed commodities meet the safety standard established by the new law. Tolerances are considered reassessed once the safety finding has been made or a revocation occurs. EPA has reviewed and made the requisite safety finding for the propazine tolerances included in this notice. EPA has determined that the data base to support propazine tolerance reassessment is substantially complete and that propazine tolerances meet the FFDCA safety standard.

The propazine TRED presents the Agency's tolerance reassessment conclusions for propazine alone; however, section 408(b)(2)(D)(v) of FFDCA directs the Agency also to consider available information on the cumulative risk from substances sharing a common mechanism of toxicity. Propazine shares a neuroendocrine mechanism of toxicity, which results in both reproductive and developmental consequences, with the structurally-related chlorinated triazine pesticides atrazine and simazine. Because these chlorinated triazine pesticides share a common mechanism of toxicity, the Agency evaluated the cumulative risk posed by this group while making final tolerance reassessment decisions on individual chlorinated triazines. However, propazine was not incorporated into the cumulative risk assessment because no dietary, drinking water, or residential human exposure to propazine is anticipated from any of the currently registered uses.

EPA is applying the principles of public participation to all pesticides undergoing reregistration and tolerance reassessment. The Agency's Pesticide Tolerance Reassessment and Reregistration; Public Participation Process, published in the **Federal Register** of May 14, 2004 (69 FR 26819) (FRL–7357–9) explains that in conducting these programs, the Agency is tailoring its public participation process to be commensurate with the level of risk, extent of use, complexity of issues, and degree of public concern associated with each pesticide. EPA can expeditiously reach decisions for pesticides like propazine, which pose no risk concerns, have low use, affect few stakeholders, and require no risk mitigation. Once EPA assesses uses and risks for such low risk pesticides, the Agency may go directly to a decision and prepare a document summarizing its findings, such as the propazine TRED.

The tolerance reassessment program is being conducted under Congressionally mandated time frames, and EPA recognizes the need both to make timely decisions and to involve the public in finding ways to effectively mitigate pesticide risks. Propazine, however, poses no risks that require mitigation. The Agency therefore is issuing the propazine TRED, its risk assessments, and related support documents simultaneously for public comment. The commentperiod is intended to provide an opportunity for public input and a mechanism for initiating any necessary amendments to the TRED. All comments should be submitted using the methods in Unit I. of the **SUPPLEMENTARY INFORMATION**, and must be received by EPA on or before the closing date. These comments will become part of the Agency Docket for propazine. Comments received after the close of the comment period will be marked ''late.'' EPA is not required to consider these late comments.

EPA will carefully consider all comments received by the closing date and will provide a Response to Comments Memorandum in the Docket and regulations.gov. If any comment significantly affects the document, EPA also will publish an amendment to the TRED in the **Federal Register**. In the absence of substantive comments requiring changes, the decisions reflected in the TRED will be implemented as presented.

B. What is the Agency's Authority for Taking this Action?

Section 408(q) of the FFDCA, 21 U.S.C. 346a(q), requires EPA to review tolerances and exemptions for pesticide residues in effect as of August 2, 1996, to determine whether the tolerance or exemption meets the requirements of section 408(b)(2) or (c)(2) of FFDCA. This review is to be completed by August 3, 2006.

A tolerance or exemption meets the requirements of section 408(b)(2) or (c)(2), respectively, if ''the Administrator determines [the pesticide chemical residue] is safe,'' i.e., ''that there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' 21 U.S.C.346a(b)(2)(A), and (c)(2)(A). In making this safety finding, FFDCA requires the Administrator to consider, among other factors, ''available information concerning the cumulative effects of such residues and other substances that have a common mechanism of toxicity . . . '' 21 U.S.C.346a(b)(2)(D)(v), and (c)(2)(B).

List of Subjects

Environmental protection, Pesticides and pests.

Dated: June 9, 2006.

Debra Edwards,

Director, Special Review and Reregistration Division, Office of Pesticide Programs.

[FR Doc. E6–9470 Filed 6–20–06; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2005–0263; FRL–8066–4]

MCPB and Salts Reregistration Eligibility Decision; Notice of Availability

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the availability of EPA's Reregistration Eligibility Decision (RED) for the pesticide MCPB (4-(2-methyl-4-chlorophenoxy) butyric acid, and opens a 30–day public comment period on this document. The Agency's risk assessments and other related documents also are available in the MCPB Docket. MCPB is a phenoxy herbicide used for post-emergence weed control to protect pea crops from a variety of weeds including canadian thistle, common lambsquarters, pigweed, smartweed, sowthistle, and morning glory. The MCPB RED addresses the tolerance reassessment for all currently registered uses of MCPB. EPA has reviewed MCPB through the public participation process that the Agency uses to involve the public in developing pesticide reregistration and tolerance reassessment decisions. Through these programs, EPA is ensuring that all pesticides meet current health and safety standards.

DATES: Comments must be received on or before July 21, 2006.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2005–0263, by one of the following methods:

• Federal eRulemaking Portal: *http://www.regulations.gov*. Follow the on-line instructions for submitting comments.

• *Mail*: Office of Pesticide Programs (OPP) Regulatory Public Docket (7502P), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001.

• *Delivery*: OPP Regulatory Public Docket (7502P), Environmental Protection Agency, Rm. S-4400, One Potomac Yard (South Building), 2777 S. Crystal Drive, Arlington, VA. Deliveries are only accepted during the Docket's normal hours of operation (8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays). Special arrangements should be made for deliveries of boxed information. The Docket telephone number is (703) 305-5805.

Instructions: Direct your comments to docket ID number EPA–HQ–OPP–2005–0263. EPA's policy is that all comments received will be included in the docket without change and may be made available on-line at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through regulations.gov or e-mail. The Federal regulations.gov website is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the 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 docket are listed in the docket 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, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either in the electronic docket at *http://www.regulations.gov*, or, if only available in hard copy, at the OPP Regulatory Public Docket in Rm. S-4400, One Potomac Yard (South Building), 2777 S. Crystal Drive, Arlington, VA. The hours of operation of this Docket Facility are from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket telephone number is (703) 305-5805.

FOR FURTHER INFORMATION CONTACT: James Parker, Special Review and Reregistration Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (703) 306-0469; fax number: (703) 308-7070; e-mail address: *parker.james@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general, and may be of interest to a wide range of stakeholders including environmental, human health, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the sale, distribution, or use of pesticides. Since others also may be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

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

1. *Submitting CBI.* Do not submit this information to EPA through regulations.gov or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD ROM that you mail to EPA, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When submitting comments, remember to:

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

ii. Follow directions. The Agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.

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

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

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

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

vii. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

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

II. Background

A. What Action is the Agency Taking?

Under section 4 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), EPA is reevaluating existing pesticides to ensure that they meet current scientific and regulatory standards. EPA has completed a Reregistration Eligibility Decision (RED) for the pesticide, MCPB under section 4(g)(2)(A) of FIFRA. MCPB is a phenoxy herbicide used for post-emergence weed control to protect pea crops from a variety of weeds including canadian thistle, common lambsquarters, pigweed, smartweed, sowthistle, and morning glory. There are no registered residential uses of MCPB. EPA has determined that the data base to support reregistration is substantially complete and that products containing MCPB are eligible for reregistration, provided the risks are mitigated either in the manner described in the RED or by another means that achieves equivalent risk reduction. Upon submission of any required product specific data under section 4(g)(2)(B) and any necessary changes to the registration and labeling (either to address concerns identified in the RED or as a result of product specific data), EPA will make a final reregistration decision under section 4(g)(2)(C) for products containing MCPB.

EPA must review tolerances and tolerance exemptions that were in effect when the Food Quality Protection Act (FQPA) was enacted in August 1996, to ensure that these existing pesticide residue limits for food and feed commodities meet the safety standard established by the new law. Tolerances are considered reassessed once the safety finding has been made or a revocation occurs. EPA has reviewed and made the requisite safety finding for the MCPB tolerances included in this notice.

EPA is applying the principles of public participation to all pesticides undergoing reregistration and tolerance reassessment. The Agency's Pesticide Tolerance Reassessment and Reregistration; Public Participation Process, published in the **Federal Register** on May 14, 2004, (69 FR 26819)(FRL–7357–9) explains that in conducting these programs, EPA is tailoring its public participation process to be commensurate with the level of risk, extent of use, complexity of issues, and degree of public concern associated with each pesticide. Due to its uses, risks, and other factors, MCPB was reviewed through the modified 4-Phase proceess. Through this process, EPA worked extensively with stakeholders and the public to reach the regulatory decisions for MCPB.

The reregistration program is being conducted under Congressionally mandated time frames, and EPA recognizes the need both to make timely decisions and to involve the public. The Agency is issuing the MCPB RED for public comment. This comment period is intended to provide an additional opportunity for public input and a mechanism for initiating any necessary amendments to the RED. All comments should be submitted using the methods in **ADDRESSES**, and must be received by EPA on or before the closing date. These comments will become part of the Agency Docket for MCPB. Comments received after the close of the comment period will be marked ''late.'' EPA is not required to consider these late comments.

The Agency will carefully consider all comments received by the closing date and will provide a Response to Comments Memorandum in the Docket and regulations.gov. If any comment significantly affects the document, EPA also will publish an amendment to the RED in the **Federal Register**. In the absence of substantive comments requiring changes, the MCPB RED will be implemented as it is now presented.

B. What is the Agency's Authority for Taking this Action?

Section 4(g)(2) of FIFRA as amended directs that, after submission of all data concerning a pesticide active ingredient, the Administrator shall determine whether pesticides containing such active ingredient are eligible for reregistration, before calling in product specific data on individual end-use products and either reregistering products or taking other ''appropriate regulatory action.''

Section 408(q) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a(q), requires EPA to review tolerances and exemptions for pesticide residues in effect as of August 2, 1996, to determine whether the tolerance or exemption meets the requirements of section 408(b)(2) or (c)(2) of FFDCA. This review is to be completed by August 3, 2006.

List of Subjects

Environmental protection, Pesticides and pests.

Dated: June 13, 2006.

Debra Edwards,

Director, Special Review and Reregistration Division, Office of Pesticide Programs.

[FR Doc. E6–9657 Filed 6–20–06; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2005–0151; FRL–8065–2]

Simazine; Reregistration Eligibility Decision; Notice of Availability

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the availability of EPA's Reregistration Eligibility Decision (RED) for the chlorinated triazine pesticide simazine, and opens a public comment period on this document, related risk assessments, and other support documents. Simazine is a systemic herbicide that is usually applied to soil, absorbed through leaves and roots, and acts by inhibiting photosynthesis within the targeted plant. It is widely used as a selective herbicide to control most annual grasses and broadleaf weeds before they emerge or after removal of weed growth. EPA has reviewed simazine through the public participation process that the Agency uses to involve the public in developing pesticide reregistration and tolerance reassessment decisions. Through these programs, EPA is ensuring that all pesticides meet current health and safety standards.

The Agency is concurrently issuing for public comment the Triazine Cumulative Risk Assessment; see EPA–HQ–OPP–2005–0481 in the Notice section of this issue of the **Federal Register**.

DATES: Comments must be received on or before August 21, 2006.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2005–0151, by one of the following methods:

- Federal eRulemaking Portal: *http://www.regulations.gov*. Follow the on-line instructions for submitting comments.
- *Mail*: Office of Pesticide Programs (OPP) Regulatory Public Docket (7502P),

Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001.

• *Delivery*: OPP Regulatory Public Docket (7502P), Environmental Protection Agency, Rm. S-4400, One Potomac Yard (South Building), 2777 S. Crystal Drive, Arlington, VA. Deliveries are only accepted during the Docket's normal hours of operation (8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays). Special arrangements should be made for deliveries of boxed information. The Docket telephone number is (703) 305–5805.

Instructions: Direct your comments to docket ID number EPA–HQ–OPP–2005–0151. EPA's policy is that all comments received will be included in the docket without change and may be made available on-line at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through regulations.gov or e-mail. The Federal regulations.gov website is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the 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 docket are listed in the docket 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, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either in the electronic docket at *http://www.regulations.gov*,or, if only available in hard copy, at the OPP Regulatory Public Docket in Rm. S-4400, One Potomac Yard (South Building), 2777 S. Crystal Drive, Arlington, VA. The hours of operation of this Docket Facility are from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket telephone number is (703) 305–5805.

FOR FURTHER INFORMATION CONTACT: Diane Sherman, Special Review and Reregistration Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 308–0128; fax number: (703) 308–8005; e-mail address: *sherman.diane@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general, and may be of interest to a wide range of stakeholders including environmental, human health, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the sale, distribution, or use of pesticides. Since others also may be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

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

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vii. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

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

II. Background

A. What Action is the Agency Taking?

Under section 4 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), EPA is reevaluating existing pesticides to ensure that they meet current scientific and regulatory standards. EPA has completed a Reregistration Eligibility Decision (RED) for the chlorinated triazine pesticide, simazine, under section 4(g)(2)(A) of FIFRA. Simazine is widely used as a selective herbicide and registered for use on a variety of food and feed crops, including, but not limited to, fruit and nut crops in addition to corn. Simazine can also be applied at forestry sites and on turfgrass grown commercially for sod. Simazine is registered for residential use on turfgrass including both commercial use on recreational lawns such as golf courses and commercial or homeowner use on lawns. An algaeicide use exists for ornamental ponds and aquariums of 1,000 gallons or less. End-use products containing simazine are formulated as pellets/tablets, dry flowables, emulsifiable concentrates, flowable concentrates, and ready-to-use liquids. These product formulations may be applied on the ground by broadcast across an area, as a spot treatment, or in rows, which is also referred to as band treatment.

The simazine RED presents the Agency's conclusions on the risks posed by exposure to simazine alone; however, section 408(b)(2)(D)(v) of the Federal Food, Drug and Cosmetic Act (FFDCA) directs the Agency also to consider available information on the cumulative risk from substances sharing a common

mechanism of toxicity. Simazine shares a neuroendocrine mechanism of toxicity, which results in both reproductive and developmental consequences, with the structurally-related chlorinated triazine pesticides atrazine and propazine. Because these chlorinated triazine pesticides share a common mechanism of toxicity, the Agency evaluated the cumulative risk posed by this group while making final reregistration eligibility decisions on individual chlorinated triazines.

EPA has determined that the data base to support reregistration is substantially complete and that products containing simazine are eligible for reregistration provided the risks are mitigated either in the manner described in the RED or by another means that achieves equivalent risk reduction. Upon submission of any required product specific data under section 4(g)(2)(B) and any necessary changes to the registration and labeling (either to address concerns identified in the RED or as a result of product specific data), EPA will make a final reregistration decision under section 4(g)(2)(C) for products containing simazine.

EPA must review tolerances and tolerance exemptions that were in effect when the Food Quality Protection Act (FQPA) was enacted in August 1996, to ensure that these existing pesticide residue limits for food and feed commodities meet the safety standard established by the new law. Tolerances are considered reassessed once the safety finding has been made or a revocation occurs. EPA has reviewed and made the requisite safety finding for the simazine tolerances included in this notice.

EPA is applying the principles of public participation to all pesticides undergoing reregistration and tolerance reassessment. The Agency's Pesticide Tolerance Reassessment and Reregistration; Public Participation Process, published in the **Federal Register** of May 14, 2004, (69 FR 26819)(FRL–7357–9) explains that in conducting these programs, EPA is tailoring its public participation process to be commensurate with the level of risk, extent of use, complexity of issues, and degree of public concern associated with each pesticide. Due to its refined risk assessment and the relatively limited risk management issues associated with this pesticide, simazine was reviewed through the modified four-phase process. Through this process, EPA worked extensively with stakeholders and the public to reach the regulatory decisions for simazine.

The reregistration program is being conducted under Congressionally mandated time frames, and EPA recognizes the need both to make timely decisions and to involve the public. The Agency is issuing the simazine RED for public comment. This comment period is intended to provide an additional opportunity for public input and a mechanism for initiating any necessary amendments to the RED. All comments should be submitted using the methods in **ADDRESSES**, and must be received by EPA on or before the closing date. These comments will become part of the Agency Docket for simazine. Comments received after the close of the comment period will be marked ''late.'' EPA is not required to consider these late comments.

The Agency will carefully consider all comments received by the closing date and will provide a Response to Comments Memorandum in the Docket and regulations.gov. If any comment significantly affects the document, EPA will also publish an amendment to the RED in the **Federal Register**. In the absence of substantive comments requiring changes, the simanzine RED will be implemented as it is now presented.

B. What is the Agency's Authority for Taking this Action?

Section 4(g)(2)(A) of FIFRA, as amended, requires the Aministrator to make ''a determination as to the eligibility for reregistration (i) for all active ingredients subject to reregistration under this section for which tolerances or exemptions from tolerances are required under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.), not later than the last date for tolerance reassessment established under section 408(q)(1)(C) of that Act (21 U.S.C. 346a(q)(1)(C)) . . . .''

Section 408(q) of the FFDCA, 21 U.S.C. 346a(q), requires EPA to review tolerances and exemptions for pesticide residues in effect as of August 2, 1996, to determine whether the tolerance or exemption meets the requirements of section 408(b)(2) or (c)(2) of FFDCA. This review is to be completed by August 3, 2006. A tolerance or exemption meets the requirements of section 408(b)(2) or (c)(2), respectively, if ''the Administrator determines [the pesticide chemical residue] is safe'', i.e., ''that there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' 21 U.S.C. 346a(b)(2)(A), (c)(2)(A). In making this safety finding, FFDCA requires the Administrator to consider, among other factors, ''available information concerning the cumulative effects of such residues and other substances that have a common mechanism of toxicity . . . .'' 21 U.S.C. 346a(b)(2)(D)(v), (c)(2)(B).

List of Subjects

Environmental protection, Pesticides and pests.

Dated: June 9, 2006.

Debra Edwards,

Director, Special Review and Reregistration Division, Office of Pesticide Programs.

[FR Doc. E6–9462 Filed 6–20–06; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2006–0096; FRL–8063–8]

Notice of Filing of a Pesticide Petition for Establishment of Regional and National Regulations for Residues of Mefenoxam in or on Beans and Turnip Greens

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the initial filing of a pesticide petition proposing the establishment of regulations for residues of mefenoxam in or on beans (succulent shelled) and turnip greens.

DATES: Comments must be received on or before July 21, 2006.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2006–0096 and pesticide petition number (PP) 5F7018, by one of the following methods:

- Federal eRulemaking Portal: *http://www.regulations.gov*. Follow the on-line instructions for submitting comments.
- *Mail*: Office of Pesticide Programs (OPP) Regulatory Public Docket (7502P), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001.
- *Delivery*: OPP Regulatory Public Docket (7502P), Environmental Protection Agency, Rm. S-4400, One Potomac Yard (South Building), 2777 S. Crystal Drive, Arlington, VA. Deliveries are only accepted during the Docket's normal hours of operation (8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays). Special arrangements should be made for deliveries of boxed information. The Docket telephone number is (703) 305-5805.

Instructions: Direct your comments to docket ID number EPA–HQ–OPP–2006–0096. EPA's policy is that all comments

received will be included in the docket without change and may be made available on-line at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through regulations.gov or e-mail. The Federal regulations.gov website is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the 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 docket are listed in the docket 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, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either in the electronic docket at *http://www.regulations.gov,* or, if only available in hard copy, at the OPP Regulatory Public Docket in Rm. S-4400, One Potomac Yard (South Building), 2777 S. Crystal Drive, Arlington, VA. The hours of operation of this Docket Facility are from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket telephone number is (703) 305-5805.

FOR FURTHER INFORMATION CONTACT:

Lana Coppolino, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (703) 305-0086; e-mail address: *coppolino.lana@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected entities may include, but are not limited to:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

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

1. *Submitting CBI.* Do not submit this information to EPA through regulations.gov or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD ROM that you mail to EPA, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When submitting comments, remember to:

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

ii. Follow directions. The Agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.

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

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

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

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

vii. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

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

II. What Action is the Agency Taking?

EPA is printing a summary of a pesticide petition received under section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a, proposing the establishment or amendment of regulations in 40 CFR part 180 for residues of pesticide chemicals in or on various food commodities. EPA has determined that this pesticide petition contains data or information regarding the elements set forth in FFDCA section 408(d)(2); however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data support granting of the pesticide petition. Additional data may be needed before EPA rules on this pesticide petition.

Pursuant to 40 CFR 180.7(f), a summary of the petition included in this notice, prepared by the petitioner along with a description of the analytical method available for the detection and measurement of the pesticide chemical residues is available on EPA's Electronic Docket at *http://www.regulations.gov*. To locate this information on the home page of EPA's Electronic Docket, select ''Quick Search'' and type the OPP docket ID number. Once the search has located the docket, clicking on the ''Docket ID'' will bring up a list of all documents in the docket for the pesticide including the petition summary.

New Tolerance

PP 5F7018. Syngenta Crop Protection, P.O. Box 18300, Greensboro, NC 27409, proposes to establish a regional tolerance (East of the Mississippi River) for residues of the fungicide mefenoxam in or on food commodities bean, succulent shelled at 0.03 parts per million (ppm); and a national tolerance in or on food commodities turnip, greens at 5.0 ppm. Syngenta has submitted a practical analytical method involving extraction, filtration, acid reflux, steam distillation, and solid phase clean-up with analysis by

confirmatory gas chromatography using nitrogen/phosphorous detection. A total residue method is used for determination of the combined residues of mefenoxam and its metabolites which contain the 2,6-dimethylaniline (DMA) moiety. The limit of quantitation (LOQ) for the method is 0.05 ppm.

List of Subjects

Environmental protection, Agricultural commodities, Feed additives, Food additives, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: May 31, 2006.

Donald R. Stubbs,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. E6–9281 Filed 6–21–06; 8:45 am]

BILLING CODE 6560–50–S

EXPORT-IMPORT BANK OF THE U.S.

[Public Notice 89]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Export-Import Bank of the U.S.

ACTION: Notice and request for comments.

SUMMARY: The Export-Import Bank, as a part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal Agencies to comment on the proposed information collection, as acquired by the Paperwork Reduction Act of 1995. Our customers will be able to submit this from electronically. The proposed forms may be viewed on our Web site at *http://www.exim.gov/pub/ins/pdf/eib92–31_prop.pdf*, *http://www.exim.gov/pub/ins/pdf/eib92–32_prop.pdf*, *http://www.exim.gov/pub/ins/pdf/eib92–53_prop.pdf*, and *http://www.exim.gov/pub/ins/pdf/eib99–17_prop.pdf.*

DATES: Written comments should be received on or before August 21, 2006, to be assured of consideration.

ADDRESSES: Direct all comments and requests for additional information to Jean A. Fitzgibbon, Export-Import Bank of the U.S., 811 Vermont Avenue, NW., Washington, DC 20571, (800) 565–3946, extension 3620. For copies of the proposed forms, please direct your request to Solomon Bush, Export-Import Bank of the U.S., 811 Vermont Avenue, NW., Washington, DC 20571, (800) 565–3946, extension 3353.

SUPPLEMENTARY INFORMATION: Titles and Form Numbers:

EIB 92–31 Notification by Insured of Amounts Payable Under Multi-Buyer Export Credit Insurance Policy;

EIB 92–32 Notification by Insured of Amounts Payable Under Single-Buyer Export Credit Insurance Policy;

EIB 92–53 Small Business Multi-Buyer Export Credit Insurance Policy (ENB/ENV) Enhanced Assignment Of Policy Proceeds;

EIB 99–17 Single Buyer Export Credit Insurance Policy (ESS/ESSP) Enhanced Assignment of Policy Proceeds.

OMB Numbers: None.

Type of Review: Regular.

Need and Use: The information requested allows for the assignment of the proceeds of an insurance policy to a financial institution.

Affected Public: The form affects entities involved in the export of U.S. goods and services.

Estimated Annual Respondents: 500.

Estimated Time Per Respondent: 10 minutes.

Estimated Annual Burden: 83 hours.

Frequency of Reporting or Use: Annually for an enhanced assignment and once for the life of a policy for the standard assignment.

Dated: June 15, 2006.

Solomon Bush,

Agency Clearance Officer.

[FR Doc. 06–5539 Filed 6–20–06; 8:45 am]

BILLING CODE 6690–01–M

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission for Extension Under Delegated Authority

June 14, 2006.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act (PRA) of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act that does not display a valid control number. Comments are requested concerning (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written Paperwork Reduction Act (PRA) comments should be submitted on or before August 21, 2006. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: You may submit all your Paperwork Reduction Act (PRA) comments by e-mail or U.S. postal mail. To submit your comments by e-mail, send them to *PRA@fcc.gov*. To submit your comments by U.S. mail, mark them to the attention of Cathy Williams, Federal Communications Commission, Room 1–C823, 445 12th Street, SW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection(s) send an e-mail to *PRA@fcc.gov* or contact Cathy Williams at (202) 418–2918.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0569.

Title: Section 76.975, Commercial Leased Access Dispute Resolution.

Form Number: Not applicable.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities; State, local or tribal government.

Number of Respondents: 60.

Estimated Time per Response: 4 to 40 hours.

Frequency of Response: On occasion reporting requirement; Third party disclosure requirement.

Total Annual Burden: 1,320 hours.

Total Annual Cost: $69,000.

Privacy Impact Assessment: No impact(s).

Needs and Uses: 47 CFR 76.975 permits any person aggrieved by the failure or refusal of a cable operator to make commercial channel capacity available or to charge rates for such capacity in accordance with the provisions of Title VI of the Communications Act of 1934, as amended, may file a petition for relief with the Commission. The Commission reviews the information to resolve leased access disputes.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. E6–9738 Filed 6–20–06; 8:45 am]

BILLING CODE 6712–10–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) being Reviewed by the Federal Communications Commission, Comments Requested

June 14, 2006.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act (PRA) of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act that does not display a valid control number. Comments are requested concerning (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written Paperwork Reduction Act (PRA) comments should be submitted on or before August 21, 2006. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: You may submit all your Paperwork Reduction Act (PRA) comments by e-mail or U.S. postal mail. To submit your comments by e-mail, send them to *PRA@fcc.gov.* To submit your comments by U.S. mail, mark them to the attention of Cathy Williams, Federal Communications Commission, Room 1–C823, 445 12th Street, SW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection(s) send an e-mail to *PRA@fcc.gov* or contact Cathy Williams at (202) 418–2918.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0568.

Title: Sections 76.970 and 76.971, Commercial Leased Access Rates, Terms and Conditions.

Form Number: Not applicable.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities; State, Local or Tribal Government.

Number of Respondents: 6,330.

Estimated Time per Response: 2 minutes–10 hours.

Frequency of Response: Recordkeeping requirement; Third party disclosure requirement.

Total Annual Burden: 94,171 hours.

Total Annual Cost: $74,000.

Privacy Impact Assessment: No impact(s).

Needs and Uses: The FCC and prospective leased access programmers use this information to verify rate calculations for leased access channels and to eliminate uncertainty negotiations for leased commercial access. The Commission's leased access requirements are designed to promote diversity of programming diversity and competition in programming delivery as required by Section 612 of the Cable Television Consumer Protection and Competition Act of 1992.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. E6–9739 Filed 6–20–06; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Submitted for Review to the Office of Management and Budget

June 12, 2006.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act (PRA) of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written Paperwork Reduction Act (PRA) comments should be submitted on or before July 21, 2006. If you anticipate that you will be submitting PRA comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all Paperwork Reduction Act (PRA) comments to Judith B. Herman, Federal Communications Commission, Room 1–C804, 445 12th Street, SW., DC 20554 or an e-mail to *PRA@fcc.gov.* If you would like to obtain or view a copy of this information collection, you may do so by visiting the FCC PRA Web page at: *http://www.fcc.gov/omd/pra.*

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection(s), contact Judith B. Herman at 202–418–0214 or via the Internet at *Judith-B.Herman@fcc.gov.*

SUPPLEMENTARY INFORMATION:

OMB Control No.: 3060–0800.

Title: FCC Wireless Telecommunications Bureau Application for Assignment of Authorization or Transfer of Control.

Form No.: FCC Form 603.

Type of Review: Revision of a currently approved collection.

Respondents: Individuals or households, business or other for-profit, not-for-profit institutions, and state, local or tribal government.

Number of Respondents: 32,151.

Estimated Time Per Response: 1.75 hours.

Frequency of Response: On occasion reporting requirement and recordkeeping requirement.

Total Annual Burden: 36,171 hours.

Total Annual Cost: $3,054,295.

Privacy Act Impact Assessment: N/A.

Needs and Uses: The Commission is submitting this information collection to OMB as a revision in order to obtain the

full three-year clearance from them. The Commission has revised FCC Form 603 to include Gross Revenue/Total Assets; add a question if application being filed is the lead application of a series of applications; remove data element for the option of a previous census population on Schedule B; and clarify existing questions/instructions of the general public as noted in the Communications Act of 1934, as amended.

The FCC uses the information on the FCC Form 603 to determine whether the applicant is legally, technically and financially qualified to obtain licenses. Without such information, the Commission cannot determine whether to issue the licenses to the applicants that provide telecommunications services to the public; and therefore, to fulfill its statutory responsibilities in accordance with the Communications Act of 1934, as amended. Information provided on the form will also be used to update the database and provide for proper use of the frequency spectrum.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. E6–9740 Filed 6–20–06; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[ET Docket No. 06–89; FCC 06–77]

Creation of a Spectrum Sharing Innovation Test-Bed

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: The Federal Communications Commission (''Commission'') and the National Telecommunications and Information Administration (''NTIA'') seek to evaluate innovative methods for spectrum sharing among disparate users to enable more intensive use of the finite radio spectrum. One way of accomplishing this task is to set up a test-bed where both federal and non-federal users could undertake one or more studies and experiments to test these ideas. This document seeks comment on a wide range of issues that are integral to the creation of such a test-bed, which will be called the Spectrum Sharing Innovation Test-Bed (''Test Bed'').

DATES: Comments must be filed on or before July 10, 2006, and reply comments must be filed on or before July 24, 2006.

FOR FURTHER INFORMATION CONTACT: Saurbh Chhabra, (202) 418–2266, e-mail: *Saurbh.Chhabra@fcc.gov,* or Ira Keltz, (202) 418–0616, e-mail: *Ira.Keltz@fcc.gov,* Office of Engineering and Technology, TTY (202) 418–2989.

ADDRESSES: You may submit comments, identified by ET Docket No. 06–89, by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Federal Communications Commission's Web Site: http://www.fcc.gov/cgb/ecfs/.* Follow the instructions for submitting comments.
- *E-mail:* [Optional: Include the e-mail address only if you plan to accept comments from the general public]. Include the docket number(s) in the subject line of the message.
- *Mail:* [Optional: Include the mailing address for paper, disk or CD–ROM submissions needed/requested by your Bureau or Office. Do not include the Office of the Secretary's mailing address here.]
- *People with Disabilities:* Contact the FCC to request reasonable accommodations (accessible format documents, sign language interpreters, CART, etc.) by e-mail: FCC504@fcc.gov or phone: 202–418–0530 or TTY: 202–418–0432.

For detailed instructions for submitting comments and additional information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Public Notice, ET Docket No. 06–89, FCC 06–77, adopted May 25, 2006, and released June 8, 2006. The full text of this document is available for inspection and copying during normal business hours in the FCC Reference Center (Room CY–A257), 445 12th Street, SW., Washington, DC 20554. The complete text of this document also may be purchased from the Commission's copy contractor, Best Copy and Printing, Inc., 445 12th Street, SW., Room, CY–B402, Washington, DC 20554. The full text may also be downloaded at: *http://www.fcc.gov.*

Pursuant to sections 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. Comments may be filed using: (1) The Commission's Electronic Comment Filing System (ECFS), (2) the Federal Government's eRulemaking Portal, or (3) by filing paper copies. *See Electronic Filing of Documents in Rulemaking Proceedings,* 63 FR 24121 (1998).

- Electronic Filers: Comments may be filed electronically using the Internet by accessing the ECFS: *http://www.fcc.gov/cgb/ecfs/* or the Federal eRulemaking Portal: *http://www.regulations.gov.* Filers should follow the instructions provided on the website for submitting comments.
- For ECFS filers, if multiple docket or rulemaking numbers appear in the caption of this proceeding, filers must transmit one electronic copy of the comments for each docket or rulemaking number referenced in the caption. In completing the transmittal screen, filers should include their full name, U.S. Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions, filers should send an e-mail to *ecfs@fcc.gov,* and include the following words in the body of the message, ''get form.'' A sample form and directions will be sent in response.
- Paper Filers: Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number.

Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

- The Commission's contractor will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, NE., Suite 110, Washington, DC 20002. The filing hours at this location are 8 a.m. to 7 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building.
- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.
- U.S. Postal Service first-class, Express, and Priority mail should be addressed to 445 12th Street, SW., Washington, DC 20554.

People with Disabilities: To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an e-mail to *fcc504@fcc.gov* or call

the Consumer & Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (tty).

Summary of Public Notice

1. Demand for spectrum by Federal and non-Federal users has been increasing and this trend is expected to continue as new and enhanced services and applications and new requirements are identified and developed. Recognizing this trend, the Commission and the National Telecommunications and Information Administration (''NTIA'') seek to evaluate innovative methods for spectrum sharing among disparate users to enable more intensive use of the finite radio spectrum. One way of accomplishing this task is to set up a test-bed where both Federal and non-Federal users could undertake one or more studies and experiments to test these ideas. This Public Notice seeks comment on a wide range of issues that are integral to the creation of such a test-bed, which will be called the Spectrum Sharing Innovation Test-Bed (''Test Bed''). NTIA is also soliciting comment on many of these same issues through a recently released Notice of Inquiry.

2. By way of background, on May 29, 2003, the President established the ''Spectrum Policy Initiative'' by issuing an Executive Memorandum to initiate an examination of the existing legal and policy framework for spectrum management in order to better optimize the use of U.S. spectrum assets for Federal and non-Federal users. The Commission was encouraged to participate in this review and to provide input to the NTIA on these issues.

3. In June 2004, the U.S. Department of Commerce issued two reports with policy recommendations for improving spectrum management. One report addressed federal spectrum use and the other addressed commercial and state and local public safety spectrum use. Both reports included a recommendation that the Commission and the NTIA develop a Spectrum Sharing Innovation Test-Bed for use in planning how spectrum can best be shared between Federal and non-Federal users. Specifically, the test-bed recommendation states:

> Within two years of this report's publication, NTIA and the FCC should establish a pilot program to allow for increased sharing between Federal and non-Federal users. NTIA and the FCC should each identify a segment of spectrum of equal bandwidth within their respective jurisdiction for this program. Each segment should be approximately 10 MHz for assignment on a shared basis for Federal and non-Federal use. The spectrum to be identified for this pilot program could come from bands currently allocated on either an exclusive or shared basis. Two years after the inception of the pilot program, NTIA and the FCC should provide reports outlining the results and suggesting appropriate procedures for expanding the program as appropriate.

4. To assist the Commission in developing its recommendations on this issue, we are requesting that interested parties submit comments and information on a Test-Bed program to study the feasibility of increasing the efficient use of spectrum that is shared between Federal and non-Federal users. To provide guidance to the public, we are including, as part of this public notice, specific questions/issues relating to the Test-Bed pilot program. These questions/issues are intended to promote discussion and comment across a range of issues and are not intended, in any way, to limit the scope of the comments filed in response to the Public Notice. In this regard, parties are encouraged to file comments on related issues even if they do not respond directly to any particular question posed.

5. To ensure that the results of experiments using the Test-Bed are informative for evaluating possible Federal and non-Federal sharing opportunities, we believe that the goal(s) of the Test-Bed must first be defined (*i.e.*, description of the issues to be studied) and then appropriate spectrum can be identified. For convenience, we have divided the questions/issues into three categories: (A) Goal and Scope of the Test-Bed program; (B) Logistics to create and implement the Test-Bed program; and (C) Conclusion and evaluation of the Test-Bed program. In providing answers to the questions below, we ask that commenters provide details regarding specific experiments for the Test-Bed.

A. Goal and Scope of the Test-Bed Program

To define the Test-Bed program more precisely so that it can provide the greatest benefit for all spectrum users (Federal and non-Federal), we seek comment on the following questions:

1. The Test-Bed could be used to effectuate many goals, including testing dynamic spectrum access techniques, developing new technologies for public safety, and streamlining spectrum coordination processes between Federal and non-Federal users. We seek comment on these goals, as well as other goals that commenters believe will satisfy the purpose of the spectrum sharing innovation Test-Bed.

a. In satisfying the identified goals, are there particular technologies or areas of interest about which the Test-Bed should focus (*e.g.*, cognitive radios, smart antennas, determining different ways to measure spectrum efficiency, determining ways of increasing spectrum efficiency, determining how technology could be used more efficiently)?

b. What challenges are spectrum users facing that the Test-Bed can be used to resolve? What type of information should we expect the Test-Bed to produce? What type of issues should we expect the Test-Bed to resolve?

2. Should the Test-Bed encompass a single experiment or should multiple experiments be undertaken at any given time? If the latter, should there be different requirements (whether technical or legal) applied to the various experiments? If so, what should the requirements be and what are the justifications for the differing requirements?

B. Logistics To Create and Implement the Test-Bed Program

3. What criteria should be used in identifying candidate frequency band(s) for the Test-Bed program? What relationship should the frequency bands have to the goal(s) identified for the Test-Bed?

4. As stated in the recommendation, a minimum of 20 MHz (10 MHz identified by NTIA and 10 MHz identified by the Commission) is suggested for the Test-Bed program. How much spectrum should the Commission consider identifying for the Test-Bed program?

a. What particular portion(s) of spectrum should be identified for this purpose? Commenters should explain how the identified spectrum will facilitate satisfying the identified goals.

b. Based on the goal(s) identified and/or the specific experiments proposed, commenters should specify whether the Test-Bed requires contiguous or non-contiguous spectrum. For experiments requiring non-contiguous spectrum, commenters should specify the required spectrum block size and frequency separation needed (*i.e.*, tradeoffs between frequency-division multiplexing needs v. time-division multiplexing needs).

c. Should the Commission focus on identifying non-Federal exclusive or Federal/non-Federal shared spectrum?

d. How should the particular spectrum bands identified for Test-Bed use be determined? Should the bands be selected by the Commission or are there marketplace mechanisms that can be used?

5. One of the tools the Commission has at its disposal is the experimental licensing program which allows

licensees to use spectrum on a non-interference basis to experiment with new technologies and innovations. Under the experimental licensing program, users may identify any spectrum of interest for experimentation and are generally authorized for up to two years with the possibility of renewal. Should users be authorized for use of the Test-Bed through use of the experimental licensing program? Alternatively, the Commission could conduct a rulemaking proceeding to specifically authorize various uses and frequency bands. We request that commenters provide details regarding which method is most advantageous for meeting the goal(s) of the program. In providing information regarding this question, commenters should keep in mind the following:

a. Experimental licensing rules and procedures are already contained in part 5 of the Commission's rules. Thus, these procedures could be used without further action by the Commission.

b. Experimental licensing is flexible (*i.e.*, under experimental licenses, licensees have no rights to use the spectrum exclusively, may not cause harmful interference to any user and are not protected from harmful interference caused by other spectrum users).

c. A rulemaking proceeding may need to specifically identify potential modifications to the table of spectrum allocations, usage restrictions, and licensee rights for both the Test-Bed user and any incumbent licensees. Commenters who advocate such an approach should provide details regarding spectrum bands, proposed usage, how users should be authorized for use of the Test-Bed (*e.g.*, obtain a license through one of the Commission's licensing systems), and user status (*i.e.*, primary, secondary, non-interference basis) and the relationship of the Test-Bed user to incumbents.

6. Options exist for implementation of the Test-Bed with respect to a specific geographic area. Commenters should provide details regarding the necessity for experimentation to occur over large or small areas. Similarly, commenters should provide details regarding whether experiments can be limited to rural areas or areas where there are relatively few incumbent users. One advantage to such an approach is that the risk of causing harmful interference to an incumbent user is reduced. We seek comment on whether such a restriction should exist and on other methods of ensuring that incumbent users are protected from interference.

7. What information should be provided to the Commission prior to initiating use of the Test-Bed? For example, should the Commission require submission of pre-experiment assumptions, analysis (modeling and simulation), and pre-experiment predictions?

8. If there are competing proposals for use of the Test-Bed, what criteria should be used to select candidates? Should multiple candidates be selected? If so, what procedures are needed for these candidates to coordinate with each other?

9. Are special procedures necessary for non-federal users of the Test-Bed to coordinate usage with Federal users of the Test-Bed?

10. What other issues or factors should be considered with respect to creation of a Test-Bed?

11. Should Commission personnel (along with personnel whom NTIA may assign) be appointed as overseers to gauge the progress of the program? Is a more or less active role by the FCC desired?

12. What resources, if any, including equipment to be evaluated in the Test-Bed, funding, personnel, or facilities could parties provide for the Test-Bed program? Would use of private resources potentially create conflicts of interest among Test-Bed users?

13. To promote participation by interested parties, should the creation and use of any incentives be considered? What incentives, if any, could be considered and by whom should they be created and offered?

14. Should use of proprietary technologies or information be permitted in the Test-Bed? If so, how should release of data based on their use be handled?

C. Conclusion and Evaluation of the Test-Bed Program

15. What metrics should be used in evaluating the results/accomplishments of the Test-Bed program?

16. If the program meets the performance metrics, should it be expanded to other frequency bands, and/or other locations? Why or why not?

17. What expectations should be placed on equipment and techniques developed during the experiment(s)? For example, should there be an expectation that a successful experiment would translate into permanent usage or at the minimum a rulemaking proceeding by the Commission to explore rule changes consistent with the experiment results?

18. At the conclusion of any experiment, should users be required to submit a report detailing the experiment—goal, assumptions, methodology, and results?

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. E6–9497 Filed 6–20–06; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL HOUSING FINANCE BOARD

[No. 2006–N–03]

Submission for OMB Review; Comment Request

AGENCY: Federal Housing Finance Board.

ACTION: Notice.

SUMMARY: In accordance with the requirements of the Paperwork Reduction Act of 1995, the Federal Housing Finance Board (Finance Board) has submitted the information collection entitled ''Federal Home Loan Bank Acquired Member Assets, Core Mission Activities, Investments and Advances'' to the Office of Management and Budget (OMB) for review and approval of a 3 year extension of the OMB control number, which is due to expire on March 31, 2007.

Elsewhere in this issue of the **Federal Register,** the Finance Board is publishing a final rule that reorganizes the way it imposes certain reporting requirements on the Federal Home Loan Banks (Banks), including the reporting requirements in this information collection. The information collection has been moved from Finance Board regulations and into the Data Reporting Manual, which is an enforceable order issued pursuant to the Finance Board's investigatory powers.

DATES: Interested persons may submit comments on or before July 21, 2006.

ADDRESSES: Submit comments to the Office of Information and Regulatory Affairs of the Office of Management and Budget, Attention: Desk Officer for the Federal Housing Finance Board, Washington, DC 20503.

FOR FURTHER INFORMATION OR COPIES OF THE INFORMATION COLLECTION CONTACT: David Roderer, Office of Supervision, by e-mail at *rodererd@fhfb.gov,* by telephone at 202–408–2540, or by regular mail at the Federal Housing Finance Board, 1625 Eye Street, NW., Washington DC 20006.

SUPPLEMENTARY INFORMATION:

A. Need For and Use of the Information Collection

The Finance Board has authorized the Banks to acquire mortgage loans and other assets from their members or housing associates under certain

circumstances. 12 CFR part 955. The regulation refers to these assets as acquired member assets or AMA. As part of this regulatory authorization, each Bank that acquires residential mortgage loans must provide to the Finance Board certain loan-level data on a quarterly basis. The Finance Board uses this data to monitor the safety and soundness of the Banks and the extent to which the Banks are fulfilling their statutory housing finance mission through their AMA programs. *See* 12 U.S.C. 1422a(a).

While the Banks provide the AMA data directly to the Finance Board, each Bank initially must collect the information from the private-sector member or housing associate from which the Bank acquires the mortgage loan. Bank members and housing associates already collect the vast majority of the data the Finance Board requires in order to do business with Fannie Mae and Freddie Mac under regulatory requirements issued by the Department of Housing and Urban Development and pursuant to the information collection requirements under the Home Mortgage Disclosure Act. Thus, the Finance Board's information collection imposes only a minor incremental additional burden on Bank members and housing associates.

Elsewhere in this issue of the **Federal Register,** the Finance Board is publishing a final rule that reorganizes the way it imposes certain reporting requirements on the Banks, including the reporting requirements in this information collection. More specifically, the final rule removes the reporting requirements from 12 CFR part 955 (specifically, § 955.4 and Appendices A and B). At the same time it adopted the final rule, the Board of Directors added the AMA reporting requirements to the Data Reporting Manual (DRM), where they will appear as Chapter Three.[1] The DRM is available electronically on the Finance Board Web site at: *http://www.fhfb.gov/Default.aspx?Page=101.*

The OMB control number for the information collection, which expires on March 31, 2007, is 3069–0058. The likely respondents are institutions that sell AMA assets to Banks.

B. Burden Estimate

The Finance Board estimates the total annual average number of respondents at 600, with 4 responses per respondent. The estimate for the average hours per response is 24 hours. The estimate for the total annual hour burden is 57,600 hours (600 respondents × 4 responses per respondent × 24 hours).

Bank members and housing associates could incur additional one-time costs to be able to collect and report the loan-level data elements needed to allow for better tracking and modeling of prepayment and default rates of mortgage portfolios. The Finance Board estimates this additional, one-time cost at $120,000 ($2,000 × 600 members/housing associates).

C. Comment Request

In accordance with the requirements of 5 CFR 1320.8(d), the Finance Board published a request for public comments regarding proposed changes to the AMA database and the burden estimates for this information collection in the **Federal Register** on November 2, 2005. See 70 FR 66413 (Nov. 2, 2005). The 60-day comment period closed on January 3, 2006. The Finance Board did not receive any comments.

The Finance Board requests written comments on the following: (1) Whether the collection of information is necessary for the proper performance of Finance Board functions, including whether the information has practical utility; (2) the accuracy of the Finance Board's estimates of the burdens and costs of the collection of information; (3) ways to enhance the quality, utility, and clarity of the information collected; and (4) 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. Submit comments to OMB in writing at the address listed above.

Dated: June 14, 2006.

By the Federal Housing Finance Board.

John P. Kennedy,

General Counsel.

[FR Doc. E6–9755 Filed 6–20–06; 8:45 am]

BILLING CODE 6725–01–P

[1] *See* Resolution Number 2006–11 (June 14, 2006) (available electronically in the FOIA Reading Room of the Finance Board Web site at: *http://www.fhfb.gov/Default.aspx?Page=59&Top=4).*

FEDERAL MARITIME COMMISSION

Notice of Agreement Filed

The Commission hereby gives notice of the filing of the following agreement under the Shipping Act of 1984. Interested parties may submit comments on an agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within ten days of the date this notice appears in the **Federal Register**. Copies of agreements are available through the Commission's Office of Agreements (202–523–5793) or *(tradeanalysis@fmc.gov*).

Agreement No.: 011947–001.

Title: Grimaldi/Sallaum Space Charter Agreement.

Parties: Grimaldi Compagnia di Navigazione and Sallaum Lines SAL.

Filing Party: Wayne R. Rohde, Esq.; Sher & Blackwell LLP; 1850 M Street, NW.; Suite 900; Washington, DC 20036.

Synopsis: The amendment extends the duration of the agreement to November 7, 2006.

Dated: June 16, 2006.

By Order of the Federal Maritime Commission.

Karen V. Gregory,

Assistant Secretary.

[FR Doc. E6–9743 Filed 6–20–06; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisition of Shares of Bank or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the office of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than July 6, 2006.

A. Federal Reserve Bank of St. Louis (Glenda Wilson, Community Affairs Officer) 411 Locust Street, St. Louis, Missouri 63166-2034:

1. Leon Brasher, Fredonia, Kentucky; to gain control of Fredonia Valley Bancorporation, Inc., Fredonia, Kentucky, and thereby indirectly gain control of Fredonia Valley Bank, Fredonia, Kentucky.

B. Federal Reserve Bank of Kansas City (Donna J. Ward, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198-0001:

1. The Watts Revocable Declaration of Trust dtd 11/6/96 (Richard J. Watts, Trustee), RJW Enterprises, and Richard J. Watts, all of Ramona, California, and Janice and Jack A. Reccoforte, El Cajon, California; acting as a group to retain

control of Ameribanc Holdings, Inc., and thereby indirectly retain control of The Bank of Durango, both of Durango, Colorado.

Board of Governors of the Federal Reserve System, June 16, 2006.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. E6–9737 Filed 6–20–06; 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 website at *www.ffiec.gov/nic/*.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than July 17, 2006.

A. Federal Reserve Bank of Atlanta (Andre Anderson, Vice President) 1000 Peachtree Street, N.E., Atlanta, Georgia 30309:

1. Alabama National Bancorporation, Birmingham, Alabama; to merge with The PB Financial Services Corporation, and thereby indirectly acquire voting shares of The Peachtree Bank, both of Duluth, Georgia.

2. PCNB Corporation, McComb, Mississippi; to become a bank holding company by acquiring 100 percent of the voting shares of Pike County National Bank, McComb, Mississippi.

B. Federal Reserve Bank of St. Louis (Glenda Wilson, Community Affairs Officer) 411 Locust Street, St. Louis, Missouri 63166-2034:

1. Champion Bancshares, Inc., Creve Coeur, Missouri; to become a bank holding company by acquiring 100 percent of the voting shares of Champion Bank, Creve Coeur, Missouri (in organization).

Board of Governors of the Federal Reserve System, June 16, 2006.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. E6–9736 Filed 6–20–06; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

[Docket No. OP–1257]

Consultation Paper on Intraday Liquidity Management and Payment System Risk Policy

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Notice; Request for comments.

SUMMARY: The Board of Governors of the Federal Reserve System (''Board'') is publishing this consultation paper to seek information from financial institutions and other interested parties on their experience in managing intraday liquidity, credit, and operational risks relating to Fedwire funds transfers and associated transactions. The Board also seeks views on potential changes in market practices, operations, and its Payments System Risk (PSR) Policy that could reduce one or more of these risks, while maintaining or improving the efficiency of the payments system. This consultation is consistent with the Federal Reserve's long-standing practice of working with the financial industry to address payments system risk issues and provides a framework for discussions about the long-term evolution of the PSR Policy.

DATES: Comments must be received on or before December 15, 2006.

ADDRESSES: You may submit comments, identified by Docket No. OP–1257, by any of the following methods:

- *Agency Web Site: http://www.federalreserve.gov*. Follow the instructions for submitting comments at *http://www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm*.
- *Federal eRulemaking Portal: http://www.regulations.gov*. Follow the instructions for submitting comments.
- *E-mail: regs.comments@federalreserve.gov*. Include the docket number in the subject line of the message.
- *FAX:* 202/452–3819 or 202/452–3102.
- *Mail:* Jennifer J. Johnson, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, NW., Washington, DC 20551.

All public comments are available from the Board's Web site at *http://www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm* as submitted, unless modified for technical reasons. Accordingly, your comments will not be edited to remove any identifying or contact information. Public comments may also be viewed electronically or in paper in Room MP–500 of the Board's Martin Building (20th and C Streets, NW.) between 9 a.m. and 5 p.m. on weekdays.

FOR FURTHER INFORMATION CONTACT: Jeffrey Marquardt, Deputy Director (202–452–2360), Lisa Hoskins, Assistant Director (202–452–3437), or Susan Foley, Manager (202–452–3596), Division of Reserve Bank Operations and Payment Systems, Board of Governors of the Federal Reserve System; for users of Telecommunications Device for the Deaf (''TDD'') only, contact (202) 263–4869.

SUPPLEMENTARY INFORMATION:

I. Executive Summary

The Federal Reserve's PSR Policy sets out the general public policy objectives of *safety and efficiency* for payments and settlement systems.[1] The Federal Reserve is currently reviewing the long-term effects of market, operational, and policy changes by the financial industry and the Federal Reserve on intraday liquidity and risks in financial markets and the payments system, including account overdrafts (daylight overdrafts) at the Federal Reserve Banks (Reserve Banks). In connection with this review, the Board is seeking information from financial institutions and other interested parties on their experience in managing intraday liquidity, credit, and operational risks relating to Fedwire funds transfers and associated transactions. The Board is also seeking commenters' views on potential changes in market practices, operations, and its PSR Policy that could reduce one or

[1] See the Board of Governors of the Federal Reserve System, ''Payments System Risk Policy'' at *http://www.federalreserve.gov/paymentsystems/psr/policy.pdf*.

more of these risks, while maintaining or improving the efficiency of the payments system. The body of this paper also includes a list of more detailed objectives relating to safety (e.g., low systemic risk, low direct credit risk to the Federal Reserve and the private sector, and rapid final payments) and efficiency (e.g., low cost of making payments, equitable treatment of all payments system participants, effective tools for implementing monetary policy, and low transaction costs in the Treasury securities market) that the Board has previously used to conduct payments system risk analysis. The paper also provides broad examples of tradeoffs, particularly risk tradeoffs, among these detailed objectives (e.g., efforts to reduce systemic risk may be associated with increased levels of daylight overdrafts in Reserve Bank accounts, and efforts to reduce daylight overdrafts may be associated with delays in making final payments.) An important goal of this consultation is to identify opportunities to shift these trade-offs in a favorable manner that lowers the overall risks and costs in the payments system over the long run.

Over the past twenty-five years, significant changes to U.S. payments and settlement systems have substantially reduced systemic risk. In accord with U.S. and international risk policies and standards, a number of these changes have relied increasingly on the use of central bank money—in this context, balances that financial institutions hold in accounts at Reserve Banks—to strengthen the management of credit and liquidity risk in private-sector clearing and settlement arrangements. Such changes have had the effect of increasing significantly the intraday demand for central bank money and hence the demand for daylight overdrafts at the Reserve Banks, which are a major source of these funds.

The long-term growth of payment transactions such as Fedwire funds transfers, along with continuing financial market developments, have also contributed to greater demand for intraday liquidity and central bank money, and to greater daylight overdrafts at the Reserve Banks. Following a sharp initial decline in daylight overdrafts in the mid-1990s when the Board implemented fees for these overdrafts, and particularly since about 1997, both average and peak daylight overdrafts have been growing slowly but steadily. This growth has generated gradually increasing credit exposures of the Reserve Banks. Data and additional details are provided in the appendix.

The Federal Reserve has taken very significant steps over time to control the credit exposures of Reserve Banks to daylight overdrafts. These steps include establishing an extensive program of both risk limits (net debit caps) and daylight overdraft fees, and some limited use of collateral. However, given the growing demand for intraday central bank money and accompanying daylight overdrafts, significant further opportunities may be available to mitigate the growing credit exposures of the Reserve Banks, for example through the greater use of collateral, while also improving intraday liquidity management for the banking system.

Partly in response to the introduction of daylight overdraft fees, a number of depository institutions introduced explicit strategies and techniques to manage their intraday liquidity and daylight overdrafts. More recently, a combined effect of depository institutions' intraday liquidity management strategies, coupled with other factors, has been to shift the sending of larger Fedwire payments to later in the day. From an operational risk perspective, delaying the sending of large payments until late in the day increases the potential magnitude of liquidity dislocation and risk in the financial industry if late-in-the-day operational disruptions should occur. An increase in such risk is particularly troublesome in an era of heightened concern about operational disruptions from a range of sources. There may be significant opportunities to both improve intraday liquidity management and reduce late-in-the-day operational risk.

In July 2006, the Federal Reserve will implement change—announced in 2004—to its daylight overdraft rules for government sponsored enterprises and certain international organizations. The changes will require these organizations to eliminate their daylight overdrafts at the Reserve Banks relating to their interest and redemption payments and to pay a penalty fee if daylight overdrafts occur in their accounts as a result of their general corporate payment activity.[2] The changes, however, may indirectly increase further the demand for intraday liquidity by depository institutions, and possibly raise their daylight overdrafts. The preparations for this policy change are being closely monitored by the Federal Reserve.

The subsequent sections of this consultation paper summarize long-term developments involving intraday liquidity and risks in the context of the Federal Reserve's PSR Policy, and provide a brief list of possible market, operational, and policy changes that might further assist depository institutions, financial markets, and the Reserve Banks in managing intraday risks. These ideas should be regarded as preliminary and intended for further study. If the Board has specific proposals for changes to Federal Reserve operations or policies as a result of this consultation process, they would be issued for public comment.

II. Background

The Federal Reserve's Payments System Risk Policy emerged from growing concerns in the late 1970s and early 1980s about systemic risk in the clearance and settlement functions for key financial markets as well as increasing intraday account overdrafts (daylight overdrafts) by depository institutions at the Reserve Banks. Over the years, the Federal Reserve has engaged in extensive discussions with the financial industry on these matters. The outgrowth has been a series of market, operational, and policy changes by the industry and the Federal Reserve that together have substantially reduced systemic risk, while creating a significant, structural intraday demand for central bank money.

For example, the industry has made important institutional and risk management changes that rely on the intraday use of central bank money to reduce private-sector risks.[3] These changes include The Depository Trust Company (DTC) making commercial paper eligible for its book-entry securities program in 1990 and expanding its Same-Day Funds Settlement program to all securities settling through its system in 1996.[4] In 2001, the Clearing House Interbank Payment System (CHIPS) introduced a system that requires CHIPS participants to use central bank money to pre-fund

[2] The PSR Policy change for government sponsored enterprises and certain international organizations is available at *http://www.federalreserve.gov/boarddocs/press/other/2004/20040205/default.htm*. (See also 69 FR 57917, September 28, 2004.)

[3] These changes are consistent with current standards in the Federal Reserve's PSR Policy that are derived from international standards established by the G–10 central banks' Committee on Payment and Settlement Systems and the Technical Committee of the International Organization of Securities Commissions.

[4] The Depository Trust Company (DTC) is a limited-purpose trust company that provides custody and settlement services for corporate, municipal, and other securities. DTC is a member of the Federal Reserve System and a clearing agency registered with the Securities and Exchange Commission.

CHIPS payments and settlements. This system also uses payment queuing techniques and algorithms that allow a participant's incoming funds transfers to fund outgoing transfers in order to conserve and manage the use of the pre-funded intraday liquidity within the system.[5] In 2002, CLS Bank International (CLS) began settling foreign exchange transactions using payment-versus-payment techniques, along with the (intraday) funding of daily settlements in central bank money for seven (now fifteen) currencies, including the U.S. dollar.[6] In connection with their respective settlement processes, these systems accumulate significant intraday balances in their Reserve Bank accounts.

These and other changes have substantially reduced systemic risk, but have also created a structural intraday *demand* for central bank money—balances at Reserve Banks—currently averaging about $50 billion per day to support the settlement and risk management activities of key private sector payment and settlement systems. On peak days, this demand can exceed $150 billion. The demand, which can ''lock up'' significant amounts of liquidity in the aggregate during the day, is met largely using Fedwire funds transfers and associated daylight overdrafts in the accounts of depository institutions. Other needs for intraday funds, including funding for other Fedwire payments used to settle transactions in financial and commercial markets, create additional intraday demand for central bank money.

There are two main sources of *supply* to meet this intraday demand. One is overnight balances held at the Reserve Banks and the other is daylight overdrafts.[7] Since the mid-1990s, overnight balances held at the Reserve Banks have declined by over one third to $18 billion at the end of 2005.[8] Over the corresponding time period, average total daylight overdrafts at the Reserve Banks grew from $23 billion to $42 billion. (Peak overdrafts averaged about $120 billion at the end of 2005.)[9] Thus, to meet the continued growth in intraday demand for central bank money the industry has become increasingly reliant on daylight overdrafts at the Reserve Banks.

Considering the growth in payments and financial market activity, the Reserve Banks' experience with daylight overdrafts since the early 1980s is not surprising. Overdrafts grew substantially from 1988 to 1993 as the value and volume of Fedwire transactions expanded. In 1994, the Federal Reserve began charging fees for daylight overdrafts. Initially, total daylight overdrafts declined significantly, owing primarily to changes in the settlement practices in the government securities and repo markets. By 1997, total daylight overdrafts began growing again and have grown at approximately 8 percent per year since that time. At first, these increases were driven primarily by the continuing growth of daylight overdrafts attributable to Fedwire funds transfers. Since 2001, overdrafts attributable to Fedwire securities transfers have begun growing again, reinforcing the increase in total overdrafts (See Appendix, Chart 1). Recently, overdrafts attributable to both Fedwire funds and securities transactions have grown roughly in line with the value of the underlying transfers, with an upward trend in overdrafts attributable to Fedwire funds transfers in 2005 (See Appendix, Chart 2).

The Federal Reserve has undertaken a number of efforts over a long period to address the credit risk associated with providing intraday central bank money through daylight overdrafts at the Reserve Banks without unduly disrupting financial markets. The Federal Reserve has established key policies and programs to measure, monitor, and control intraday credit risk to the Reserve Banks; these policies and programs include introducing limits on account-holders' overdrafts (net debit caps), pricing (intraday overdraft fees), and in certain cases, permitting collateralization of large overdrafts (max caps). Taken together, these initiatives have encouraged the industry to economize on the use of daylight overdrafts in their accounts at Reserve Banks and have helped limit the Reserve Banks' credit risk exposures.

In July 2006, the Federal Reserve will implement changes—announced in 2004—to its daylight overdraft rules for government sponsored enterprises and certain international organizations. The changes will require these organizations to eliminate their daylight overdrafts at the Reserve Banks relating to their interest and redemption payments and to pay a penalty fee if daylight overdrafts occur in their accounts as a result of their general corporate payment activity. The changes, however, are likely to increase further the demand for intraday liquidity by some depository institutions, and possibly raise their daylight overdrafts.

To date, the rise in daylight overdrafts has not necessarily resulted in the Reserve Banks assuming significantly greater credit risk. The overall growth of commercial bank capital and the continued financial strength of depository institutions have supported increasing volumes of payments and rising levels of daylight overdrafts. Over the long term, however, either the continued growth of uncollateralized daylight overdrafts or a reduction in the financial strength of depository institutions could increase the direct credit risk to the Reserve Banks from daylight overdrafts.

In recent years, intraday liquidity management strategies of depository institutions, coupled with other factors, have increased the amount of large Fedwire payments made late in the day. The aggregate value of Fedwire funds transfers sent after 5 p.m. Eastern Time (ET) has increased from 20 percent of the daily value of Fedwire funds transfers in 1998 to over 30 percent in 2005.[10, 11] (See Appendix, Chart 3) On peak payment volume days, the percentage of payments delayed may be even larger. The upcoming changes in policy affecting government sponsored enterprises could further affect this shift. As noted earlier, the larger the number and value of Fedwire or other payments that are made late in the day, the greater the risk to financial markets that payments will not be settled in a timely manner if significant operational disruptions were to occur late in the day.

A related long-standing concern of the Federal Reserve has been that

[5] The Clearing House Interbank Payment System (CHIPS) is a real-time final payments system operated by The Clearing House Payments Company. In January 2001, The Clearing House implemented operational and rule changes to allow all transactions settled in CHIPS to be final upon release from CHIPS' central queuing system.

[6] CLS Bank International (CLS), an Edge Corporation supervised by the Federal Reserve, offers payment-versus-payment settlement of foreign exchange trades. Prior to the creation of CLS, many foreign exchange trades were subject to foreign exchange settlement risk (also known as Herstatt risk), which included significant credit risk.

[7] A Fedwire funds transfer funded by a daylight overdraft provides an increase in the intraday balance of central bank money to the recipient.

[8] Balances held at the Reserve Banks are the sum of required reserve balances, required clearing balances, and excess balances. These balances ranged from $29 to $34 billion in 1994, declined gradually to a low of $12 billion in 2000, and ranged from $18 to $23 billion in 2005.

[9] Historical peak and average daylight overdraft data and aggregate fees are available on the Board's Web site at *http://www.federalreserve.gov/paymentsystems/psr/data.htm*.

[10] All times noted are Eastern Time (ET). Data discussed here exclude the value of payments to and from CLS, CHIPS, and DTC.

[11] The Fedwire Funds Transfer Service business day begins at 9 p.m. on the preceding calendar day and closes at 6:30 p.m. The cut-off time for third-party transfers is 6 p.m.

depository institutions' intraday liquidity management strategies may lead them to delay sending Fedwire payments until they receive payments in order to manage their use of daylight overdrafts at the Reserve Banks. If this practice became widespread, it could lead to a form of ''gridlock'' in the payments system with multiple depository institutions waiting for each other to send payments in order to obtain intraday funds and limit their daylight overdrafts.

Over time, Board and Reserve Bank staff has engaged members of the financial industry in various discussions about the causes of and concerns about late-in-the-day payments and increasing overdraft levels, as well as potential actions to address these and other concerns. From preliminary information and analysis, the Board understands that the growing volume of late-in-the-day Fedwire payments may be caused by (1) the late-in-the-day settlement by some private systems and the associated late release of intraday funds into the market, (2) mismatches of payments sent over CHIPS and Fedwire whereby some participants are consistently long (or short) for the CHIPS settlement, resulting in large sums of liquidity being consistently distributed late in the day to some institutions, (3) the increasingly late-in-the-day reconciliation of positions by money market participants and corresponding late-in-the-day determination of final funding requirements, which results in depository institution customers initiating late-in-the-day payments, and (4) the use of general liquidity management strategies by depository institutions that rely on internal queuing of Fedwire payments, especially large payments, to reduce their daylight overdrafts and daylight overdraft fees.

III. Examples of Potential Market, Operational, or Policy Changes

Looking forward, there may be important trade-offs among PSR Policy objectives that need to be analyzed in light of experience and could be improved. As noted in the executive summary, the Board's general public policy objectives are to foster the *safety and efficiency* of payments and settlement systems.[12] Additional subsidiary objectives derive from these broad objectives. The following detailed objectives were published in the Board's study that led to the pricing of daylight overdrafts in the 1990s: [13]

Safety

- Low direct credit risk to the Federal Reserve.
- Low direct credit risk to the private sector.
- Low systemic risk.
- Rapid final payments.

Efficiency

- Low operating expense of making payments.
- Equitable treatment of all service providers and users in the payments system.[14]
- Effective tools for implementing monetary policy.
- Low transaction costs in the Treasury securities market.

Among these detailed objectives, some trade-offs are readily apparent. For example, lower systemic risk has been achieved by strengthening risk controls in private systems, including using central bank money as a settlement asset and risk management tool. These changes, however, have created the large structural intraday demand for central bank money that is satisfied primarily through daylight overdrafts at the Reserve Banks, contributing to the growing direct credit exposure of the Reserve Banks.

As noted earlier, charging for overdrafts initially lowered the direct risk exposure of the Reserve Banks and encouraged depository institutions to economize on their use of daylight credit. The resulting increased operating expense of making payments, however, provided an incentive to delay sending Fedwire payments leading, other things equal, to greater operational risk exposure from the greater value of funds transfers processed later in the day. The potential trade-off between direct credit risk to the Reserve Banks and operational risk exposure to the financial markets from delays in sending payments was recognized when the pricing of overdrafts was initiated. Early on there was little evidence that payments were being shifted to later in the day. In the past five years, however, payments have shifted, implying that operational risk exposure has also been rising.

The strategic question for the industry and policy makers is whether there are market, operational, or policy changes, that could, if taken individually or in combination, significantly reduce one or more of these risks, while maintaining or improving the efficiency of the payments system. Depository institutions and others have highlighted a number of items that could be analyzed further by the Federal Reserve and the industry. These ideas should be regarded as preliminary and are reported here for further comment and study. These include the following:

Possible Market Changes

- Foster an intraday market to exchange liquidity between institutions that hold positive balances at the Reserve Banks and those that run negative balances.
- Foster a market for the early return of federal funds or other money market investments.

Possible Operational Changes

- Enhance private settlement systems to economize further on the use of central bank money, for example, by developing multiple settlement periods to release liquidity earlier in the day.
- Add liquidity saving mechanisms to the Fedwire funds transfer system.
- Establish throughput requirements for the Fedwire funds transfer system.

Possible PSR Policy Changes

- Make greater use of voluntary or required collateral to cover daylight overdrafts in Reserve Bank accounts.
- Introduce a lower price for collateralized than for uncollateralized daylight overdrafts.
- Introduce time-of-day pricing of daylight overdrafts.

Possible Market Changes

As part of the discussions around the introduction of daylight overdraft fees in 1994, some industry participants questioned whether these fees would create sufficient incentives to establish an intraday funds market. It is not clear whether the cost of setting up an intraday funds market, practical problems, or both discouraged industry action. Since that time, depository institutions have experienced additional liquidity pressures from time-critical payments that may provide an incentive to establish more formal market arrangements for exchanging intraday liquidity. The policy, operational, and technical implications of establishing such a market are not clearly understood.

In addition, intraday liquidity pressures may encourage growth in the market for the early return of Federal funds or other money market

[12] See Board of Governors, ''Payment System Risk Policy,'' op.cit. See also Committee on Payment and Settlement Systems, ''Core Principles for Systemically Important Payment Systems,'' *http://www.bis.org/publ/cpss34ep1.pdf.*

[13] See ''Controlling Risk in the Payment System,'' Report of the Task Force on Controlling Payments System Risk to the Payments System Policy Committee of the Federal Reserve System, Board of Governors of the Federal Reserve System, August 1988.

[14] This objective can be viewed as supporting efficient financial markets.

investments. The return of Federal funds late in the day provides borrowers rather than lenders with the use of that liquidity throughout the day. Lenders may find an early return option beneficial during periods in which they anticipate making large or time-critical payments. Terms acceptable to both parties could be negotiated to compensate for the early return. Currently, transactions supporting the early return of funds appear to be relatively rare. A more active market could effectively amount to an implicit market for intraday funds. It is not clear whether there is sufficient demand to support a larger early-return market. It is also possible that operational changes to Fedwire would be needed in order to support such market arrangements.

Possible Operational Changes

As noted earlier, operational changes in private settlement systems over the past several years have created a significant, structural intraday demand for central bank money. These systems established procedures that require participants to transfer funds to them early in the day to begin clearing transactions and to transfer additional funds during the day if needed for risk management purposes or final settlements. While these processes clearly reduce systemic risk, they can also ''lock up'' significant amounts of liquidity in the aggregate during the day. It may be possible for private settlement systems to modify their procedures to release liquidity earlier in the day by developing multiple cutoff or settlement periods. There may be other operational changes that could enhance private settlement systems in order to economize further on the use of intraday liquidity, particularly in the form of central bank money.

The Reserve Banks could also explore establishing a liquidity saving mechanism for the Fedwire funds transfer system. For example, a liquidity saving mechanism could involve adding new features to Fedwire that depository institutions could use to economize on the use of intraday central bank money, while retaining the existing (real-time gross settlement) functionality of Fedwire. While a depository institution could still designate that a Fedwire funds transfer settle immediately as it does today, such new features could allow depository institutions to designate certain payments to be placed into a central queuing system and settled using algorithms that allow the liquidity provided by incoming payments to a depository institution to be used to settle that institution's outgoing payments. Versions of these features are used by CHIPS and the RTGS Plus system in Germany. Such features will also be included in the new wire transfer systems in the European Union (Target 2), Japan, and other countries. In the typical designs for such systems, payments retain their individual identity and are settled on a gross basis. Like netting arrangements, however, the systems use the liquidity from pairs or groups of payments to fund and settle offsetting or nearly offsetting payments, potentially reducing the demand for central bank money and daylight overdrafts needed to conduct payment activity.[15]

In theory, the use of liquidity saving mechanisms in the Fedwire Funds Service could also help promote the earlier sending of Fedwire payments that are held in depository institutions' internal queues. For example, suppose a depository institution (Bank X) could enter payments into a central queue in the Fedwire system subject to rules that these payments would not be sent until sufficient liquidity is available to fund these payments, and the liquidity takes the form of payments held in the queue on behalf of other depository institutions that are destined for Bank X. In this case, payments could be entered into the central queue early in the day without incurring daylight overdrafts fees since no intraday credit would be used. If a number of depository institutions enter payments early, then these payments could also be settled earlier in the day, using significantly less daylight credit from the Reserve Banks. In essence, technical changes to Fedwire could allow depository institutions to better coordinate their payment flows and shift some of these flows to earlier in the day.

In addition to, or in place of, technological changes, the Federal Reserve could consider adopting procedural changes that can affect the timing of payments, such as establishing Fedwire funds transfer throughput requirements. Throughput requirements are used by some other systems around the world. For example, participants could be expected to submit a certain percentage of their Fedwire payments volume by 10 a.m., another percentage by noon, and so on. Meeting throughput requirements, however, may be difficult for individual participants to achieve and also difficult to enforce.

Possible PSR Policy Changes

In 2001, the Board stated that it might consider several changes to its PSR Policy, including the introduction of two-tiered pricing for daylight overdrafts, with one rate for uncollateralized overdrafts and a second, lower rate, for collateralized overdrafts.[16] Greater use of collateral to cover daylight overdrafts coupled with two-tier pricing could lower the cost of daylight overdrafts, reduce direct credit risk to the Reserve Banks, and increase the flexibility of the supply of intraday central bank money through the daylight overdraft mechanism. Concerns about possible adverse effects on depository institutions or the payments system as a whole figured importantly in decisions not to require the full collateralization of daylight overdrafts when the PSR Policy was initially developed. Since 2002, however, the level of collateral pledged to Reserve Banks for discount window and PSR purposes has increased steadily. In 2005, 64 percent of the approximately 270 depository institutions that paid daylight overdraft fees had assets pledged to the Reserve Banks for discount window purposes. These data imply that the role of collateral in supporting daylight overdrafts could be augmented with little to no adverse effect on many institutions.

Potential collateral policies can have different characteristics that influence the degree to which they would reduce risk to Reserve Banks, affect the intraday supply of central bank money, and influence the timing of payments. The terms for providing collateralized intraday credit, the availability of eligible collateral and its opportunity cost, and the associated charges for daylight overdrafts would be major factors in a collateral policy. For example, the collateralization of daylight overdrafts might be either required (for all daylight overdrafts or some portion thereof) or voluntary (i.e., pledged at the depository institution's discretion); the definition of eligible collateral might be either narrow or

[15] In recent years, both central banks and private-sector systems have explored new features for payments systems that help coordinate the timing of payments among depository institutions and help conserve the amounts of liquidity needed to make payments. For a discussion of developments in liquidity saving features and their history, see Committee on Payment and Settlement Systems, ''New developments in large-value payment systems,'' Bank for International Settlements, May 2005. (*http://www.bis.org/publ/cpss67.pdf*)

[16] See 66 FR 30208, June 5, 2001. The Board issued a subsequent notice in 2002 discussing comments received regarding its potential longer term policy direction, including two-tiered pricing. (67 FR 54424, August 22, 2002) In this notice, the Board stated that it would continue to evaluate the benefits and drawbacks of implementing two-tiered pricing. The Board also stated that it intended to allow depository institutions with collateral pledged to be charged the collateralized price for daylight credit up to the level of that collateral before being charged the higher price for uncollateralized daylight credit.

broad; the daylight overdraft fee might be either risk-based or not, with the fee for uncollateralized credit set above the fee for collateralized credit.

Given the widespread use of collateral in financial markets to mitigate risk and the potential for daylight overdrafts to become overnight lending by the Reserve Banks, consideration should be given to having collateral play a much greater role in managing daylight overdrafts. Whereas most other central banks require participants to collateralize all intraday overdrafts, the PSR Policy currently requires collateral for daylight overdrafts only in limited circumstances.[17] Over the long run, the greater use of collateral might provide a more flexible means for the Federal Reserve to deal with the impact of future stresses in the financial industry on the availability of intraday balances through the daylight overdraft mechanism. Incentives to increase the amount of collateral pledged to the Reserve Banks could also potentially strengthen further the industry's preparedness to draw on the discount window.

Regarding collateral eligibility, the Reserve Banks' lending policy assumes that if a daylight overdraft is not repaid, it could become a discount window loan and appropriate collateral would be needed to support that loan. As a result, the types of collateral eligible for securing daylight overdrafts currently track the types eligible for discount window purposes.[18] At year-end 2005, collateral pledged to the Reserve Banks for discount window and PSR purposes amounted to almost $564 billion; 70 percent of this collateral took the form of bank loans.

Regarding fees for collateralized daylight overdrafts, there are several options. Today, the Federal Reserve charges the same fee for collateralized and uncollateralized overdrafts. In contrast, other central banks do not generally charge fees for daylight overdrafts (but do require collateral). It would be possible to consider a risk-based fee for collateralized overdrafts that was lower than the fee for uncollateralized overdrafts. The Board did not specify a price for collateralized daylight credit in either its 2002 notice or 2001 request for comment on potential longer-term policy direction. The original request for comment, however, discussed a possible methodology for determining a risk differential between collateralized and uncollateralized credit. The Board examined loans for federal funds, which are uncollateralized, and loans through repurchase agreements, which are collateralized, and set forth a possible daylight overdraft fee differential of 12 to 15 basis points (per annum) for a 24-hour period.

Finally, the Federal Reserve might have other options to influence the timing of payments. For example, the Federal Reserve might be able to influence the timing of payments by varying the fee charged for daylight overdrafts through the day so that overdrafts incurred earlier in the day incur a lower fee than overdrafts incurred late in the day.

IV. Conclusion

From a public policy perspective, the ideas outlined in Section III can be understood as possibilities for improving the trade-offs among the Federal Reserve's PSR Policy objectives either by affecting the demand for intraday liquidity or by affecting the terms on which Reserve Banks supply intraday central bank money via daylight overdrafts. At this stage, the Board believes it is important to request input from the public on potential changes in market practices, operations, or PSR Policy that could further reduce intraday liquidity, credit, and operational risks. The Board specifically encourages comments on the suggested means to improve trade-offs among safety and efficiency objectives and requests information that will help strengthen the analysis of these trade-offs. The Board also welcomes additional suggestions from financial institutions and other interested parties in connection with the long-term evolution of risk policy. Section V includes a list of specific questions to help frame commenters' analysis and response.

V. Questions

1. What intraday liquidity conservation strategies and technologies does your institution use (such as controlling the timing of payments and introducing queuing techniques to conserve on liquidity)? How do these affect your institution's timing for sending payments? What, if any, changes are you planning with regard to intraday liquidity management?

2. How do the concentrated demands for intraday central bank money by private sector systems influence intraday liquidity management by depository institutions throughout the day? Are there significant concentrated sources of demand for intraday central bank money beyond those already mentioned in the text and how does this demand affect intraday liquidity management?

3. Is the concentration of payments late in the day a concern for your organization? If so, what is the nature of your concern? Does it include operational risk from late-in-the-day payments, and has operational risk to your organization from such payments been increasing or decreasing? What are the key drivers of late-in-the-day payments? How has your organization responded to the late-in-the-day concentration of payments?

4. For the market, operational, and PSR Policy changes discussed in this document and listed as follows, how might the timing of payments and the demand for daylight overdrafts be affected? What advantages or disadvantages do you see for these changes?

- An intraday market to exchange liquidity between institutions that hold positive balances at the Reserve Banks and those that run negative balances.
- A market for the early return of federal funds or other money market investments.
- Enhancements by private settlement systems that further economize on the use of central bank money, for example multiple settlement periods to release liquidity earlier in the day.
- Liquidity saving mechanisms for the Fedwire funds transfer system.
- Throughput requirements for the Fedwire funds transfer system.
- Greater use of voluntary or required collateral to cover partially or fully daylight overdrafts in depository institution accounts at the Reserve Banks.
- Two-tiered pricing for collateralized daylight overdrafts, with a fee charged for collateralized daylight overdrafts set lower than the rate for uncollateralized overdrafts.
- Time-of-day pricing of daylight overdrafts.

5. What are other possible approaches to consider to reduce delays in payments and to manage efficiently and effectively the Federal Reserve's exposure to increasing daylight overdrafts as well as depository institutions' exposure to intraday

[17] For example, Reserve Banks may require collateral from financially-troubled depository institutions or participants that are not eligible to borrow from the discount window. In addition, an institution that is constrained by its net debit cap may be permitted to obtain additional, collateralized daylight overdraft capacity.

[18] The Reserve Banks accept a wide range of financial assets as collateral for discount window loans. The collateral eligibility policy is set forth in the Federal Reserve's Regulation A, *Extensions of Credit by Federal Reserve Banks* (12 CFR 201.3). Additional terms and conditions relating to collateral are established in the Reserve Banks' Operating Circular No. 8, *Collateral*, and Operating Circular No. 10, *Lending*, which can be found at *http://frbservices.org/OperatingCirculars/index.html.*

liquidity and credit risks? Are there other market or operational changes in the private sector that could help reduce intraday liquidity and credit risks?

6. Congress is currently considering legislation that would allow the Federal Reserve to pay interest on reserve balances held by depository institutions at the Reserve Banks. How would the payment of interest on reserves affect depository institutions' intraday liquidity management, including the demand for daylight overdrafts at the Reserve Banks? Could the payment of interest on reserves be utilized to reduce the value or timing of daylight overdrafts?

VI. Appendix

Daylight Overdrafts

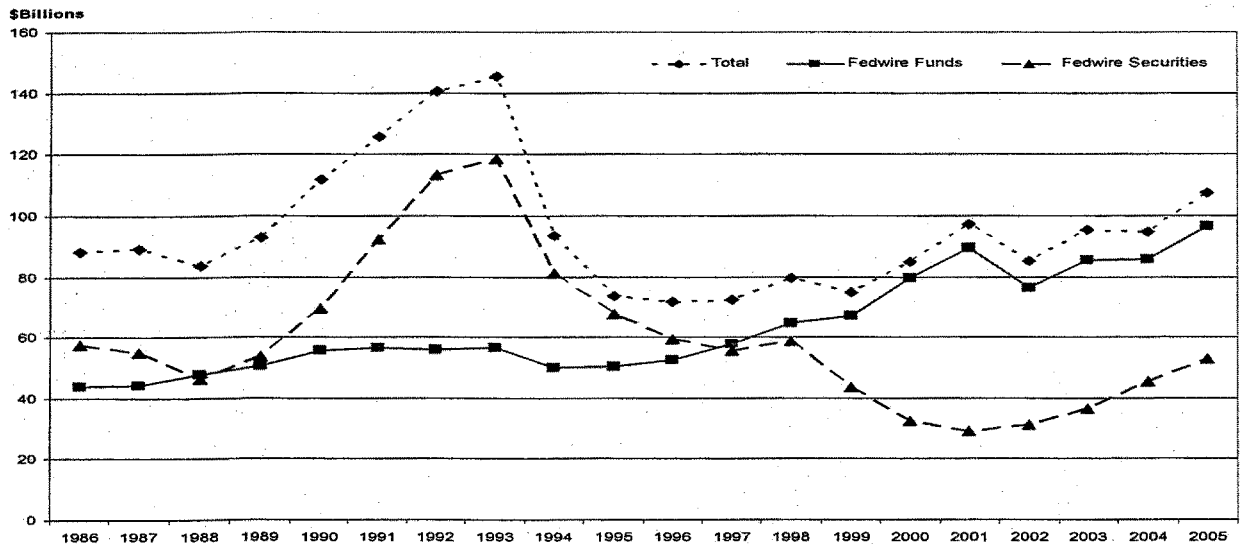
The Federal Reserve introduced the Payment System Risk Policy in 1986, establishing cross-system net debit caps for Fedwire and CHIPS on the use of intraday credit. Over the next two years, cross-system net debit caps were reduced twice and eventually replaced in 1991 with caps that only applied to overdrafts incurred in Reserve Bank accounts. Intraday overdraft fees were formally adopted by the Board in 1992 and became effective in 1994. Almost a decade later, the Federal Reserve implemented a policy allowing certain institutions to request collateralized capacity in excess of the net debit cap.[19]

Chart 1 provides peak overdraft data adjusted for inflation. Average overdraft data show a similar pattern at lower levels. Since 1986, average and peak daylight overdrafts have steadily increased for Fedwire funds transfers. From 1986 to 2005, peak daylight overdrafts associated with Fedwire funds transfers (adjusted for inflation) have more than doubled from $44 billion to $96 billion, growing at a rate of 4.2 percent per year. (In 2005, peak overdrafts associated with funds transfers averaged $108 billion in nominal dollars.)[20] In contrast, daylight overdrafts related to securities transfers, which had been increasing rapidly prior to the implementation of daylight overdraft fees, decreased rapidly after 1994 once those fees were implemented. Since 2000, however, daylight overdrafts for securities transfers have begun increasing again.

Chart 1

Peak Daylight Overdrafts: 1986–2005

(Annual Averages of Daily Data in 2000 Dollars)



Further, as shown in Chart 2, intraday credit usage associated with Fedwire funds transfers has grown roughly in line with the value of these funds transfers for many years, with an upward trend in 2005. Average overdrafts resulting from Fedwire funds transfers and the value of Fedwire funds transfers have grown 11 and 9 percent per year, respectively, since 1994.

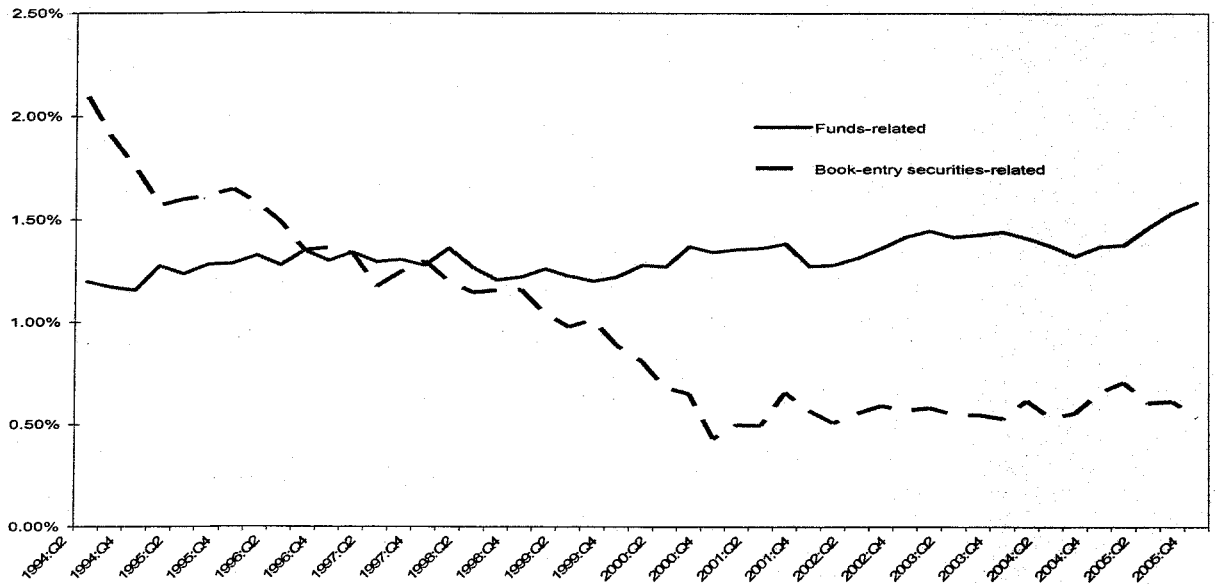
Chart 2

Daylight Overdrafts at Reserve Banks as a Percent of Average Daily Value of Fedwire Transfers

(1994–2005: Daily Averages)

[19] In 2001, in conjunction with allowing certain institutions to request collateralized capacity, the Federal Reserve decided to include book-entry securities overdrafts for the purposes of determining an institution's compliance with its cap. The Federal Reserve eliminated the frequent and material thresholds that required a depository institution to collateralize overdrafts associated with securities transfers that frequently and materially exceeded its net debit cap.

[20] Historical peak and average daylight overdraft data and aggregate fees in nominal dollars are available on the Board's Web site at *http://www.federalreserve.gov/paymentsystems/psr/data.htm*.



Overall, while total peak system overdrafts are still slightly below pre-pricing levels in nominal dollars ($120 billion in 2005; $129 billion in 1993), total average overdrafts now exceed pre-pricing levels ($41 billion in 2005; $33 billion in 1993).

Timing of Fedwire Funds Transfers

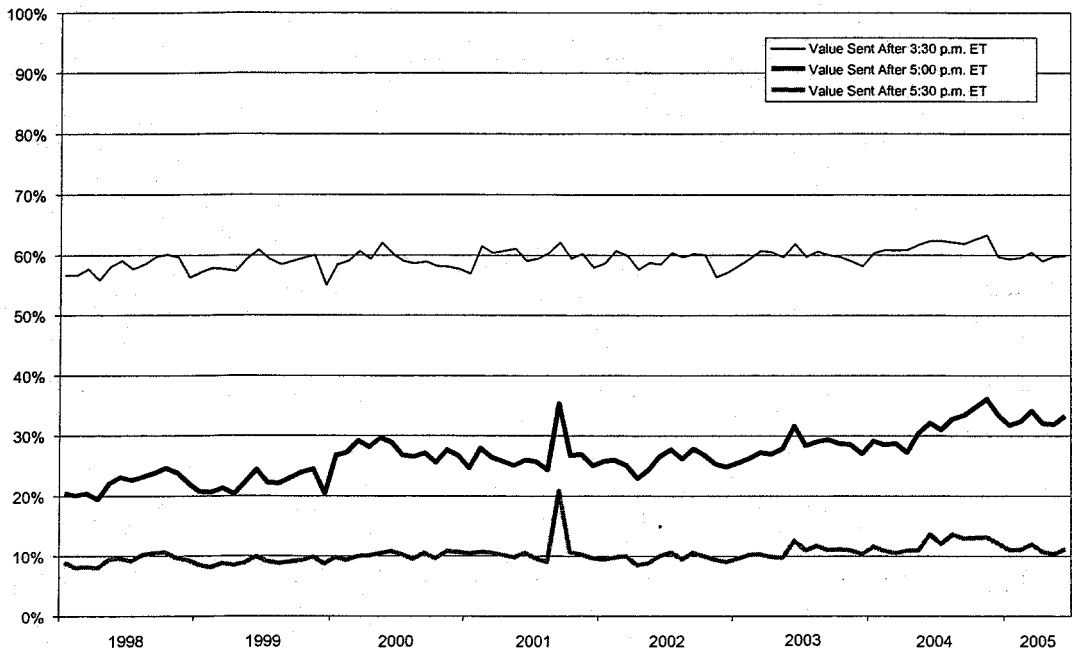
In the early years of the Payments System Risk Policy, there was no clear evidence that a substantial value of payments originated on Fedwire shifted to late in the day in response to policy changes.[21] More recently, as discussed above, structural changes in the payments system, along with technology and market factors, may have contributed to market-wide delays in making Fedwire funds transfers.

Chart 3 shows that while the percentage of payments slightly increased after 3:30 p.m., the percentage dramatically increased after 5 p.m. The percentage of payments made after 5 p.m. went from 20 percent of payments in 1998 to over 30 percent in 2005. This calculation excludes all payment transactions sent or received by CHIPS, DTC, or CLS, including transactions related to important end-of-day funding and settlement functions.

Chart 3

Timing of Fedwire Payments Excluding Transactions Sent or Received by CHIPS, DTC, or CLS

(1998–2005: Percentage of Daily Value—21 Day Moving Average)



[21] See Richards, Heidi Willmann, ''Daylight Overdraft Fees and the Federal Reserve's Payment System Risk Policy,'' Federal Reserve Bulletin, December 1995.

By order of the Board of Governors of the Federal Reserve System, June 14, 2006.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. 06–5538 Filed 6–20–06; 8:45 am]

BILLING CODE 6210–01–P

GENERAL SERVICES ADMINISTRATION

[OMB Control No. 3090–0274]

Public Buildings Service; Information Collection; Art-in-Architecture Program National Artist Registry

AGENCY: Public Buildings Service,(GSA).

ACTION: Notice of request for comments for comments regarding a renewal to an existing OMB clearance.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the General Services Administration has submitted to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection requirement regarding Art-in Architecture Program National Artist Registry. A request for public comments was published at 71 FR 10688, March 2, 2006. No comments were received. This OMB clearance expires on July 31, 2006.

The Art-in-Architecture Program is the result of a policy decision made in January 1963 by GSA Administrator Bernard L. Boudin who had served on the Ad Hoc Committee on Federal Office Space in 1961–1962.

The program has been modified over the years, most recently in 2000 when a renewed focus on commissioningworks of art that are an integral part of the building's architecture and adjacent landscape was instituted. The program continues to commission works of art from living American artists. One-half of one percent of the estimated construction cost of new or substantially renovated Federal buildings and U.S. courthouses is allocated for commissioning works of art.

Public comments are particularly invited on: Whether this collection of information is necessary and whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected.

DATES: Submit comments on or before: July 21, 2006.

FOR FURTHER INFORMATION CONTACT: Susan Harrison, Public Buildings Service, Office of the Chief Architect, Art-in-Architecture Program, Room 3341, 1800 F Street, NW, Washington, DC 20405, at telephone(202) 501–1812 or via e-mail to *susan.harrison@gsa.gov.*

ADDRESSES: Submit comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to Ms. Jeanette Thornton, GSA Desk Officer, OMB, Room 10236, NEOB, Washington, DC 20503, and a copy to the Regulatory Secretariat (VIR), General Services Administration, Room 4035, 1800 F Street, NW., Washington, DC 20405. Please cite OMB Control No. 3090–0274, Art-in-Architecture Program National Artist Registry, in all correspondence.

SUPPLEMENTARY INFORMATION:

A. Purpose

The Art-in-Architecture Program actively seeks to commission works from the full spectrum of American artists and strives to promote new media and inventive solutions for public art. The GSA Form 7437, Art-in-Architecture Program National Artist Registry, will be used to collect information from artists across the country to participate and to be considered for commissions.

B. Annual Reporting Burden

Respondents: 360.

Responses Per Respondent: 1.

Total Responses: .25.

Hours Per Response: .25.

Total Burden Hours: 90.

Obtaining Copies of Proposals: Requesters may obtain a copy of the information collection documents from the General Services Administration, Regulatory Secretariat (VIR), 1800 F Street, NW., Room 4035, Washington, DC 20405, telephone (202) 208–7312. Please cite OMB Control No. 3090–0274, Art-in-Architecture Program National Artist Registry, in all correspondence.

Dated: May 31, 2006

Michael W. Carleton,

Chief Information Officer.

[FR Doc. E6–9769 Filed 6–20–06; 8:45 am]

BILLING CODE 6820–23–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Disease, Disability, and Injury Prevention and Control Special Emphasis Panels (SEP): Diabetes Prevention and Control in the Americas, Request for Applications (RFA) DP 06–001

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following Meeting:

Name: Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP): Diabetes Prevention and Control in the Americas, RFA DP 06–001.

Time And Date: 1 p.m.–3 p.m., July 18, 2006 (Closed).

Place: Teleconference.

Status: The meeting will be closed to the public in accordance with provisions set forth in Section 552b(c)(4) and (6), Title 5 U.S.C., and the Determination of the Director, Management Analysis and Services Office, CDC, pursuant to Public Law 92–463.

Matters to be Discussed: The meeting will include the review, discussion, and evaluation of applications received in response to ''Diabetes Prevention and Control in the Americas,'' Request for Applications (RFA) DP 06–001.

For Further Information Contact: J. Felix Rogers, Ph.D., M.P.H., Scientific Review Administrator, Office of Extramural Research, CDC, 4770 Buford Highway NE, Mailstop K–92, Atlanta, GA 30341, Telephone 770.488.6521.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both CDC and the Agency for Toxic Substances and Disease Registry.

Dated: June 14, 2006.

Alvin Hall,

Director, Management Analysis and Services Office Centers for Disease Control and Prevention.

[FR Doc. E6–9701 Filed 6–20–06; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

The Essentials of Food and Drug Administration Device Regulations: A Primer for Manufacturers and Suppliers; Public Workshop

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of public workshop.

SUMMARY: The Food and Drug Administration (FDA) San Francisco District, in cooperation with AdvaMed's Medical Technology Learning Institute, is announcing a public workshop on FDA device regulations. This 2-day public workshop for start up and small device manufacturers and their suppliers will include both industry and FDA perspectives and a question and answer period.

Date and Time: The public workshop will be held on July 12, 2006, from 8:30 a.m. to 5:30 p.m. and July 13, 2006, from 8:30 a.m. to 5 p.m.

Location: The public workshop will be held at The Marriott Fremont, 46100 Landing Pkwy., Fremont, CA 94538, 510–413–3710, FAX: 510–413–3710. For further hotel information and driving directions, go to *http://Marriott.com/property/propertypage/sjcfm*. (FDA has verified the Web site address, but is not responsible for subsequent changes to the Web site after this document publishes in the **Federal Register**.)

Contact: *For FDA*: Eric Anderson, Office of Regulatory Affairs (HFR–PA1530), Food and Drug Administration, 96 North Third St., San Jose, CA 95115, 408–291–7548, ext. 115, FAX: 408–291–7228, e-mail: *eric.anderson@fda.hhs.gov*.

For AdvaMed: Krystine McGrath, 202–434–7237, FAX: 202–434–7850, e-mail: *kmcgrath@advamed.org*.

Registration: Send registration information (including name, title, firm name, address, telephone, and fax number) and the registration fee of $495.00 per person to the AdvaMed contacts (see *Contact*). The registration fee for FDA employees is waived. To register via the Internet go to *http://www.advamedmtli.org/mtli/fda.cfm*. (FDA has verified the Web site address, but is not responsible for subsequent changes to the Web site after this document publishes in the **Federal Register**.)

Payment forms accepted are major credit cards (MasterCard, Visa, or American Express) or company check. If you wish to pay by check, contact Krystine McGrath (see *Contact*). For more information on the meeting, or for questions on registration, contact Krystine McGrath (see *Contact*). Attendees are responsible for their own accommodations.

The registration fee will be used to offset the expenses of hosting the workshop, including meals (breakfasts and lunches), refreshments, meeting rooms, and training materials. It also includes a networking reception on July 12, 2006. Space is limited; therefore, interested parties are encouraged to register early. There will be no onsite registration.

If you need special accommodations due to a disability, please contact Eric Anderson (see *Contact*) at least 7 days in advance of the workshop.

SUPPLEMENTARY INFORMATION: The ''Essentials of FDA Device Regulations: A Primer for Manufacturers and Suppliers'' workshop helps fulfill the Department of Health and Human Services' and FDA's important mission to protect the public health by educating new entrepreneurs on FDA device regulations. FDA has made education of the medical device community a high priority to assure the quality of products reaching the marketplace and to increase the rate of voluntary industry compliance with regulations.

The workshop helps to implement the objectives of section 903 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 393) and the FDA Plan for Statutory Compliance, which includes working more closely with stakeholders and ensuring access to needed scientific and technical expertise. The workshop also furthers the goals of the Small Business Regulatory Enforcement Fairness Act (Public Law 104–121) by providing outreach activities by Government agencies directed to small businesses.

The following topics will be discussed at the workshop:

- Doing business in a regulated industry;
- Organizational structure of FDA;
- The quality system regulations and inspections;
- Design controls;
- Compliance issues;
- Management responsibility;
- Interacting with FDA—where do you go for assistance;
- Manufacturers and suppliers—the chain of regulatory responsibility;
- Reimbursement and medical technology;
- The AdvaMed code of ethics;
- Fraud and abuse;
- Human factors;
- Documents, records and change controls;
- Purchasing controls and acceptance activities;
- Production and process control;
- Corrective and preventive actions;
- Complaint handling, medical device reporting, and servicing; and
- Training and audits;

Transcripts: There will be no transcripts for this public workshop.

Dated: June 16, 2006.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. 06–5570 Filed 6–16–06; 4:02 pm]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 2004D–0369]

Guidance for Industry; Recommendations for the Early Food Safety Evaluation of New Non-Pesticidal Proteins Produced by New Plant Varieties Intended for Food Use; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a final guidance for industry entitled ''Recommendations for the Early Food Safety Evaluation of New Non-Pesticidal Proteins Produced by New Plant Varieties Intended for Food Use.'' The guidance provides recommendations to developers of new plant varieties, including bioengineered plant varieties, on the early food safety evaluation of new non-pesticidal proteins. The guidance describes procedures for submitting an early food safety evaluation of such proteins to the agency.

DATES: This guidance document is final upon the date of publication. Submit written or electronic comments concerning the guidance at any time.

ADDRESSES: Submit written requests for single copies of the guidance entitled ''Recommendations for the Early Food Safety Evaluation of New Non-Pesticidal Proteins Produced by New Plant Varieties Intended for Food Use'' to the Office of Food Additive Safety (HFS–255), Center for Food Safety and Applied Nutrition, Food and Drug Administration, 5100 Paint Branch Pkwy., College Park, MD 20740. Include a self-addressed adhesive label to assist that office in processing your request.

Submit written comments concerning the guidance to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments to *http://www.fda.gov/dockets/ecomments*. To ensure a timelier processing of comments, FDA is no longer accepting comments submitted to the agency by e-mail. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the guidance document.

FOR FURTHER INFORMATION CONTACT: Mary D. Ditto, Center for Food Safety and Applied Nutrition (HFS–255), Food and Drug Administration, 5100 Paint Branch Pkwy., College Park, MD 20740–

3835, 301–436–1165, FAX 301–436–2965, or e-mail: *mary.ditto@fda.hhs.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

In the **Federal Register** of August 2, 2002 (67 FR 50578), the U.S. Office of Science and Technology Policy (OSTP) proposed Federal actions to update field test requirements and to establish early voluntary food safety evaluations for new proteins produced by bioengineered plants. Rapid developments in genomics are resulting in dramatic changes in the way new plant varieties are developed and commercialized. Scientific advances are expected to accelerate over the next decade, leading to the development and commercialization of a greater number and diversity of bioengineered crops. As the number and diversity of field tests for bioengineered plants increase, the likelihood that cross-pollination due to pollen drift from field tests to commercial fields and commingling of seeds produced during field tests with commercial seeds or grain may also increase. This could result in the inadvertent, intermittent, low-level presence in the food supply of proteins that have not been evaluated through FDA's voluntary consultation procedures for foods derived from new plant varieties (referred to as ''biotechnology consultation'' in the case of bioengineered plants).[1] FDA is issuing this guidance document to address this possibility.

In the **Federal Register** of November 24, 2004 (69 FR 68381), FDA made available a draft guidance for industry entitled ''Recommendations for the Early Food Safety Evaluation of New Non-Pesticidal Proteins Produced by New Plant Varieties Intended for Food Use'' and gave interested parties an opportunity to submit comments by January 24, 2005. The agency considered received comments as it finalized this guidance.

This guidance describes the procedure for early food safety evaluation of new proteins produced by new plant varieties that are under development for food use, including, for example, such proteins produced in bioengineered plants. This guidance also provides information to sponsors and developers about submitting their evaluation to FDA.

FDA is issuing this guidance document as a level 1 guidance consistent with FDA's good guidance practices regulation § 10.115 (21 CFR 10.115). This guidance represents FDA's current thinking on the early food safety evaluation of new non-pesticidal proteins produced by new plant varieties intended for food use. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. You may use an alternative approach if the approach satisfies the requirements of the applicable statutes and regulations. If you want to discuss an alternative approach, contact the FDA staff responsible for implementing this guidance (see **FOR FURTHER INFORMATION CONTACT**). If you cannot identify the appropriate FDA staff, call the telephone number listed in the title page of the guidance.

II. Paperwork Reduction Act of 1995

This guidance contains information collection provisions that are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The collection of information in the guidance was approved under OMB Control No. 0910–0583.

III. Comments

Interested persons may submit to the Division of Dockets Management (see **ADDRESSES**) written or electronic comments regarding this guidance at any time. Submit a single copy of electronic comments or two paper copies of any mailed comments, except that individuals may submit one paper copy. Comments are to be identified with the docket number found in brackets in the heading of this document. The guidance document and received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

IV. Electronic Access

Persons with access to the Internet may obtain the guidance document at either *http://www.cfsan.fda.gov/guidance.html* or *http://www.fda.gov/cvm/Guidance/published.htm*.

Dated: June 14, 2006.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. E6–9688 Filed 6–20–06; 8:45 am]

BILLING CODE 4160–01–S

[1] ''Guidance on Consultation Procedures: Foods Derived from New Plant Varieties'' can be found at *http://www.cfsan.fda.gov/~lrd/consulpr.html*.

DEPARTMENT OF HOMELAND SECURITY

Bureau of Customs and Border Protection

Agency Information Collection Activities: Petroleum Refineries in Foreign Trade Subzones

AGENCY: Customs and Border Protection, Department of Homeland Security.

ACTION: Proposed collection; comments requested.

SUMMARY: Customs and Border Protection (CBP) of the Department of Homeland Security has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995: Petroleum Refineries in Foreign Trade. This is a proposed extension of an information collection that was previously approved. CBP is proposing that this information collection be extended with a change to the burden hours. This document is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** (71 FR 12383–12384) on March 10, 2006, allowing for a 60-day comment period. This notice allows for an additional 30 days for public comments. This process is conducted in accordance with 5 CFR 1320.10.

DATES: Written comments should be received on or before July 21, 2006.

ADDRESSES: Written comments and/or suggestions regarding the items contained in this notice, especially the estimated public burden and associated response time, should be directed to the Office of Management and Budget Desk Officer at *Nathan.Lesser@omb.eop.gov*.

SUPPLEMENTARY INFORMATION: The Bureau of Customs and Border Protection (CBP) encourages the general public and affected Federal agencies to submit written comments and suggestions on proposed and/or continuing information collection requests pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13). Your comments should address one 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/component, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies/components 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 collections of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Title: Petroleum Refineries in Foreign Trade Subzones

OMB Number: 1651–0063.

Form Number: None.

Abstract: The Petroleum Refineries in Foreign Trade Subzones is a rule that amended the regulations by adding special procedures and requirements governing the operations of crude petroleum and refineries approved as foreign trade zones.

Current Actions: This submission is to extend the expiration date with a change to the burden hours.

Type of Review: Extension (with change).

Affected Public: Business or other for-profit.

Estimated Number of Respondents: 81.

Estimated Time Per Respondent: 1000 hours.

Estimated Total Annual Burden Hours: 81,000.

Estimated Total Annualized Cost on the Public: N/A.

If additional information is required contact: Tracey Denning, Bureau of Customs and Border Protection, 1300 Pennsylvania Avenue, NW., Room 3.2.C, Washington, DC 20229, at 202–344–1429.

Dated: June 15, 2006.

Tracey Denning,

Agency Clearance Officer, Information Services Branch.

[FR Doc. E6–9759 Filed 6–20–06; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Information Collection Renewal To Be Sent to the Office of Management and Budget (OMB) for Approval Under the Paperwork Reduction Act; OMB Control Number 1018–0124; Migratory Bird Subsistence Harvest Household Survey

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice; request for comments.

SUMMARY: We (Fish and Wildlife Service) will ask OMB to renew approval for the information collection associated with our migratory bird subsistence harvest household survey. The current OMB control number for this information collection is 1018–0124, which expires on October 31, 2006. We will request that OMB renew approval of this information collection for a 3-year term. As required by the Paperwork Reduction Act of 1995 and as part of our continuing efforts to reduce paperwork and respondent burden, we invite the general public and other Federal agencies to take this opportunity to comment on this information collection.

DATES: You must submit comments on or before August 21, 2006.

ADDRESSES: Send your comments on the information collection to Hope Grey, Information Collection Clearance Officer, Fish and Wildlife Service, MS 222–ARLSQ, 4401 North Fairfax Drive, Arlington, VA 22203 (mail); *hope_grey@fws.gov* (e-mail); or (703) 358–2269 (fax).

FOR FURTHER INFORMATION CONTACT: To request additional information about this information collection request, contact Hope Grey at one of the addresses above or by telephone at (703) 358–2482.

SUPPLEMENTARY INFORMATION: OMB regulations at 5 CFR 1320, which implement provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), require that interested members of the public and affected agencies have an opportunity to comment on information collection and recordkeeping activities (see 5 CFR 1320.8(d)). Federal agencies may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

The Migratory Bird Treaty Act (16 U.S.C. 703–712) and the Fish and Wildlife Act of 1956 (16 U.S.C. 742d) designate the Department of the Interior as the key agency responsible for managing migratory bird populations that frequent the United States and for setting harvest regulations that allow for the conservation of those populations. These responsibilities include gathering accurate geographical and temporal data on various characteristics of migratory bird harvest. We use those data to promulgate harvest regulations. Annually, we adjust harvest regulations as needed to provide a maximum of subsistence harvest opportunity while keeping migratory bird populations at desired levels.

The Migratory Bird Treaty Act Protocol Amendment (1995) (Amendment) provides for the customary and traditional use of migratory birds and their eggs for subsistence use by indigenous inhabitants of Alaska. The Amendment, however, states that its intent is not to cause significant increases in the take of species of migratory birds relative to their continental population sizes. A May 20, 1996, submittal letter from the Department of State to the White House accompanied the Amendment and specified the need for harvest monitoring. The letter stated that the Fish and Wildlife Service, the Alaska Department of Fish and Game, and Native organizations cooperatively would collect harvest estimates within the subsistence eligible areas. Harvest survey data help ensure that customary and traditional use of migratory birds and their eggs for subsistence use by indigenous inhabitants of Alaska does not significantly increase the take of species of migratory birds relative to their continental population sizes.

From 1989 to 2004, we monitored subsistence harvest in Alaska through the use of annual household surveys in the most heavily used subsistence harvest areas; *e.g.*, Yukon-Kuskokwim Delta. In 2004, we began monitoring subsistence harvest in subsistence eligible areas Statewide. We presently rotate survey areas due to budget constraints. This monitoring enables us to track significant changes or trends in levels of harvest and user participation.

We gather information on the annual subsistence harvest of 54 species of birds (including geese, ducks, swans, cranes, loons, seabirds, shorebirds, and upland game birds) through surveys of households in the subsistence eligible areas of Alaska. Annually, local village resident surveyors produce lists of all households in each village and provide survey forms to randomly selected households. We combine the estimates of harvest per household with the complete list of households in the subsistence eligible areas to obtain estimates of the total annual harvest. We use four forms to collect the harvest information. We will aggregate all information collected and use it only for statistical purposes. We do not arrange or retrieve forms by a personal identifier.

Title: List of Occupied Households—Village Harvest Survey Household Enrollment Form.

OMB Control Number: 1018–0124.

Form Number: 7-FW–100.

Frequency of Collection: Once per year.

Description of Respondents: Local village surveyors.

This form contains information on the village name and number, surveyor's name, year of survey, total houses, house number and household name, and harvest activity level. The local village surveyor maintains this form.

Title: Households Separated by Hunting Category—Village Harvest Survey Household Selection by Activity Level.

OMB Control Number: 1018–0124.

Form Number: 7-FW–101.

Frequency of Collection: Once per year.

Description of Respondents: Local village surveyors.

This form provides information on the village name and number, surveyor's name, year, total houses, and activity level. The local surveyor takes each household listed on form 7–FW–100 and categorizes it on this form according to activity level. The local village surveyor provides this form to the Service.

Title: Household Permission Slip.

OMB Control Number: 1018–0124.

Form Number: 7-FW–102.

Frequency of Collection: Once per year.

Description of Respondents: Households within the subsistence eligible areas of Alaska (Alaska Peninsula, Kodiak Archipelago, the Aleutian Islands, or in areas north and west of the Alaska Range (50 CFR 92.5)).

The local village surveyor (1) asks each household if that household will participate in the subsistence harvest survey and notes a ''yes'' or ''no'' on a permission slip; (2) provides a survey form (described below) to each household with a ''yes'' permission slip; and (3) provides the completed permission slip to the Service.

Title: Subsistence Household Survey.

OMB Control Number: 1018–0124.

Form Numbers: 7–FW–103, 7–FW–103a (Interior Alaska), and 7–FW–103b (Southern Coastal Alaska).

Frequency of Collection: Three times per year.

Description of Respondents: Households within the subsistence eligible areas of Alaska (Alaska Peninsula, Kodiak Archipelago, the Aleutian Islands, or in areas north and west of the Alaska Range (50 CFR 92.5)).

There are three survey forms. The form that a household receives depends on the household's location. Each survey form consists of three pages, one page each for spring, summer, and fall (fall/winter for the Southern Coastal Alaska form). Each page contains bird illustrations, with spaces beside each illustration to mark down numbers of birds and eggs taken. The household number is on each page of the survey form, along with a village number. The local village surveyor provides completed survey forms to the Fish and Wildlife Service.

Form	Number of respondents	Annual number of responses	Avg. time/response (in minutes)	Total annual burden hours
7–FW–100	182	23,000	1	383
7–FW–101	182	182	30	91
7–FW–102	14,000	14,000	5	1,167
7–FW–103, a, b	11,500	34,500	5	2,875

We invite comments concerning this information collection on: (1) Whether or not the collection of information is necessary, including whether or not the information will have practical utility; (2) the accuracy of our estimate of the burden for this collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents. Comments submitted in response to this notice are a matter of public record. We will include and/or summarize each comment in our request to OMB to renew approval for this information collection.

Dated: June 8, 2006.

Hope Grey,

Information Collection Clearance Officer, Fish and Wildlife Service.

[FR Doc. E6–9734 Filed 6–20–06; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Availability of the Draft Comprehensive Conservation Plan and Environmental Assessment for the Alligator River National Wildlife Refuge in Dare and Hyde Counties, NC; Extension of Comment Period

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of extension of comment period.

SUMMARY: The availability of the Draft Comprehensive Conservation Plan and Environmental Assessment (Draft CCP/EA) was announced in the **Federal Register** on May 30, 2006 (71 FR 30687) for a 30-day public review and comment period ending June 29, 2006. The purpose of this notice is to extend the public review and comment period an additional 15 days.

DATES: Comments on the Draft CCP/EA received by July 14, 2006, will be considered in the preparation of the Final CCP.

ADDRESSES: All comments should be addressed to Bonnie Strawser, CCP, Alligator River National Wildlife Refuge, P.O. Box 1969, Manteo, North Carolina 27954, or direct e-mail to; *bonnie_strawser@fws.gov.*

FOR FURTHER INFORMATION CONTACT: Bonnie Strawser at telephone: 252/473–1131, extension 230.

SUPPLEMENTARY INFORMATION: Alligator River National Wildlife Refuge, in northeast North Carolina, consists of 152,260 acres in fee simple ownership. On the refuge, 38,533 acres are pond pine shrub pocosin; 30,400 acres are pond pine cane pocosin; 25,204 acres are brackish march; 12,236 acres are non-alluvial hardwood forest; 11,380 acres are mixed pine hardwood forest, and 8,468 acres are Atlantic white cedar swamp. These habitats support a variety of wildlife species, including red wolves, red-cockaded woodpeckers, waterfowl, shorebirds, wading birds, march birds, and netropical migratory songbirds.

The Draft CCP/EA was prepared pursuant to the National Wildlife Refuge System Administration Act of 1966, as amended by the National Wildlife Refuge System Improvement Act of 1997, and the National Environmental Policy Act of 1969. The CCP/EA

describes how the Service proposes to manage the refuge over the next 15 years.

To fully ensure that the public has sufficient time to comment after the public meeting is held, an extension of 15 days is needed.

Authority: This notice is published under the authority of the National Wildlife Refuge System Improvement Act of 1997, Public Law 105–57.

Dated: June 5, 2006.

Sam D. Hamilton,

Regional Director.

[FR Doc. 06–5544 Filed 6–20–06; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Receipt of Applications for Permit

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of applications for permit.

SUMMARY: The public is invited to comment on the following applications to conduct certain activities with endangered species and/or marine mammals.

DATES: Written data, comments or requests must be received by July 21, 2006.

ADDRESSES: Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents within 30 days of the date of publication of this notice to: U.S. Fish and Wildlife Service, Division of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203; fax 703/358–2281.

FOR FURTHER INFORMATION CONTACT: Division of Management Authority, telephone 703/358–2104.

SUPPLEMENTARY INFORMATION:

Endangered Species

The public is invited to comment on the following applications for a permit to conduct certain activities with endangered species. This notice is provided pursuant to section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*). Written data, comments, or requests for copies of these complete applications should be submitted to the Director (address above).

Applicant: The Wildlife Conservation Society, Bronx, NY, PRT–119215

The applicant requests a permit to export one male captive-born great Indian rhinoceros (*Rhinoceros unicornis*) to the Toronto Zoo, Ontario, Canada, for the purpose of enhancement of the species through captive propagation.

Applicant: Cincinnati Zoo and Botanical Garden, Cincinnati, OH, PRT–120130

The applicant requests an interstate commerce permit to transport four captive-born cheetahs (*Acinonyx jubatus*) for the purpose of enhancement of the species through fund-raising for the Cheetah Conservation Fund. This notification covers activities to be conducted by the applicant over a five-year period.

Applicant: Florida Marine Research Institute, Florida Fish & Wildlife Conservation Commission, St. Petersburg, FL, PRT–758093

The applicant requests re-issuance of their permit to import biological samples taken from hawksbill sea turtle (*Eretmochelys imbricate*) collected in the wild in Panama and Bermuda, for the purpose of scientific research. This notification covers activities to be conducted by the applicant over a five-year period.

Applicant: U.S. Fish and Wildlife Service, East Lansing Field Office, East Lansing, MI, PRT–122176

The applicant requests a permit to export biological samples, including feathers and toe-clips, from Kirtland warblers (*Dendroica kirtlandii*) collected in the wild in the United States, for scientific research.

Applicant: Peabody Museum of Natural History, Yale University, New Haven, CT, PRT–120045

The applicant requests a permit to export and re-import non-living museum specimens of endangered and threatened species of plants and animals previously accessioned into the applicant's collection for scientific research. This notification covers activities to be conducted by the applicant over a five-year period.

Marine Mammals

The public is invited to comment on the following applications for a permit to conduct certain activities with marine mammals. The applications were submitted to satisfy requirements of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), and the regulations governing marine mammals (50 CFR part 18). Written data, comments, or requests for copies of the complete applications or requests for a public hearing on these applications should be submitted to the Director (address above). Anyone requesting a hearing should give specific reasons why a hearing would be appropriate. The holding of such a hearing is at the discretion of the Director.

Applicant: Frank J. Blaha, Jr., Prince George, VA, PRT–124823

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport hunted from the Southern Beaufort Sea polar bear population in Canada for personal, noncommercial use.

Applicant: Harold E. Landis, Jr., Brinklow, MD, PRT–125097

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport hunted from the Lancaster Sound polar bear population in Canada for personal, noncommercial use.

Applicant: Warren L. Strickland, M.D., New Hope, AL, PRT–125179

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport hunted from the Lancaster Sound polar bear population in Canada for personal, noncommercial use.

Applicant: Randall M. Peters, Hubertus, WI, PRT–124503

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport hunted from the Southern Beaufort Sea polar bear population in Canada for personal, noncommercial use.

Dated: May 26, 2006.

Michael S. Moore,

Senior Permit Biologist, Branch of Permits, Division of Management Authority.

[FR Doc. E6–9726 Filed 6–20–06; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NM091–9941–EK–HE931]

Extension of Approved Information Collection, OMB Control Number 1004–0180

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Bureau of Land Management (BLM) requests the Office of Management and Budget (OMB) to extend an existing approval to collect information from owners and operators of helium-bearing

natural gas wells and transmission lines to evaluate the helium resources. BLM uses Form 3100–12, Gas Well Data Survey of Helium-Bearing Natural Gas, to collect gas samples from natural gas wells. This information allows BLM to determine and evaluate the extent of any helium resources that may exist in natural gas.

DATES: You must submit your comments to BLM at the address below on or before August 21, 2006. BLM will not necessarily consider any comments received after the above date.

ADDRESSES: You may mail comments to: Bureau of Land Management, (WO–630), Eastern States Office, 7450 Boston Blvd., Springfield, Virginia 22153.

You may send comments via Internet to: *comments_washington@blm.gov.* Please include ''ATTN: 1004–0180'' and your name and return address in your Internet message.

You may deliver comments to the Bureau of Land Management, Administrative Records, Room 401, 1620 L Street, NW., Washington, DC.

All comments will be available for public review at the L Street address during regular business hours (7:45 a.m. to 4:15 p.m.), Monday through Friday.

FOR FURTHER INFORMATION CONTACT: You may contact Connie H. Neely, on (806) 356–1027 (Commercial or FTS). Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service at 1–800–877–8330, 24 hours a day, seven days a week, to contact Ms. Neely.

SUPPLEMENTARY INFORMATION: 5 CFR 1320.12(a) requires BLM to provide a 60-day notice in the **Federal Register** concerning a collection of information to solicit comments on:

(a) Whether the collection of information is necessary for the proper functioning of the agency, including whether the information will have practical utility;

(b) The accuracy of our estimates of the information collection burden, including the validity of the methodology and assumptions we use;

(c) Ways to enhance the quality, utility, and clarity of the information collected; and

(d) Ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Owners and operators of helium-bearing natural gas wells and transmission lines must submit Form 3100–12, Gas Well Data Survey of Helium-Bearing Natural Gas, to provide for gas sampling and analysis we use to locate helium occurrences in natural gases. BLM carries out this program under 74 Stat. 920, Public Law 104–273, Helium Privatization Act of 1996. The knowledge of helium occurrences is part of the Government's conservation program.

We request the following information on Form 3100–12;

(A) *State and County:* The geographical location is necessary to identify the source of the gas sample. After the gas source is identified, BLM uses this information to evaluate the potential for supplying helium.

(B) *Field, Well Name, and API Number:* This information identifies the source of the gas sample. Each producing state assigns official field designations to producing areas. BLM uses this information to determine location and size of helium reserves. The well name is registered with the state and identifies the specific well from where the gas sample came. This information provides both the owner and BLM a reference so that any further questions that arise concerning the gas sample can be specifically referred to a certain well. Each well in the United States is assigned a unique number based on guidelines from the American Petroleum Institute (API). This number is essential to assure that wells with similar names are not confused.

(C) *Location and Owner:* We need the legal description of the location of the well. This information will help to locate the well on maps of the area and other features, both surface and subsurface, and to determine helium reserves. The owner's name and address are necessary to report analysis results and for further correspondence.

(D) *Sampled By:* This information provides the name of the person taking the gas sample and allows verification of well and sampling conditions if any questions arise concerning the gas sample.

(E) *Date Completed and Date Sampled:* This information refers to the date the well was ready for production. This information is necessary to determine if this is an older producing well or a recently completed well. An older producing well will have production and pressure records available within the company and at state agencies that are of great value to evaluate the helium reserves. The date sampled is important because we search the records to determine under what conditions the gas sample was taken if any questions arise concerning the gas sample.

(F) *Elevation:* This information refers to the elevation of the Kelly Bushing or ground level elevation on the drilling rig. This information is necessary because most wireline logs, mud logs, and other references to the depth of the well are made with the Kelly Bushing data. The elevation will assist to classify the geologic horizons penetrated by the well, and give some true depth in relation to sea level data.

(H) *Name of Producing Formation and Geological Age of Producing Formation:* This information is necessary to classify the subsurface source of the gas sample and to consider other producing zones in the field or area.

(I) *Depth (Feet) of Producing Formation and Thickness (Feet):* This information is necessary to consider the producing zones with those in other fields or wells. Thickness of the producing zone is an essential factor to determine the volume of helium presently in a reservoir.

(J) *Shut-In Wellhead Pressure and Open Flow:* This information is necessary to determine the reserves of helium and the adequacy of a well to produce sufficient process gas to a helium extraction plant. Shut-in wellhead pressure is essential to estimate the helium reserves. Open flow is the capacity of the well to produce gas. BLM uses this information to determine if the process gas volumes are available.

Without this information, the location and development of helium reserves could not be done, long-range helium production and conservation could not be carried out, and an assured supply of helium to the Federal Government would not be available.

Based on our experience administering this program, we estimate the public reporting burden is 15 minutes per response to supply the required information. The respondents are owners and operators of helium-bearing natural gas wells and transmission lines. The frequency of response is annually. We estimate 200 responses per year and a total annual burden of 50 hours.

BLM will summarize all responses to this notice and include them in the request for OMB approval. All comments will become a matter of public record.

Dated: June 9, 2006.

Ted R. Hudson,

Bureau of Land Management, Information Collection Clearance Officer.

[FR Doc. 06–5552 Filed 6–20–06; 8:45 am]

BILLING CODE 4310–84–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[HE–952–9911–EK]

Extension of Approved Information Collection, OMB Control Number 1004–0179

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Bureau of Land Management (BLM) requests the Office of Management and Budget (OMB) to extend an existing approval to collect helium sales information from Federal agencies and helium suppliers. BLM uses the In-Kind Crude Helium Sales Contract and non-form information from 43 CFR part 3195 to collect information. This information allows BLM to monitor reporting and recordkeeping of crude helium sales and purchases.

DATES: You must submit your comments to BLM at the address below on or before August 21, 2006.

ADDRESSES: You may mail comments to: Bureau of Land Management, (WO–630), Eastern States Office, 7450 Boston Blvd., Springfield, Virginia 22153.

You may send comments via Internet to: *comments_washington@blm.gov*. Please include ''ATTN: 1004–0179'' and your name and return address in your Internet message.

You may deliver comments to the Bureau of Land Management, Administrative Record, Room 401, 1620 L Street, NW., Washington, DC 20036.

All comments will be available for public review at the L Street address during regular business hours (7:45 a.m. to 4:15 p.m., Monday through Friday).

FOR FURTHER INFORMATION CONTACT: You may contact Connie H. Neely, Crude Helium Sales Analyst, on (806) 356–1027 (Commercial or FTS). Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service on 1–800–877–8330, 24 hours a day, seven days a week, to contact Ms. Neely.

SUPPLEMENTARY INFORMATION: 5 CFR 1320.12(a) requires that we provide a 60-day notice in the **Federal Register** concerning a collection of information to solicit comments on:

(a) Whether the collection of information is necessary for the proper functioning of the agency, including whether the information will have practical utility;

(b) The accuracy of our estimates of the information collection burden, including the validity of the methodology and assumptions we use;

(c) Ways to enhance the quality, utility, and clarity of the information collected; and

(d) Ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

The Helium Privatization Act of 1996 requires the Department of Defense, the Atomic Energy Commission, the National Aeronautics and Space Administration, and other Federal agencies to purchase major helium requirements from authorized contractors. These contractors must purchase an equivalent amount of crude helium from the Department of the Interior, Bureau of Land Management.

The In-Kind Crude Helium Sales Contract requires that contract holders supply the following information to BLM:

(A) Section 3.3. requests reporting each quarter the deliveries made of refined helium. The section referes to Addendum B of the contract, which specifies providing the following:

(1) Company name;

(2) Address and contract number;

(3) Name of the Federal agency to which helium sold;

(4) Date of delivery;

(5) Sale reference number;

(6) Location of helium use;

(7) Volume; and

(8) Units of helium sold during the itemized sales for the quarterly report. BLM uses this information to track sales of refined helium and to determine the use of the helium.

(B) Section 3.5 requires helium suppliers to notify BLM 14 days in advance of needing Federal helium in order to provide BLM sufficient time to deliver the helium.

(C) Section 3.7 requires contractors to keep all pertinent documents and records available for BLM inspection. We use this information to audit the contractors and to determine whether or not helium sales were reported accurately.

(D) Section 7.4 prohibits assigning the contract to another contractor without BLM's prior approval.

BLM also requires the following non-form information at 43 CFR part 3195:

(A) Federal helium suppliers and buyers must report the total itemized quarterly deliveries of helium within 45 calendar days after the end of the previous quarter.

(B) Federal helium suppliers must report the annual cumulative helium delivery report by November 15 of each year.

(C) The name of the company from which you purchased helium.

(D) The amount of helium you purchased and the date it was delivered.

(E) The helium use location.

Based on our experience administering the activities, we estimate the public reporting burden is one hour for the contract and two hours for the non-form quarterly helium sales reports. We estimate 8 respondents will submit a contract once and quarterly provide helium sales information. We estimate 32 responses per year and a total annual burden of 96 hours.

We will summarize all responses to this notice and send them to OMB when we request approval. All comments will become a matter of public record.

Dated: June 9, 2006.

Ted R. Hudson,

Bureau of Land Management, Information Collection Clearance Officer.

[FR Doc. 06–5553 Filed 6–20–05; 8:45 am]

BILLING CODE 4310–84–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WO–250–1220–EA–24 1A]

Extension of Approved Information Collection, OMB Control Number 1004–0133

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Bureau of Land Management (BLM) requests the Office of Management and Budget (OMB) to extend an existing approval to collect information from individuals desiring to use campgrounds. BLM uses Form 1370–36, Permit Fee Envelope, to collect this information. This information allows BLM to determine if all users paid the required fee, the number of users, and their State of origin.

DATE: You must submit your comments to BLM at the address below on or before August 21, 2006. BLM will not necessarily consider any comments received after the above date.

ADDRESSES: You may mail comments to: Bureau of Land Management, (WO–630), Eastern States Office, 7450 Boston Blvd., Springfield, Virginia 22153.

You may send comments via Internet to: *comments__washington@blm.gov*. Please include ''ATTN: 1004–0133'' and

your name and return address in your Internet message.

You may deliver comments to the Bureau of Land Management, Administrative Record, Room 401, 1620 L Street, NW., Washington, DC.

All comments will be available for public review at the L Street address during regular business hours (7:45 a.m. to 4:15 p.m), Monday through Friday.

FOR FURTHER INFORMATION CONTACT: You may contact Anthony Bobo, on (202) 452–0333 (Commercial or FTS). Persons who use a telecommunication device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) on 1–800–877–8330, 24 hours a day, seven days a week, to contact Mr. Bobo.

SUPPLEMENTARY INFORMATION: 5 CFR 1320.12(a) requires that we provide a 60-day notice in the **Federal Register** concerning a collection of information to solicit comments on:

(a) Whether the proposed collection of information is necessary for the proper functioning of the agency, including whether the information will have practical utility;

(b) The accuracy of our estimates of the information collection burden, including the validity of the methodology and assumptions we use;

(c) Ways to enhance the quality, utility, and clarity of the information collected; and

(d) Ways to minimize the burden of the collection of information on those who are to respond, including the uses of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Respondents use Form 1370–36, Permit Fee Envelope, to supply the information the BLM needs to determine if all users paid the required fee, the number of users, and their State of origin.

Based on BLM's experience administering the activities, we estimate the public reporting burden to complete the information collected is two minutes per response. The respondents are individuals desiring to use the campground. The frequency of response is occasionally. We estimate the number of responses per year is 500,000 and the total annual burden is 16,667 hours.

BLM will summarize all responses to this notice and include them in the request for OMB approval. All comments will become a matter of public record.

Dated: June 7, 2006.

Ted R. Hudson,

Bureau of Land Management, Information Collection Clearance Officer.

[FR Doc. 06–5554 Filed 6–20–06; 8:45 am]

BILLING CODE 4310–84–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WO–310–1310–PB–24 1A]

Extension of Approved Information Collection, OMB Control Number 1004–0132

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Bureau of Land Management (BLM) requests the Office of Management and Budget (OMB) to extend an existing approval to collect certain information from entities interested in the development of geothermal resources. BLM uses Form 3260–2, Geothermal Drilling Permit; Form 3260–3, Geothermal Sundry Notice; Form 3260–4, Geothermal Well Completion Report; Form 3260–5, Monthly Report of Geothermal Operations; to collect this information under 43 CFR part 3200. This information allows BLM to approve proposed operations and to ensure compliance with terms and conditions of approved operations. We also collect non-form information to determine if a lessee is making diligent and bona fide efforts to utilize and produce geothermal resources.

DATES: You must submit comments to BLM at the address below on or before August 21, 2006. BLM will not necessarily consider any comments received after the above date.

ADDRESSES: You may mail comments to: Bureau of Land Management, (WO–630), Eastern States Office, 7450 Boston Blvd., Springfield, Virginia 22153.

You may send comments via Internet to: *comments__washington@blm.gov*. Please include ''ATTN: 1004–0132'' and your name and return address in your Internet message.

You may deliver comments to the Bureau of Land Management, Administrative Record, Room 401, 1620 L Street, NW., Washington, DC.

All comments will be available for public review at the L Street address during regular business hours (7:45 a.m. to 4;15 p.m.), Monday through Friday.

FOR FURTHER INFORMATION CONTACT: You may contact Barbara Gamble, Division of Fluids Minerals, (202) 452–0338 (Commercial or FTS). Persons who use a telecommunication device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) on 1–800–877–8330, 24 hours a day, seven days a week, to contact Ms. Gamble.

SUPPLEMENTARY INFORMATION: 5 CFR 1320.12(a) requires BLM to provide a 60-day notice in the **Federal Register** concerning a collection of information to solicit comments on:

(a) Whether the proposed collection of information is necessary for the proper functioning of the agency, including whether the information will have practical utility;

(b) The accuracy of our estimates of the information collection burden, including the validity of the methodology and assumptions we use;

(c) Ways to enhance the quality, utility, and clarity of the information collected; and

(d) Ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

The Geothermal Steam Act of 1970 (30 U.S.C. 1001 *et seq.*) authorizes the Secretary of the Interior to issue leases so that geothermal resources may be developed and used. The BLM allows geothermal leasing operations on Tribal lands under the authority of the Indian Mineral Development Act (25 U.S.C. 2101–2108). The BLM supervises operations of the leases granted under this authority by the regulations in 43 CFR subpart 3260. The regulations contain information collection requirements that we need to grant the lessees permits to perform specific operations and to report the completion and progress of such work. Specifically, the regulations require operators to submit the Geothermal Drilling Permit (form 3260–2); Geothermal Sundry Notice (Form 3260–3); Geothermal Well Completion Report (Form 3260–4); and Monthly Report of Geothermal Operations (Form 3260–5).

The information the lessee of record, a designated operator, or an approved agent acting on behalf of the lessee or operator provides, allows BLM to conduct or modify operations under the terms and conditions of a Federal geothermal lease or an Indian geothermal contract. The information enables BLM to approve both geothermal explorations and modifications to existing wells. Without this information, BLM could not adequately evaluate activity and

performance of non-abandoned wells and production facilities for individual leases. This includes drilling and other well operations and engineering data for individual well production and injection. The lessee also reports any environmental monitoring conducted.

The lessee may request a lease extension beyond the primary term by drilling, diligent efforts, production of byproducts, and unit commitment. We use the non-form information to determine if a lessee qualifies to extend its geothermal lease. The lessee submits the following non-form reports under 43 CFR subpart 3208:

(1) Diligent Efforts Report;

(2) Bona Fide Efforts Report; and

(3) Significant Expenditures Report.

Based on our experience administering the activities, we estimate it takes from 1 to 10 hours per response to complete the required information, depending on which form or report the respondent submits. Respondents are lessees and operators of Federal geothermal leases and Indian geothermal contracts subject to BLM oversight. We estimate 835 responses per year and a total annual burden of 1,850 hours.

BLM will summarize all responses to this notice and include them in the request for OMB approval. All comments will become a matter of public record.

Dated: June 15, 2006.

Ted R. Hudson,

Bureau of Land Management, Information Collection Clearance Officer.

[FR Doc. 06–5555 Filed 6–20–06; 8:45 am]

BILLING CODE 4310–84–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WO–250–1231–EB–24 1A]

Extension of Approved Information Collection, OMB Control Number 1004–0119

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Bureau of Land Management (BLM) requests the Office of Management and Budget (OMB) to extend an existing approval to collect certain information from recreation visitors to areas of the public lands and related waters where we require special recreation permits. BLM uses Form 2930–1, Special Recreation Application and Permit, to collect this information. This information allows the BLM to authorize requested recreation use and determine appropriate fees. BLM will also use the information to tabulate recreation use data for the annual Federal Recreation Fee Report as required by the Land and Water Conservation Act.

DATE: You must submit your comments to BLM at the address below on or before August 21, 2006. BLM will not necessarily consider any comments received after the above date.

ADDRESSES: You may mail comments to: Bureau of Land Management, (WO–630), Eastern States Office, 7450 Boston Blvd., Springfield, Virginia 22153.

You may send comments via Internet to: *comments_washington@blm.gov.* Please include ''ATTN: 1004–0119'' and your name and return address in your Internet message.

You may deliver comments to the Bureau of Land Management, Administrative Record, Room 401, 1620 L Street, NW., Washington, DC.

All comments will be available for public review at the L Street address during regular business hours (7:45 a.m. to 4:15 p.m.), Monday through Friday.

FOR FURTHER INFORMATION CONTACT: You may contact Anthony Bobo, on (202) 452–0333 (Commercial or FTS). Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) on 1–800–877–8330, 24 hours a day, seven days a week, to contact Mr. Bobo.

SUPPLEMENTARY INFORMATION: 5 CFR 1320.12(a) requires BLM to provide a 60-day notice in **Federal Register** concerning a collection of information to solicit comments on:

(a) Whether the proposed collection of information is necessary for the proper functioning of the agency, including whether the information will have practical utility;

(b) The accuracy of our estimates of the information collection burden, including the validity of the methodology and assumptions we use;

(c) Ways to enhance the quality, utility, and clarity of the information collected; and

(d) Ways to minimize the burden of the information collection 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.

Respondents submit Form 2930–1, Special Recreation Application and Permit, to supply identifying information and data on proposed commercial, competitive, or individual recreation use. This information allows the BLM to authorize requested recreation use and determine appropriate fees. We will also use this information to tabulate recreation use data for the annual Federal Recreation Fee Report as required by the Land and Water Conservation Act.

Based on BLM's experience administering these activities, we estimate the public reporting burden for the information collected is 30 minutes per response. The respondents are recreation visitors to areas of the public land and related waters where we require special recreation permits. The frequency of response is on occasion. We estimate the number of responses per year is 31,000 and a total annual burden of 15, 500 hours.

BLM will summarize all responses to this notice and include them in the request for OMB approval. All comments will be come a matter of public record.

Dated: June 7, 2006.

Ted R. Hudson,

Bureau of Land Management, Information Collection Clearance Officer.

[FR Doc. 06–5556 Filed 6–20–06; 8:45 am]

BILLING CODE 4310–84–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV–960–1060–PF–24 1A]

Extension of Approved Information Collection, OMB Control Number 1004–0042

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Bureau of Land Management (BLM) requests the Office of Management and Budget (OMB) to extend an existing approval to collection certain information from those individuals interested in the adoption of a wild horse or burro (43 CFR part 4700). BLM uses Form 4710–10, Application for Adoption of Wild Horse(s) or Burro(s), to collect this information. This information allows BLM to determine whether or not an individual qualifies to provide humane care and proper treatment, including transportation, feeding and handling, to an adopted wild horse or burro.

DATES: You must submit your comments to BLM at the address below on or before August 21, 2006. BLM will not

necessarily consider any comments received after the above date.

ADDRESSES: You may mail comments to: Bureau of Land Management, (WO–620), Eastern States Office, 7450 Boston Blvd., Springfield, Virginia 22153.

You may send comments via Internet to: *comments_washington@blm.gov.* Please include ''ATTN: 1004–0042'' and your name and return address in your Internet message.

You may deliver comments to the Bureau of Land Management, Administrative Record, Room 401, 1620 L Street, NW., Washington, DC.

All comments will be available for public review at the L Street address during regular business hours (7:45 a.m. to 4:15 p.m.), Monday through Friday.

FOR FURTHER INFORMATION CONTACT: You may contact Bea Wade, on (775) 861–6625 (Commercial or FTS). Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8330, 24 hours a day, seven days a week, to contact Ms. Wade.

SUPPLEMENTARY INFORMATION: 5 CFR 1320.12(a) requires BLM to provide 60-day notice in the **Federal Register** concerning a collection of information to solicit comments on:

(a) Whether the collection of information is necessary for the proper functioning of the agency, including whether the information will have practical utility;

(b) The accuracy of our estimates of the information collection burden, including the validity of the methodology and assumptions we use;

(c) Ways to enhance the quality, utility, and clarity of the information collected; and

(d) Ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Section 3(b)(2)(B) of the Wild Free-Roaming Horse and Burro Act requires that BLM provide for individuals whom the Secretary determines are qualified to adopt wild horses and burros to provide humane care and proper treatment. The regulations at 43 CFR subpart 4750 request applicants to submit Form 4710–10, Application for Adoption of Wild Horse(s) and Burro(s), to adopt wild horses and burros.

BLM requests the following information on Form 4710–10:

(A) The applicant must provide the name, address, and telephone number to further communicate about the adoption.

(B) The applicant must provide the driver's license number to locate the adopter. Wild horses and burros remain the property of the United States until title passes to private individuals. During the period between adoption and the passing of title, BLM is under obligation to see that the animals receive humane care and proper treatment. For that reason, BLM visits and contacts the adopter to determine that status and condition of the animals. BLM uses this information to also determine the location and condition of animals if the adopter should change the location of the animals within the State.

(C) The applicant must provide the birth date to assure that the applicant qualifies to adopt an animal under section 43 CFR 4750.3–2 (must be at least 18 years or older).

(D) The applicant must provide the social security number. In those states where the driver's license and social security numbers are the same, the applicant needs only his/her driver's license number. BLM uses this information for possible debt collection purposes and to track the location of the adopter if the adopter moves out-of-state.

(E) The applicant must indicate the number and species of animals the adopter wishes to adopt so we can determine the availability of the animals requested.

(F) The applicant must provide a map of the location where the adopted animals will be located so that we can conduct inspections of the facility and the animals to ensure compliance under 43 CFR 4750.3–2 relating to private maintenance.

(G) The applicant must sign a Private Maintenance and Care Agreement (a part of the Form 4710–10) after BLM approves the application to adopt a wild horse or burro.

BLM uses the information to determine whether individuals are qualified to provide humane care and proper treatment to one or more adopted animals. When BLM approves the application and the individual completes a Private Maintenance and Care Agreement, the individual may adopt one to four wild horses or burros at one time. There is no other source for the required information and failure to furnish the required information will result in the BLM denial of an application to adopt a wild horse or burro.

Based on BLM's experience in administering the activities, we estimate the public reporting burden is 10 minutes per response to complete the required information. We estimate 30,000 responses per year and a total annual burden of 5,000 hours.

BLM will summarize all responses to this notice and include them in the request for OMB approval. All comments will become a matter of public record.

Dated: June 15, 2006.

Ted R. Hudson,

Bureau of Land Management, Information Collection Clearance Officer.

[FR Doc. 06–5557 Filed 6–20–06; 8:45 am]

BILLING CODE 4310–84–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WO–220–1020–JH–24 1A]

Extension of Approved Information Collection, OMB Control Number 1004–0019

AGENCY: Bureau of Land Management, Interior

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Bureau of Land Management (BLM) requests the Office of Management and Budget (OMB) to extend an existing approval to collect information from individuals, households, farms, or businesses interested in cooperating with the BLM in constructing or maintaining rangeland improvement projects to aid handling and caring for domestic livestock that BLM authorizes to graze on public land. BLM uses these forms to collect this information: Form 4120–6, Cooperative Range Improvement Agreement, to document cooperative range improvement construction arrangements with grazing operators; and Form 4120–7, Range Improvement Permit, to authorize grazing operators to develop rangeland improvement projects. This information allows the BLM to review the application and to make a decision on the proposed rangeland improvement project.

DATES: You must submit your comments to BLM at the address below on or before August 21, 2006. BLM will not necessarily consider any comments received after the above date.

ADDRESSES: You may mail comments to: Bureau of Land Management, (WO–630), Eastern States Office, 7450 Boston Blvd., Springfield, Virginia 22153.

You may send comments via Internet to: *comments_washington@blm.gov*. Please include ''ATTN: 1004–0019'' and

your name and return address in your Internet message.

You may deliver comments to the Bureau of Land Management, Administrative Record, Room 401, 1620 L Street, NW., Washington, DC.

All comments will be available for public review at the L Street address during regular business hours (7:45 a.m. to 4:15 p.m.) Monday through Friday.

FOR FURTHER INFORMATION CONTACT: You may contact Ken Visser on (775) 861–6492 (Commercial or FTS). Persons who use a telecommunication device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) on 1–800–877–8330, 24 hours a day, seven days a week, to contact Mr. Visser.

SUPPLEMENTARY INFORMATION: 5 CFR 1320.12(a) requires that we provide a 60-day notice in **Federal Register** concerning a collection of information to solicit comments:

(a) Whether the collection of information is necessary for the proper functioning of the agency, including whether the information will have practical utility;

(b) The accuracy of our estimates of the information collection burden, including the validity of the methodology and assumptions we use;

(c) Ways to enhance the quality, utility, and clarity of the information collected; and

(d) Ways to minimize the information collection burden 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.

The BLM administers the livestock grazing program consistent with land use plans, multiple use objectives, sustained yield, environmental values, economic considerations, and other factors to allow the opportunity to construct and maintain rangeland improvements on the public lands.

Because of the variations in size and complexity of rangeland improvement projects, BLM estimates it takes 50 minutes to complete each form. We estimate 600 responses per year for Form 4120–6 and 60 responses per year for Form 4120–7 with a total annual burden of 500 hours.

BLM will summarize all responses to this notice and include them in the request for OMB approval. All comments will become a matter of public record.

Dated: June 7, 2006.

Ted R. Hudson,

Bureau of Land Management, Information Collection Clearance Officer.

[FR Doc. 06–5558 Filed 6–20–06; 8:45 am]

BILLING CODE 4310–84–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WO–350–1430–PF–24 1A]

Extension of Approved Information Collection, OMB Control Number 1004–0009

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Bureau of Land Management (BLM) requests the Office of Management and Budget (OMB) to extend an existing approval to collect certain information from applicants who wish to acquire a land use authorization on public lands. The regulations (43 CFR part 2920) establish procedures for processing proposals for non-Federal use of public Lands. BLM will determine the validity of uses proposed by applicants from information provided on the Land Use application and Permit, (Form 2920–1).

DATES: You must submit your comments to BLM at the appropriate address below on or before August 21, 2006. BLM will not necessarily consider any comments received after the above date.

ADDRESSES: You may send comments to: Bureau of Land Management (WO–630), Eastern States Office, 7450 Boston Blvd., Springfield, Virginia 22153.

You may send comments via Internet to: *comments_washington@blm.gov.* Please include ''ATTN: 1004–0009'' and your name and return address in your Internet message.

You may deliver comments to the Bureau of Land Management, Administrative Record, Room 401, 1620 L Street, NW., Washington, DC.

All comments will be available for public review at the L Street address during regular business hours (7:45 a.m. to 4:15 p.m.), Monday through Friday.

FOR FURTHER INFORMATION CONTACT: You may contact Alzata L. Ransom, Realty Use Group, on (202) 452–7772 (Commercial or FTS). Persons who use a telecommunications device for the deaf (TDD) may call the Federal information Relay Service (FIRS) at 1–800–877–8330, 24 hours a day, seven days a week, to contact Ms. Ransom.

SUPPLEMENTARY INFORMATION: 5 CFR 1320.12(a) requires BLM to provide 60-day notice in the **Federal Register** concerning a collection of information to solicit comments on:

(a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(b) The accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(c) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(d) Ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

The BLM implements section 43 CFR 2922.2–1 which requires submitting the Land Use application and Permit, Form 2920–1, for land use authorizations which may include leases, permits, or easements to eligible applicants. Since the information collected is unique to each application, there is no other suitable means of information collection identified to gather the information at a lesser burden. If the applicant fails to provide the required information, BLM must reject the application.

Based on our experience administering these activities, we estimate the public reporting burden for the information collected is 1 to 120 hours. The frequency of response is once when filing the application. We estimate the number of responses per year is 590 and a total annual burden of 2,137 hours.

BLM will summarize all responses to this notice and include them in the request for OMB approval. All comments will become a matter of public record.

Dated: June 7, 2006

Ted R. Hudson,

Bureau of Land Management, Information Collection Clearance Officer.

[FR Doc. 06–5559 Filed 6–20–06; 8:45 am]

BILLING CODE 4310–84–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NM–920–1310–06; NMNM 32458]

Notice of Proposed Reinstatement of Terminated Oil and Gas Lease NMNM 32458

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of reinstatement of terminated oil and gas lease.

SUMMARY: Under the Class II provisions of Title IV, Public Law 97–451, the Bureau of Land Management (BLM) received a petition for reinstatement of oil and gas lease NMNM 32458 from the lessee, OXY USA WTP LP., for lands in Lea County, New Mexico. The petition was filed on time and was accompanied by all the rentals due since the date the lease terminated under the law.

FOR FURTHER INFORMATION CONTACT: Lourdes B. Ortiz, BLM, New Mexico State Office, at (505) 438–7586.

SUPPLEMENTARY INFORMATION: No valid lease has been issued that affect the lands. The lessee agrees to new lease terms for rentals and royalties of $5.00 per acre or fraction thereof, per year, and 16⅔ percent, respectively. The lessee paid the required $500.00 administrative fee for the reinstatement of the lease and $166.00 cost for publishing this Notice in the **Federal Register**. The lessee met all the requirements for reinstatement of the lease as set out in Sections 31(d) and (e) of the Mineral Leasing Act of 1920 (30 U.S.C. 188). We are proposing to reinstate lease NMNM 32458, effective the date of termination, December 1, 2004, under the original terms and conditions of the lease and the increased rental and royalty rates cited above.

Dated: June 12, 2006.

Lourdes B. Ortiz,

Land Law Examiner.

[FR Doc. 06–5543 Filed 6–20–06; 8:45 am]

BILLING CODE 4310–FB–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NM–920–1310–06; NMNM 107367]

Notice of Proposed Reinstatement of Terminated Oil and Gas Lease NMNM 107367

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Reinstatement of Terminated Oil and Gas Lease.

SUMMARY: Under the Class II provisions of Title IV, Public Law 97–451, The Bureau of Land Management (BLM) received a petition for reinstatement of oil and gas lease NMNM 107367 from the lessee, OXY USA WTP LP., for lands in Eddy County, New Mexico. The petition was filed on time and was accompanied by all the rentals due since the date the lease terminated under the law.

FOR FURTHER INFORMATION CONTACT: Lourdes B. Ortiz, BLM, New Mexico State Office, at (505) 438–7586.

SUPPLEMENTARY INFORMATION: No valid lease has been issued that affects the lands. The lessee agrees to new lease terms for rentals and royalties of $10.00 per acre or fraction thereof, per year, and 16⅔ percent, respectively. The lessee paid the required $500.00 administrative fee for the reinstatement of the lease and $166.00 cost for publishing this Notice in the **Federal Register**. The lessee met all the requirements for reinstatement of the lease as set out in sections 31(d) and (e) of the Mineral Leasing Act of 1920 (30 U.S.C. 188). We are proposing to reinstate lease NMNM 107367, effective the date of termination, December 1, 2004, under the original terms and conditions of the lease and the increased rental and royalty rates cited above.

Dated: June 13, 2006.

Lourdes B. Ortiz,

Land Law Examiner.

[FR Doc. E6–9700 Filed 6–20–06; 8:45 am]

BILLING CODE 4310–FB–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AZ–310–5700–BX; AZA–31733]

Notice of Realty Action; Recreation and Public Purposes Act Classification; Arizona; Notice of Availability of Proposed Kingman Resource Management Plan Amendment/Environmental Assessment

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: Pursuant to section 202 of the Federal Land Policy and Management Act (FLPMA) of 1976 (43 U.S.C. 1712) as amended, the Bureau of Land Management (BLM) has prepared an Environmental Assessment/Resource Management Plan (RMP) Amendment for a proposed shooting range. This document, available online at *http://www.blm.gov/az/env_docs/library/shooting_range_ea.pdf*, analyzes the effects of the proposal on public lands and of amending the RMP to allow for disposal of land necessary for the shooting range and special management designation of land necessary for the buffer, for the Boundary Cone road alternative as described in Supplementary Information below. Pursuant to section 212 of FLPMA, the BLM has examined and found suitable for conveyance under the provisions of the Recreation and Public Purposes (R&PP) Act (43 U.S.C. 869 *et seq.*), as amended, two parcels of public land, as described in Supplementary Information below, in Mohave Valley near Bullhead City, Mohave County, Arizona. This notice invites comments on BLM's classification of that land as suitable for conveyance under the R&PP Act.

DATES: Protests regarding the proposed land use plan amendment must be postmarked by July 21, 2006. Comments regarding R&PP classification of public land must be postmarked by August 7, 2006.

ADDRESSES: Protests regarding the plan amendment on the Boundary Cone Road location should be sent to the Director, Bureau of Land Management, Attention: Brenda Williams (WO–210), for mail: P. O. Box 66538, Washington, DC 20035 OR for overnight express: 1620 L Street NW., Suite 1075, Washington, DC 20236. Comments regarding the classification of public land for R&PP should be sent to the Kingman Field Office, Bureau of Land Management, 2755 Mission Boulevard, Kingman, AZ 86401.

FOR FURTHER INFORMATION CONTACT: Joyce Cook, Realty Specialist, Kingman Field Office, 2755 Mission Boulevard, Kingman, Arizona, 86401, telephone (928) 718–3716.

SUPPLEMENTARY INFORMATION: The Kingman Resource Management Plan (RMP), approved in March 1995, identified land for R&PP uses, *i.e.* churches, schools, parks, fire departments, etc. with a caveat that non-conforming uses may be considered on a case-by-case basis. A shooting range is considered to be a non-conforming use. A Notice was previously published, 68 FR 14687, March 26, 2003, regarding the intent to amend the Kingman Resource Management Plan and classify lands for Recreation and Public Purpose for a proposed shooting range as reiterated below:

A—Shooting Range

Gila and Salt River Meridian, Mohave County, Arizona

T. 19 N., R. 21 W., Sec. 35, S½NE¼NE¼, SE¼NW¼NE¼, E½SW¼NE¼, SE¼NE¼, N½NE¼SE¼, N½SW¼NE¼SE¼, NE¼NW¼SE¼, N½SE¼NW¼SE¼;
Sec. 36, S½NW¼NE¼, N½SW¼NE¼, N½S½SW¼NE¼, S½N½NW¼, S½NW¼, N½NE¼NW¼SW¼, NW¼NW¼SW¼;
Containing 315 acres, more or less.

The lands identified under B-Buffer below are being considered through the plan amendment process for special designation for retention and management under a Cooperative Management Plan/Agreement between the Arizona Game and Fish Department and the BLM for safety purposes:

B—Buffer

Gila and Salt River Meridian, Mohave County, Arizona

T. 19 N., R. 21 W., Sec. 25, SW¼NE¼SE¼, S½NW¼SE¼, S½N½SW¼, S½S½;
Sec. 26, S½NE¼SE¼, SE¼NW¼SE¼, E½SW¼SE¼, SE¼SE¼;
Sec. 35, N½NE¼NE¼, NE¼NW¼NE¼;
Sec. 36, N½N½N½, S½NE¼NE¼, N½SE¼NE¼;
Containing 470 acres, more or less.

This location is known as the Boundary Cone Road location and is the proponent's proposed action. It has been examined and found suitable for conveyance under the provisions of the R&PP Act, as amended (43 U.S.C. 869 *et seq.*) and the public lands described are proposed for classification under section 7 of the Taylor Grazing Act, 43 U.S.C. 315f and Executive Order No. 6910 and the R&PP Act.

Due to Native American concerns, BLM initiated an Alternative Dispute Resolution process with affected stakeholders, including the Fort Mojave and Hualapai tribes, which resulted in the addition of another alternative for analysis. This alternative, known as the Willow Road location, has been examined and found suitable for conveyance under the provisions of the R&PP Act, as amended (43 U.S.C. 869 *et seq.*) and the public lands described below are proposed for classification under section 7 of the Taylor Grazing Act, 43 U.S.C. 315f and Executive Order No. 6910 and the R&PP Act. This location is on public land described as follows:

Gila and Salt River Meridian, Arizona

T. 18 N., R. 21 W.,
Sec. 28, NE¼, NE¼NE¼NW¼, S½N½NW¼, S½NW¼, S½;
The area described contains approximately 610 acres in Mohave County.

The public lands described above were identified for disposal in the Kingman Resource Management Plan as land not needed for Federal (BLM) purposes and available to support community expansion. Conveyance of the Boundary Cone Road location would be consistent with the Kingman Resource Management Plan if the plan amendment is approved. Conveyance of public land for a shooting range would be in the public interest. The conveyance, if issued, would be subject to the provisions of the R&PP Act and applicable regulations of the Secretary of the Interior and would contain the following reservations to the United States:

1. A right-of-way thereon for ditches and canals constructed by the authority of the United States, Act of August 30, 1890 (43 U.S.C. 945).

2. All Federal minerals shall be reserved to the United States, together with the right to prospect for, mine and remove such deposits from the same under applicable law and such regulations as the Secretary of the Interior may prescribe.

And the conveyance would be subject to:

1. Valid existing rights.

In addition, if the Boundary Cone Road location is selected, the conveyance would be subject to:

1. Those rights for highway purposes as have been granted to Mohave County, its successors or assigns, by right-of-way No. AZA–20911 pursuant to Title V of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1761) as amended;

2. Those rights for electric power transmission line purposes as have been granted to Citizens Utilities Company, it successors and assigns, by right-of-way No. AZA–24775 pursuant to Title V of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1761) as amended.

There are no rights-of-way of record on the Willow Road location.

Detailed information concerning this action is available for review at the office of the Bureau of Land Management, Kingman Field Office, 2755 Mission Boulevard, Kingman, Arizona 86401.

Upon publication of this notice in the **Federal Register**, the public land described under the Willow Road location is segregated from all other forms of appropriation under the public land laws, including the general mining laws, except for conveyance under the R&PP Act, leasing under the mineral leasing laws, and disposal under the mineral material disposal laws. The public lands described under the Boundary Cone Road location were previously segregated by notice 68 FR 14687, March 26, 2003, as noted above.

Classification Comments: Interested parties may submit comments involving the suitability of the Willow Road location for a shooting range site. Comments on the classification are restricted to whether the land is physically suited for the proposal, whether the use will maximize the future use or uses of the land, whether the use is consistent with local planning and zoning, or if the use is consistent with State and Federal programs.

Comments received on the classification will be answered by the State Director with the right to further comment to the Secretary of Interior. In the absence of any comments, the classification will become the final determination of the Department of the Interior.

Protests: A protest to the proposed plan amendment must be filed in accordance with 43 CFR 1610.5–2. Public protests and comments submitted for this planning review, including names and street addresses of respondents, will be available for public review at the Kingman Field Office during regular business hours (7:30 a.m. to 4:30 p.m.), Monday through Friday, except holidays. Individual respondents may request confidentiality. If you wish to withhold your name or address from public review or from disclosure under the Freedom of Information Act, you must state this prominently at the beginning of your comments. Such requests will be honored to the extent allowed by law. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public inspection in their entirety. E-mail and faxed protests will not be accepted as valid protests unless the protesting party also provides the original letter by either regular or overnight mail postmarked by the close of the protest period. Under these conditions, BLM will consider the e-mail or faxed protest as an advance copy and it will receive full consideration. If you wish to provide BLM with such advance notification, please direct faxed protests to the attention of the BLM Protest Coordinator at 202–452–5112, and e-mails to *Brenda_Hudgens-Williams@blm.gov*.

The Environmental Assessment analyzes both alternative locations as well as the No Action Alternative. Upon completion of the protest/comment process, a decision will be made on the location based on the facts presented in the Environmental Assessment. This

decision will carry a 30 day appeal period.

Dated: June 13, 2006.

Wayne King,

Kingman Field Manager.

[FR Doc. E6–9654 Filed 6–20–06; 8:45 am]

BILLING CODE 4310–32–P

DEPARTMENT OF JUSTICE

Office of Community Oriented Policing Services; Agency Information Collection Activities: Proposed Collection; Comments Requested

ACTION: 60-day notice of information collection under review: monitoring information collections.

The Department of Justice (DOJ) Office of Community Oriented Policing Services (COPS), has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies.

The purpose of this notice is allow for 60 days for public comment until August 21, 2006. This process is conducted in accordance with 5 CFR 1320.10.

If you have comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Rebekah Dorr, Department of Justice Office of Community Oriented Policing Services, 1100 Vermont Avenue, NW., Washington, DC 20530.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Enhance the quality, utility, and clarity of the information to be collected; and

—Minimize the burden of the collection of information on those who are to respond including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Proposed collection; comments requested.

(2) *Title of the Form/Collection:* Monitoring Information Collections.

(3) *Agency form number, if any, and the applicable component of the Department sponsoring the collection:* None. U.S. Department of Justice Office of Community Oriented Policing Services.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: COPS Office hiring grantees that are selected for in-depth monitoring of their grant implementation and equipment grantees that report using COPS funds to implement a criminal intelligence system will be required to respond. The Monitoring Information Collections include two types of information collections: The Monitoring Request for Documentation and the 28 CFR Part 23 Monitoring Kit.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond/reply:* It is estimated that 140 respondents annually will complete the collections: 40 respondents to the Monitoring Request for Documentation at 3 hours per respondent; 100 respondents to the 28 CFR Part 23 Monitoring Kit at 2 hours per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* There are an estimated 320 total annual burden hours associated with this collection.

If additional information is required contact: Robert B. Briggs, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Patrick Henry Building, Suite 1600, 601 D Street, NW., Washington, DC 20530.

Dated: June 13, 2006.

Robert B. Briggs.

Department Clearance Officer, PRA, Department of Justice.

[FR Doc. 06–5565 Filed 6–20–06; 8:45 am]

BILLING CODE 4410–AT–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Under the Clean Air Act, Resource Conservation and Recovery Act, and the Emergency Planning and Community Right To Know Act

Consistent with 28 CFR 50.7, notice is hereby given that on June 8, 2006, a proposed consent decree (''decree'') in *United States, et al.* v. *Oxy Vinyls, L.P.,* Civil Action No. 3:06–CV1005–D, was lodged with the United States District Court for the Northern District of Texas.

In this action, the United States seeks civil penalties and injunctive relief against Oxy Vinyls, L.P. (''Oxy Vinyls'') for violations under (1) Section 113(a)(3) of the Clean Air Act, 42 U.S.C. 7413(a)(3); (2) Section 3008(a)(1) of the Resource Conservation and Recovery Act (''RCRA''), 42 U.S.C. 6928(a)(1); and (3) Section 313 of the Emergency Planning and Community Right to Know Act, 42 U.S.C. 11023, relating to four of Oxy Vinyls' polyvinyl chloride manufacturing facilities (the ''PVC Facilities''). the PVC Facilities are located in Pasadena, Texas; Deer Park, Texas; Louisville, Kentucky; and Pedricktown, New Jersey. The Louisville Metro Air Pollution Control District (''LMAPCD'') and the State of New Jersey are co-signatories to the decree.

The proposed decree provides that Oxy Vinyls will (1) Pay a civil penalty of $140,000 to be split between the United States and the LMAPCD, and a civil penalty of $200,000 to the State of New Jersey for separate state-only violations; (2) perform three different federal Supplemental Environmental Projects at an estimated cost of $1,224,000 that are expected to decrease emissions of vinyl chloride by approximately 40,000 pounds (lbs) per year relative to 2003 project mix at nameplate capacity; (3) fund a state environmental project; (4) perform a RCRA sampling plan at its Pasadena, Texas facility; and (5) perform certain limited injunctive relief.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, P.O. Box 7611, Ben Franklin Station, U.S. Department of Justice, Washington, DC 20044–7611, and should refer to *United States, et al.* v. *Oxy Vinyls, L.P.,* D.J. Ref. 90–5–2–1–08333.

The Decree may be examined at the Office of the United States Attorney, 1100 Commerce Street, Suite 300,

Dallas, Texas 75242, and at the U.S. Environmental Protection Agency-Region 6, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202–2733. During the pubic comment period, the decree may also be examined on the following Department of Justice Web site, *http://www.usdoj.gov/enrd/open.html.* A copy of the decree may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, Ben Franklin Station, U.S. Department of Justice, Washington, DC 20044–7611 or by faxing or e-mailing a request to Tonia Fleetwood (*tonia.fleetwood@usdoj.gov*), fax no. (202) 514–0097, phone confirmation number (202) 514–1547. In requesting a copy from the Consent Decree Library, please enclose a check in the amount of $17.25 (25 cents per page reproduction cost) payable to the U.S. Treasury.

W. Benjamin Fisherow,

Deputy Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 06–5566 Filed 6–20–06; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Bureau of Alcohol, Tobacco, Firearms and Explosives

Agency Information Collection Activities: Proposed Collection; Comments Requested

ACTION: 60-Day Notice of Information Collection Under Review: ATF Distribution Center Contractor Survey.

The Department of Justice (DOJ), Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for ''sixty days'' until August 21, 2006. This process is conducted in accordance with 5 CFR 1320.10.

If you have comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Dirck Harris, Document Services Branch, Room 3110, 650 Massachusetts Avenue, NW., Washington, DC 20226.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—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 agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Enhance the quality, utility, and clarity of the information to be collected; and

—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of Information Collection:* Extension of a currently approved collection.

(2) *Title of the Form/Collection:* ATF Distribution Center Contractor Survey.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form Number: ATF F 1370.4. Bureau of Alcohol, Tobacco, Firearms and Explosives.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract.* Primary: Business or other for-profit. Other: Individual or households. The information provided on the form is used to evaluate the ATF Distribution Center contractor and the services it provides the users of ATF forms and publications.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* It is estimated that 21,000 respondents will complete a 1 minute form.

(6) *An estimate of the total public burden (in hours) associated with the collection:* There are an estimated 200 annual total burden hours associated with this collection.

If additional information is required contact: Lynn Bryant, Department Deputy Clearance Officer, Policy and Planning Staff, Justice Management Division, United States Department of Justice, Patrick Henry Building, Suite 1600, 601 D Street NW., Washington, DC 20530.

Dated: June 15, 2006.

Lynn Bryant,

Department Deputy Clearance Officer, Department of Justice.

[FR Doc. E6–9696 Filed 6–20–06; 8:45 am]

BILLING CODE 4410–FY–P

DEPARTMENT OF JUSTICE

Bureau of Alcohol, Tobacco, Firearms and Explosives

Agency Information Collection Activities: Proposed Collection; Comments Requested

ACTION: 60-Day Notice of Information Collection Under Review:

Application and Permit for Permanent Exportation of Firearms. The Department of Justice (DOJ), Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for ''sixty days'' until August 21, 2006. This process is conducted in accordance with 5 CFR 1320.10.

If you have comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Kenneth Houchens, Chief, National Firearms Act Branch, 244 Needy Road, Martinsburg, West Virginia, 25401.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—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 agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Enhance the quality, utility, and clarity of the information to be collected; and

—Minimize the burden of the collection of information on those who are to

respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of Information Collection:* Extension of a currently approved collection.

(2) *Title of the Form/Collection:* Application and Permit For Permanent Exportation of Firearms.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form Number: ATF F 9 (5320.9). Bureau of Alcohol, Tobacco, Firearms and Explosives.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Business or other for-profit. Other: Individual or households. The form is used to obtain permission to export firearms and serves as a vehicle to allow either the removal of the firearm from registration in the National Firearms Registration and Transfer Record or collection of an excise tax. It is used by Federal firearms licensees and others to obtain a benefit.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* It is estimated that 70 respondents will complete a 18 minute form.

(6) *An estimate of the total public burden (in hours) associated with the collection:* There are an estimated 11 annual total burden hours associated with this collection.

If additional information is required contact: Lynn Bryant, Department Deputy Clearance Officer, Policy and Planning Staff, Justice Management Division, Department of Justice, Patrick Henry Building, Suite 1600, 601 D Street NW., Washington, DC 20530.

Dated: June 15, 2006.

Lynn Bryant,

Department Deputy Clearance Officer, Department of Justice.

[FR Doc. E6–9697 Filed 6–20–06; 8:45 am]

BILLING CODE 4410–FY–P

DEPARTMENT OF JUSTICE

Bureau of Alcohol, Tobacco, Firearms and Explosives

Agency Information Collection Activities: Proposed Collection; Comments Requested

ACTION: 60–Day Notice of Information Collection Under Review: Application to Transport Interstate or to Temporarily Export Certain National Firearms Act (NFA) Firearms.

The Department of Justice (DOJ), Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for ''sixty days'' until August 21, 2006. This process is conducted in accordance with 5 CFR 1320.10.

If you have comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Kenneth Houchens, Chief, National Firearms Act Branch, 244 Needy Road, Martinsburg, WV 25401.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—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 agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Enhance the quality, utility, and clarity of the information to be collected; and

—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of Information Collection:* Extension of a currently approved collection.

(2) *Title of the Form/Collection:* Application to Transport Interstate or to Temporarily Export Certain National Firearms Act (NFA) Firearms

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form Number: ATF F 5320.20. Bureau of Alcohol, Tobacco, Firearms and Explosives.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individual or household. Other: None. The information is used by ATF to determine the lawful transportation of an NFA firearm and/or to pursue the criminal investigation into an unregistered NFA firearm.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* It is estimated that 800 respondents will complete a 30 minute form.

(6) *An estimate of the total public burden (in hours) associated with the collection:* There are an estimated 400 annual total burden hours associated with this collection.

If additional information is required contact: Lynn Bryant, Department Deputy Clearance Officer, Policy and Planning Staff, Justice Management Division, Department of Justice, Patrick Henry Building, Suite 1600, 601 D Street NW., Washington, DC 20530.

Dated: June 15, 2006.

Lynn Bryant,

Department Deputy Clearance Officer, Department of Justice.

[FR Doc. E6–9698 Filed 6–20–06; 8:45 am]

BILLING CODE 4410–FY–P

DEPARTMENT OF JUSTICE

Bureau of Alcohol, Tobacco, Firearms and Explosives

Agency Information Collection Activities: Proposed Collection; Comments Requested

ACTION: 60-Day Notice of Information Collection Under Review: Federal Explosives License/Permit (FEL) Renewal Application.

The Department of Justice (DOJ), Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), has submitted the following information collection request to the Office of Management and Budget

(OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for ''sixty days'' until August 21, 2006. This process is conducted in accordance with 5 CFR 1320.10.

If you have comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Christopher R. Reeves, Chief, Federal Explosives Licensing Center, 244 Needy Road, Martinsburg, WV 25401.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—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 agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Enhance the quality, utility, and clarity of the information to be collected; and

—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of Information Collection:* Extension of a currently approved collection.

(2) *Title of the Form/Collection:* Federal Explosives License/Permit (FEL) Renewal Application.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form Number: ATF F 5400.14/5400.15, Part III. Bureau of Alcohol, Tobacco, Firearms and Explosives.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Business or other for-profit. Other: Federal Government, State, Local, or Tribal Government. The form is used for the renewal of a explosive license or permit. The renewal application is used by ATF to determine that the applicant remains eligible to retain the license or permit.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* It is estimated that 2,500 respondents will complete a 20 minute form.

(6) *An estimate of the total public burden (in hours) associated with the collection:* There is an estimated 825 annual total burden hours associated with this collection.

If additional information is required contact: Lynn Bryant, Department Deputy Clearance Officer, Policy and Planning Staff, Justice Management Division, Department of Justice, Patrick Henry Building, Suite 1600, 601 D Street NW, Washington, DC 20530.

Dated: June 15, 2006.

Lynn Bryant,

Department Deputy Clearance Officer, Department of Justice.

[FR Doc. E6–9699 Filed 6–20–06; 8:45 am]

BILLING CODE 4410–FY–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Mark C. Evans, D.D.S.; Revocation of Registration

Procedural History

On June 24, 2004, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Mark C. Evans, D.D.S. (Respondent). The Show Cause Order proposed the revocation of Respondent's DEA Certificate of Registration, BE3323932, under 21 U.S.C. 824(a)(3), and to deny any pending applications for renewal or modification of that registration pursuant to 21 U.S.C. 823(f). As grounds for the action, the Show Cause Order alleged that the Dental Board of California had revoked Dr. Evans's state dental license, and as a result, he was without state authorization to handle controlled substances in that state. The Show Cause Order notified Dr. Evans that should no request for a hearing be filed within 30 days, his hearing right would be deemed waived.

On July 2, 2004, the Show Cause Order was sent by certified mail to Dr. Evans at his registered location in Palm Desert, California. On that same date, a second copy of the Show Cause Order was sent by certified mail to Dr. Evans at a second location in La Quinta, California. Both copies were subsequently returned to DEA unclaimed. DEA subsequently attempted to send the Show Cause Order to Dr. Evans at two additional locations in Palm Desert, as well as a location in Vancouver, Washington. On each occasion, the orders were returned unclaimed. As of this date, DEA has not received a request for a hearing, or any other reply from Dr. Evans or anyone purporting to represent him in this matter.

Therefore, the Deputy Administrator, finding that (1) thirty days have passed since the attempted delivery of the Show Cause Order to the registrant's addresses of record, as well as to several additional addresses, and (2) that no request for a hearing has been received, concludes that Dr. Evans has waived his hearing right. See David W. Linder, 67 FR 12579 (2002). After considering material from the investigative file in this matter, the Deputy Administrator now enters this final order without a hearing pursuant to 21 CFR 1301.43(d) and (e), and § 1301.46.

Discussion

The Deputy Administrator finds that Dr. Evans is currently registered with DEA as a practitioner authorized to handle controlled substances in Schedules II through V. According to information in the investigative file, DEA was notified by the Dental Board of California (the Dental Board) that Dr. Evans's state dental license was revoked effective December 18, 2002. This information is corroborated by a Default Decision and Order of the Dental Board, which is included in the investigative file. There is no evidence before the Deputy Administrator that Dr. Evans's California dental license has been reinstated or that the Dental Board's revocation order has been vacated. Therefore, the Deputy Administrator finds that because Dr. Evans is currently not authorized to practice dentistry in California, he is not authorized to handle controlled substances in that state.

DEA does not have statutory authority under the Controlled Substances Act to issue or maintain a registration if the applicant or registrant is without state authority to handle controlled substances in the state in which he practices dentistry. See 21 U.S.C. 802(21), 823(f) and 824(a)(3). This prerequisite has been consistently applied. See James Marvin Goodrich, M.D., 70 FR 24619 (2005); Dominick A. Ricci, M.D., 58 FR 51104 (1993); Bobby Watts, M.D., 53 FR 11919 (1988).

Here, it is clear that Dr. Evans's dental license has been revoked and the revocation order has not been vacated. Consequently, Dr. Evans is not licensed to handle controlled substances in California, the jurisdiction in which he is registered with DEA. Therefore, he is not entitled to maintain that registration.

Order

The Deputy Administrator of the Drug Enforcement Administration, pursuant to the authority vested in her by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b) and 0.104, hereby orders that DEA Certificate of Registration, BE3323932, issued to Mark C. Evans, D.D.S, be, and it hereby is, revoked. The Deputy Administrator further orders that any pending applications for renewal or modification of the aforementioned registration be, and they hereby are, denied. This order is effective July 21, 2006.

Dated: June 12, 2006.

Michele M. Leonhart,

Deputy Administrator.

[FR Doc. E6–9708 Filed 6–20–06; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 02–47]

John H. Kennnedy, M.D.; Denial of Application; Introduction and Procedural History

On May 31, 2002, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to John H. Kennedy, M.D. (Respondent). The Show Cause Order proposed to deny Respondent's pending application for a registration as a practitioner on the grounds that Respondent had been convicted of a drug-related felony, *see* 21 U.S.C. 823(f)(3) & 824(a)(2), and had committed other acts such as to render his registration inconsistent with the public interest. *See id.* § 824(a)(4).

The Show Cause Order specifically alleged that on September 14, 1999, Respondent was indicted in the United States District Court for the Eastern District of Tennessee on five counts alleging the unlawful distribution of a controlled substance, *see id.* § 841(a)(1),[1] and one count alleging the unlawful possession of marijuana. *See id.* § 844. The Order alleged that on March 6, 2000, Respondent pled guilty to one count of the unlawful distribution of diazepam, in violation of 21 U.S.C. 841(b)(1)(D), and one count of possession of marijuana, in violation of 21 U.S.C. 844. The Order further alleged that on June 19, 2000, the District Court accepted Respondent's guilty pleas and sentenced him to twelve months of home detention and five years of probation. The terms of the probation prohibited Respondent from employment as a physician and from dispensing prescription drugs without the permission of his probation officer.

While the Federal criminal case was ongoing, Respondent was also the subject of state administrative proceedings. On May 9, 2000, Respondent entered into a consent order with the Tennessee Board of Medical Examiners (Board) which revoked his state medical license. The Board found that Respondent had committed unprofessional, dishonorable and unethical conduct. The Board also found that Respondent had dispensed, prescribed or otherwise distributed controlled substances in violation of state or Federal law. On June 15, 2000, Respondent also voluntarily surrendered his DEA Registration, No. AK7140736.

Thereafter, Respondent reapplied for his state medical license. On July 31, 2001, the Board approved his application.

On August 16, 2001, Respondent applied for a new DEA practitioner's registration to handle controlled substances in Schedules II through V. Following an investigation, DEA denied the application and issued the Show Cause Order.

Respondent requested a hearing. The matter was assigned to Administrative Law Judge (ALJ) Mary Ellen Bittner, who conducted a hearing in Chattanooga, Tennessee on April 1 and 2, 2003. At the hearing, both the Government and Respondent called witnesses and introduced documentary evidence. Both parties filed post-hearing briefs. Respondent also filed a letter forwarding the Tennessee Board of Medical Examiners' Order of Compliance, which restored his state license to unencumbered status.

On April 13, 2005, the ALJ submitted her decision. The ALJ concluded that the Government had shown by a preponderance of the evidence that granting Respondent's application for registration would be inconsistent with the public interest. *See* ALJ at 18. The ALJ thus recommended that Respondent's application be denied. *See id.* Neither party filed exceptions.

Having considered the record as a whole, I hereby issue this decision and final order adopting the ALJ's findings of fact and conclusions of law except as expressly noted herein. For the reasons set forth below, I concur with the ALJ's conclusion that granting Respondent's application for a registration would be inconsistent with the public interest. I therefore adopt the ALJ's recommendation that Respondent's pending application be denied.

Findings of Fact

Respondent graduated from the University of Tennessee in 1963. Before entering the University of Louisville School of Medicine, Respondent served in the U.S. Navy and also was a sales representative for the Upjohn Company for a period of seven years.

In 1975, Respondent graduated from medical school and served a one-year internship at Erlanger Hospital in Chattanooga, Tennessee. Following his internship, Respondent entered into a family practice, sharing office space with another physician for a period of seven years. In 1983, Respondent moved his practice to North Park Hospital in Chattanooga and maintained that practice as of the date of the hearing.

Sometime in 1997, the Hamilton County Sheriff's Office received information from an informant implicating a Ms. Beth Harvey in the unlawful sale of Valium (Diazepam), a Schedule IV controlled substance. Mr. Jeffrey Parton, a detective with the Hamilton County Narcotics Division, conducted several interviews of Ms. Harvey. Ms. Harvey told Detective Parton that she had become a patient of Respondent based on the advice of friends who had told her that he was a good doctor to see to obtain diet drugs. Ms. Harvey also told Detective Parton that Respondent would provide her with pain medication without conducting a physical exam and that she could buy hydrocodone samples from him. Tr. 32–33.

Sometime between October 28 and November 10, 1997, the Narcotics Division executed a search warrant at Harvey's residence. During the search, the police found a 1000-count bottle of Valium. Most of the pills were missing. Harvey returned to her residence during the search and was questioned by the police about the Valium's source. Harvey told the police that she had obtained the drugs from Respondent on October 28th, and that she was to sell it on the street and return a portion of the profits to him.

Thereafter, Harvey agreed to cooperate with the police in their investigation of Respondent. Between

[1] Three of the counts alleged the unlawful distribution of dihyrdocodeine; two of the counts alleged the unlawful distribution of diazepam.

November 10, 1997, and January 8, 1998, Harvey visited Respondent's office on five occasions; Harvey also had a phone conversation with Respondent on December 2, 1997. During these events, Harvey wore a wire to record the conversations. While the wire did not work during the November 10, 1997 visit, and the tape of the December 18, 1997 visit was lost, the other conversations were recorded and transcribed. While Harvey did not testify at the hearing, the transcripts were admitted into evidence. Following each episode, the police also debriefed Harvey.

1. Harvey's Undercover Activities

A. The November 10, 1997 Visit

According to Detective Parton, Harvey visited Respondent's office on November 10, 1997. Harvey paid Respondent $100, which she represented to him as his share of the profits from the Valium sales. Harvey also paid Respondent $40 for a sample bottle of Lortab and two sample boxes of Vicoprofen. Both of these drugs contain Hydrocodone, a Schedule III controlled substance. Parton testified that Harvey told him during the debriefing that Respondent did not perform a physical examination. Moreover, Harvey's patient record, which was also admitted into evidence, contains no indication that Respondent dispensed the Lortab and Vicoprofen to her on this date. Gov. Exh. 17. On cross-examination, Respondent claimed that he had given the drugs to Harvey because of her complaints about headaches, but no such diagnosis was recorded on the progress notes. *Id.*

B. The November 19, 1997 Visit

During this visit, Harvey told Respondent that she had sold 150 Valium pills and paid him an additional $ 100 as purported profits from the sales.[2] Harvey then told Respondent that she needed more pills because she did not want her husband to discover that some of the Valium was missing. Respondent, after telling Harvey that ''I don't want to get in deeper, you know,'' Gov. Exh. 3a at 12, then agreed to order another bottle of Valium and advised Harvey that it would take about a week for the drugs to be delivered. Respondent also gave Harvey 42 Lortab tablets. Respondent did not perform a physical exam and there was no therapeutic purpose for the dispensing. Furthermore, Harvey's progress notes contain no record of the visit.

C. The December 2, 1997 Phone Conversation

During this conversation, Harvey asked Respondent whether the Valium had arrived. Respondent told her that it had not, but that she could pick it up at his office the following Tuesday, December 9, 1997.

D. The December 9, 1997 Visit

During this visit, Respondent gave Harvey a sealed 1,000 count bottle of diazepam, a size which manufacturers use to send the drug to pharmacies. Harvey also paid Respondent $100, which she represented to him as his share of the profits from the Valium sales. During the conversation, Harvey told Respondent that she had sold one hundred more. Respondent then asked Harvey if ''nothing else has come out'' of her husband. Gov. Exh.3(C), at 32. Harvey answered ''No,'' but then added that she was ''hoping [that] he ain't going to say nothing about me digging in it.'' *Id.* After counting out Respondent's share of the profits, Harvey told him that she probably had more sold, and then asked ''do you want me to take all of these to replace'' the missing drugs? *Id.* Respondent answered: ''No, no, sell them. Hell, medicine is to sell not to take.'' *Id.* Respondent then instructed Harvey: ''[D]on't let anybody know where any of this stuff is coming from.'' *Id.* at 33.

Harvey then asked Respondent whether he had any pain pills. Respondent told her he had only four pain pills, but that he had 1,000 Xanax. Respondent then asked Harvey if she knew ''anybody that takes Xanax?'' *Id.* at 34. While Harvey offered to sell them for Respondent, Respondent replied that he didn't want her with ''two bottles, two thousand'' pills. *Id.* He then asked Harvey to ''[l]ine me up somebody that can do it.'' *Id.* at 35. Harvey agreed to do so.

E. The December 18, 1997 Visit

On this date, Harvey returned to Respondent's office and paid him $130, which she again represented as being his share of the profits on the Valium sales. Respondent gave Harvey twelve Zydone, a drug which also contains hydrocodone. Harvey did not request the drug, and told Detective Parton that Respondent did not perform a physical exam. Respondent made no record of the visit on Harvey's progress notes.[3] *See* Gov. Exh. 14.

F. The January 8, 1998 Visit

On this date, Harvey returned to Respondent's office. Harvey attempted to pay Respondent $100, which she again represented as his share of the proceeds from the Valium sales. At first, Respondent refused the money as he had apparently received a tip about Harvey. Tr. 276. Respondent then asked Harvey whether she had recently called in a prescription for a cough syrup containing hydrocodone to a local pharmacy. Harvey denied doing so, asking Respondent ''why would I call prescriptions in when I can, hell, you give me everything I want?'' Gov. Exh. 3(E) at 5. Respondent then stated: ''That's what I thought too. But you know that through the years, you know, everything you ever needed or wanted, I've tried to take care of you.'' *Id.* Respondent eventually accepted $100 from Harvey.

2. The Searches

Shortly after Harvey's visit, Detective Parton and other officers from the Hamilton County Sheriff's Office, executed a search warrant at both Respondent's home and office. Mr. Pink Anderson, a DEA Diversion Investigator (DI), assisted with the office search.

At the office, the authorities seized samples of legal controlled substances, marijuana, two empty bottles of Quaalude 300 (a drug which was rescheduled to Schedule I effective August 27, 1984, *see* 49 FR 33870 (1984)), one bottle which contained two Quaalude 300 pills, a 1000 count bottle of alprazolam (Xanax) which contained 958 pills, a cocaine kit consisting of a mirror, razor blades and straw, two receipts from Access Drugs (a local drug distributor), various patient files, and $100, which was in the same denominations as the cash that Harvey had earlier given Respondent.

At Respondent's home, the authorities seized 60 grams of marijuana, a bottle containing marijuana seeds, one hand-rolled marijuana cigarette, several remnants of marijuana cigarettes, and assorted marijuana paraphernalia including a metal tray, a bong, two pipes with residue, rolling papers, and a briefcase which held similar items. The authorities also seized a bottle containing 21 Quaalude 300 pills, a bottle containing 52 Quaalude 300 pills, seven empty Quaalude 300 bottles and one empty Quaalude 150 bottle. Also

[2] The ALJ found that Harvey paid Respondent $150 during the November 19, 1997 visit. *See* ALJ at 5. The transcript of the conversation between Harvey and Respondent indicates that Harvey only counted out money up to the amount of $100. *See* Gov. Exh. 3a at 12. While I therefore make my own finding, it is immaterial to the disposition of this proceeding whether the amount was $100 or $150.

[3] The progress notes do, however, contain a record of a visit on December 22, 1997, which shows a dispensing of 30 Lortab tablets.

seized were samples of Norco, a hydrocodone-based product, 13 empty bottles of pharmaceutical-grade cocaine hydrochloride, and one empty bottle that had contained tetrahydrocannabinol (THC). Respondent's home was not a registered location.

According to DI Anderson, the only records discovered during the search of Respondent's office were the two receipts from Access Drugs. With this exception, Respondent had no records of inventories, receipts or the distribution of controlled substances. DI Anderson testified that although Respondent was not charged, he also violated 21 U.S.C. 843(a)(4)(a), because he failed to keep, make or maintain required records. *See* Tr. 217. Respondent testified that he had not known that he was required to keep receipts and that he had told his office staff that they didn't need to save them.

DI Anderson also conducted the investigation of Respondent's application for a new DEA registration. As part of the investigation, DI Anderson interviewed Respondent regarding his guilty pleas in the Federal criminal proceeding. Respondent told Anderson that he had pled guilty because a government witness was going to give false testimony against him. Tr. 231.

Respondent's Testimony

A. Respondent's Prior Use of Controlled Substances

Respondent testified at the hearing. Respondent stated that he had smoked marijuana occasionally while attending college and medical school and admitted to further use during his initial years as a physician from 1976 to 1979. Respondent claimed that he ''rarely'' purchased marijuana and that most of the marijuana was donated to him. Tr. 439. When questioned as to how patients had become aware that Respondent would accept these ''donations,'' Respondent testified that his patients ''bring wild parsley. They bring a dozen * * * brown eggs. They bring apples. I have patients that will bring apple pies, pecan pies.'' *Id.* at 468. Respondent denied that his patients gave him marijuana as payment and testified that they were ''[j]ust grateful patients in various ways.'' *Id.* Respondent further testified that he had stopped using marijuana in 1979, but that he had continued to accept marijuana donations from his patients, which he then gave to his oldest daughter. Id. at 472–473.

Respondent also testified that he took Quaaludes from 1977 to 1979 as a prescribed treatment for insomnia. Respondent testified that he took all of the Quaaludes that were prescribed to him and denied sharing them with other patients. *Id.* at 437–38. As for the Quaaludes seized during the search, Respondent testified that they had ''expired by [1986 or 1987], and have been in that bag since that time. I can assure you that I didn't know they were in there or they would have been put to use.'' *Id.* at 279.

Initially, Respondent denied using cocaine during the 1976–1983 time period. *Id.* at 437. Later, on cross-examination, Respondent admitted to having used cocaine ''[o]n one or two rare occasions'' during the 1976–1983 time period, and then testified to having used cocaine a ''[h]alf a dozen'' times during the period.*Id.* at 475. Respondent subsequently testified that the empty bottles of cocaine hydrochloride that were seized in the search were provided to him by several pharmacies and that he kept them because he collects old medical supplies. *Id.* at 513. Relatedly, Respondent similarly claimed that some of the Quaaludes ''was a relic of old-timey medicine,'' which ''was given to me by a pharmacist'' for his bottle collection. *Id.* at 515–18.

The Government then turned to the 1983 to 2000 time period, during which Respondent maintained his practice at North Park Hospital. Here again, Respondent initially denied using controlled substances. *Id.* at 478. Respondent, however, then admitted to marijuana use ''[o]n rare occasions. Off duty. Out of town.'' *Id.* Respondent testified that he received the marijuana from patients and friends. *Id.* at 481. The ALJ further found that Respondent had smoked marijuana with his office staff one afternoon after work. As for the marijuana seized during the search of Respondent's office and residence, Respondent testified that it was ''[f]or occasional personal use when very tired and needing to relax.'' *Id.* at 343.

B. The Criminal Investigation and Guilty Plea

On direct examination, Respondent testified that he had never illegally given controlled substances to any of the persons referenced in the search warrant affidavit, which had listed Beth Harvey. *Id.* at 263. He further testified on direct that he only prescribed controlled substances for legitimate medical reasons and this was reflected in patient records. *Id.* at 263–64. He further asserted that Harvey had sought treatment for ''frequent headaches and anxiety attacks,'' *id.* at 270, and that he had prescribed hydrocodone products to treat her headaches.[4] *Id.* at 501; 535. Respondent denied that he had sold hydrocodone to Harvey and asserted that the money he had received from her was payment for the services he provided in treating her. *Id.* at 502–03.

Respondent further denied that he entered into the arrangement with Harvey to sell diazepam and receive a share of the profits. *Id.* at 504–05. Instead, he asserted that the scheme was just ''Beth Harvey talking.'' *Id.* at 505. While Respondent admitted that on October 28, 1997, he had given Harvey a one-thousand count Valium bottle, which then contained ''about 250 or 300 out of date diazepam'' pills, he maintained that he did so ''for her to use for her anxiety and nerves.'' *Id.* at 530.[5] Respondent further testified that he was unaware that Harvey was selling the Valium until the police searched his office on January 8, 1998. *Id.* at 541. When specifically asked by the Government whether Harvey ''all along was telling you that she was reselling the drugs,'' Respondent answered: ''No, it's not a fact. At that point, I should have known that that was the case, but I didn't.'' *Id.* at 542.

With respect to his guilty plea, Respondent testified that he was ''a hundred percent guilty.'' *Id.* at 273. Respondent acknowledged, however, his statement to DI Anderson that he had pled guilty because he expected ''false testimony against me,'' and that he feared that he could have been sent to prison. *Id.* at 342. Respondent then testified that he was not attempting to deny his guilt.

Respondent further testified that following his arrest, he had not used marijuana. Moreover, Respondent had entered into a program run by the Tennessee Medical Foundation that helps physicians address drug and alcohol dependency. Respondent has also been subjected to random drug tests and passed each one. He has also attended 200 hours of continuing medical education and a three-day course at Vanderbilt University on the prescribing and record keeping of controlled substances.

[4] The record indicates that Respondent also gave Harvey hormone replacement shots. Tr. at 271. It is undisputed that the shots were given for a legitimate medical reason.

[5] The ALJ also found that ''Respondent denied providing Lortab to Beth Harvey, instead testifying that she 'helped herself in my drawer before I started locking it up.' '' ALJ at 11 (quoting Tr. at 506). The cited testimony, however, refers to whether Respondent provided Lortab to one of his employees, Sherry Millard. I thus do not accept this finding.

Respondent's Character Evidence

At the hearing, Respondent produced four character witnesses. The first, Stan Lanzo, was a former state prosecutor who had known Respondent for twenty-five years. Mr. Lanzo acknowledged, however, that Respondent was ''[n]ot a real close friend,'' *id.* at 366, that he probably had ''said ten words to him in the last five years,'' *id.* at 373, and was not aware of Respondent's illegal conduct prior to his guilty plea. *Id.* at 375–76.

Larry Young, another former state prosecutor also testified for Respondent. Mr. Young testified that he and Respondent ''were casual friends,'' *id.* at 430, and that he was unaware of the specific facts pertaining to Respondent's illegal distribution and his self-abuse of controlled substances. *Id.* at 430–31.

Walter Puckett, M.D., testified that he had known Respondent from the time when the latter worked as a pharmaceutical sales representative and had encouraged Respondent to go to medical school. Dr. Puckett further testified that he had not maintained a social relationship with Respondent and did not know the specifics of Respondent's guilty plea.

Timothy Davis, M.D., the regional area monitoring physician for the Tennessee Medical Foundation, also testified on Respondent's behalf. Dr. Davis testified that Respondent had entered into a contract to attend weekly support group meetings, that he attended eighty-five percent of the meetings, and that Respondent informed him when he could not make a meeting. On cross-examination, Dr. Davis testified that he did not ''have any particular knowledge of the [criminal] offenses,'' *id.* at 459, and that Respondent had not brought up the subject of his illegal distribution of controlled substances at the support group meetings. *Id.* at 462.[6]

Discussion

The Controlled Substances Act provides that an application for a practitioner's registration may be denied upon a determination ''that the issuance of such registration would be inconsistent with the public interest.'' 21 U.S.C. 823(f). In making the public interest determination, the Act requires the consideration of the following factors:

(1) The recommendation of the appropriate State licensing board or professional disciplinary authority.

(2) The applicant's experience in dispensing * * * controlled substances.

(3) The applicant's conviction record under Federal or State laws relating to the manufacture, distribution, or dispensing of controlled substances.

(4) Compliance with applicable State, Federal, or local laws relating to controlled substances.

(5) Such other conduct which may threaten the public health and safety. *Id.*

''[T]hese factors are * * * considered in the disjunctive.'' *Robert A. Leslie, M.D.*, 68 FR 15227, 15230 (2003). I ''may rely on any one or combination of factors, and may give each factor the weight [I] deem[] appropriate in determining whether * * * an application for registration [should be] denied.'' *Id.* In this matter, I have carefully considered Respondent's evidence concerning his rehabilitation. But as explained below, having reviewed the evidence I reach the same conclusion the ALJ did—that Respondent still does not accept responsibility for his criminal conduct and cannot be entrusted to properly comply with the requirements of Federal law.

Factor One—The Recommendation of the State Licensing Board

I acknowledge that the Tennessee Board of Medical Examiners has restored Respondent's state license to unencumbered status. It is well established, however, that a ''state license is a necessary, but not sufficient condition for registration,'' and thus this factor is not dispositive. *Id.* Indeed, in light of the evidence adduced at the hearing, and in particular Respondent's disingenuous testimony on several issues (which will be discussed below), I decline to give this factor any weight at all.

Factor Two—Respondent's Experience in Handling Controlled Substances

Respondent's experience in handling controlled substances can only be described as abysmal. Among other things, the record shows that Respondent illegally possessed both marijuana and Quaaludes (methaqualone), two Schedule I controlled substances. Even were I to give Respondent the benefit of the doubt and find that he had obtained some of the Quaaludes pursuant to a lawful prescription, the drugs had been banned in 1984, more than thirteen years earlier. Moreover, were I to credit Respondent's explanation that he had accepted some of the Quaaludes for his bottle collection—an assertion about which the ALJ made no credibility finding—Respondent still violated federal law. One would think that at some point contemporaneous with DEA's rescheduling of the drug—preferably no later than the date by which all stocks were required to be surrendered, *see* 49 FR 33870 (1984)—Respondent would have properly disposed of these drugs, which were then determined to have no legitimate medical use.

The record further indicates that Respondent provided controlled substances to Harvey for no legitimate medical purpose on multiple occasions. Respondent distributed large amounts of diazepam, a Schedule IV controlled substance, to Harvey on two occasions. On the first, October 28, 1997, Respondent gave Harvey 250 to 300 diazepam pills. While Respondent testified that this distribution was ''for her to use for her anxiety and nerves,'' the ALJ did not make a credibility finding regarding this testimony. Based on the fact that Respondent made no record of the dispensing, the testimony of Detective Parton that Harvey told him that she was to sell the drugs and return a portion of the profits to Respondent, and Respondent's acceptance of several cash payments from Harvey as his share of the profits, I conclude that there was no legitimate medical reason for the dispensing and that Respondent's testimony was a fabrication.

On the second occasion, December 9, 1997, Respondent gave Harvey a sealed 1,000 count bottle of diazepam, with the intent that Harvey sell the drugs and return a share of the profits to him. Respondent pled guilty to this count of the indictment and admitted in his post-hearing brief that there was ''no legitimate medical purpose'' for the dispensing. Respondent's Proposed Findings, at 23.

Respondent also provided Harvey with Lortab, Vicoprofen, and Zydone, products which contain Hydrocodone, a Schedule III controlled substance on three separate dates (November 10, November 19, and December 18, 1997). While Respondent testified that he did so to treat Harvey's headaches, the progress notes again contain no indication of either a diagnosis or dispensing on any of these dates. Indeed, the progress notes do not even indicate that Harvey saw Respondent on these dates. Moreover, the evidence indicates that on at least one occasion, the November 10, 1997 visit, Harvey paid Respondent for the drug. I thus conclude that there was no legitimate medical reason for each of these dispensings.

Finally, I note that Respondent committed numerous other violations of the CSA. The record establishes that Respondent failed to keep records of the receipt and dispensing of controlled

[6] Respondent also submitted numerous letters of support from patients.

substances, including invoices for the receipt of controlled substances, a biennial inventory, and a dispensing log. *See* 21 CFR part 1304. Finally, Respondent kept controlled substances at his home, which was not a registered location. *Id.* § 1301.12.

Respondent testified that he first became aware of the record keeping requirements on January 8, 1998, during the search of his office. Tr. 488. At that point, Respondent had been a practicing physician for more than twenty years. Not only is ignorance of the law no excuse, but someone possessing the considerable intelligence required to become a physician ought to have some inkling that compliance with the CSA involves more than just paying a fee and obtaining a registration. Indeed, that the CSA imposes on practitioners a variety of recordkeeping, prescribing and security requirements should be obvious to every applicant for a registration.

For all of the reasons set forth above, I find that factor two provides substantial support for the conclusion that granting Respondent's application would be inconsistent with the public interest.

Factor Three—Respondent's Conviction Record Relating to Controlled Substances

The record establishes that Respondent has been convicted of two violations of the CSA. Specifically, Respondent plead guilty to the unlawful distribution of diazepam, in violation of 21 U.S.C. 841(b)(1)(D), and the unlawful possession of marijuana, in violation of 21 U.S.C. 844. This factor thus supports a finding that granting Respondent's application would be inconsistent with the public interest.

Factor Four—Respondent's Compliance With Applicable State and Federal Controlled Substances Laws

I incorporate the discussion above under factor two with respect to Respondent's unlawful activities in distributing controlled substances, as well as his failure to maintain required records. He also kept controlled substances at his home, a non-registered location. *Cf.* 21 CFR 1301.12.

I also note that Respondent admitted to past use of both marijuana and cocaine, and that the police found marijuana during the searches of both Respondent's office and home. Furthermore, during the search of Respondent's home, the police found marijuana paraphernalia including a metal tray, a bong, two pipes with residue, and rolling papers. Moreover, during the search of Respondent's office, the police found a cocaine kit consisting of a mirror, razorblades, and straw. Respondent's possession of drug-related paraphernalia at the time of the search suggests that Respondent continued his use of these drugs beyond the period which he admitted to. The record thus contains substantial evidence establishing numerous instances in which Respondent failed to comply with applicable laws. This factor thus supports a finding that granting Respondent's application would be inconsistent with the public interest.

Factor Five—Other Conduct That May Threaten Public Health and Safety

Under DEA precedents, an applicant's acceptance of responsibility for his prior misconduct is a highly relevant consideration under this factor. *See Barry H. Brooks*, 66 FR 18305, 18309 (2001); *Prince George Daniels, D.D.S.,* 60 FR 62884, 62887 (1995); *Carmel Ben-Eliezer, M.D.,* 58 FR 65400, 65401 (1993). As the ALJ observed, there were a number of material inconsistencies in Respondent's testimony regarding his prior drug abuse, specifically his use of cocaine. Respondent initially denied using cocaine during the 1976 to 1983 period, Tr. at 437, then admitted using it on ''one or two rare occasions,'' and then changed his story again, acknowledging that he used it a ''half a dozen'' times during that period. *Id.* at 475. While Respondent denied cocaine usage following this period, I am perplexed as to why Respondent would have in his possession the paraphernalia used to snort cocaine fifteen years after he supposedly stopped using the drug, or why he would have 13 empty bottles of pharmaceutical grade cocaine at his residence. Surely one or two empty bottles would have sufficed for his collection.

Respondent also testified that he obtained marijuana from ''grateful patients'' as ''donations.'' *Id.* at 468. It is strange that some patients brought Respondent eggs, or apples or pies, while others knew enough to bring him marijuana. Indeed, in light of the fact that possession of marijuana is a criminal offense, it is odd that a DEA registrant would accept such a ''donation,'' even if he did not intend to personally use it, but instead, give it to his oldest daughter.

In concluding that Respondent refuses to accept responsibility for his conduct, I find particularly significant his testimony regarding the various distributions of controlled substances to Harvey during the 1997–1998 time period. While Respondent admitted that the December 9, 1997, distribution of diazepam was a criminal act, he testified that the other distributions of diazepam and hydrocodone products were for legitimate medical reasons.

At the outset, I note that this is not simply a matter of ''he said, she said.'' Rather, there is substantial corroborating evidence that demonstrates that the other distributions were not for legitimate medical reasons. As explained above under factor two, the progress notes contain no record of the visits during which Respondent provided Harvey with hydrocodone products, let alone a diagnosis of Harvey's condition or a record of the dispensing.

As for the Valium, the record shows that Respondent accepted substantial cash payments from Harvey, which Harvey represented as being his share of the profits from the Valium sales. These payments occurred on three separate dates following the October 28, 1997 distribution of Valium and before Harvey left the office on December 9, 1997, with a new supply. While Harvey's wire did not work on the first date (November 10), it did work during the second (November 19), and third (December 9) visits.

According to the transcripts, during the November 19th visit, Respondent told Harvey ''I don't want to get in deeper, you know,'' and then agreed to order the second bottle of Valium. Gov. Exh. 3a at 12. During the December 9th visit, Respondent stated: ''No, no, sell them. Hell, medicine is to sell not to take.'' Gov. Exh. 3(C) at 33. He then told Harvey: ''[D]on't let anybody know where any of this stuff is coming from.'' *Id.* And later in the conversation, Respondent told Harvey that he had 1,000 Xanax and asked her to ''[l]ine me up somebody that can [sell] it.'' *Id.* at 35. These are not the conversations that occur in the normal course of doctor-patient relations. Rather, they are the words of a drug dealer.

I thus concur with the ALJ's conclusion that Respondent's assertions that he provided the various drugs for legitimate medical reasons are disingenuous. I also agree with the ALJ's conclusion that Respondent refuses to accept responsibility for his misconduct. I further find that Respondent's refusal to accept responsibility greatly outweighs his efforts at rehabilitation. Therefore, I conclude that factor five supports a finding that granting Respondent's application would threaten public health and safety. *See* 21 U.S.C. 823(f)(5). Having considered all of the statutory factors, I concluded that Respondent cannot be entrusted with a DEA registration.

Order

Accordingly, pursuant to the authority vested in me by 21 U.S.C. 823(f) and 28 CFR 0.100(b) and 0.104(b), I hereby order that Respondent's application for a DEA Certificate of Registration be, and it hereby is, denied. This order is effective July 21, 2006.

Dated: June 12, 2006.

Michele M. Leonhart,

Deputy Administrator.

[FR Doc. E6–9706 Filed 6–20–06; 8:45 am]

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DEPARTMENT OF JUSTICE

Drug Enforcement Administration

McBride Marketing; Revocation of Registration

On October 13, 2004, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause proposing to revoke McBride Marketing's (Respondent) DEA Certificate of Registration, 002748MMY, as a distributor of List I chemicals and to deny any pending applications for renewal. As grounds for the action, the Show Cause Order alleged that Respondent's continued registration would be inconsistent with the public interest. See 21 U.S.C. 824(a)(4). Specifically, the Show Cause Order alleged, *inter alia*, that Respondent did not have adequate security to protect List I chemical products from diversion, that Respondent did not maintain adequate sales records in accordance with 21 CFR 1310.06, that Respondent had product shortages, and that Respondent had been acquiring and distributing pseudoephedrine products even though it was not registered to do so.

The Show Cause Order was sent by certified mail, return receipt requested, to Respondent's registered location and receipt was acknowledged on October 20, 2004. Neither Respondent, its owner, nor anyone else purporting to represent it has responded. Because (1) more than thirty days have passed since the receipt of the Show Cause Order, and (2) no request for a hearing has been received, I conclude that Respondent has waived its right to a hearing. See 21 CFR 1309.53(c). I therefore enter this final order without a hearing based on relevant material in the investigative file and make the following findings.

Findings

Ephedrine and pseudoephedrine are List I chemicals that while having therapeutic uses, are easily extracted from lawful products and used in the illicit manufacture of methamphetamine, a schedule II controlled substance. See 21 U.S.C. 802(34). As noted in numerous prior DEA orders, ''methamphetamine is an extremely potent central nervous system stimulant.'' A–1 Distribution Wholesale, 70 FR 28573 (2005). Methamphetamine abuse has destroyed lives and families, ravaged communities, and created serious environmental harms.

Methamphetamine abuse is an especially serious problem in Tennessee, the State in which Respondent's business is located. At the time of the issuance of the Show Cause Order, Tennessee led the Southeast in clandestine lab seizures, accounting for approximately 59% of these seizures during the second quarter of 2004. Moreover, in enacting the Meth-Free Tennessee Act of 2005, the Tennessee legislature found that as a result of these seizures, ''more than 700 children are entering state custody each year.'' 2005 Tennessee Laws Pub. Ch. 18 (Preamble).

Respondent is an unincorporated firmed owned by Mr. Bobby McBride. The firm, which is located at the McBrides' home in Parsons, Tennessee, has held a DEA registration to distribute ephedrine products since 1998. Respondent has approximately 58 convenience store and gas stations customers which purchase listed chemical products. Although Respondent also sells novelty items and toys, listed chemicals account for 30% of its business.

On February 26, 2004, two DEA Diversion Investigators (DIs) visited Respondent to conduct a regulatory investigation. They met with Nancy McBride, the owner's wife and Respondent's bookkeeper, presented her with their credentials and a notice of inspection, and obtained Respondent's consent to the inspection.

During the inspection, the DIs determined that Respondent stored listed chemical products in two mini-vans. While the vans were kept locked at all times, the vehicles did not have alarm systems.

The DIs also conducted an inventory and audit of Respondent's ephedrine products. In reviewing the records, the DIs determined that while Respondent's sales records included the purchaser's name, product description and quantity, the records did not contain the brand name of the products, price, or the customer's address. Therefore, in conducting the audit, the DIs were required to group products together based on package size. Moreover, while Respondent's owner claimed that he conducted a physical inventory each January, the record for January 2003 could not be found. The DIs thus used the record for the January 2004 inventory as the beginning inventory and conducted an accountability audit covering the period of January 1, 2004, through February 26, 2004.

The DI's audit found shortages in both the sixty-count bottles and six-count package sizes. Notwithstanding the relatively short period of the audit, 70 sixty-count bottles and 380 six-count packages were unaccounted for. The DIs also found in Respondent's inventory several pseudoephedrine products, including four boxes of Tylenol Allergy Sinus (with each box containing 50 sealed packets of one caplet), three boxes of Aleve Cold and Sinus (with each box containing 50 sealed packets of two gel caps), and one box of Vick's Nyquil Liquicaps (with the box containing 25 packets of two caplets).

Respondent, however, was not registered to distribute pseudoephedrine products. The DIs confirmed that Respondent had been selling pseudoephedrine products based on their review of sales records and interviews they conducted during customer verification visits.

Discussion

21 U.S.C. 824(a) provides that a registration to distribute List I chemical may be suspended or revoked ''upon a finding that the registrant * * * has committed such acts as would render [its] registration under section 823 of this title inconsistent with the public interest as determined under [that] section.'' In making the public interest determination, the Controlled Substances Act requires the consideration of the following factors:

(1) Maintenance by the [registrant] of effective controls against diversion of listed chemicals into other than legitimate channels;

(2) Compliance by the [registrant] with applicable Federal, State, and local law;

(3) Any prior conviction record of the [registrant] under Federal or State laws relating to controlled substances or to chemicals controlled under Federal or State law;

(4) Any past experience of the applicant in the manufacture and distribution of chemicals; and

(5) Such other factors as are relevant to and consistent with the public health and safety.

Id. 823(h).

''[T]hese factors are considered in the disjunctive.'' Joy's Ideas, 70 FR 33195, 33197 (2005). I ''may rely on any one or combination of factors, and may give each factor the weight [I] deem[] appropriate in determining whether a registration should be revoked or an

application for a registration be denied.'' Id. See also Energy Outlet, 64 FR 14,269 (1999). In this case, I have concluded that factors one, two and five are dispositive and support the revocation of Respondent's registration.

Factor One—Maintenance of Effective Controls

I conclude that Respondent does not maintain effective controls against diversion. Respondent's storage of its List I chemical products in two mini-vans is clearly inadequate to protect against diversion. DEA's regulations clearly contemplate that List 1 chemicals be stored in a secure premises and not in motor vehicles unless in transit. See 21 CFR 1309.71(b) (directing DEA to consider ''[t]he location of the premises,'' and ''[t]he type of building construction comprising the facility and the general characteristics of the building or buildings'').

While the DIs were correct to note that the vehicles did not have alarms, even if Respondent's vehicles had alarms, they would not comply with the regulations. A thief can steal a vehicle in far less time than it takes to break into a properly secured and alarmed premises. Moreover, a thief stealing a van holding listed chemicals does not have to load the goods into the getaway vehicle. Storage of listed chemicals in a van plainly creates an unacceptable risk of diversion.

The shortages that were found during the audit further support the conclusion that Respondent does not maintain effective controls against diversion. The shortages uncovered in the audit were substantial given that the audit only covered a period of two months. I need not find that diversion was the cause of the shortages to conclude that Respondent does not maintain effective controls against diversion.

Furthermore, Respondent's sales records did not contain the addresses of its purchasers. Such information is essential for DEA and local authorities to effectively investigate whether purchasers are conducting a legitimate business or whether diversion is occurring. I thus conclude that factor one weighs heavily against Respondent's continued registration.

Factor 2—Compliance With Applicable Law

As stated above, Respondent's use of mini-vans to store List I chemicals does not comply with the physical security regulations. Moreover, Respondent failed to properly maintain sales records because its invoices did not contain product names and the addresses of the purchasers. See 21 CFR 1310.03 and 1310.06. Finally, Respondent engaged in the distribution of pseudoephedrine notwithstanding that its registration did not give it authority to distribute the chemical. See 21 CFR 1309.21(a) (requiring registration ''specific to the List I chemicals to be handled''). I thus conclude that this factor weighs against Respondent's continued registration.

Factor 3—The Registrant's Prior Conviction Record

There is no evidence in the investigative file establishing that Respondent has been convicted of a drug-related criminal offense. I thus find that this factor weighs in favor of continued registration. I conclude, however, that this factor is entitled to little weight as it is reasonable to expect that DEA registrants not have a drug-related criminal record.

Factor 4—The Registrant's Past Experience in Distributing List I Chemicals

The record indicates that Respondent has held a registration to distribute List I chemicals since 1998. But in light of the findings discussed above, it appears that Respondent has been improperly storing and distributing List I chemicals in violation of DEA's regulations for a substantial period of time. I thus decline to give Respondent's experience any weight in this determination.

Factor 5—Such Other Factors As Are Relevant to and Consistent With the Public Health and Safety

According to the investigative file, Respondent distributes List 1 chemicals solely to convenience stores and gas stations in Western Tennessee, a State which at the time these proceedings were initiated had a severe problem with methamphetamine abuse. As noted above, Tennessee recently enacted the Meth-Free Tennessee Act of 2005. See also Joy's Ideas, 70 FR at 33199. One of the Act's provisions requires that ''any product that contains any immediate methamphetamine precursor may be dispensed only by a licensed pharmacy.'' Tenn. St. § 39–17–431(a). While the Act exempts from this requirement those products containing methamphetamine precursors ''not in a form that can be used in the manufacture of methamphetamine,'' id. § 39–17–431(b)(1), none of the ephedrine products which Respondent distributed under his DEA registration are exempt. See id. § 39–17–431(b)(3) (exempting gel capsules and liquid preparations).

Respondent, however, does not have any licensed pharmacies as customers, and therefore, Respondent would violate state law were it to distribute ephedrine products to its existing customers. In prior orders, I have noted the important role of the States in combating the illicit manufacture of methamphetamine. See, e.g., Joy's Ideas, 70 FR at 33198 (discussing Oklahoma and Tennessee legislation). Where, as here, state efforts are fully consistent with federal policy, it is appropriate to give them due weight in determining whether continuing a registration would be consistent with public health and safety.[1] It would be manifestly inconsistent with public health and safety to continue Respondent's registration in light of the provisions of Tennessee law. See id. at 33199. I therefore conclude that factor five weighs in favor of revocation. Having considered all of the statutory factors, I conclude that the continuance of Respondent's registration would be inconsistent with the public interest.

Order

Accordingly, pursuant to the authority vested in me by 21 U.S.C. 823 and 824, and 28 CFR 0.100(b) and 0.104, I hereby order that DEA Certificate of Registration, 002748MMY, issued to McBride Marketing, be, and it hereby is, revoked. I further order that any pending applications for renewal or modification of such registration be, and they hereby are, denied. This order is effective July 21, 2006.

Dated: June 12, 2006.

Michele M. Leonhart,

Deputy Administrator.

[FR Doc. E6–9707 Filed 6–20–06; 8:45 am]

BILLING CODE 4410–09–P

[1] I do not consider the relationship of Tennessee law under factor two because at the time of the investigation, the statute had not been enacted. Moreover, there is no evidence in the investigative file establishing that Respondent subsequently violated state law.

DEPARTMENT OF JUSTICE

Office of Justice Programs

Office of Juvenile Justice and Delinquency Prevention

Agency Information Collection Activities: Extension of a Currently Approved Collection; Comment Request

ACTION: 30-day notice of information collection under review: National Crime Victimization Survey (NCVS).

The U.S. Department of Justice (DOJ), Office of Justice Programs (OJP) has submitted the following information

collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register,** Volume 71, Number 54, page 14252, on March 21, 2006 allowing for a 60-day comment period.

The purpose of this notice is to allow for an additional 30 days for public comment until July 21, 2006. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the items contained in this notice, especially the estimated public burden and associated response time, should be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Department of Justice Desk Officer, Washington, DC 20503. Additionally, comments may be submitted to OMB via facsimile to (202) 395–5806. Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—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 informaton 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:* National Crime Victimization Survey.

(3) *Agency form number, if any, and the applicable component of the Department sponsoring the collection:* NCVS–110, NCVS–554, NCVS–554(SP), NCVS–572(L), NCVS–573(L), NCVS–592(L), NCVS–593(L), NCVS–592(L) SP/KOR/CHIN(T), CHIN(M), VIET.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Persons 12 years or older living in NCVS sampled households located throughout the United States. The National Crime Victimization Survey (NCVS) collects, analyzes, publishes, and disseminates statistics on the criminal victimization in the U.S.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond/reply:* An estimate of the total number of respondents is 77,100. It will take the average interviewed respondent an estimated 23 minutes to respond, the average non-interviewed respondent an estimated 7 minutes to respond, the estimated average follow-up interview is 12 minutes, and the estimated average follow-up for a non-interview is 1 minute.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total respondent burden is approximately 62,620 hours.

If additional information is required, contact Robert B. Briggs, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Patrick Henry Building, Suite 1600, 601 D Street, NW., Washington, DC 20530.

Dated: June 15, 2006.

Robert B. Briggs,

Department Clearance Officer, Department of Justice.

[FR Doc. 06–5564 Filed 6–20–06; 8:45 am]

BILLING CODE 4410–18–M

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review: Comment Request

June 15, 2006.

The Department of Labor (DOL) has submitted the following public information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). A copy of this ICR, with applicable supporting documentation, may be obtained by contacting Ira Mills at the Department of Labor on 202–693–4122 (this is not a toll-free number) or e-mail *Mills.Ira@dol.gov*. This ICR can also be accessed online at *http://www.doleta.gov/OMBCN/OMBControlNumber.cfm*.

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for ETA, Office of Management and Budget, Room 10235, Washington, DC 20503, 202–395–7316 (this is not a toll free number), within 30 days from the date of this publication in the **Federal Register**.

The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

Agency: Employment and Training Administration (ETA)

Type of Review: Extension.

Title: Forms for Agricultural Recruitment System of Services to Migratory Workers.

OMB Number: 1205–0134.

Frequency: On occasion.

Affected Public: State, local, or tribal government and Individuals or Households.

Type of Response: Recordkeeping.

Number of Respondents: 3,000.

Annual Responses: 5,600.

Average Response Time: ETA 790 takes 60 minutes; ETA 795 takes 15 minutes.

Total Annual Burden Hours: 4,850.

Total Annualized Capital/Startup Costs: 0.

Total Annual Costs (operating/maintaining systems or purchasing services): 0.

Description: State Workforce Agencies and Employers use these forms to recruit domestic workers for temporary agricultural jobs in order to comply with regulations at 20 CFR 653.500.

Ira L. Mills,

Departmental Clearance Officer/Team Leader.

[FR Doc. E6–9709 Filed 6–20–06; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review: Comment Request

June 14, 2006.

The Department of Labor (DOL) has submitted the following public information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). A copy of this ICR, with applicable supporting documentation, may be obtained by contacting Ira Mills at the Department of Labor on 202–693–4122 (this is not a toll-free number) or e-mail: *Mills.Ira@dol.gov*. This ICR can also be accessed online at *http://www.doleta.gov/OMBCN/OMBControlNumber.cfm*.

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for ETA, Office of Management and Budget, Room 10235, Washington, DC 20503, 202–395–7316 (this is not a toll free number), within 30 days from the date of this publication in the **Federal Register**.

The OMB is particularly interested in comments which:

• Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

• Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

• Enhance the quality, utility and clarity of the information to be collected; and

• Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

Agency: Employment and Training Administration (ETA).

Type of Review: Extension of a currently approved collection.

Title: Unemployment Compensation for Federal Employees ETA Handbook 391.

OMB Number: 1205–0179.

Frequency: On occasion; Other—One Time Request.

Affected Public: Individuals or households; Federal Government; State, local, or tribal government.

Type of Response: Recordkeeping; Reporting.

Number of Respondents: 151,050.

Annual Responses: 151,050.

Average Response Time: 5.6 minutes.

Total Annual Burden Hours: 15,024.

Total Annualized Capital/Startup Costs: 0.

Total Annual Costs (operating/maintaining systems or purchasing services): 0.

Description: Federal law (5 U.S.C. 8501–8509) provides unemployment insurance protection to former or partially unemployed current Federal Civilian employees. The forms in the Handbook are used in conjunction with the provisions of the UCFE program.

Ira L. Mills,

Departmental Clearance Officer/Team Leader.

[FR Doc. E6–9710 Filed 6–20–06; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review: Comment Request

June 13, 2006.

The Department of Labor (DOL) has submitted the following public information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). A copy of this ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor. To obtain the documents, contact Ira Mills on 202–693–4122 (this is not a toll-free number) or e-mail: *Mills.Ira@dol.gov*, or access them online at *http://www.doleta.gov/OMBCN/OMBControlNumber.cfm*.

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for ETA, Office of Management and Budget, Room 10235, Washington, DC 20503, 202–395–7316 (this is not a toll free number), within 30 days from the date of this publication in the **Federal Register**.

The OMB is particularly interested in comments which:

• Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

• Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

• Enhance the quality, utility and clarity of the information to be collected; and

• Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

Agency: Employment and Training Administration (ETA).

Type of Review: Revision.

Title: Senior Community Service Employment Program (SCSEP) Performance Measurement System.

OMB Number: 1205–0040.

Frequency: Quarterly; Annually; Other (ongoing).

Affected Public: Not-for-profit institutions; State, local, or tribal government; Individuals or households; Business or other for-profit; Federal Government.

Type of Response: Recordkeeping; Reporting.

Number of Respondents: 31,469.

Annual Responses: 324,939.

Average Response Time: 8 minutes.

Total Annual Burden Hours: 43,969.

Total Annualized Capital/Startup Costs: 0.

Total Annual Costs (operating/maintaining systems or purchasing services): 0.

Description: Revised forms have been made necessary by the conversion to an Internet-based data collection system—the SCSEP Performance and Results QPR system. In addition, regular program data collection forms needed to be modified to collect data for the Section 502(e) training providers. Finally, grantees have requested enhanced case management functionality.

Ira L. Mills,

Departmental Clearance Officer/Team Leader.

[FR Doc. E6–9711 Filed 6–20–06; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review: Comment Request

June 14, 2006.

The Department of Labor (DOL) has submitted the following public

information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). A copy of this ICR, with applicable supporting documentation, may be obtained by contacting Ira Mills at the Department of Labor on 202–693–4122 (this is not a toll-free number) or e-mail *Mills.Ira@dol.gov*. This ICR can also be accessed online at *http://www.doleta.gov/OMBCN/OMBControlNumber.cfm*.

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for ETA, Office of Management and Budget, Room 10235, Washington, DC 20503, 202–395–7316 (this is not a toll free number), within 30 days from the date of this publication in the **Federal Register**.

The OMB is particularly interested in comments which:

• Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

• Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

• Enhance the quality, utility and clarity of the information to be collected; and

• Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

Agency: Employment and Training Administration (ETA).

Type of Review: Revision.

Title: Quarterly Determinations, Allowance Activities, and Employability Services Under the Trade Act; Training Waivers Issued and Revoked.

OMB Number: 1205–0016.

Frequency: Quarterly.

Affected Public: State, local, or tribal government and Federal Government.

Type of Response: Reporting.

Number of Respondents: 50.

Annual Responses: 200.

Average Response Time: 18 minutes.

Total Annual Burden Hours: 60.

Total Annualized Capital/Startup Costs: 0.

Total Annual Costs (operating/maintaining systems or purchasing services): 0.

Description: Quarterly data on Trade Adjustment Assistance (TAA) activity is necessary for timely program evaluation, for competent administration, and for providing legally mandated reports to Congress. Section 231(c) of the Trade Act of 1974 as amended by the Trade Adjustment Assistance Reform Act of 2002 requires the states to submit reports to the Secretary on training waivers issued and revoked.

Ira L. Mills,

Departmental Clearance Officer/Team Leader.

[FR Doc. E6–9712 Filed 6–20–06; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review: Comment Request

June 14, 2006.

The Department of Labor (DOL) has submitted the following public information collection requests (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. chapter 35). A copy of each ICR, with applicable supporting documentation, may be obtained by contacting Darrin King on 202–693–4129 (this is not a toll-free number) or e-mail: *king.darrin@dol.gov*.

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for the Employment Standards Administration (ESA), Office of Management and Budget, Room 10235, Washington, DC 20503, 202–395–7316 (this is not a toll-free number), within 30 days from the date of this publication in the **Federal Register**.

The OMB is particularly interested in comments which:

• Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

• Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

• Enhance the quality, utility, and clarity of the information to be collected; and

• Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

Agency: Employment Standards Administration.

Type of Review: Extension of currently approved collection.

Title: Application for Farm Labor Contractor or Farm Labor Contractor Employee Certificate of Registration.

OMB Number: 1215–0037.

Form Number: WH–530.

Frequency: On occasion and Biennially.

Type of Response: Reporting.

Affected Public: Individuals or households; Business or other for-profit; and Farms.

Number of Respondents: 7,800.

Annual Reponses: 7,800.

Average Response Time: 30 minutes.

Total Annual Burden Hours: 3,900.

Total Annualized capital/startup costs: $0.

Total Annual Costs (operating/maintaining systems or purchasing services): $2,130.

Description: Migrant and Seasonal Agricultural Worker Protection Act (MSPA), 29 U.S.C. 1801 *et seq.*, section 101(a) provides that no person shall engage in any farm labor contracting activity unless such person has a certificate of registration from the Secretary of Labor specifying which farm labor contracting activities such person is authorized to perform. Contracting activities include recruiting, soliciting, hiring, employing, furnishing, transporting or driving any migrant or seasonal agricultural worker and, with respect to migrant agricultural workers, providing housing. MSPA section 101(b) provides that a farm labor contractor shall not hire, employ or use any individual to perform farm labor contracting activities (*i.e.* recruiting, soliciting, hiring, employing, furnishing or transporting any migrant or seasonal agricultural worker) unless such individual has a certificate of registration as a farm labor contractor, or a certificate of registration as an employee of a farm labor contractor employer, which authorizes the activity for which such individual is hired, employed or used. Section 102 of MSPA provides that, after appropriate investigation and review, the Secretary shall issue a farm labor contractor certificate of registration (including a certificate of registration as an employee of a farm labor contractor) to any person who has filed with the Secretary a written application. Form WH–530 is the application form which provides the

Department of Labor with the information necessary to issue certificates specifying the farm labor contracting activities authorized.

Agency: Employment Standards Administration.

Type of Review: Extension of currently approved collection.

Title: Notice of Termination, Suspension, Reduction, or Increase in Benefit Payments.

OMB Number: 1215–0064.

Form Number: CM–908.

Frequency: On occasion and Annually.

Type of Response: Reporting.

Affected Public: Business or other for-profit.

Number of Respondents: 325.

Annual Reponses: 7,500.

Average Response Time: 12 minutes.

Total Annual Burden Hours: 1,500.

Total Annualized capital/startup costs: $0.

Total Annual Costs (operating/maintaining systems or purchasing services): $6,300.

Description: The Office of Workers' Compensation Programs (OWCP) administers the Federal Mine Safety and Health Act of 1977 as amended, Section 432 (30 U.S.C. 942) and 20 CFR 725.621 necessitate this information collection. Under the Act, coal mine operators, their representatives, or their insurers who have been identified as responsible for paying Black Lung benefits to an eligible miner or an eligible surviving dependent of the miner, are called Responsible Operators (RO's). RO's that pay benefits are required to report any change in the benefit amount to the Department of Labor (DOL). The CM–908, when completed and sent to DOL, notifies DOL of the change in the beneficiary's benefit amount and the reason for the change.

Agency: Employment Standards Administration.

Type of Review: Extension of currently approved collection.

Title: Regulations Governing the Administration of the Longshore and Harbor Workers' Compensation Act.

OMB Number: 1215–0160.

Frequency: On occasion and Annually.

Type of Response: Reporting and Recordkeeping.

Affected Public: Individuals or households and Business or other for-profit.

Number of Respondents: 182,068.

Collection of Information	Estimated number of annual response	Average response time (hours)	Estimated annual burden hours
LS–200 (20 CFR 702.285)	14,352	0.17	2,440
702.162 (Liens)	10	0.50	5
702.174 (Certifications)	5	0.75	4
702.175 (Reinstatements)	2	0.50	1
702.242 (Settlement Applications)	5,040	2.00	10,080
702.321 (Section 8(f) Payments)	485	5.00	2,425
ESA–100 (20 SFR 702.201)	42,000	0.02	840
LS–271 (Self Insurance Application)	20	2.00	40
LS–274 (Injury Report of Insurance Carrier and Self-Insured Employer)	619	1.00	619
LS–201 (Injury or Death Notice)	5,040	0.25	1,260
LS–513 (Payment Report)	619	0.50	309
LS–267 (Claimant's Statement)	1,456	0.03	48
LS–203 (Employee Comp. Claim)	11,340	0.25	2,835
LS–204 (Medical Report)	100,800	0.50	50,400
LS–262 (Claim for Death Benefits)	280	0.25	70
Total:	182,068		71,376

Total Annualized capital/startup costs: $0.

Total Annual Costs (operating/maintaining systems or purchasing services): $64,871.

Description: The Office of Workers' Compensation Programs (OWCP) administers the Longshore and Harbor Workers' Compensation Act (LHWCA), as amended (20 CFR 702.162, 702.174, 702.175, 20 CFR 702.242, 20 CFR 702.285, 702.321, 702.201, and 702.111) as it pertains to the provision of benefits to workers injured in maritime employment on the navigable waters of the United States or in an adjoining area customarily used by an employer in loading, unloading, repairing, or building a vessel, as well as coverage extended to certain other employees. The Longshore Act administration requirements include: Payment of compensation liens incurred by Trust Funds; certification of exemption and reinstatement of employers who are engaged in the building, repairing, or dismantling of exclusively small vessels; settlement of cases under the Act; reporting of earnings by injured claimants receiving benefits under the Act; filing applications for relief under second injury provisions; and, maintenance of injury reports under the Act.

Agency: Employment Standards Administration.

Type of Review: Extension of currently approved collection.

Title: Rehabilitation Maintenance Certificate.

OMB Number: 1215–0161.

Form Number: OWCP–17.

Frequency: On occasion.

Type of Response: Reporting.

Affected Public: Individuals or households and Business or other for-profit.

Number of Respondents: 1,300.

Annual Reponses: 15,600.

Average Response Time: 10 minutes.

Total Annual Burden Hours: 2,605.

Total Annualized capital/startup costs: $0.

Total Annual Costs (operating/maintaining systems or purchasing services): $0.

Description: The Office of Workers' Compensation Programs (OWCP) administers the Longshore and Harbor Workers' Compensation Act (LHWCA) and the Federal Employees' Compensation Act (FECA). These Acts provide vocational rehabilitation services to eligible workers with disabilities. Section 8111(b) of the FECA and section 908(g) of the LHWCA provide that persons undergoing such vocational rehabilitation may receive maintenance allowances as additional compensation. The OWCP–17 serves as a bill submitted by the program participant to OWCP, requesting

reimbursement of incidental expenses incurred due to participation in an approved rehabilitation effort for the preceding four week period or fraction thereof.

Ira L. Mills,

Departmental Clearance Officer.

[FR Doc. E6–9713 Filed 6–20–06; 8:45 am]

BILLING CODE 4510–23–P

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

Sunshine Act Meeting; Notice

June 13, 2006.

TIME AND DATE: 10 a.m., Tuesday, June 27, 2006.

PLACE: The Richard V. Backley Hearing Room, 9th Floor, 601 New Jersey Avenue, NW., Washington, DC.

STATUS: Open.

MATTERS TO BE CONSIDERED: Resuming the meeting that began Thursday, June 8, the Commission will consider and act upon the following in open session: *Secretary of Labor* v. *Jim Walter Resources, Inc.*, Docket No. SE 2003–160. (Issues include whether the judge correctly determined that the operator violated 30 CFR 75.360(b)(3), and that the violation was significant and substantial and attributable to the operator's unwarrantable failure; whether the judge correctly determined that the operator did not violate 30 CFR 75.1101–23(a); whether the judge correctly determined that the operator violated 30 CFR 75.1101–23(c), and that the violation was not significant and substantial; and whether the judge property followed section 110(i) of the Mine Act in setting the penalty amounts for the violations found.)

Any person attending this meeting who requires special accessibility features and/or auxiliary aids, such as sign language interpreters, must inform the Commission in advance of those needs, subject to 29 CFR 2706.150(a)(3) and 2706.160(d).

FOR FURTHER INFORMATION CONTACT: Jean Ellen, (202) 434–9950; (202) 708–9300 for TDD Relay; 1–800–877–8339 for toll free.

Jean H. Ellen,

Chief Docket Clerk.

[FR Doc. 06–5594 Filed 6–19–06; 11:45 am]

BILLING CODE 6735–01–M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards Meeting of The ACRS Subcommittee on Plant Operations; Notice of Meeting

The ACRS Subcommittee on Plant Operations will hold a meeting on July 26, 2006, at the U.S. NRC Region I, 475 Allendale Road, King of Prussia, Pennsylvania.

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows:

Wednesday, July 26, 2006—8:30 a.m. until the conclusion of business.

The Subcommittee and Region I will discuss regional inspection, enforcement, and operational activities. The Subcommittee will gather information, analyze relevant issues and facts, and formulate proposed positions and actions, as appropriate, for deliberation by the full Committee.

Members of the public desiring to provide oral statements and/or written comments should notify the Designated Federal Official, Mr. Michael A. Junge (telephone 301–415–6855) five days prior to the meeting, if possible, so that appropriate arrangements can be made. Electronic recordings will be permitted.

Further information regarding this meeting can be obtained by contacting the Designated Federal Official between 6:45 a.m. and 3:30 p.m. (e.t.). Persons planning to attend this meeting are urged to contract the above named individual at least two working days prior to the meeting to be advised of any potential changes to the agenda.

Dated: June 14, 2006.

Michael R. Snodderly,

Branch Chief, ACRS/ACNW.

[FR Doc. E6–9704 Filed 6–20–06; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards; Meeting of the Subcommittee on Plant License Renewal; Notice of Meeting

The ACRS Subcommittee on Plant License Renewal will hold a meeting on July 11, 2006, Room T–2B3, 11545 Rockville Pike, Rockville, Maryland.

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows:

Tuesday, July 11, 2006–1:30 p.m.–5 p.m.

The purpose of this meeting is to discuss the License Renewal Application for the Palisades Nuclear Power Plant and the related Safety Evaluation Report (SER) with open items prepared by the NRR staff. The Subcommittee will hear presentations by and hold discussions with representatives of the NRC staff, Nuclear Management Company, LLC, and other interested persons regarding this matter. The Subcommittee will gather information, analyze relevant issues and facts, and formulate proposed positions and actions, as appropriate, for deliberation by the full Committee.

Members of the public desiring to provide oral statements and/or written comments should notify the Designated Federal Official, Mr. Michael A. Junge (telephone 301/415–6855) five days prior to the meeting, if possible, so that appropriate arrangements can be made. Electronic recordings will be permitted.

Further information regarding this meeting can be obtained by contacting the Designated Federal Official between 6:45 a.m. and 3:30 p.m. (ET). Persons planning to attend this meeting are urged to contact the above named individual at least two working days prior to the meeting to be advised of any potential changes to the agenda.

Dated: June 14, 2006.

Michael R. Snodderly,

Branch Chief, ACRS/ACNW.

[FR Doc. E6–9719 Filed 6–20–06; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards; Subcommittee Meeting on Planning and Procedures; Notice of Meeting

The ACRS Subcommittee on Planning and Procedures will hold a meeting on July 11, 2006, Room T–2B1, 11545 Rockville Pike, Rockville, Maryland.

The entire meeting will be open to public attendance, with the exception of a portion that may be closed pursuant to 5 U.S.C. 552b(c)(2) and (6) to discuss organizational and personnel matters that relate solely to the internal personnel rules and practices of the ACRS, and information the release of which would constitute a clearly unwarranted invasion of personal privacy.

The agenda for the subject meeting shall be as follows:

Tuesday, July 11, 2006, 10:30 a.m.–12 Noon

The Subcommittee will discuss proposed ACRS activities and related matters. The Subcommittee will gather information, analyze relevant issues and facts, and formulate proposed positions and actions, as appropriate, for deliberation by the full Committee.

Members of the public desiring to provide oral statements and/or written comments should notify the Designated Federal Official, Mr. Sam Duraiswamy (telephone: 301–415–7364) between 7:30 a.m. and 4:15 p.m. (ET) five days prior to the meeting, if possible, so that appropriate arrangements can be made. Electronic recordings will be permitted only during those portions of the meeting that are open to the public.

Further information regarding this meeting can be obtained by contacting the Designated Federal Official between 7:30 a.m. and 4:15 p.m. (ET). Persons planning to attend this meeting are urged to contact the above named individual at least two working days prior to the meeting to be advised of any potential changes in the agenda.

Dated: June 15, 2006.

Michael R. Snodderly,

Branch Chief, ACRS/ACNW.

[FR Doc. E6–9720 Filed 6–20–06; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon written request, copies available from: Securities and Exchange Commission, Office of Filings and Information Service, Washington, DC 20549.

Extension:

Rule 23c–1; SEC File No. 270–253; OMB Control No. 3235–0260.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520), the Securities and Exchange Commission (the ''Commission'') is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget (''OMB'') for extension and approval.

Rule 23c–1 (17 CFR 270.233c–1) under the Investment Company Act of 1940 (15 U.S.C. 80a), among other things, permits a closed-end fund to repurchase its securities for cash if in addition to the other requirements set forth in the rule: (1) Payment of the purchase price is accompanied or preceded by a written confirmation of the purchase; (ii) the asset coverage per unit of the security to be purchased is disclosed to the seller or his agent; and (iii) if the security is a stock, the fund has, within the preceding six months, informed stockholders of its intention to purchase stock. Commission staff estimates that approximately 14 closed-end funds rely on Rule 23c–1 annually to undertake 122 repurchases of their securities. Commission staff estimates that, on average, a fund spends 2.5 hours to comply with the paperwork requirements listed above each time it undertakes a security repurchase under the rule. Commission staff thus estimates the total annual burden of the rule's paperwork requirements is 305 hours.

In addition, the fund must file with the Commission a copy of any written solicitation to purchase securities given by or on behalf of the fund to 10 or more persons. The copy must be filed as an exhibit to Form N–CSR (17 CFR 249.331 and 274.128). The burden associated with filing Form N–CSER is addressed in the submission related to that form.

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.

Written comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the Commission, including whether the information has practical utility; (b) the accuracy of the Commission's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Please direct your written comments to R. Corey Booth, Director/Chief Information Officer, 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.*

Dated: June 14, 2006.

Nancy M. Morris,

Secretary.

[FR Doc. 06–5541 Filed 6–20–06; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

Existing Collection; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549.

Extension: Rule 17g–1; SEC File No. 270–208; OMB Control No. 3235–0213.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520), the Securities and Exchange Commission (the ''Commission'') is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget for extension and approval.

Rule 17g–1 (17 CFR 270.17g–1) under the Investment Company Act of 1940 (the ''Act'') (15 U.S.C. 80a–17(g)) governs the fidelity bonding of officers and employees of registered management investment companies (''funds'') and their advisers. Rule 17g–1 requires, in part, the following:

• Independent Directors' Approval.

The form and amount of the fidelity bond must be approved by a majority of the fund's independent directors at least once annually, and the amount of any premium paid by the fund for any ''joint insured bond,'' covering multiple funds or certain affiliates, must be approved by a majority of the fund's independent directors.

• Terms and Provisions of the Bond.

The amount of the bond may not be less than the minimum amounts of coverage set forth in a schedule based on the fund's gross assets; the bond must provide that it shall not be cancelled, terminated, or modified except upon 60-days written notice to the affected party and to the Commission; in the case of a joint insured bond, 60-days written notice must also be given to each fund covered by the bond; a joint insured bond must provide that the fidelity insurance company will provide all funds covered by the bond with a copy of the agreement, a copy of any claim on the bond, and notification of the terms of the settlement of any claim prior to execution of that settlement; and a fund that is insured by a joint bond must enter into an agreement with all other parties insured by the joint bond regarding recovery under the bond.

• Filings with the Commission.

Upon the execution of a fidelity bond or any amendment thereto, a fund must file with the Commission within 10

days a copy of the executed bond or any amendment to the bond, the independent directors' resolution approving the bond, and a statement as to the period for which premiums have been paid on the bond. In the case of a joint insured bond, a fund must also file (i) a statement showing the amount the fund would have been required to maintain under the rule if it were insured under a single insured bond and (ii) the agreement between the fund and all other insured parties regarding recovery under the bond. A fund must also notify the Commission in writing within five days of any claim or settlement on a claim under the fidelity bond.

• Notices to Directors.

A fund must notify by registered mail each member of its board of directors of (i) any cancellation, termination, or modification of the fidelity bond at least 45 days prior to the effective date, and (ii) the filing or settlement of any claim under the fidelity bond when notification is filed with the Commission.

Rule 17g–1's independent directors' annual review requirements, fidelity bond content requirements, joint bond agreement requirement and the required notices to directors seek to ensure the safety of fund assets against losses due to the conduct of persons who may obtain access to those assets. These requirements also seek to facilitate oversight of a fund's fidelity bond. The rule's required filings with the Commission are designed to assist the Commission in monitoring funds' compliance with the fidelity bond requirements.

The Commission staff estimates that approximately 4033 funds are subject to the requirements of rule 17g–1, and that on average a fund spends approximately one hour per year complying with the rule's paperwork requirements. The Commission staff therefore estimates the total annual burden of the rule's paperwork requirements to be 4033 hours.

These estimates of average burden hours are made solely for the purposes of the Paperwork Reduction Act. These estimates are not derived from a comprehensive or even a representative survey or study of Commission rules. The collection of information required by rule 17g–1 is mandatory and will not be kept confidential. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

Written comments are requested on: (a) Whether the collection of information is necessary for the proper performance of the functions of the Commission, including whether the information has practical utility; (b) the accuracy of the Commission's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Please direct your written comments to R. Corey Booth, Director/Chief Information Officer, 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*.

Dated: June 14, 2006.

Nancy M. Morris,

Secretary.

[FR Doc. E6–9689 Filed 6–20–06; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–53984; File No. SR-CBOE–2006–48]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Extend the Short Term Option Series Pilot Program

June 14, 2006.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on June 13, 2006, the Chicago Board Options Exchange, Incorporated (''Exchange'' or ''CBOE'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. CBOE has designated this proposal as non-controversial under Section 19(b)(3)(A)(iii) of the Act[3] and Rule 19b–4(f)(6) thereunder,[4] which renders the proposed rule change effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(iii).

[4] 17 CFR 240.19b–4(f)(6).

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend CBOE Rules 5.5(d) and 24.9(a)(2) to extend until July 12, 2007, its pilot program for listing and trading Short Term Options Series (''Pilot Program''). The text of the proposed rule change is available on the Exchange's Web site (*http://www.cboe.com*), at the Exchange's principal office, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to extend the Pilot Program for an additional year, through July 12, 2007.[5] The Pilot Program allows CBOE to list and trade Short Term Option Series, which expire one week after the date on which a series is opened. Under the Pilot Program, CBOE may select up to five approved option classes on which Short Term Option Series could be opened.[6] A series could be opened on any Friday that is a business day and would expire on the next Friday that is a business day.[7] If a Friday were not a

[5] The Commission approved the Pilot Program on July 12, 2005. *See* Securities Exchange Act Release No. 52011 (July 12, 2005), 70 FR 41451 (July 19, 2005) (SR–CBOE–2004–63) (''Pilot Program Approval Order''). Under Rules 5.5 and 24.9, the Pilot Program is scheduled to expire on July 12, 2006.

[6] A Short Term Option Series could be opened in any option class that satisfied the applicable listing criteria under CBOE rules (*i.e.,* stock options, options on exchange-traded funds as defined under Interpretation and Policy .06 to CBOE rule 5.3, or options on indexes). The Exchange could also list and trade Short Term Option Series on any option class that is selected by another exchange that employs a similar pilot program, though to date the Exchange is not aware of any other exchanges listing Short Term Option Series.

[7] Short Term Option Series are settled in the same manner as the monthly expiration series in the same class. Thus, if the monthly option contract for

business day, the series could be opened (or would expire) on the first business day immediately prior to that Friday.

For each class selected for the Pilot Program, the Exchange usually would open five Short Term Option Series in that class for each expiration date. The strike price of each Short Term Option Series is fixed at a price per share, with at least two strike prices above and two strike prices below the value of the underlying security or calculated index value at about the time that the Short Term Option Series is opened. CBOE will not open a Short Term Option Series in the same week that the corresponding monthly option series is expiring, because the monthly option series in its last week before expiration is functionally equivalent to the Short Term Option Series. The interval between strike prices on a Short Term Option Series is the same as the interval between strike prices on the corresponding monthly option series. Finally, CBOE aggregates a Short Term Option Series with its corresponding monthly series for purposes of the Exchange's rules on position limits.

The Exchange has selected the following four option classes to participate in the Pilot Program: S&P 500 Index options (SPX), S&P 100 Index American-style options (OEX), Mini-S&P 500 Index options (XSP), and S&P 100 Index European-style options (XEO). CBOE believes the Pilot Program has been successful and well received by its members and the investing public. Thus, CBOE proposes to extend the Pilot Program through July 12, 2007.

In support of the proposed rule change, and as required by the Pilot Program Approval Order, the Exchange submitted a Pilot Program report (the ''Report'') to the Commission as Exhibit 3 to its filing. Among other things, the Report contains data and analysis regarding the four option classes included in the Pilot Program. The Report is available for examination at the places specified in Item IV below.

The Exchange believes there is sufficient investor interest and demand to extend the Pilot Program another year. The Exchange believes that the Pilot Program has provided investors with additional means of managing their risk exposures and carrying out their investment objectives. Furthermore, the Exchange has not experienced any capacity-related problems with respect to Short Term Option Series.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act[8] in general and furthers the objectives of Section 6(b)(5) of the Act[9] in particular in that it is designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. The Exchange believes that extension of the Pilot Program will result in a continuing benefit to investors, by allowing them additional means to manage their risk exposures and carry out their investment objectives, and will allow the Exchange to further study investor interest in Short Term Option Series.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act[10] and subparagraph (f)(6) of Rule 19b–4 thereunder.[11] Because the foregoing proposed rule change (i) Does not significantly affect the protection of investors or the public interest; (ii) does not impose any significant burden on competition; and (iii) does not become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6)(iii) thereunder. As required under Rule 19b–4(f)(6)(iii), the Exchange provided the Commission with written notice of its intent to file the proposed rule change at least five business before doing so.

A proposed rule change filed under Rule 19b–4(f)(6) normally does not become operative for 30 days after the date of filing. However, Rule 19b–4(f)(6)(iii) permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the operative delay to permit the Pilot Program extension to become effective prior to the 30th day after filing.[12]

The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because it will allow the benefits of the Pilot Program to continue without interruption.[13] Therefore, the Commission designates that the proposal will become operative on July 12, 2006.[14]

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate the rule change if it appears to the

a particular class were A.M.-settled, as most index options are, the Short Term Option Series for that class also would be A.M.-settled; if the monthly option contract for a particular class were P.M.-settled, as most non-index options are, the Short Term Option Series for that class also would be P.M.-settled. The Exchange notes that certain monthly expiration index options—specifically, American- and European-style options on the S&P 100 Index (OEX and XEO, respectively)—are P.M.-settled. Therefore, Short Term Option Series in these series would also be P.M.-settled. Similarly, Short Term Option Series for a particular class are physically settled or cash-settled in the same manner as the monthly option contract in that class.

[8] 15 U.S.C. 78f(b).

[9] 15 U.S.C. 78f(b)(5).

[10] 15 U.S.C. 78s(b)(3)(A).

[11] 17 CFR 240.19b–4(F)(6).

[12] Telephone conversation between Jennifer Lamie, Managing Senior Attorney, CBOE, and Nathan Saunders, Special Counsel, Division of Market Regulation, Commission, June 13, 2006.

[13] For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[14] As set forth in the Commission's original release providing notice of the Pilot Program, if the Exchange were to propose an extension, an expansion, or permanent approval of the Pilot Program, the Exchange would submit, along with any filing proposing such amendments to the program, a report that would provide an analysis of the Pilot Program covering the entire period during which the Pilot Program was in effect. The report would include, at a minimum: (1) Data and written analysis on the open interest and trading volume in the classes for which Short Term Option Series were opened; (2) an assessment of the appropriateness of the option classes selected for the Pilot Program; (3) an assessment of the impact of the Pilot Program on the capacity of CBOE, OPRA, and market data vendors (to the extent data from market data vendors is available); (4) any capacity problems or other problems that arose during the operation of the Pilot Program and how CBOE addressed such problems; (5) any complaints that CBOE received during the operation of the Pilot Program and how CBOE addressed them; and (6) any additional information that would assist in assessing the operation of the Pilot Program. The report must be submitted to the Commission at least sixty (60) days prior to the expiration date of the Pilot Program. See Securities Exchange Act Release No. 51172 (February 9, 2005), 70 FR 7979, 7980 (February 16, 2005) (SR–CBOE–2004–63).

Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File No. SR–CBOE–2006–48 on the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–CBOE–2006–48. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CBOE–2006–48 and should be submitted on or before July 12, 2006.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[15]

Nancy M. Morris,

Secretary.

[FR Doc. E6–9692 Filed 6–20–06; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–53982; File No. SR–NASD–2006–063]

Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change and Amendment No. 1 Thereto Relating to Fee for Extension of Time Requests

June 14, 2006.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on May 15, 2006, the National Association of Securities Dealers, Inc. (''NASD'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by NASD. On May 25, 2006, NASD filed Amendment No. 1 to the proposed rule change.[3] NASD has designated this proposal as one establishing or changing a due, fee, or other charge under section 19(b)(3)(A)(ii) of the Act[4] and Rule 19b–4(f)(2) thereunder,[5] which renders the proposal effective upon filing with Commission. The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

NASD is proposing to amend Section 8 of Schedule A to NASD's By-Laws to increase the service charge for processing extension requests to $4.00 per request. Below is the text of the proposed rule change. Proposed new language is in italics; proposed deletions are in brackets.

* * * * *

SCHEDULE A TO NASD BY-LAWS

* * * * *

Section 8—Service Charge for Processing Extension of Time Requests

(a) No Change.

(b) The service charge for processing each initial extension of time request and for all subsequent extension of time requests (1) involving the same transaction under Regulation T and/or (2) involving an extension of time previously granted pursuant to *SEC* Rule 15c3–3(n) shall be [$2.00; provided, however, that the service charge shall be $1.00 for extension of time requests filed electronically by members using NASD's Automated Regulatory Reporting System]*$4.00 per request.*

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NASD included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. NASD has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Regulation T, issued by the Board of Governors of the Federal Reserve System (''FRB'') pursuant to the Act, among other things, governs the extension of credit to customers by broker-dealers for purchasing securities.[6] Rule 15c3–3 under the Act governs, among other things, the time period in which broker-dealers must complete sell orders on behalf of customers.[7] Under SEC Rule 15c3–3(n), a self-regulatory organization (''SRO'') may grant a broker-dealer an extension of time for delivery on sales of securities

[15] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] In Amendment No. 1, NASD made non-substantive changes to the discussion of the purpose of the proposed rule filing.

[4] 15 U.S.C. 78s(b)(3)(A)(ii).

[5] 17 CFR 240.19b–4(f)(2).

[6] 12 CFR 220.4(c) and 220.8(d). Regulation T generally requires that customers with a cash account pay for securities within five business days of purchase; for customers with a margin account, there must be sufficient minimum margin (typically 50%) to support the purchase.

[7] 17 CFR 240.15c3–3. In particular, Rule 15c3–3(m) requires a broker-dealer that executes a customer sell order to obtain possession of the securities within ten business days of the settlement date or to close the transaction by purchasing the securities.

if: (1) It is satisfied that the broker-dealer is acting in good faith in making the application; and (2) exceptional circumstances warrant such action. Regulation T has a similar standard to allow an extension of time for payment for purchases of securities.[8]

NASD proposes to amend Section 8 of Schedule A to NASD's By-Laws to increase the service charge for processing each extension of time request pursuant to the provisions of Regulation T and Rule 15c3–3 from $2 (or $1 in the case of electronically filed extension of time requests) to $4 for all manually or electronically filed extension of time requests. NASD believes that the proposed fees align with the actual costs associated with reviewing, processing, recording and responding to such requests. The NYSE similarly increased the fee it charges for extension requests to $4.00 per extension.[9]

NASD has filed the proposed rule change for immediate effectiveness. The new fee shall be implemented on July 1, 2006.

2. Statutory Basis

NASD believes that the proposed rule change is consistent with the provisions of section 15A(b)(5) of the Act,[10] which requires, among other things, that NASD's rules provide for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility or system that NASD operates or controls. NASD believes that the rule change reflects NASD's increased costs in reviewing, processing and administering the extensions of time requests.

B. Self-Regulatory Organization's Statement on Burden on Competition

NASD does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change is effective upon filing with the Commission pursuant to section 19(b)(3)(A) of the Act[11] and Rule 19b–4(f)(2) thereunder,[12] because it establishes or changes a due, fee, or other charge imposed by NASD. At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.[13]

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–NASD–2006–063 on the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NASD–2006–063. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the principal office of NASD.

All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NASD–2006–063 and should be submitted on or before July 12, 2006.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[14]

Nancy M. Morris,

Secretary.

[FR Doc. E6–9691 Filed 6–20–06; 8:45 am]

BILLING CODE 8010–01–P

[8] Under Regulation T, a firm's examining authority may grant an extension unless the examining authority believes that the broker-dealer is not acting in good faith or that the broker-dealer has not sufficiently determined that exceptional circumstances warrant such action. *See supra* note 6.

[9] *See* Exchange Act Release No. 53235 (February 6, 2006), 71 FR 7820 (February 14, 2006) (SR–NYSE–2005–92) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change and Amendment No. 1 Thereto Relating to Increasing Certain Fees Charged by the NYSE to Its Members and Member Organizations).

[10] 15 U.S.C. 78o–3(b)(5).

[11] 15 U.S.C. 78s(b)(3)(A).

[12] 17 CFR 240.19b–4(f)(2).

[13] The effective date of the original proposed rule change is May 15, 2006, and the effective date for Amendment No. 1 is May 25, 2006. For purposes of calculating the 60-day period within which the Commission may summarily abrogate the proposed rule change, as amended, under section 19(b)(3)(C) of the Act, the Commission considers the period to commence on May 25, 2006, the date on which NASD submitted Amendment No. 1. *See* 15 U.S.C. 78s(b)(3)(A).

[14] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–53994; File No. SR–NASD–2006–071]

Self-Regulatory Organizations: National Association of Securities Dealers, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Technical Amendments to Rule 3210

June 15, 2006.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on June 2, 2006, the National Association of Securities Dealers, Inc. (''NASD'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by NASD. NASD has designated the proposed rule change as constituting a ''non-controversial'' rule change under paragraph (f)(6) of

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

Rule 19b–4 under the Act,[3] which renders the proposal effective upon receipt of this filing by the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

NASD is proposing to amend NASD Rule 3210 to change references to paragraph ''(b)(1)'' in Rule 3210 to paragraph ''(b)'' in Rule 3210. Below is the text of the proposed rule change. Proposed deletions are in brackets.

* * * * *

3210. Short Sale Delivery Requirements

(a) No Change.

(b) The provisions of this rule shall not apply to the amount of the fail to deliver position that the participant of a registered clearing agency had at a registered clearing agency on the settlement day immediately preceding the day that the security became a non-reporting threshold security; *provided, however*, that if the fail to deliver position at the clearing agency is subsequently reduced below the fail to deliver position on the settlement day immediately preceding the day that the security became a non-reporting threshold security, then the fail to deliver position excepted by this paragraph (b)[(1)] shall be the lesser amount.

(c) through (g) No Change.

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NASD included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. NASD has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

On April 4, 2006, the SEC approved new Rule 3210, Short Sale Delivery Requirements, which applies a short sale delivery framework to those equity securities not otherwise covered by the delivery requirements of Regulation SHO, namely non-reporting OTC equity securities.[4] There is an incorrect paragraph reference in Rule 3210(b). Accordingly, NASD is filing this proposed rule change to amend Rule 3210(b) to change references to paragraph ''(b)(1)'' and replace it with paragraph ''(b).''

NASD proposes to make the proposed rule change effective on July 3, 2006 to coincide with the effective date of Rule 3210.

2. Statutory Basis

NASD believes that the proposed rule change is consistent with the provisions of section 15A(b)(6) of the Act,[5] which requires, among other things, that NASD rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. NASD believes that amending the references to the incorrect subparagraph in Rule 3210 will eliminate confusion when reading the provisions of Rule 3210.

B. Self-Regulatory Organization's Statement on Burden on Competition

NASD does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not:

(i) Significantly affect the protection of investors or the public interest;

(ii) Impose any significant burden on competition; and

(iii) Become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6) thereunder.[6]

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–NASD–2006–071 on the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NASD–2006–071. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the principal office of NASD.

All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NASD–2006–071 and should be submitted on or before July 12, 2006.

[3] 17 CFR 240.19b–4.

[4] *See* Securities Exchange Act Release No. 53596 (April 4, 2006), 71 FR 18392 (April 11, 2006) (File No. SR–NASD–2004–044).

[5] 15 U.S.C. 78o–3(b)(6).

[6] 17 CFR 240.19b–4(f)(6).

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[7]

Nancy M. Morris,

Secretary.

[FR Doc. E6–9723 Filed 6–20–06; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–53983; File No. SR–NYSE–2005–60]

Self-Regulatory Organizations; New York Stock Exchange, Inc. (n/k/a New York Stock Exchange LLC); Order Approving Proposed Rule Change and Amendment Nos. 2 and 3 Thereto Relating to Proposed New Rules 342.24 (''Annual Branch Office Inspection'') and 342.25 (''Risk-Based Surveillance and Branch Office Identification'') To Permit Member Organizations To Classify Appropriate Branch Offices for Cyclical Inspections and Proposed New Rule 342.26 (''Criteria for Inspection Programs'')

June 14, 2006.

On August 15, 2005, the New York Stock Exchange, Inc. (n/k/a New York Stock Exchange LLC) (''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposal to adopt Exchange Rules 342.24 (''Annual Branch Office Inspection'') and 342.25 (''Risk-Based Surveillance and Branch Office Identification'') to permit organizations to classify appropriate branch offices for cyclical inspections and 342.26 (''Criteria for Inspection Programs''). The Exchange filed Amendment No. 2 to the proposed rule change on April 7, 2006.[3] The proposed rule change, as amended, was published for comment in the **Federal Register** on April 27, 2006.[4] The Commission received no comments regarding the proposal, as amended. On June 12, 2006, the Exchange filed Amendment No. 3 to the proposed rule change.[5] This order approves the proposed rule change, as amended.

I. Description of Proposed Rule Change

The proposed amendments would permit member organizations, with the written approval of the Exchange, to exempt certain branch offices from the general annual branch office inspection requirement of Exchange Rule 342 (''Offices—Approval, Supervision and Control''). Proposed Exchange Rules 342.24 and 342.25 would permit member organizations to submit to the Exchange, for approval, policies and procedures outlining a risk-based surveillance system that the firm would use to identify branch offices requiring less frequent than annual inspections.[6] Such policies and procedures must reflect the member organization's business model and product mix, and must provide, at a minimum, for: (1) Flexibility to initiate ''for-cause'' inspections, when circumstances warrant, of any branch office that has been exempted from the standard annual inspection cycle; (2) inspection on an unannounced basis of no less than half of the branch offices inspected each year; and (3) a system to allow employees to report compliance issues on a confidential basis outside of the branch office chain of command. As discussed in the Notice and set forth in proposed Exchange Rule 342.25(B), certain prescribed criteria, applied to each branch office, also would be required of any acceptable risk-based surveillance system used to determine which branch offices could be exempted from annual inspection.

The Rule states that certain branch offices would not be deemed appropriate for an exemption under the proposed amendments. Specifically, offices with one or more registered representatives subject to special supervision in the current or immediately preceding year, offices with 25 or more registered individuals, offices in the top 20% of production or customer assets at the member organization, and any branch offices exercising supervision over other branch offices or that have not been inspected within the previous two calendar years would not be eligible for exemption from the annual inspection requirement. In fact, the proposed amendments would require that all branch offices, without exception, be inspected at least once every three calendar years. Finally, the proposed amendments would re-position language from Interpretation /03 of Exchange Rule 342(a)(b) into the text of Exchange Rule 342.

II. Discussion

The Commission finds that the proposed rule change, as amended, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[7] In particular, the Commission finds that the proposal, as amended, is consistent with the provisions of Section 6(b)(5) of the Act,[8] which requires, among other things, that the rules of a national securities exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest.

The Commission believes that the proposed rule change, as amended, appropriately balances the need for firms to surveil and inspect their branch offices with the need to provide firms with some flexibility to adapt branch office inspections according to changing circumstances. Specifically, the proposal would allow member organizations to seek an exemption from the requirement to inspect branch offices annually based upon written policies and procedures that provide for a risk-based surveillance system. The policies and procedures would have to be submitted to and approved by the Exchange. The Commission believes that the ability to implement a limited risk-based surveillance system for certain branch offices should allow firms to concentrate their surveillance and compliance resources on those branch offices that require more frequent and thorough on-site inspections.

Furthermore, the Exchange expressly sets forth in proposed Rule 342.25 the risk factors and criteria that firms, at a minimum, should consider when developing their policies and procedures. The Commission believes that providing explicit factors and criteria to distinguish those offices that warrant annual inspection from those that might not should also enable member organizations to more effectively direct a firm's attention to those regulatory risk areas in need of closer scrutiny during the course of an

[7] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The Exchange filed Amendment No. 1 to the proposed rule change on October 31, 2005 and withdrew Amendment No. 1 on April 7, 2006.

[4] *See* Securities Exchange Act Release No. 53689 (April 20, 2006), 71 FR 24881 (''Notice'').

[5] In Amendment No. 3, the Exchange made several non-substantive clarifying changes to the rule text. This was a technical amendment and is not subject to notice and comment.

[6] In addition, a member organization would still be able to seek an exemption if it has demonstrated to the satisfaction of the Exchange that because of proximity, special reporting, or supervisory practice, other arrangements may satisfy the Exchange rule's requirements for a particular branch office. *See* proposed Exchange Rule 342.24(A)(1).

[7] In approving this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[8] 15 U.S.C. 78f(b)(5).

on-site inspection. The proposed criteria should provide a more uniform standard for firms seeking an exemption from the annual branch office inspection.

Furthermore, the Commission believes that the proposed amendments contain appropriate limitations on a firm's ability to apply the exemption from the requirement to inspect branch offices every year. For instance, the proposal specifically excludes certain offices, given their size, scope of supervisory activities, or other factors, from eligibility for the exemption. The Rule requires firms to retain the ability to initiate ''for cause'' inspections of a branch office where developments during the year require a reconsideration of a branch's exemption. Requiring firms to use unannounced branch office inspections for no less than half of the branch offices inspected each year should provide additional incentive to branch office personnel to make compliance with the Exchange's rules and the securities laws a priority. Furthermore, the Commission believes that requiring firms to allow employees to report compliance issues on a confidential basis outside of the branch office chain of command and requiring branch office inspections to be carried out by a person independent of the branch office in question should encourage branch office employees to report issues of regulatory concern. The Commission also notes that the proposal would require every branch office, without exception, to be inspected at least once every three calendar years. The Commission emphasizes that, notwithstanding any exemption granted under the proposed rules, each member firm is subject to an ongoing duty to supervise each branch office and monitor for compliance with all applicable securities laws and regulations.[9]

III. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[10] that the proposed rule change (SR–NYSE–2005–60), as amended, is hereby approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[11]

Nancy M. Morris,

Secretary.

[FR Doc. E6–9695 Filed 6–20–06; 8:45 am]

BILLING CODE 8010–01–P

[9] *See* Section 15(b)(4)(E) of the Act, 15 U.S.C. 78*o*(b)(4)(E).

[10] 15 U.S.C. 78s(b)(2).

[11] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–53981; File No. SR–Phlx–2005–69]

Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Order Approving Proposed Rule Change To Amend Phlx Rule 784, Reports of Options

June 14, 2006.

On November 9, 2005, the Philadelphia Stock Exchange, Inc. (''Phlx'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change to delete a requirement set forth in the Supplementary Material to Phlx Rule 784 obligating members and member organizations to provide to the Phlx particular information items regarding over-the-counter options trades relating to securities listed or traded on the Exchange. The Commission published the proposed rule change for comment in the **Federal Register** on May 10, 2006.[3] The Commission received no comments on the proposed rule change.

After careful consideration, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange.[4] In particular, the Commission believes that the proposed rule change is consistent with section 6(b)(5) of the Act,[5] which requires among other things, that the rules of the Exchange are designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Phlx Rule 784 is intended to facilitate the Exchange's surveillance for and enforcement of rules against manipulation in connection with over-the-counter options trading. The Commission believes that the proposal appears to be reasonably designed to eliminate a requirement to provide specific information that the Exchange does not necessarily need to monitor for manipulation. The Commission notes that, pursuant to the main text of Exchange Rule 784, the Exchange retains the ability to require members and member organizations to report to the Exchange such information as the Exchange may require regarding over-the-counter options trades.

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[6] that the proposed rule change (SR–Phlx–2005–69) be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[7]

Nancy M. Morris,

Secretary.

[FR Doc. E6–9690 Filed 6–20–06; 8:45 am]

BILLING CODE 8010–01–P

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 53757 (May 3, 2006), 71 FR 27303.

[4] In approving this proposed rule change, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[5] 15 U.S.C. 78f(b)(5).

[6] 15 U.S.C. 78s(b)(2).

[7] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF STATE

[Public Notice 5436]

Announcement of Meetings of the International Telecommunication Advisory Committee

SUMMARY: This notice announces an International Telecommunication Advisory Committee meeting to prepare for a meeting of the Organization of American States Inter-American Telecommunication Commission (CITEL) Conference Preparatory Committee.

The International Telecommunication Advisory Committee (ITAC) will meet to prepare for the July 10–12 meeting of the CITEL Conference Preparatory Committee in Costa Rica. The preparatory meeting will be held in the Washington, DC Metro area on July 6, 2006 2–4 p.m. The purpose of the meeting is to advise the Department of State on proposed Inter-American Positions to be taken by CITEL at the next International Telecommunication Union Plenipotentiary Conference. A conference bridge will be available for those outside the Washington Metro area.

The International Telecommunication Advisory Committee (ITAC) will meet to prepare for CITEL PCC.I (Telecommunication) on August 8 and 24, 2006 10 a.m.–noon in Washington, DC at a location to be determined.

These meetings are open to the public. Particulars on meeting location and times, and information on conference bridges is available from the secretariat *minardje@state.gov*, telephone 202–647–3234.

Dated: June 12, 2006.

Anne D. Jillson,

Foreign Affairs Officer, International Communications & Information Policy, Department of State.

[FR Doc. E6–9757 Filed 6–20–06; 8:45 am]

BILLING CODE 4710–07–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Aviation Proceedings, Agreements Filed the Week Ending May 26, 2006

The following Agreements were filed with the Department of Transportation under the Sections 412 and 414 of the Federal Aviation Act, as amended (49 U.S.C. 1382 and 1384) and procedures governing proceedings to enforce these provisions. Answers may be filed within 21 days after the filing of the application.

Docket Number: OST–2006–24892
Date Filed: May 22, 2006
Parties: Members of the International Air Transport Association
Subject:
Mail Vote 478—Cargo Composite Resolutions (Memo 0547)
Mail Vote 479—Worldwide Area Resolutions except Alliance Countries Shanghai, 17 February 2006 (Memo 0548)
Mail Vote 480—Worldwide Area Resolutions Alliance Countries Shanghai, 17 February 2006 (Memo 0549)
Technical Correction—Mail Vote 478—Cargo Composite Resolutions (Memo 0555) and (Memo 0562)
Mail Vote 479—Worldwide Area Resolutions except Alliance Countries (Memo 0556) and (Memo 563)
Mail Vote 480—Worldwide Area Resolutions Alliance Countries (Memo 0557) and (Memo 0564)
Policy Group Report—Composite Meeting of Cargo Tariff Coordinating Conferences (Memo 0561)
Intended effective date: 1 October 2006

Docket Number: OST–2006–24893
Date Filed: May 22, 2006
Parties: Members of the International Air Transport Association
Subject:
Mail Vote 489—Resolution 010p TC2 EUR
Special Passenger Amending Resolution Between Italy and Europe
Intended effective date: 15 June 2006

Docket Number: OST–2006–24899
Date Filed: May 23, 2006
Parties: Members of the International Air Transport Association
Subject:
Mail Vote 478 Cargo Composite Resolutions (Memo 0547)
Mail Vote 479 Worldwide Area Resolutions except Alliance Countries Shanghai, 17 February 2006 (Memo 0548)
Mail Vote 480 Worldwide Area Resolutions Alliance Countries Shanghai, 17 February 2006 (Memo 0549)
Technical Correction: Mail Vote—478 Cargo Composite Resolutions (Memo 0555) and (Memo 0562)
Mail Vote 479—Worldwide Area Resolutions except Alliance Countries (Memo 0556) and (Memo 563)
Mail Vote 480—Worldwide Area Resolutions Alliance Countries (Memo 0557) and (Memo 0564)
Policy Group Report: Composite Meeting of Cargo Tariff Coordinating Conferences (Memo 0561)
Intended effective date: 1 October 2006

Renee V. Wright,

Program Manager, Docket Operations, Federal Register Liaison.

[FR Doc. E6–9730 Filed 6–20–06; 8:45 am]

BILLING CODE 4910–9X–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Notice of Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart B (Formerly Subpart Q) During the Week Ending May 26, 2006

The following Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits were filed under subpart B (formerly subpart Q) of the Department of Transportation's Procedural Regulations (See 14 CFR 301.201 *et seq.*). The due date for Answers, Conforming Applications, or Motions to Modify Scope are set forth below for each application. Following the Answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket Number: OST–2004–18574.
Date Filed: May 22, 2006.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: June 12, 2006.
Description: Notice of Sunworld International Airlines, Inc., requesting that it be found fit, willing and able to resume interstate and foreign scheduled air transportation of property and mail on or before October 1, 2006.

Docket Number: OST–2005–22228 and OST–2006–24913.
Date Filed: May 25, 2006.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: June 15, 2006.
Description: Application of JetBlue Airways Corporation (''JetBlue''), requesting a certificate of public convenience and necessity authorizing JetBlue to engage in foreign scheduled air transportation of persons, property and mail between the United States (JFK) and Aruba (AUA), and such other relief as it may find to be in the public interest, including integration authority with JetBlue's other certificate authority as provided in the August 23, 2005 Notice issued in Docket OST–2005–22228.

Docket Number: OST–2006–24922.
Date Filed: May 26, 2006.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: June 16, 2006.
Description: Application of Jetstar Airways Pty. Limited, requesting a foreign air carrier permit to engage in scheduled foreign air transportation of persons, property and mail between the United States and Australia to the full extent authorized by the Air Transport Service Agreement between the United States and Australia.

Renee V. Wright,

Program Manager, Docket Operations, Federal Register Liaison.

[FR Doc. E6–9729 Filed 6–20–06; 8:45 am]

BILLING CODE 4910–9X–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[FMCSA Docket No. FMCSA–2003–14652]

Commercial Driver's License Standards; Isuzu Motors America, Inc.'s Exemption Application

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of renewal of exemption; request for comments.

SUMMARY: FMCSA announces its decision to renew Isuzu Motors America, Inc.'s (Isuzu), exemption from the Agency's requirement for drivers of commercial motor vehicles (CMVs) to hold a commercial driver's license (CDL). Isuzu requested that its exemption for 19 Japanese engineers and technicians be renewed to enable these individuals to continue test driving CMVs in the United States for Isuzu. All of the individuals hold a

valid Japanese CDL. FMCSA believes the knowledge and skills testing and training program that drivers must undergo for a Japanese CDL ensures a level of safety that is equivalent to, or greater than, the level of safety that would be obtained by complying with the U.S. requirement for a CDL.

DATES: This decision is effective June 21, 2006. Comments must be received on or before July 21, 2006.

ADDRESSES: You may submit comments to the DOT Docket Management System (DMS), referencing Docket Number FMCSA–2003–14652, 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 Department of Transportation's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477; Apr. 11, 2000). This information is also available at *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: Mr. Thomas Yager, Chief, Driver and Carrier Operations Division, Office of Bus and Truck Standards and Operations, MC–PSD, Federal Motor Carrier Safety Administration, 400 Seventh Street, SW., Washington, DC 20590–0001. Telephone: 202–366–4009. E-mail: *MCPSD@dot.gov.*

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 31315 and 31136(e), FMCSA may renew an exemption from the CDL requirements in 49 CFR 383.23 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 prescribed in 49 CFR part 381. FMCSA has evaluated Isuzu's application for a renewal on its merits and decided to renew the exemption for 19 of Isuzu's engineers and technicians for a two-year period.

Isuzu Application for an Exemption Renewal

Isuzu Motors America, Inc. applied for the renewal of an exemption from the commercial driver's licensing rules, specifically 49 CFR 383.23, which establishes licensing requirements for drivers operating CMVs in interstate commerce. The exemption was originally granted on October 16, 2003 (68 FR 59677). Isuzu Motors America, Inc. is seeking a renewal of this exemption because the drivers it employs are citizens and residents of Japan. As such they cannot apply for a CDL from a State in the United States. A copy of the request for a renewal is in the docket identified at the beginning of this notice.

The renewal of the exemption will enable the following drivers to operate CMVs as part of a team of drivers to develop, design and/or test engines for vehicles that will be manufactured, assembled, sold or primarily used in the United States. These are 19 of the 31 drivers included in the original exemption: Shiro Fukuda, Wataru Kumakura, Takao Kudou, Takehito Yaguchi, Tsutomu Yamazaki, Toshiya Asari, Yasuhito Tahara, Shigeru Takamatsu, Shintaro Moroi, Motoki Nishi, Kazunori Iigou, Kazuyoshi Shimamura, Masaru Otsu, Satoru Amemiya, Tsuyoshi Koyama, Fumio Oota, Nobuyuki Miyazaki, Masao Inoue, and Hiroyoshi Takahashi.

These drivers are a team of engineers and technicians, currently employed by Isuzu Motors Limited in Japan, who operate CMVs in the United States to test and evaluate production and prototype CMVs to be sold for use on U.S. highways. They are experienced CMV operators with valid Japanese-issued CDLs. Because each of the drivers was required to satisfy strict regulations in Japan to obtain a CDL, and has extensive CMV training and experience, Isuzu Motors America, Inc. believes that the renewal of the exemption will continue to achieve a level of safety equivalent to the level of safety that would be obtained absent the exemption. Isuzu states in its application for exemption that none of these drivers received any traffic citations or were involved in any accidents from the time of the exemption on October 16, 2003, through the date of its application for renewal.

Method To Ensure an Equivalent or Greater Level of Safety

Drivers applying to obtain a Japanese-issued CDL must take both a knowledge test and skills test before a license to operate CMVs is issued. Prior to taking the tests, drivers are required to hold a conventional driver's license for at least three years. Therefore, the process for obtaining a Japanese-issued CDL is considered to be comparable to or as effective as the requirements of 49 CFR part 383 and adequately assesses the driver's ability to operate CMVs in the United States.

Once a driver is granted a Japanese CDL, he or she is allowed to drive any CMV currently allowed on Japanese roads. There are no limits to types or weights of vehicles that may be operated by the drivers. It is estimated that each driver would continue to drive approximately 5,000 miles per year on U.S. roads.

Request for Comments

In accordance with 49 U.S.C. 31315(b)(4) and 31136(e), FMCSA requests public comments on Isuzu's request for a renewal of its exemption from the requirements of 49 CFR 383.23. The Agency requests that interested parties with specific data concerning the safety records of the drivers listed in this notice submit comments by July 21, 2006. FMCSA will review all comments received by this date and determine whether the renewal of the exemption is consistent with the requirements of 49 U.S.C. 31315 and 31136(e). Comments received after the comment closing date will be filed in the public docket and

will be considered to the extent practicable, but FMCSA may make its final decision at any time after the close of the comment period.

FMCSA believes 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 subsequently evaluating comments submitted by interested parties. As indicated above, the Agency previously published a notice of final disposition announcing its decision to exempt these 19 Isuzu drivers from the CDL requirement in 49 CFR 383.23. The decision to renew the exemption for these drivers was based on the merits of each driver's demonstrated knowledge and skills about the safe operation of commercial motor vehicles, and only after careful consideration of the comments submitted in response to the April 30, 2003 (68 FR 23174) notice. The notice of application for exemption indicated that detailed information about the qualifications and experience of each of the drivers was provided in Isuzu's application and that a copy of the application is in the docket. The docket number is referenced at the beginning of this notice.

Interested parties or organizations possessing information that would otherwise show that any, or all of these drivers, are not currently achieving the requisite statutory level of safety should immediately notify FMCSA. The Agency will evaluate any adverse information submitted and, if safety is being compromised or if the continuation of the exemption is not consistent with 49 U.S.C. 31315(b)(4) and 31136(e), FMCSA will take immediate steps to revoke the exemption of the driver(s) in question.

Authority: 49 U.S.C. 31136 and 31315; and 49 CFR 1.73.

Issued on: June 15, 2006.

David H. Hugel,

Acting Administrator.

[FR Doc. E6–9684 Filed 6–20–06; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

Privacy Act of 1974: System of Records

AGENCY: Federal Motor Carrier Safety Administration, DOT.

ACTION: Notice to establish a system of records.

SUMMARY: DOT intends to establish a system of records under the Privacy Act of 1974.

DATES: *Effective Date:* July 31, 2006. If no comments are received, the proposal will become effective on the above date. If comments are received, the comments will be considered and, where adopted, the documents will be republished with changes.

FOR FURTHER INFORMATION CONTACT: Kara Spooner, Department of Transportation, Office of the Secretary, 400 7th Street, SW., Washington, DC 20590, (202) 366–1965 (telephone), (202) 366–7373 (fax), *kara.spooner@dot.gov* (Internet address).

SUPPLEMENTARY INFORMATION: The Department of Transportation system of records notice subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, has been published in the **Federal Register** and is available from the above mentioned address.

DOT/FMCSA 005

SYSTEM NAME:

Electronic Document Management System (EDMS)

SECURITY CLASSIFICATION:

Unclassified, Sensitive

SYSTEM LOCATION:

Department of Transportation, Volpe National Transportation Systems Center, 55 Broadway, Cambridge, MA 02142.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM OF RECORDS:

The input of information into EDMS is discretionary. Field users have been instructed to upload all compliance review, inspection and enforcement documents related to motor carriers generated after October 1, 2005, but some divisions have uploaded older documents in accordance with NARA's FMCSA Field Records Schedule in order to destroy paper copies of documents covered by the schedule. Use of the administrative (non-carrier related) sections of EDMS are also at the discretion of the Division/Field Administrator and may or may not contain certain types of information including, but not limited to, sensitive personnel documents such as Travel Vouchers (which include Social Security Numbers). Therefore, there is the potential for the following categories of individuals to be covered by this system:

- All owners of interstate commercial motor vehicle operations, active or inactive.
- All operators of interstate commercial motor vehicles, licensed or unlicensed.
- All FMCSA employees.

Operators and operators of interstate commercial motor vehicles; Federal Motor Carrier Safety Administration (FMCSA) employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

The input of information into EDMS is discretionary. Field users have been instructed to upload all compliance review, inspection and enforcement documents related to motor carriers generated after October 1, 2005, but some divisions have uploaded older documents in accordance with NARA's FMCSA Field Records Schedule in order to destroy paper copies of documents covered by the schedule. Use of the administrative (non-carrier related) sections of EDMS are also at the discretion of the Division/Field Administrator and may or may not contain certain types of information including, but not limited to, sensitive personnel documents such as Travel Vouchers (which include Social Security Numbers). Therefore, there is the potential for the following categories of documents to reside in this system:

- Carrier Related Documents include, but are not limited to:
  - Carrier Enforcement Case Documents.
  - General Carrier Documents, including, but not limited to:
    - Compliance Reviews.
    - Correspondence, including e-mail.
    - Crash Reports.
    - Out of Service Orders.
    - Safety Audits.
  - Carrier Receipt Documents.
  - Driver Enforcement Case Documents, including, but not limited to:
    - Notice of Claim.
    - Receipts.
    - Correspondence, including e-mail.
    - Enforcement Cases.
    - Exhibits.
    - Final Agency Orders.
  - Roadside Inspection Certification.
  - Roadside Inspection Report.
- Administrative Documents including, but not limited to:
  - Delegations of Authority.
  - Non-personnel related Employee Documents.
  - Federal Programs.
  - Rules of Conduct.
  - Employee Work Schedules.
  - Time and Attendance Records.
  - Congressional Correspondence.
  - Suspicious Activity Reports.
- Management Documents including, but not limited to:
  - Financial Management documents including, but not limited to:
    - Budgets.
    - Invoices.

- Procurement Requests.
- Property.
- Purchase Card documents.
- Purchase Orders.
- Travel (Authorizations, Voucher and Receipts).
- Personnel Management documents including, but not limited to:
- Performance Appraisals.
- Award Nominations.
- Position Descriptions.
- Personnel Actions (SF–50).
- Request for Personnel Actions (SF–52).
- Telecommuting Agreements.
- Within-Grade Step Increase documentation.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

49 U.S. C. 31136 (e), Motor Carrier Safety Act of 1984, 49 U.S.C. 31315, and the Transportation Equity Act for the 21st Century (TEA–21) which was enacted June 9, 1998 as Public Law 105–178.

PURPOSES:

To provide FMCSA personnel with a centralized document repository application for archiving and accessing documents relevant to FMCSA business processes. The mission of FMCSA is to improve the safety of commercial motor vehicles and save lives by enforcing the laws and regulations set forth to govern motor carrier operations. The business processes included in realizing this mission are the performance of compliance reviews and inspections on motor carrier operations and inspections of commercial motor vehicles, which may result in enforcement actions being taken against a motor carrier for failure to adhere to motor carrier laws and regulations. EDMS contains the documents related to these processes and allows all authorized users access to these documents in the performance of their duties.

EDMS is also used in the administrative process as a central repository in the operation of a specific office within FMCSA. Travel, procurement, budget and other administrative documents are housed in this system to support the migration to a ''paperless'' work environment.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See Prefatory Statement of General Routine Uses.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Documents are stored on this system on a dedicated server. Metadata specific to each document is stored on a separate database server and is dynamically linked to each document.

RETRIEVABILITY:

Records are retrievable by USDOT number, carrier census information (carrier name, DBA, address, etc.), Division, Service Center, Driver Name, Employee Name, Document Category, Document Date, Author, and Fiscal Year.

SAFEGUARDS:

The electronic records uploaded to EDMS are stored in one server on a secure web-based system. The index data associated with these documents is stored on a database server. Both of these servers are physically protected by virtue of the fact that they are housed in a limited-access controlled server room. The entire EDMS application is electronically safeguarded through the use of HTTPS and SSL (Secure Socket Links) and is accessible only to users within the FMCSA network, or from specific IP addresses of authorized contractors. All users of the system are required to obtain a user name through FMCSA Technical Support, the contractor support group which provides technical support to the majority of FMCSA Information Technology systems. All applications for accounts must first be approved by the FMCSA Organizational Coordinator for the area in which the user works. All requests are then reviewed by FMCSA Technical Support to ensure conformance with FMCSA's security standards. Once a user is approved, FMCSA Technical Support contacts the user via e-mail and requests that the user call FMCSA Technical Support to obtain their temporary password to the system. The temporary password is configured to expire and force the user to change his/her password upon first login attempt. All FMCSA employees are eligible for an account in EDMS, but access to certain libraries contained on the system is dependent upon the user's role.

RETENTION AND DISPOSAL:

The files are retained and disposed of according to the FMCSA Field Records Schedule according to the National Archives and Records Administration, and FMCSA policy.

SYSTEM MANAGER(S) AND ADDRESS:

Department of Transportation, Federal Motor Carrier Safety Administration, Office of Data Analysis and Information Systems, 400 7th Street, SW., Washington, DC 20590.

NOTIFICATION PROCEDURE:

Same as ''System Manager.''

RECORD ACCESS PROCEDURES:

Same as ''System Manager.''

CONTESTING RECORD PROCEDURES:

Same as ''System Manager.''

RECORD SOURCE CATEGORIES:

Same as ''System Manager.''

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

OMB CONTROL NUMBER:

None.

Dated: June 15, 2006.

Kara Spooner,

Departmental Privacy Officer.

[FR Doc. E6–9732 Filed 6–20–06; 8:45 am]

BILLING CODE 4910–9X–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Privacy Act of 1974: System of Records

AGENCY: Federal Railroad Administration, DOT.

ACTION: Notice to establish a system of records.

SUMMARY: DOT intends to establish a system of records under the Privacy Act of 1974.

DATES: *Effective Date:* July 31, 2006. If no comments are received, the proposal will become effective on the above date. If comments are received, the comments will be considered and, where adopted, the documents will be republished with changes.

FOR FURTHER INFORMATION CONTACT: Kara Spooner, Department of Transportation, Office of the Secretary, 400 7th Street, SW., Washington, DC 20590, (202) 366–1965 (telephone), (202) 366–7373 (fax), *kara.spooner@dot.gov* (Internet address).

SUPPLEMENTARY INFORMATION: The Department of Transportation system of records notice subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, has been published in the **Federal Register** and is available from the above mentioned address.

DOT/FRA 132

SYSTEM NAME:

Controlled Correspondence Manager (CCM).

SECURITY CLASSIFICATION:

Unclassified, sensitive.

SYSTEM LOCATION:

Department of Transportation, Federal Railroad Administration (FRA), Office of Administration and Finance, Office of Information Technology, 1120 Vermont Ave., NW., Washington, DC 20590.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who write, or are referred in writing by a second party, to the Administrator, Deputy Administrator, Associate Administrators, and/or their immediate offices and staff. Individuals who are the subject of an action requiring approval or action by one of the forenamed, such as appeal actions, training, awards, foreign travel, promotions, selections, grievances, and discipline.

CATEGORIES OF RECORDS IN THE SYSTEM:

Correspondence submitted by or on behalf of an individual and responses to such correspondence; and one-time movement and waiver requests from regulations submitted by railroads.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

44 U.S.C. 3101.

PURPOSE(S):

The purpose of the system is to provide history and internal tracking of correspondence addressed to and signed by the Administrator, Deputy Administrator, Associate Administrators, and their immediate offices and corresponding staff. The system provides FRA with the ability to track correspondence, one-time movements, waivers, and train horn rule to ensure timely response to the individual, public, or organization.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Referral to the appropriate action office within the agency for preparation of a response. Referral to the appropriate agency for actions involving matters of law or regulation beyond the responsibility of the agency. See Prefatory Statement of General Routine Uses.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

All data about the record is stored in a database and corresponding attachments are stored on a file server.

RETRIEVABILITY:

Records are retrieved by name or control number.

SAFEGUARDS:

Access to the system is limited to individuals responsible for responding or tracking correspondence and the system administrator through the use of user IDs and passwords. Physical access to the system and manual records is restricted through security guards and access badges to enter the facility where equipment and records are located.

RETENTION AND DISPOSAL:

The office that owns the CCM records sets retention and disposal for the records. CCM is not an official record. The record owner keeps hard copy files of CCM records in accordance with National Archives and Records Administration (NARA) and agency record retention policies.

SYSTEM MANAGER(S) AND ADDRESS:

Department of Transportation, Federal Railroad Administration, Office of Administration and Finance, Office of Information Technology, 1120 Vermont Ave., NW., Mail Stop 35, Washington, DC 20590.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether their information is contained within this system should address written inquiries to the Freedom of Information Act Coordinator, Office of Chief Counsel, Federal Railroad Administration, 1120 Vermont Ave., NW., Stop 10, Washington, DC 20590. Requests should include name, address and telephone number and describe the records you seek.

RECORD ACCESS PROCEDURES:

Individuals seeking access to records contained within this system can send their requests to the Freedom of Information Act Coordinator, Office of Chief Counsel, Federal Railroad Administration, 1120 Vermont Ave., NW., Stop 10, Washington, DC 20590. Requests should include name, address and telephone number and describe the records you seek.

CONTESTING RECORD PROCEDURES:

Contact System Manager for information on procedures for contesting records at Department of Transportation, Federal Railroad Administration, Office of Administration and Finance, Office of Information Technology, 1120 Vermont Ave., NW., Mail Stop 35, Washington, DC 20590.

RECORD SOURCE CATEGORIES:

Correspondence from an individual or his/her representative or sponsor; responses to incoming correspondence; and related material provided for background as appropriate.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Dated: June 15, 2006.

Kara Spooner,

Departmental Privacy Officer.

[FR Doc. E6–9733 Filed 6–20–06; 8:45 am]

BILLING CODE 4910–9X–P

Corrections

Federal Register

Vol. 71, No. 119

Wednesday, June 21, 2006

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Findings of Scientific Misconduct

Corrections

In notice document 06–5204 beginning on page 33308 in the issue of Thursday, June 8, 2006, make the following corrections:

1. On page 33309, in the first column, in the first full paragraph, in the second line, ''Landon'' should read ''Leadon''.

2. On the same page, in the same column, in the second full paragraph, in the fourth line, ''BRCAI'' should read ''BRCA1''.

3. On the same page, in the same column, in the same paragraph, in the fifth line, ''Oxidation'' should read ''Oxidative''.

4. On the same page, in the same column, in the same paragraph, in the sixth line, ''281:109–1012'' should read ''281: 1009–1012''.

5. On the same page, in the second column, in the first bulleted paragraph, in the third line, ''S.g.'' should read ''S.G.''.

6. On the same page, in the same column, in the same paragraph, in the seventh line, ''275: 9907ndash993, 1997'' should read ''275: 990–993, 1997''.

7. On the same page, in the same column, in the fourth bulleted paragraph, in the third line, ''S.g.'' should read ''S.G.''.

[FR Doc. C6–5204 Filed 6–20–06; 8:45 am]

BILLING CODE 1505–01–D

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 200

[Release No. 34–53937; File No. S7–10–06]

RIN 3235–AJ56

Amendments to Plan of Organization and Operation Effective During Emergency Conditions

Correction

In rule document 06–5232 beginning on page 33384 in the issue of Friday, June 9, 2006, make the following correction:

§ 200.200 [Corrected]

On page 33386, in the third column, in § 200.200, in amendatory instruction b, in the first and second lines ''''to read'' ''emergency conditions,'''' should read ''''a national emergency'' to read ''emergency conditions,'''':

[FR Doc. C6–5232 Filed 6–20–06; 8:45 am]

BILLING CODE 1505–01–D

Federal Register

Wednesday,
June 21, 2006

Part II

Department of Homeland Security

U.S. Citizenship and Immigration Services
8 CFR Parts 204, 205, 213a and 299

Department of Justice

Executive Office for Immigration Review
8 CFR Parts 1205 and 1240

Affidavits of Support on Behalf of Immigrants; Final Rule

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

8 CFR Parts 204, 205, 213a and 299

[DHS 2004–0026; CIS No. 1807–96]

RIN 1615–AB45

DEPARTMENT OF JUSTICE

Executive Office for Immigration Review

8 CFR Parts 1205 and 1240

[EOIR No. 150F; AG Order No. 2824–2006]

RIN 1125–AA54

Affidavits of Support on Behalf of Immigrants

AGENCIES: U.S. Citizenship and Immigration Services, Department of Homeland Security; Executive Office for Immigration Review, Department of Justice.

ACTION: Final rule.

SUMMARY: This final rule adopts, with specified changes, an interim rule published by the former Immigration and Naturalization Service on October 20, 1997. This final rule clarifies several issues raised under the interim rule regarding who needs an affidavit of support, how sponsors qualify, what information and documentation they must present, and when the income of other persons may be used to support an intending immigrant's application for permanent residence. These changes are intended to make the affidavit of support process clearer and less intimidating and time-consuming for sponsors, while continuing to ensure that sponsors will have sufficient means available to support new immigrants when necessary. The final rule also makes clear that, when an alien applies for adjustment of status in removal proceedings, the immigration judge's jurisdiction to adjudicate the adjustment application includes authority to adjudicate the sufficiency of the affidavit of support.

DATES: This final rule is effective July 21, 2006.

FOR FURTHER INFORMATION CONTACT: *Concerning amendments made by this Final Rule to 8 CFR parts 204, 205, 213A and 299:* Jonathan Mills, Immigrant Program Management Branch, Office of Regulations and Product Management, U.S. Citizenship and Immigration Services, Department of Homeland Security, 111 Massachusetts Avenue, NW., Room 3214, Washington, DC 20529; telephone (202) 272–8530 (not a toll free call); or Lisa S. Roney, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security, 20 Massachusetts Ave, NW., Room 4062, Washington, DC 20529; telephone (202) 272–1470 (not a toll free call).

Concerning amendments made by this Final Rule to 8 CFR parts 1205 and 1240: MaryBeth Keller, General Counsel, Executive Office for Immigration Review, 5107 Leesburg Pike, Suite 2600, Falls Church, Virginia 22041; telephone (703) 305–0470 (not a toll free call).

SUPPLEMENTARY INFORMATION:

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I. Background

Section 531(a) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA), Public Law 104–208, Division C, amended section 212(a)(4) of the Immigration and Nationality Act (Act) to provide that an alien is inadmissible as an alien likely to become a public charge if the alien is seeking an immigrant visa, admission as an immigrant, or adjustment of status as: (a) An immediate relative, (b) a family-based immigrant, or (c) an employment-based immigrant, if a relative of the alien is the petitioning employer or has a significant ownership interest in the entity that is the petitioning employer. Sections 212(a)(4)(C)–(D) and 213A of the Act, 8 U.S.C. 1182(a)(4)(C)–(D) and 1183a. To avoid a finding of inadmissibility as a public charge, the alien must be the beneficiary of an affidavit of support filed under section 213A of the Act, 8 U.S.C. 1183a. Section 213A of the Act specifies the conditions that must be met in order for an affidavit of support to be sufficient to overcome the public charge inadmissibility ground.

A. The Interim Rule

The former Immigration and Naturalization Service (Service) published an interim rule implementing these requirements in the **Federal Register** on October 20, 1997, at 62 FR 54346. The interim rule adopted 8 CFR part 213A, defining the procedures for submitting affidavits of support under section 213A of the Act, defining a sponsor's ongoing obligations under the affidavit of support, and specifying the procedures that Federal, State, or local agencies or private entities must follow to seek reimbursement from the sponsor for provision of means-tested public benefits. In conjunction with the interim rule, the Service also created three new public use forms: Form I–864, Affidavit of Support Under Section 213A of the Act; Form I–864A, Contract Between Sponsor and Household Member; and Form I–865, Sponsor's Notice of Change of Address. The interim rule was effective on December 19, 1997.

On March 1, 2003, the Service ceased to exist and its functions were transferred from the Department of Justice to the Department of Homeland Security (DHS), pursuant to the Homeland Security Act of 2002, Public Law 107–296. The Secretary of Homeland Security is the issuing authority for most of the provisions of this final rule, since the Homeland Security Act transferred immigration services functions to U.S. Citizenship and Immigration Services (USCIS) of DHS. The Attorney General, however, continues to have authority relating to the Executive Office for Immigration Review. The Attorney General, therefore, is the issuing authority for the provisions of this final rule that relate to the jurisdiction of the immigration judges.

B. Synopsis of the Final Rule

This current rulemaking adopts the interim rule as a final rule, with the changes discussed in this Supplementary Information. The changes reflect the response of USCIS and the Department of Justice to the comments received relating to the

interim rule. USCIS also notes that it has adopted two additional public use forms to comply with the requirements of the final rule. USCIS designed Form I–864EZ, EZ Affidavit of Support, for use by a sponsor who relies only on his or her own employment to meet the income requirements under section 213A of the Act and the final rule. An intending immigrant uses Form I–864W, Intending Immigrant's I–864 Exemption, to establish that a Form I–864 is not required in his or her case. More information about these new Forms is included in the section of this **SUPPLEMENTARY INFORMATION** relating to the Paperwork Reduction Act. Also, pursuant to section 213A(i) of the Act, the final rule makes clear that USCIS may disclose a sponsor's social security number, as well as the sponsor's last known address, to a benefit granting agency seeking to obtain reimbursement from the sponsor.

II. Description of and Response to Comments

The comment period ended on February 17, 1998. The Service received 117 comments that were submitted during the comment period. USCIS and DOJ have considered these comments in formulating the final rules.

The following is a discussion of the comments and USCIS's responses.

A. Employment Sponsored Immigrants

Definition of ''Significant Ownership Interest''

Sections 212(a)(4)(D) and 213A(f)(4) of the Act and 8 CFR 213a.2(b)(2) require the submission of Form I–864 in the case of an employment-based immigrant if a relative of the immigrant either filed the visa petition or has a ''significant ownership interest'' in the entity that did so. The interim regulation, at 8 CFR 213a.1, defined ''significant ownership interest'' as an ownership interest of five percent or more in a for-profit entity. Nine commenters (with 51 signers) believe that this five percent threshold is too low. One commenter, for example, argued that a five percent interest cannot be considered ''significant'' because ''no ability to control or even influence [the entity] can result from such a low level of ownership.'' These commenters believe that an affidavit of support should not be required unless the relative owns at least 50 percent of the petitioning entity. They based this suggestion on the Department of State's determination in the Foreign Affairs Manual that a treaty investor must own at least 50 percent of the entity in order to meet the ''substantial investment'' requirement for treaty investor visas. See Foreign Affairs Manual, Volume 9, Sec. 41.51, note 3.1 to 22 CFR 41.51.

The final rule retains the five percent threshold adopted in the interim rule. In accordance with the authorities cited in the supplemental information to the interim rule, at 62 FR 54347, USCIS believes that the term ''significant ownership interest'' had a well-settled meaning in Federal statutes and regulations when Congress included the term in sections 212(a)(4)(D) and 213A(f)(4) of the Act. The commenters' observation that these definitions are in ''unrelated'' statutes is not persuasive, since it is the meaning of the term itself that is at issue. In the absence of the enactment of a different definition of ''significant ownership interest,'' there is no clear basis for adopting a different definition for section 213A of the Act.

Citizenship or Resident Alien Status of the Relative-Employer

Three commenters asked whether the affidavit of support requirement will apply to employment-based immigrants if the relative with the significant ownership interest is not a United States citizen or resident alien. For employment-based immigrants, the purpose of the affidavit of support is to ensure that a relative who could file a family-based visa petition will not use employment as a means to avoid the affidavit of support requirement that would apply if the relative were to file an alien relative visa petition. Relatives who are not U.S. citizens or resident aliens are ineligible to file alien relative visa petitions. For this reason, 8 CFR 213a.1 defines ''relative,'' for purposes of the affidavit of support requirement, to include only those family members who can file alien relative visa petitions. The final rule clarifies that a relative must be either a U.S. citizen or a resident alien in order for the affidavit of support requirement to apply to an employment-based immigrant.

B. Effect of an Intending Immigrant's Work History

Under section 213A(a)(3)(A) of the Act, all of a sponsor's obligations under the affidavit of support end once the intending immigrant has worked, or can be credited with, 40 qualifying quarters of coverage as defined under title II of the Social Security Act, 42 U.S.C. 401 *et seq.* One comment (with 21 signatures) suggested that the affidavit of support requirement should not apply at all if, when the intending immigrant seeks an immigrant visa or adjustment of status, the intending immigrant can already meet this requirement. This comment is well-taken. If the intending immigrant can establish, on the basis of the records of the Social Security Administration, that he or she already has, or can be credited with, the necessary quarters of coverage, requiring the Form I–864 would serve no real purpose—the sponsor's obligations would terminate as soon as they arose. The final rule therefore adopts this suggestion.

C. Effect of the Child Citizenship Act of 2000 on the Affidavit of Support Requirement

On October 30, 2000, President Clinton signed into law the Child Citizenship Act of 2000, Public Law 106–395, 114 Stat. 1631. Section 101 of Public Law 106–395 amended section 320 of the Act, effective February 27, 2001. Under this amendment, the alien child of a citizen becomes a citizen automatically under section 320 of the Act if, before the child's 18th birthday, the child is lawfully admitted for permanent residence while in the legal and physical custody of a citizen parent and while residing with the citizen parent in the United States. It is likely that most alien children of citizens will acquire citizenship at the same moment as their admission for permanent residence.

Because the requirements under the affidavit of support end when the sponsored immigrant becomes a citizen, USCIS concludes that imposing the affidavit of support requirement in these cases would be needless. Therefore, the final rule provides that no Form I–864 is required if the alien establishes that he or she will acquire citizenship automatically under section 320, as amended, upon his or her admission or adjustment of status. Note, however, that this final rule excuses the immigrant children of citizens from the requirement of filing a Form I–864 only. In a given case, it may still be that, in light of the general factors specified in section 212(a)(4)(B) of the Act—the alien's age, health, family status, assets, resources and financial status, education and skills—an immigrant child of a citizen would be inadmissible under section 212(a)(4)(A) of the Act as an alien likely to become a public charge. DHS does not consider it likely for this issue to arise in many cases, however. Under the amended section 320, most adopted children will acquire citizenship upon their admission to the United States or soon thereafter. Even a child with a serious medical condition, therefore, would most likely be a citizen before the child would become dependent on public assistance as a result of the condition.

The Child Citizenship Act applies to adopted children and alien orphans, as

well as to birth children. Note, however, that amended section 320 of the Act requires the child to be in the legal and physical custody of a citizen parent in order for the child to acquire citizenship upon admission as a permanent resident. If the citizen parent, residing in the United States, adopts an alien orphan abroad, and both parents saw the child before or during the adoption, then the legal parent-child relationship will already exist for immigration purposes when the alien orphan is admitted to the United States as a permanent resident. If all the other requirements of section 320 of the Act are met, the alien orphan will become a citizen at admission. If, however, the alien orphan is to be adopted in the United States only after admission, then the alien orphan will not become a citizen until the adoption is finalized. The citizen parent will therefore have to sign a Form I–864. A Form I–864 will also be required of the citizen parent when there is a completed foreign adoption, but one or both of the parents did not see the child before or during the adoption, unless the citizen parent can establish that, under the law of the State of the child's proposed residence, the foreign adoption will be entitled to recognition without the need for any formal administrative or judicial proceeding in that State.

The petitioning citizen parent must still submit a sufficient Form I–864 if the child immigrates after the child's 18th birthday, and also if the child immigrates before the child's 18th birthday, but the child is no longer a ''child'' as defined in section 101(b)(1) of the Act because the child is married.

D. Definition of ''Domicile''

Eight comments questioned the definition of ''domicile.'' Several commenters objected that, because of the way the interim rule defined ''domicile,'' it would preclude citizens and resident aliens who are domiciled abroad from filing affidavits of support. It is true that those who are not domiciled in the United States may not file affidavits of support until they establish domiciles in the United States. This result is clearly what Congress intended in imposing the domicile requirement. An agreement to submit to the jurisdiction of a court in the United States, suggested by three comments, cannot substitute for this clear statutory requirement.

It appears that the commenters may have misunderstood the scope of the definition. In particular, in 1997 the Service did not intend, and USCIS does not now intend, the reference to sections 316(b), 317, and 319(b) of the Act to exhaust the situations in which a person sojourning abroad may be said to retain a domicile in the United States. The final rule revises the definition to tie ''domicile'' to the sponsor's principal residence. The final rule also clarifies that a person residing temporarily abroad may file an affidavit of support if he or she can show, by a preponderance of the evidence, that he or she still has a domicile in the United States. To avoid confusion, the final rule makes this clarification in a new 8 CFR 213a.2(c)(1)(ii), rather than in the definition itself.

The final rule does provide in section 213a.2(c)(1)(ii) a single exception, under which a sponsor who is not domiciled in the United States (i.e., cannot show his or her residence abroad has been only temporary) may submit a Form I–864. The sponsor may do so only if the sponsor establishes, by a preponderance of the evidence, that the sponsor will have established his or her domicile in the United States no later than the date of the intending immigrant's admission or adjustment of status. The intending immigrant will, however, be inadmissible as an alien likely to become a public charge if the sponsor has not actually become domiciled in the United States by the date of the decision on the intending immigrant's application for admission or adjustment of status. Thus, the sponsor must arrive in the United States before, or at the same time as, the intending immigrant, and the sponsor must intend to establish his or her domicile in the United States.

E. Sponsors Under the Age of 18

Four commenters objected to the requirement that the sponsor must be at least 18 years old. They noted that this requirement will mean that a citizen or resident alien spouse who does not meet the age requirement cannot file an affidavit of support on behalf of the spouse seeking to immigrate. Similarly, a parent who is under 18 years old could not do so for his or her alien children. Congress set the age limit in section 213A(f)(1)(B) of the Act. USCIS cannot change the age limit in the regulations unless Congress amends section 213A of the Act. If the sponsor or joint sponsor was not 18 when he or she signed a Form I–864, the signature will have no legal effect under section 213A of the Act. Rather than requiring rejection of the Form I–864, however, the final rule provides that, to cure the improper filing, the sponsor or joint sponsor must sign it again on or after his or her 18th birthday before there can be a decision on the intending immigrant's application for an immigrant visa or adjustment of status.

F. Joint Sponsors

Four commenters argued that the joint sponsorship provision is too restrictive to provide a practical alternative. One of these commenters, in particular, suggested that the sponsor and joint sponsor should be able to ''pool'' their income, that is, that the joint sponsor should only be required to make up the difference between the sponsor's income and the income threshold. However, sections 213A(f)(2) and (5) of the Act permit a joint sponsor only in one specified situation: when the sponsor's income is not sufficient. The joint sponsor, according to section 213A(f)(5) of the Act, must be able to meet the income threshold. For this reason, the final rule cannot, and does not, adopt the suggestion that, like the household members, the sponsor and joint sponsor should be able to ''pool'' their income.

One comment suggested that a joint sponsor should be allowed if the visa petitioner is under 18. Sections 213A(f)(2) and (5) of the Act provide the only statutory basis for joint sponsors, and allow for a joint sponsor only if the sponsor's income is not sufficient. There is no similar provision for cases involving sponsors who are not at least 18, or who are not domiciled in the United States.

One of the eight commenters on the domicile issue discussed earlier suggested that the regulation should permit a joint sponsor if the visa petitioner cannot meet the domicile requirement. But sections 213A(f)(2) and (5) of the Act provide the only statutory basis for joint sponsors, and allow for a joint sponsor only if the principal sponsor's income is not sufficient. If the person who is required to be the sponsor is not domiciled in the United States, and, as noted earlier in the discussion of domicile, does not intend to establish a domicile in the United States, then there is no one who has standing to sign an affidavit of support on behalf of the intending immigrant.

The final rule also makes clear that an intending immigrant may not have more than one joint sponsor, in addition to the principal sponsor. This clarification is consistent with the statement of managers accompanying IIRIRA with respect to section 213A, which clearly indicates that the managers did not consider it appropriate to permit a second joint sponsor if the joint sponsor's income was not sufficient. H. Rep. No. 104–828 at 242 (1996). It is not necessary, however, for all the derivative beneficiaries of a visa petition to have the same joint sponsor as the

principal beneficiary. For example, suppose the principal beneficiary has a wife and four children who will accompany the principal beneficiary to the United States. It may be the case that a willing joint sponsor would have sufficient income to file an affidavit of support for the husband and wife and only one of the children. The final rule would permit the joint sponsor to accept responsibility only for those three aliens, and would allow a second joint sponsor to file an affidavit of support for the other three children. Each joint sponsor would then be responsible only for those aliens named in that joint sponsor's own Form I–864. The principal intending immigrant and the accompanying spouse and children, as a group, however, may not have more than two joint sponsors.

G. Effect of the Visa Petitioner's Death

Seven commenters suggested that a joint sponsor should be permitted if the visa petitioner dies before the visa petition is approved, and the beneficiary has obtained ''relief from revocation'' under 8 CFR 205.1(a)(3)(i)(C). There is no authority to approve a visa petition after the petitioner dies. *See Abboud* v. *INS*, 140 F.3d 843 (9th Cir. 1998); *Dodig* v. *INS*, 9 F.3d 1418 (9th Cir. 1993); *Matter of Varela*, 13 I. & N. Dec. 453 (BIA 1970). If the petitioner dies before approval of the visa petition, there is no basis for approving the visa petition.

The legal situation is different if the visa petitioner dies after approval of the visa petition. Section 205 of the Act authorizes revocation of approval of a visa petition for ''good and sufficient cause.'' The related regulation, 8 CFR 205.1(a)(3)(i)(C), provides that the petitioner's death automatically revokes approval of a family-based immigrant petition. This same regulation, however, allows the approval to remain in force if USCIS, in the exercise of discretion, ''determines that for humanitarian reasons revocation would be inappropriate.'' 8 CFR 205.1(a)(3)(i)(C).

Reinstatement of approval of the visa petition does not waive the affidavit of support requirements under section 213A of the Act. However, on March 13, 2002, the Family Sponsor Immigration Act, Public Law 107–150, 116 Stat. 74, was enacted. Public Law 107–150 amended section 213A(f)(5) of the Act to permit another relative to sign the affidavit of support if the petitioner dies after the visa petition is approved, where it is determined that revoking the approval would not be appropriate. This final rule incorporates the provisions of section 213A(f)(5)(B), as amended by Public Law 107–150. A substitute sponsor must be either a citizen or national, or else an alien lawfully admitted for permanent residence. The substitute sponsor must also be at least 18 years of age, and must have a domicile in the United States. If USCIS allows the approval of the visa petition to stand, then the sponsored alien's spouse, parent, mother-in-law, father-in-law, sibling, child (if at least 18 years of age), son, daughter, son-in-law, daughter-in-law, sister-in-law, brother-in-law, grandparent, grandchild, or a legal guardian may sign the affidavit of support.

The final rule also adopts a special rule for cases in which the alien beneficiary was, before the petitioner's death, the spouse of a citizen. Under section 201(b)(2)(A)(i) of the Act, if an alien was married to a citizen for at least 2 years at the time of the citizen's death, the alien may file a petition on his or her own behalf, so long as the alien does so within 2 years of the citizen's death, and has not remarried. Section 212(a)(4)(C)(i)(I) of the Act, in turn, relieves that alien of the affidavit of support requirement, once USCIS approves the new petition. The final rule provides that it will not be necessary for the beneficiary to file a new petition (Form I–360, Petition for Amerasian, Widow(er), or Special Immigrant) as the widow(er) of a citizen. Instead, the final rule provides for automatic conversion of the citizen's spousal Form I–130, Petition for Alien Relative, to a widow(er)'s petition upon the citizen's death if, on that date, the widow(er) meets the requirements of section 201(b)(2)(A)(I) of the Act as it relates to widow(er)'s petitions. This automatic conversion will apply whether the citizen spouse dies before or after approval of the Form I–130. Since the alien spouse will then immigrate as the widow(er) of a citizen, it will not be necessary to submit a Form I–864 from a substitute sponsor.

The final rule retains the provision of the interim rule that permits a joint sponsor if the visa petitioner dies after the principal beneficiary has immigrated, but before a family member entitled to ''follow to join'' the principal beneficiary immigrates. (''Following to join'' permits spouses and children of an alien to obtain the status nonimmigrant visa or immigrant visa and priority date of the principal alien.) The final rule, however, conforms the provision to the requirements of the Family Sponsor Immigration Act. That is to say, the substitute sponsor must be a citizen, national, or permanent resident alien, at least 18 years of age, and related to the new intending immigrant in at least one of the ways described in section 213A(f)(5)(B) of the Act, as amended by Public Law 107–150.

H. Other Sponsorship Requirements

Section 213A(f)(1)(D) of the Act provides that the sponsor must be the person ''petitioning for the admission of the alien under section 204'' of the Act. The interim rule, in 8 CFR 213a.2(b)(1), made clear that the sponsor must be the visa petitioner whose petition is the actual basis for the intending immigrant's eligibility to apply for the immigrant visa or adjustment of status. One commenter noted that an alien may be the beneficiary of more than one approved visa petition, filed by several relatives. This commenter believes that any one of these petitioners should be able to be the sponsor. For example, if the intending immigrant applies for a visa as an immediate relative, on the basis of his wife's visa petition, but his mother also filed a third family-based preference petition, then his mother, instead of his wife, should be able to be the sponsor.

This comment cannot be adopted. The reference in section 213A(f)(1)(D) of the Act to section 204 of the Act can most reasonably be taken to mean that Congress anticipated that the sponsor would be the same person whose visa petition has made the intending immigrant's application for an immigrant visa or for adjustment of status currently possible. If the mother in this example is going to be the sponsor, then the alien will have to wait until the priority date for her petition is reached. The mother may, of course, choose to be a joint sponsor if the visa petitioner/sponsor cannot meet the income threshold.

Proof of Sponsor's Social Security Number, Citizenship, and Residence

One commenter suggested that every sponsor should have to prove his or her citizenship, residence, and Social Security number. It is not necessary to incorporate this suggestion into the final rule. USCIS already verifies the citizenship or resident alien status of those who file alien relative visa petitions. Moreover, the general authority to gather evidence concerning an alien's eligibility to enter the United States, granted under section 287(b) of the Act, is a sufficient basis for USCIS to require additional evidence concerning these issues. Such evidence may include verification of a sponsor's Social Security number, especially when there is a reasonable basis to question the sponsor's identity or eligibility to sign the Form I–864. A joint sponsor, however, will have to

prove his or her eligibility to be a joint sponsor.

Nonimmigrant Fiancé(e)s

Another commenter asked for clarification that the nonimmigrant fiancé(e) of a citizen does not need a Form I–864 when the fiancé(e) comes to the United States as a K–1 nonimmigrant fiancé(e) under section 101(a)(15)(K) of the Act to marry the citizen. This is correct. A K–1 nonimmigrant fiancé(e), however, is admitted for only 90 days. The lawful status of the K–1 nonimmigrant fiancé(e), and any accompanying child admitted as a K–2 nonimmigrant, ends unless, within this 90-day period, the K–1 nonimmigrant fiancé(e) marries the citizen who filed the K–1 nonimmigrant visa petition. After the marriage, the K–1 nonimmigrant fiancé(e) and any accompanying children admitted as K–2 nonimmigrants must then apply for adjustment to permanent resident status. Sections 201(b)(2)(A)(i) and 245(d) of the Act make it clear that, when an alien who has been admitted as a K–1 nonimmigrant fiancé(e), and any accompanying child admitted as a K–2 nonimmigrant, applies for adjustment of status, he or she does so as an immediate relative. Since the K nonimmigrant adjusts as an immediate relative, sections 212(a)(4) and 213A make the nonimmigrant inadmissible unless the citizen spouse files a Form I–864 for both the K–1 nonimmigrant fiancé(e) and any accompanying children admitted as K–2 nonimmigrants.

This commenter also believed that Forms I–864 should be required for other nonimmigrants, such as students and the family members of students and nonimmigrants in work-related classifications. Section 213A of the Act, however, clearly applies only to certain immigrants. There is no basis in section 213A of the Act for adopting this comment.

Continued Use of the Form I–134, Affidavit of Support

The interim rule clarified in 8 CFR 213a.5 that the regulations relating to the use of Forms I–864, I–864A, and I–865 do not apply to other situations where immigration or consular officers have permitted the use of Form I–134. The Form I–134 is the long-used affidavit of support that, as several State courts have held, does not impose an obligation that could be enforced against the sponsor by lawsuit. *San Diego County* v. *Viloria*, 276 Cal. App. 2d 350, 80 Cal. Rptr 869 (Cal. App. 1969); *Michigan ex rel. Attorney General* v. *Binder*, 356 Mich. 73, 96 N.W. 2d 140 (Mich. 1959); *California Dept. Mental Hygiene* v. *Renel*, 10 Misc.2d 402, 173 N.Y.S. 2d 231 (N.Y. App. Div. 1958). Seven commenters asked for clarification of the situations when Form I–134 may be used. The discretion concerning use of Form I–134 has long been quite broad. The sole purpose of 8 CFR 213a.5 is to retain that broad discretion. For this reason, the final rule makes no change to 8 CFR 213a.5.

Definitions of ''Household Size'' and ''Household Income''

Numerous comments were received concerning the definitions of ''household size'' and ''household income'' and the use of the Form I–864A.

In general, these commenters believed that ''household size'' was defined too broadly, since all related people at the same residence would be considered in the household, even if they were, in fact, separate economic ''households.'' These comments are well-founded. The final rule, therefore, provides for flexibility in the definition of ''household size.''

In all cases, the sponsor must include in calculating the ''household size'' the sponsor, his wife or her husband, the sponsor's unmarried children under the age of 21 (other than a step-child who meets the requirements of section 101(b)(1)(B) of the Act but who is not part of the sponsor's household, is not claimed as a dependent by the sponsor for tax purposes, and is not seeking to immigrate based on the step-parent/step-child relationship), and any other person—whether related to the sponsor or not—claimed as a dependent on the sponsor's income tax returns. The sponsor must include his or her spouse and all persons claimed as dependents for tax purposes, even if these persons do not actually have the same principal residence as the sponsor. The sponsor may exclude any unmarried children under 21 if these children have reached majority under the law of the place of domicile and the sponsor does not claim them as dependents on the sponsor's income tax returns.

If, in fact, the household consists of a more extended family, the sponsor may elect to include other relatives in determining the ''household size.'' Under this alternative, the sponsor may then include in the calculation of household size any relative of the sponsor who has the same principal residence as the sponsor. In determining the household size, ''relative'' has the same meaning as for the affidavit of support regulation as a whole—that is, in addition to the spouse, unmarried children under 21, and any other persons legally claimed as dependents, the sponsor may include his or her father, mother, adult son, adult daughter, brother, or sister. The final rule removes the interim rule's requirement that the household member must have resided in the sponsor's household for at least six months in order to sign a Form I–864A. The final rule also clarifies, as requested by three commenters, that no person should be counted more than once in determining the size of the household.

The definition of ''household income'' is revised to correspond to the revised definition of ''household size.'' In determining the ''household income'' the sponsor may include the income of any other persons included in calculating the ''household size,'' but these other persons, including the sponsor's spouse or children (who must be at least 18 years old), must still sign Form I–864A in order for the sponsor to use this option. The final rule retains the Form I–864A requirement to ensure that the family member's promise of support is enforceable. As with the sponsor's spouse and dependents, the income of these other relatives in the residence may be ''pooled'' to determine the household income. In response to one comment, the final rule clarifies that a person included in calculating ''household income'' must be at least 18 years old to sign a Form I–864A.

Intending Immigrant as Part of the Sponsor's Household

Two commenters argued that the intending immigrant and his or her family should not be considered in determining the sponsor's ''household size'' for purposes of the affidavit of support. Section 213A(f)(6)(A)(iii) of the Act clearly requires the sponsor's income to meet the income threshold ''for a family unit of a size equal to the number of members of the sponsor's household * * * plus the total number of * * * aliens sponsored by that sponsor.'' Consequently, the sponsor must continue to include the intending immigrants in calculating the ''household size,'' and must also include any other immigrants sponsored under any other Form I–864 if the sponsor's obligation is still in effect.

Sponsor's Reliance on the Intending Immigrant's Income

One commenter suggested that the intending immigrant's own income should never be considered in determining the household income, and that section 213A(f)(6)(A)(ii) of the Act permits consideration of the intending immigrant's assets, but not his or her income. The commenter also observed

that ''most'' intending immigrants will be giving up their jobs abroad, and so will no longer have that income. Many immigrants, however, acquire permanent residence through adjustment of status after working lawfully in the United States. Some intending immigrants work in the United States as nonimmigrants, and then go abroad and return with immigrant visas. Other intending immigrants may obtain transfers, so that they work in the United States for the same employer as abroad, or may have investments or other lawful sources of income that will continue to be available. The intending immigrant, moreover, is considered in calculating the sponsor's household size, and it is the income of the household that determines whether the sponsor can satisfy the income threshold.

The final rule, therefore, clarifies that the sponsor may rely on the intending immigrant's income if the intending immigrant is either the sponsor's spouse or has the same principal residence as the sponsor and can show by a preponderance of the evidence that the intending immigrant's income will continue, after acquisition of permanent residence, from the same source (such as lawful employment with the same employer or some other lawful source). The prospect or offer of employment in the United States that has not yet actually begun will not be sufficient to meet this requirement.

Who Must Sign the Form I–864

On a similar theme, one commenter asked whether the intending immigrant can sign the Form I–864 if the intending immigrant's own resources will be the chief basis for the sufficiency of the Form I–864. The commenter's example is a 22-year-old student, of meager resources, who has filed a Form I–130 for her father, who is independently wealthy.

Section 213A(f)(6)(A)(ii) of the Act provides that the sponsor may rely on the intending immigrant's assets. However, sections 212(a)(4)(C) and 213A(f)(1) of the Act make it clear that the daughter, not the father, must sign and file the Form I–864, although it may prove that it is the father's resources, not the daughter's, that make meeting the ''significant assets'' provision possible. As noted, she may rely on her father's income, as distinct from his assets, only if her father has the same principal residence as she does and can show by a preponderance of the evidence that his income will continue from the same source, even after acquisition of permanent residence.

Documenting the Sponsor's Current Income

Eighteen commenters pointed out that Form I–864 does not include a place for the sponsor to indicate his or her current income. This oversight was corrected in the September 15, 2003, edition of Form I–864. The final rule now makes it clear that it is the sponsor's income in the year in which the intending immigrant applies for an immigrant visa or adjustment of status that is to bear the greatest evidentiary weight in determining whether the affidavit of support is sufficient. The tax forms for past years serve as an indication of the sponsor's ability to maintain that income over time.

These 18 comments implicitly suggested another question: For what year must the sponsor's income meet the requirements of section 213A? This question will arise regularly, since it is often the case that there will be a lapse of time between the filing of the Form I–864 and the decision on the immigrant visa or adjustment application. The final rule clarifies that, as a general principle, the sufficiency of the Form I–864 will be determined based on the household income for the year in which the intending immigrant filed the immigrant visa or adjustment application. There is one exception, however. If more than a year has elapsed since the submission of the Form I–864, the final rule gives the Department of State officer, immigration officer, or immigration judge the discretion to request more current information if the Department of State officer, immigration officer, or immigration judge concludes that this additional evidence is necessary to the proper adjudication of the case. In any case in which the intending immigrant is requested to submit additional evidence, the additional evidence must relate to the current year, not to the year of the filing of the immigrant visa or adjustment application. The sufficiency of the Form I–864 will then be adjudicated based on the additional evidence.

DHS does not intend that a one-year delay between the filing and adjudication of the immigrant visa or adjustment application will routinely lead to a request for additional evidence. If the sponsor has a stable employment and income history, it may in many cases be reasonable to infer that this history has continued, so that additional evidence would not become necessary simply through the passage of time. It is necessary to provide authority to request additional evidence, however, for the sake of those cases in which, on the basis of the evidence of record, a reasonable adjudicator could find the sponsor's ability to maintain a sufficient income is reasonably open to question.

Changes in the Poverty Guidelines

Eight commenters suggested that a sponsor should not have to provide a new Form I–864 if the Poverty Guidelines change while the case is awaiting decision. It will not be necessary to file a new Form I–864 in this case. The final rule also clarifies that the sufficiency of the affidavit of support will be determined in accordance with the Poverty Guidelines in effect when the intending immigrant files the application for an immigrant visa or adjustment of status. So that the record will include the correct version of the Poverty Guidelines, the final rule provides that the intending immigrant is to file a copy of the current edition of Form I–864P, Poverty Guidelines, with his or her application. USCIS updates the Form I–864P each year to reflect the annual adjustment in the Poverty Guidelines.

There is one exception to this general rule: If, in the exercise of discretion, the Department of State officer, immigration officer, or immigration judge requests additional evidence because more than one year has elapsed since the filing of the application, then the sufficiency of the Form I–864 will be determined based on the Poverty Guidelines in effect when the request for evidence was made.

''Discretion'' To Discount a Form I–864 Despite Sufficient Current Income

The interim rule, at 8 CFR 213a.2(c)(2)(v), provided that a Department of State officer, immigration officer, or immigration judge may find an affidavit of support to be insufficient, even if the sponsor's income meets the income threshold, if the officer finds that it is unlikely that the sponsor will be able to maintain that income. Twenty-one commenters argued that this element of the interim rule gives the deciding officer too much ''discretion.'' One of these comments, moreover, maintained that, if the officer can reject marginally sufficient Forms I–864, the officer should also be able to accept marginally insufficient Forms I–864. The provision in the interim rule was not ''discretionary.'' It is not enough that the sponsor has sufficient income. Section 213A(f)(1)(E) of the Act clearly specifies that the sponsor must demonstrate that he or she can maintain that income. The final rule does specify, however, that, if the sponsor satisfies all other requirements of section 213A of the Act, a sufficient income will ordinarily make the affidavit of support

sufficient, unless, on the basis of the specific facts of a given case, the deciding officer finds that the sponsor has not demonstrated his or her ability to maintain that income over time.

The sponsors employment history could be one specific fact that could warrant such a finding. Suppose, for example, that the sponsor recently started a new job after a long period of unemployment. If the sponsor has a reasonable prospect that the employment will continue, then it may well be that the affidavit of support will be sufficient. If, however, the new position is, by its terms, only temporary or seasonal, it would be reasonable to hold that the income is not sufficient to show that the sponsor can reasonably be expected to be able to maintain his or her household income at the income threshold.

Another situation may involve one person who has filed visa petitions for several relatives—two brothers and a sister, for example at—the same time, so that each beneficiary's priority date becomes current at about the same time. The relatives may then apply for immigrant visas or for adjustment of status at about the same time. Strictly speaking, the legal support obligation would not be in effect when these siblings (and their accompanying spouses and children) apply for visas, since none of them have been admitted as permanent residents yet. Thus, the second brother and the sister, for example, would not be included in calculating the ''household size'' for the first brother's affidavit of support. Yet the fact that the same person must sign an affidavit of support for several people would surely be relevant in determining whether the sponsor can meet the support obligation for all of those aliens. The Department of State officer, immigration officer, or immigration judge may, therefore, properly consider these other affidavits of support (although not yet in effect) in determining whether the sponsor can meet the requirements of section 213A with respect to the alien(s) whose case(s) are under review. It may prove that only one or two of the intending immigrants (and their accompanying family members) will be able to immigrate at that time, unless someone is willing to be a joint sponsor for those intending immigrants who, if included, would put the household size beyond the size for which the sponsor's income is sufficient.

On a related issue, the final rule clarifies that a sufficient affidavit of support will not overcome the public charge ground of inadmissibility in every possible case. In most cases, the affidavit of support will carry the greatest weight. In a particular case, however, there may be specific facts about the intending immigrant's situation, under the factors specified in section 212(a)(4)(B) of the Act—the alien's age, health, family status, assets, resources and financial status, education and skills—that warrant a finding that the intending immigrant remains inadmissible on public charge grounds, even if the affidavit of support meets the requirements of section 213A of the Act.

Effect of the Sponsor's Own Receipt of Means-Tested Public Benefits

Several commenters objected to the requirement that the sponsor must disclose whether the sponsor or any household members have received means-tested public benefits. The argument is that section 213A of the Act does not authorize this requirement. USCIS does not agree that section 213A of the Act does not permit USCIS to ask about past receipt of means-tested public benefits. In most cases, however, information about this issue will not add much evidence of probative value. As a matter of policy, therefore, the sponsor will not be asked to disclose his or her receipt of means-tested public benefits. The Service already removed this question from the November 5, 2001, edition of the Form I–864. If a sponsor uses an older edition of the Form I–864, the sponsor may leave that question unanswered. However, USCIS notes that the sponsor may not include any means-tested benefits received in calculating the household income. The sponsor may, of course, rely on retirement benefits, unemployment compensation, workman's compensation, or other benefits that the sponsor has received, that must be included as taxable income. The duration of the sponsor's eligibility for these benefits may be relevant in determining the sponsor's ability to maintain his or her income over time.

Income Tax Returns

Section 213A(f)(6)(A)(i) of the Act requires the sponsor to provide certified copies of his or her individual income tax returns for the last three years before the sponsor signed the Form I–864. One commenter suggested that the final rule should make clear that the sponsor must provide the complete return as actually filed, including all Internal Revenue Service Forms W–2 (if the sponsor relies on income from employment), Forms 1099 (if the sponsor relies on income from sources documented on Forms 1099 in meeting the income threshold), or other documentary evidence of income, and not just the Forms 1040, 1040A or 1040EZ. The final rule makes this clarification.

Section 213A(f)(6)(B) of the Act gives discretion to alter the affidavit of support requirements so that a sponsor need only file a copy of the tax return from the most recent tax year, rather than the returns for the three most recent tax years. This final rule adopts this alternative. That is, once this final rule enters into force, a sponsor will only be required to submit one Federal tax return, for the most recent tax year. However, the sponsor may, at his or her option, submit the sponsor's or household member's Federal income tax returns for the three most recent years if the sponsor believes these additional tax returns may help to establish the sponsor's ability to maintain his or her household income at the applicable threshold set forth in Form I–864P, Poverty Guidelines.

Use of IRS Transcripts Instead of Copies of the Required Tax Returns

Another commenter asked whether the sponsor may submit IRS-generated transcripts of the returns. Under current IRS policy, IRS will provide transcripts, free of charge, if the sponsor files IRS Form 4506T. There is, by contrast, a fee for filing an IRS Form 4506, rather than the free IRS Form 4506T, if one wants to obtain an actual photocopy of the filed return. It is important to note that the interim rule did not require the sponsor to obtain photocopies of the sponsor's own returns from the IRS. If, as the IRS recommends, the sponsor has kept photocopies or duplicate originals of the sponsor's returns in the sponsor's own files, the sponsor may submit copies of his or her own file copies. Section 213A requires the submission of certified copies, but the interim rule and the Form I–864 itself make it clear that, by signing the Form I–864, the sponsor certifies under penalty of perjury that the copies are true copies. The final rule does give the sponsor, substitute sponsor, joint sponsor, household member, or intending immigrant the option of submitting either photocopies or IRS-generated transcripts of the required tax returns. Along with the transcripts or photocopies, the sponsor, joint sponsor, or household member must submit copies of all Forms W–2, Forms 1099, and schedules, as specified in the rule.

No Legal Duty To File a Tax Return

Two commenters addressed the situation of a sponsor who had no legal duty to file a tax return for a particular year. The sponsor would bear the burden of showing the basis for his or

her claim that he or she had income that was not subject to taxation, including the source and amount of the income. If the claim that the sponsor had no duty to file is based on the sponsor's income being too low to require a return, proof that the income was below the threshold will be enough to establish that the sponsor had no duty to file. If the sponsor claimed that the sponsor had no duty to file for some reason other than the sponsor's income level, this burden may require the sponsor to provide the officer with information, including citations to or copies of statutes, treaties, or regulations that support the claim that the sponsor had no duty to file.

One commenter asked, for example, about the situation in which the sponsor claimed that a tax treaty affects the sponsor's tax liability under United States law. The sponsor would have to include a copy of the relevant treaty provision. The other commenter asked what sort of evidence a sponsor may submit to show he or she had no duty to file, and asked whether a joint sponsor would always be required. The sponsor would submit whatever evidence the sponsor has to support the claim, such as proof that the sponsor's income was below the level at which a return is required for the year in question. The visa petitioner must file an affidavit of support even if the visa petitioner had no duty to file an income tax return for one or more of the past three years. A joint sponsor would be necessary if the sponsor's income did not meet the 125 percent income threshold in section 213A of the Act.

The most common situation in which there is a claim that the sponsor had no duty to file a Federal income tax return will probably involve sponsors who reside in Puerto Rico. These sponsors, under 26 U.S.C. 933(1), may exclude from their taxable income any income from a source in Puerto Rico (other than from U.S. Government employment in Puerto Rico). If a sponsor had no income from a source outside Puerto Rico, it may well be the case that he or she will have considerable income, none of which is subject to the Federal income tax. In this case, the sponsor will have to present other evidence to substantiate his or her claimed income. In most cases, the sponsor's Puerto Rico income tax return, if any, would be the most probative alternative evidence. Those who reside in Guam, the U.S. Virgin Islands, or the Commonwealth of the Northern Mariana Islands would also need to present evidence in accordance with the special tax provisions that apply to persons living in those places.

Proof of Income Through Self-Employment

Finally, one commenter believed that, for self-employed persons, the sponsor's income should be taken from line 7 of Schedule C to IRS Form 1040. That is to say, the self-employed sponsor's income should be the gross receipts of the person's business, minus the cost of goods sold, but without subtracting legitimate deductions the sponsor has taken. USCIS cannot adopt this suggestion. The focus of concern is the sponsor's ability to provide the necessary support to the intending immigrant(s). Money paid for expenses included in part II of Schedule C is not available for this purpose. Moreover, it is the amount of income after deduction of expenses that is carried over from Schedule C to the Form 1040 itself. Consequently, the final rule retains the original definition of income, but clarifies that total income means the entry for total income shown on the appropriate line of the relevant Federal individual income tax return, IRS Form 1040, 1040A, or 1040EZ, not the preliminary calculation of gross income on Schedule C. The final rule also tracks the language on IRS Forms 1040 and 1040A by using the term ''total income'' rather than ''gross income'' in relation to those forms, and the term ''adjusted gross income'' in relation to Form 1040EZ.

Use of Photocopies of Forms I–864 and I–864A for Accompanying Family Members

The interim rule required that, for accompanying family members, the sponsor could file copies of the Forms I–864 and I–864A filed for the principal intending immigrant, so long as the copies bore original signatures and notarizations. On May 18, 1998, however, the Service announced, at 63 FR 27193, that the sponsor could submit complete photocopies of these original Forms I–864 and I–864A for the accompanying family members, so long as the forms for the principal intending immigrant bear original signatures and notarizations. The final rule incorporates this change.

The Service also revised Form I–864 so that the sponsor now signs the Form ''under penalty of perjury under the laws of the United States,'' thus making it unnecessary to sign or acknowledge the Form I–864 before an officer authorized to administer oaths or take acknowledgements. The November 5, 2001, edition of the Form I–864 still includes the notary's jurat block, for those who may wish to have the Form I–864 notarized. Under 28 U.S.C. 1746, however, signing before a notary is not necessary.

Significant Assets

Ten commenters objected to the requirement that the assets of the sponsor or intending immigrant must equal at least five times the difference between the applicable income threshold and the actual household income. One of these ten commenters argued that this requirement could impose a special hardship on large families, forcing ''painful choices of bringing only part of the family.'' One commenter, on the other hand, supported this requirement.

Those who objected to this requirement believed that a lower figure, such as twice the difference between the applicable income threshold and the actual household income, would be sufficient to qualify as ''significant assets.'' The purpose of the requirement, however, is to ensure that a sponsor whose income is not sufficient will nevertheless be able to provide the needed support until the sponsorship obligation ends. In most cases, an alien is not eligible for naturalization until he or she has been a permanent resident alien for at least 5 years. It is likely, therefore, that the sponsor's obligation will last at least that long. One commenter did point out that the spouse of a citizen can naturalize after 3 years. Thus, the final rule modifies the ''significant assets'' requirement slightly. If the intending immigrant is immigrating as the spouse or child of a citizen (but the child has already reached his or her 18th birthday), the ''significant assets'' requirement will be satisfied if the assets equal three times, rather than five times, the difference between the applicable income threshold and the actual household income. As noted, many IR–4 immigrants (orphans coming to the United States for adoption) will become citizens soon after admission, as soon as the adopting parents complete the adoption in the United States. As long as the parents' assets equal the difference between the applicable income threshold and the actual household income, they will be deemed to have met the ''significant assets'' requirement.

Beginning and End of the Sponsor's Support Obligation

The interim rule did not specify precisely when the obligations under Form I–864 or Form I–864A actually commence. No comments were received on this issue. Nevertheless, the final rule clarifies that the mere signing of Form I–864 or Form I–864A does not

impose any obligations on the sponsor, joint sponsor, or household member. A sponsor may file a fully sufficient Form I–864, but the intending immigrant may be held to be inadmissible on some other basis. In another case, the intending immigrants included in a Form I–864 or Form I–864A may not all acquire permanent residence on the same day. The final rule clarifies that, for the obligations to arise, the intending immigrant must actually acquire permanent resident status on the basis of the application supported by the Form I–864 or Form I–864A. Additionally, a potential joint sponsor who signed a Form I–864 that met all the requirements of the affidavit of support regulation would be bound by the support obligations only if the immigration judge, immigration officer, or consular officer found that the principal sponsor did not meet the income threshold, so that the joint sponsor's Form I–864 was actually necessary to the grant of permanent residence to the intending immigrant.

In response to nine commenters, the final rule clarifies that a household member's obligations under Form I–864A terminate under the same circumstances as the sponsor's obligations under Form I–864 terminate. One commenter asked whether a household member's obligation under Form I–864A terminates when he or she leaves the household. It does not. One of the commenters suggested that divorce should terminate a support obligation. Another commenter suggested that divorce should be irrelevant to the support obligation. Finally, one commenter maintained that the support obligation should terminate five years after the sponsored immigrants become resident aliens, ''even if they do not become citizens or work.''

Section 213A of the Act specifies the two circumstances that end the support obligation: The sponsored immigrant's (1) naturalization or (2) having acquired 40 quarters of coverage under the Social Security Act. The interim rule added two more: (1) The death of the sponsor or sponsored immigrant or (2) the sponsored immigrant's abandonment of status and permanent departure from the United States. These two additional grounds for termination exist as a matter of logical necessity. Section 213A of the Act does not provide any basis to say that divorce does, or does not, affect a support obligation under an affidavit of support. If the sponsored immigrant is an adult, he or she probably can, in a divorce settlement, surrender his or her right to sue the sponsor to enforce an affidavit of support. The sponsored immigrant and the sponsor (or joint sponsor) may not, however, alter the sponsor's obligations to DHS and to benefit-granting agencies.

This final rule adds two additional situations that will terminate the obligations that result from the signing of a Form I–864 or I–864A. First, as noted, the interim rule terminated these obligations if the sponsored immigrant ceases to be an alien lawfully admitted for permanent residence and leaves the United States. It is not always the case, however, that an alien who abandons permanent residence does so formally, such as by filing a USCIS Form I–407 when departing the United States. In many cases, the issue of abandonment is determined only in a later removal proceeding. The final rule makes clear that a formal adjudication in a removal proceeding that an alien has abandoned permanent resident status will also terminate any remaining obligations under any Form I–864 or I–864A submitted when the person became a permanent resident.

Second, some aliens who have already been admitted as permanent residents but have become subject to removal apply for a new grant of adjustment of status as a means of relief from removal. If an alien in this situation seeks this new adjustment as an immediate relative or as a family-based immigrant (or as an employment-based immigrant who will work for a relative or a relative's firm), the alien may need to submit a new Form I–864 or I–864A with the new adjustment application. The grant of adjustment will terminate the support obligations resulting from any earlier Forms I–864 or I–864A, and those obligations will then rest on whomever signed the Forms I–864 or I–864A in support of the new adjustment application.

Thirteen commenters believed that USCIS should notify sponsors when the sponsorship obligations have terminated. Adopting this suggestion is not feasible. Since the sponsor is a relative, it is likely that the sponsor will know, or can inquire of the sponsored immigrant, whether any fact that terminates the obligation has occurred. The only bases for termination of which USCIS is likely to be aware are the sponsored immigrant's naturalization or the sponsored immigrant's formal abandonment of permanent residence or formal removal from the United States. The termination of the obligation would be an affirmative defense to any deeming of the sponsor's income to the sponsored immigrant, request for reimbursement, or notice of intent to fine for failure to file Form I–865 to report a change of address.

Reporting a Change of Address

One commenter suggested that Form I–865, Sponsor's Notice of Change of Address, is virtually worthless, since the sponsor need not report the sponsored immigrant's name, address, or other identifying information. Form I–865 need not include information about the sponsored immigrant, because the USCIS database automatically links a Form I–865 to every Form I–864 that the sponsor may have filed, based on the sponsor's Social Security number.

The commenter also suggested that USCIS should send a confirmation that it has received a Form I–865. USCIS will consider this suggestion as USCIS expands its automated capabilities. Until this expansion occurs, a sponsor or joint sponsor may protect his or her ability to verify that he or she has complied with the requirement to file Form I–865 by submitting the properly completed Form I–865 by mail (using the U.S. Postal Service's Express Mail, priority mail, or certified mail service) or by shipping it through a commercial delivery service, and keeping the proof of mailing or shipment as well as the return receipt or other confirmation of delivery for his or her files.

Accordingly, the final rule provides that USCIS will accept the United States Postal Service certificate of mailing and a return receipt or delivery confirmation as proof that the sponsor or joint sponsor filed the Form I–865 with the office whose address appears on the certificate of mailing and return receipt. If the sponsor uses a commercial delivery service, USCIS will accept the delivery service's shipping label and proof of delivery of the properly completed Form I–865 to the appropriate USCIS office.

I. Orphan Cases

Sixty-two commenters objected to the requirement that U.S. citizens who adopt alien orphan children, as defined in section 101(b)(1)(F) of the Act, must file affidavits of support on behalf of these children. Fifty of the 62 comments on this issue were substantially identical letters. The other 12, while not identical, raised issues included in the 50 identical letters.

It is likely that many, and perhaps most, alien orphans will be exempt from the affidavit of support requirement under the provision of this final rule that relieves an alien of the need to have an affidavit of support if the alien already has, or can be credited with, 40 quarters of coverage under the Social Security Act. An alien child is entitled to be credited with all the quarters of coverage earned by each of his or her

parents before the child's 18th birthday. To qualify as an alien orphan, the alien must not have reached his or her 16th birthday before the adopting parent(s) filed the visa petition. Thus, the orphan can be credited with each of his or her parents' quarters of coverage. The parents, in turn, need not have worked full-time in order to obtain quarters of coverage. In 1998, for example, a person earned four quarters of coverage if he or she made at least $2,800.00 in covered earnings during that year (62 FR 58762). It is likely that many, if not most, citizens adopting orphans will already have sufficient quarters of coverage to make the filing of an affidavit of support unnecessary. If the parents' Social Security Administration records show that, between them, they already have 40 quarters of coverage, then they will not need to file a Form I–864 for the alien orphan.

As already noted in this Supplementary Information, moreover, this final rule relieves the child of a citizen of the affidavit of support requirement, if the child will, upon admission, acquire citizenship under section 320 of the Act. No affidavit of support will be necessary, therefore, if the adoption of an alien orphan is already final when the alien orphan seeks admission or adjustment of status and, since both parents saw the child before or during the adoption proceeding, the alien orphan will become a citizen under section 320 of the Act, as amended, upon his or her admission or adjustment of status.

The long-term impact of the affidavit of support requirement is also likely to be small in orphan cases for another reason. Section 213A(a)(2) of the Act terminates the sponsor's obligations under the affidavit of support when the sponsored immigrant naturalizes. Assuming the child meets all other requirements of section 320 of the Act, as amended, that provision will make the alien orphan who is not adopted abroad a citizen as soon as the citizen parent finalizes the alien orphan's adoption in the United States. Unlike the sponsors of adults, therefore, the citizen sponsors of immigrant children have considerable control over how long the affidavit of support obligations will continue.

For the sake of those adopting parents who intend to adopt an alien orphan after bringing the child to the United States, but who cannot meet the quarters of coverage exception, USCIS will address the orphan-related comments. The comments and the responses are set out as follows.

Comment: Requiring affidavits of support on behalf of alien orphan children is duplicative, since the adopting parents must already provide information concerning their financial status when they file the orphan visa petition.

Response: The Form I–864 does not simply duplicate the visa petition process. It has long been settled that whether the intended beneficiary is actually admissible to the United States is not at issue in the visa petition process. *See Matter of O*, 8 I. & N. Dec. 295 (BIA 1959). The only issues in the visa petition proceeding are whether the alien child qualifies as an orphan and whether the petitioner qualifies as a prospective adoptive parent. Whether the orphan is actually admissible can be decided only when that issue is adjudicated in connection with an application for an immigrant visa, for admission as an immigrant, or for adjustment of status. Section 212(a)(4)(C) of the Act specifically requires an affidavit of support for all aliens who immigrate as the immediate relatives of U.S. citizens. Like all unmarried minor children of citizens, orphans immigrate as immediate relatives. Thus, section 213A of the Act clearly requires affidavits of support in these cases. Moreover, the Form I–864 also provides the basis for deeming the sponsor's income to the sponsored immigrant, for purposes of determining the sponsored immigrant's eligibility for means-tested public benefits, and makes the sponsor responsible for reimbursing agencies for the costs of means-tested public benefits.

Comment: Requiring an affidavit of support at the immigrant visa stage introduces uncertainty, since the adopting parents will not be able to know whether the children are admissible. The regulation should provide for ''pre-approval'' of the Form I–864, for example, when the parents file Form I–600, Petition to Classify Orphan as an Immediate Relative or I–600A, Petition for Advance Processing of Orphan Petition.

Response: This uncertainty exists in all immigrant visa cases, since approval of a visa petition never guarantees that the intended beneficiary will be found to be admissible when he or she applies for an immigrant visa, for admission, or for adjustment of status. USCIS cannot ''pre-approve'' the Form I–864, since only the officer who has jurisdiction over the application for an immigrant visa, for admission as an immigrant, or for adjustment of status has authority to determine whether an alien is admissible. The parents will, however, know their own financial situation, including whether they have, between them, at least 40 qualifying quarters of coverage under the Social Security Act. They will also know the requirements they must meet to satisfy section 213A of the Act. Their knowledge of the facts of their situation and of the legal requirements will enable them to make a reasonable prediction about their ability to satisfy the requirements of the law.

Comment: Parents should not be required to file an affidavit of support on behalf of their children because they are already responsible for the support of their children and therefore the Form I–864 just duplicates the already-existing support obligation.

Response: The affidavit of support requirement goes beyond the general obligation to support one's children, by providing, in accordance with the clear statutory mandate, that a benefit-granting agency may deem the sponsor's income to be the sponsored immigrant's income, and that the sponsor must reimburse agencies for the costs of any means-tested public benefits that may be accorded to the sponsored immigrant.

Comment: Requiring production of tax returns and other financial information is overly intrusive, especially since the regulation permits USCIS to make this information available to agencies that may provide means-tested public benefits.

Response: Section 213A(f)(6) of the Act specifically requires the sponsor to produce his or her tax returns. Section 213A(a)(3)(C) of the Act requires USCIS to make the sponsor's name, address, and Social Security number available to public assistance agencies through the system for alien verification of eligibility. USCIS will provide these documents to other agencies only in relation to a deeming action or an action to enforce the sponsor's support obligation. USCIS will not make the documents, or the information in them, routinely available to other agencies.

Comment: Requiring the adopting parents to provide notice of any change of address violates their rights as citizens.

Response: Section 213A(d) of the Act clearly requires the sponsor to provide notice of a change of address, so long as the affidavit of support obligation remains in force. This requirement will not apply to those who, because they have already accrued 40 qualifying quarters of coverage, need not submit an affidavit of support. Also, the requirement to notify USCIS of a change of address ends when the child is naturalized.

Comment: Either of the adopting parents, and not just the one who signed the visa petition, should be able to be

the orphan's sponsor. It may be that the parent who signed the petition is not the parent who has the income sufficient to meet the income requirements.

Response: The sponsor must be the person who is actually the visa petitioner. As long as one parent who is actually the visa petitioner signs the Form I–864 and the other signs a Form I–864A, both spouses' incomes may be considered in determining the household income.

Comment: Requiring the adopting parent to complete part 3 of Form I–864 is not consistent with the rules governing the use of Form I–600A, the application for advance processing of an orphan petition. When a prospective adoptive parent files Form I–600A, it is not necessary to identify the prospective immigrant.

Response: A prospective adoptive parent uses Form I–600A if he or she wants to begin the processing before he or she has identified the particular child to be adopted. The parent must also file Form I–600, the petition to classify an orphan as an immediate relative, once the child has been identified. Since the parent files Form I–864 when the child actually applies for an immigrant visa, the child's identity will be known, enabling the sponsor to include this information in part 3 of Form I–864.

Comment: Requiring proof of employment or self-employment is unfair to adopting parents who may have taken time off from work in order to prepare for adopting the child.

Response: Temporary absence from the work force will not require rejection of the affidavit of support, so long as the sponsor can show that either the household income or the sponsor's assets meet the requirements of the regulation. As with all sponsors, there is no requirement that the sponsor be employed in order to qualify as a sponsor. What section 213A of the Act requires is that the sponsor's income, whether from employment, investments, or some other lawful source, must meet the income threshold established by section 213A of the Act, or else that the sponsor can meet the alternative ''significant assets'' provision.

Comment: Requiring affidavits of support for alien orphans discriminates against these children and their parents, since parents of biological children do not have to comply with the requirements.

Response: A biological parent must meet the requirements of section 213A of the Act if the biological child is an alien who will immigrate on the basis of the biological parent's visa petition and will not acquire citizenship at admission under section 320 of the Act, as amended, just as a prospective adoptive parent must meet these requirements if the adopted child is going to immigrate based on the prospective adoptive parent's visa petition, but will not acquire citizenship at admission under section 320 of the Act, as amended. The same rule applies to a child born in or out of wedlock, to a stepchild, and to an adopted child that does not qualify as an orphan. In each case, the citizen parent must file Form I–864, unless the child has, or can be credited with, 40 qualifying quarters of coverage under the Social Security Act, or unless the child will, at admission, acquire citizenship under section 320 of the Act, as amended.

Comment: Adopting parents should not have to disclose their past receipt of means-tested public benefits.

Response: As already noted, a sponsor will no longer be required to provide this information.

Definition of ''Means-Tested Benefits''

Six commenters addressed the definition of ''means-tested public benefits.'' The interim rule specified that, in order to qualify a program as a means-tested public benefit program, for purposes of the deeming and reimbursement requirements, the agency that administers the program should publicize the agency's determination that the program is a means-tested public benefit program. One commenter argued that the definition of means-tested public benefit is too narrow. The commenter suggested that the regulation should incorporate the definition included in an earlier, unenacted, version of what became section 213A of the Act. As the commenter pointed out, however, this definition was deleted from the bill under the so-called ''Byrd rule,'' 2 U.S.C. 644. This commenter argued that the striking of the definition should not be considered an expression of the actual congressional intent in enacting the final bill, but only as a preliminary parliamentary move. The fact remains that Congress did not enact the definition that this commenter prefers.

Other commenters believed that the rule or the Form I–864 should specify exactly which programs qualify as means-tested public benefits. This alternative would require a revision of the regulation and of the Form I–864 each time a new means-tested public benefit was created or an existing one abolished. The final rule strengthens the requirement of the interim rule at 8 CFR 213a.4(b) that a benefit agency make public its determination that a program qualifies as a means-tested public benefit if the agency wants to deem a sponsor's income to a sponsored immigrant and to seek reimbursement from a sponsor. The Federal agency's publication in the **Federal Register** of the agency's determination that a program is a means-tested public benefit is sufficient to give all persons notice of the determination. 44 U.S.C. 1507. Several states have their own corresponding systems for publishing relevant regulatory and administrative determinations. So long as a Federal agency gives notice in the **Federal Register**, or a State agency gives notice in whatever manner is provided for under State law, therefore, any sponsor can by reasonable effort learn which programs are ''means-tested public benefit'' programs.

A related comment is that a sponsor should be responsible only for those programs that have been designated as ''means-tested public benefit'' programs as of the date the sponsor signs the Form I–864. Again, because ''means-tested public benefit'' was defined in the interim rule, a sponsor cannot reasonably claim not to know which programs are enforceable against him or her. However, USCIS agrees that as the interim rule encouraged governments to report which specific programs were means-tested, some notice by publication of benefit programs is appropriate. This final rule provides that any government providing a means-tested public benefit must publish that it is a means-tested public benefit prior to the date the benefit was first provided to the immigrant, for that government to be eligible to be reimbursed by the sponsor who sponsored that immigrant.

Enforcement of the Affidavit of Support

Numerous commenters suggested that the regulation should more precisely define the scope of the sponsor's liability. For example, must the sponsor provide money to the sponsored immigrant, or may the support be provided in kind? Does the sponsored immigrant have a duty to support himself or herself, which the sponsor can raise as an affirmative defense to a suit by the sponsored immigrant? Is the sponsor's liability to a benefit granting agency limited to the difference between the sponsored immigrant's income and the 125 percent income threshold? Or is the scope of liability, at least potentially, unlimited? If the sponsor was supporting the sponsored immigrant at the proper level, or the sponsored immigrant was otherwise ineligible for assistance, but the agency mistakenly provided assistance, is the sponsor liable? Like the interim rule, this final rule does not address these issues. It is for the proper court to

adjudicate any suit that may be brought to enforce an affidavit of support.

One commenter asked how the liability is to be apportioned among the sponsor, a joint sponsor, and any signers of Form I–864A. Under section 213A of the Act, the sponsor and joint sponsor are jointly and severally liable. Under the regulation, a person who signs a Form I–864A also agrees to be held jointly and severally liable with the sponsor. The general principles that govern joint and several liability will apply in these cases. This means that the sponsor and the joint sponsor are equally responsible under the law for the sponsored immigrant's support. If the sponsored immigrant receives a means-tested benefit, the agency may seek reimbursement, and if necessary, may sue only the sponsor, only the joint sponsor, or both the sponsor and the joint sponsor.

Another commenter believed it contrary to the intent of Congress to permit the sponsored immigrant to sue to enforce the support obligation. Section 213A(a)(1)(B) of the Act expressly says the sponsored immigrant must be able to seek to enforce the affidavit of support. Congress clearly intended to permit the sponsored immigrant to sue to enforce the support obligation, if necessary.

One commenter criticized the rule because section 213A of the Act requires the sponsor to provide the sponsored immigrant with enough support to keep the sponsored immigrant's income at ''no less than'' 125 percent of the Poverty Guidelines, but the rule speaks of ''at or above'' 125 percent. The regulation does not use the expression ''at or above.'' In any event, USCIS is at a loss to understand the difference. To avoid liability, the sponsor must maintain the sponsored immigrant at 125 percent. If the sponsor chooses to do more, the sponsor may do so. But neither section 213A of the Act nor the rule requires a sponsor to do so.

One comment asked whether a State agency must comply with the requirement to request reimbursement, if the agency has no intention to sue. Section 213A(b) of the Act makes the request for reimbursement a prerequisite to suit, but does not require the agency to sue. For this reason, section 213A(b) of the Act would not require any agency to make a request for reimbursement, if that agency has no intention to sue. This observation, of course, pertains only to section 213A of the Act, and has no bearing on whether the agency may have a legal obligation, apart from section 213A of the Act, to seek reimbursement or to bring suit.

This commenter also asked about how the deeming requirement and the reimbursement requirement relate to each other. This question relates, in part, to the eligibility requirements for a specific benefit program. The basic assumption is that, if the sponsor's income is sufficiently high, then deeming the sponsor's income to the sponsored immigrant will make the sponsored immigrant ineligible for the program. No benefits would then be paid, and no reimbursement obligation would arise. Similarly, the purpose of the ''indigence exception'' in section 421(e) of Public Law 104–193 that this commenter addresses is to prevent the sponsored immigrant from falling into total distress if the sponsor defaults on his or her obligation. The agency may then provide assistance, assuming the sponsored immigrant is otherwise eligible, and collect the cost of the benefits from the sponsor.

This commenter also objected to the reference in 8 CFR 213a.2 to another section of title 8 for the definition of ''personal service.'' The complete text of the Code of Federal Regulations is readily available to the public from the Government Printing Office, in public libraries, computer-assisted research services, and on the USCIS Internet Web site at *http://www.uscis.gov.* To define a term that has already been defined is not necessary. In response to a different comment, however, the final rule does clarify that personal service of a request for reimbursement under section 213A(b) of the Act and 8 CFR 213.4(a) need not be made by a Federal Government officer or employee.

This commenter believed that USCIS should be the sponsor's agent for purposes of service on the sponsor of a request for reimbursement or of a summons and complaint. Section 213A of the Act provides no basis for the adoption of this suggestion. USCIS will provide the sponsor's last known address to an agency entitled to that information. It then falls to the agency to accomplish service of process.

This commenter also argued that the agency should be able to include anticipated future benefits in the request for reimbursement. There is no duty to reimburse until the agency actually provides some benefit. If additional benefits are paid, nothing in section 213A of the Act or regulation precludes a subsequent request for reimbursement.

J. Miscellaneous Comments

In addition, the Service received seven broad general comments in favor of the interim rule, and 19 broad general comments against the interim rule. These comments also addressed specific issues, and so the response to these comments as they relate to those issues have been included in the discussion of those issues. Three of the negative comments, however, warrant a separate response.

First, 14 of the negative comments expressed concern that the interim rule would undercut the principle of family unification by making it more difficult for citizens and resident aliens to bring their family members to the United States. This result may follow from the strengthening of the public charge inadmissibility ground. The general principle of family unification, however, always operates in light of the specific requirements of the immigration laws. Family unification cannot provide a basis for admitting an alien who is unable to overcome a ground of inadmissibility for which the law does not provide a waiver.

Another commenter argued that the new affidavit of support requirement was not intended to impose financial obligations on U.S. citizens and permanent resident sponsors. But section 213A of the Act clearly does impose financial obligations on sponsors. Section 213A(b)(2) of the Act permits assistance agencies to sue the sponsor for reimbursement of means-tested public benefits. Section 213A(a)(1)(B) of the Act permits the sponsored immigrant to sue as well.

Another commenter argued that the regulation should adopt a different interpretation of the support requirements because people from different cultures often support family members on far less money than United States citizens are generally accustomed to. Section 213A of the Act, however, clearly specifies that the household income must meet a specified threshold. There is no administrative authority to disregard the income requirements that Congress has enacted.

Two commenters argued that it is ''unfair'' that the new affidavit of support requirement applies to aliens who immigrate on the basis of visa petitions filed and approved before the new requirement entered into force. One of the commenters suggested that the commenter's son would have married someone else, if he had known he would have to sign an enforceable Form I–864. It is beyond question that Congress may enact new immigration provisions and make them apply to cases that were already pending. *Matter of Alarcon,* 20 I. & N. Dec. 557, 562 (BIA 1992). Section 531(b) of IIRIRA clearly makes the new affidavit of support requirement apply to aliens who apply for admission (or, by extension,

adjustment of status) on or after the day the requirement entered into force.

The Supplementary Information that accompanied the interim rule indicated that the duties imposed on the sponsor arise from the sponsor's participation in a voluntary Federal program. One commenter objected to the characterization of the affidavit of support requirement as ''voluntary,'' since completing Form I–864 is the only way to satisfy the requirements of section 213A of the Act. The only voluntary aspect, according to this comment, ''is to sponsor an immigrant or not sponsor an immigrant.'' But that is precisely what makes it voluntary. The sponsor is under no legal obligation to file a visa petition, nor is the sponsor obligated to sign Form I–864. But if the sponsor chooses to facilitate the immigration of alien relatives, the sponsor must comply with the legal requirements for doing so.

This commenter also objected to the designation of consular officers as immigration officers, for purposes of the interim rule, and to the fact that consular officers should play any role at all in the process. The Form I–864, according to this comment, should be pre-approved by USCIS. Consular officers have for decades had authority under the Act and its predecessors to adjudicate applications for immigrant visas. In doing so, the consular officer must necessarily determine whether the applicant is inadmissible as likely to become a public charge. Also, the commenter appeared to misunderstand the reason for designating consular officers as immigration officers for the limited purpose of this rule. Under section 531(b) of IIRIRA, no affidavit of support is required if the alien had his or her interview with ''an immigration officer'' before the affidavit of support requirement entered into force. Without the designation to which this commenter objects, the new requirement would have applied to all aliens who had obtained visas before December 19, 1997, but who did not actually immigrate until after that date. USCIS considered it more prudent to ''grandfather'' this finite class of aliens, rather than impose on USCIS, the consuls, and the aliens the burden of having to reconsider the validity of the already-issued visas in light of the new requirements.

Finally, a commenter asked for clarification of what constitutes a ''material misrepresentation'' that would render the affidavit of support insufficient to overcome the public charge inadmissibility ground. According to the Supreme Court's decision in *Kungys* v. *United States,* 485 U.S. 759 (1988), a concealment or misrepresentation of fact is material if disclosure of the truth would have had a natural tendency to influence an official decision. The critical question is whether the sponsor has, and can maintain, a household income that is at least 125 percent of the Poverty Guidelines for a household of the same size. Certainly, misrepresentations or concealments about household size, income, or employment history would always be material. Whether other concealments or misrepresentations would be material would depend on the facts of particular cases.

K. Children Who Immigrate Under Section 211(a) of the Act

This final rule also adopts one additional revision that is not based on any comments. This revision concerns children admitted under section 211(a) of the Act. This provision waives the immigrant visa requirement for certain children who accompany their immigrant parent(s) to the United States, but who are born after issuance of the immigrant visa to the parent(s). These children are not counted against the numerical limits on immigration, nor is any separate visa petition filed for them. Thus, section 204 of the Act does not form the basis of their admission, and they are not properly classified as ''immediate relatives,'' ''family-based immigrants'' or ''employment-based immigrants.'' Since they do not belong to any of the classes specified in sections 212(a)(4)(C) or (D) and 213A of the Act, the final rule makes clear that there is no need in these cases for an affidavit of support that meets the requirements of section 213A of the Act. It will still be necessary for the child's parent or parents to establish that the child is not inadmissible on public charge grounds. Section 212(a)(4)(B) of the Act, and the case law that section 212(a)(4)(B) of the Act is drawn from, rather than section 213A of the Act, will govern this determination.

L. Role of the Immigration Judges

This jointly published final rule includes new provisions, in 8 CFR part 1240, relating to the authority of immigration judges, an issue that the interim rule did not address and about which the Service received no comments. The interim rule did not include immigration judges as officers with authority to adjudicate the sufficiency of a Form I–864. The Attorney General has concluded, however, that it is appropriate for immigration judges to have this authority. Immigration judges regularly adjudicate applications for adjustment of status filed by aliens in removal proceedings, and in many of these cases, section 212(a)(4)(C) or (D) of the Act requires the applicant to submit an affidavit of support that complies with the requirements of secton 213A of the Act in order to establish that the applicant is not likely to become a public charge. This rule amends 8 CFR part 1240 and expressly authorizes an immigration judge to review the affidavit of support in order properly to decide the adjustment application, when this issue arises in removal proceedings. The provisions of 8 CFR part 213a also now refer to the immigration judge when this reference is appropriate. The Attorney General, rather than the Secretary of Homeland Security, is promulgating the amendments to 8 CFR part 1240 since these amendments relate to the jurisdiction of immigration judges.

M. Additional Changes to Department of Justice Rules

As noted previously, the Secretary of Homeland Security has included in this final rule an amendment to 8 CFR 205.1 that implements the Family Sponsor Immigration Act, Public Law 107–150. The Department of Justice regulation at 8 CFR 1205.1 includes substantially the same provision as 8 CFR 205.1. Both 8 CFR 205.1(a)(3)(i)(C) and 8 CFR 1205.1(a)(3)(i)(C) refer to the ''Attorney General'' as having discretion to reinstate approval of a family-based immigrant visa petition, in a case in which the approval is revoked by the petitioner's death. Under section 451 of the Homeland Security Act, this discretion now rests with USCIS since, before enactment of the Homeland Security Act, the Board of Immigration Appeals did not have jurisdiction to adjudicate an appeal from a district or service center director's decision not to reinstate the approval. *Matter of Zaidan*, 19 I. & N. Dec. 297 (BIA 1985). Section 5304(c)(1) of the Intelligence Reform and Terrorism Prevention Act of 2004, Public Law 108–458, amends section 205 of the Act to make clear that the Secretary of Homeland Security, not the Attorney General, now has authority to revoke approval of an immigrant visa petition. To avoid conflict between 8 CFR 205.1 and 8 CFR 1205.1, this final rule includes an amendment to 8 CFR 1205.1. As with the amendments to 8 CFR part 1240, the Attorney General is promulgating this conforming amendment.

The Secretary of Homeland Security hereby amends the regulations of the Department of Homeland Security to clarify the affidavit of support process under section 213A of the Immigration

and Nationality Act. The Secretary is exercising his authority under sections 103 and 213A of the Act (8 U.S.C. 1103, 1183a).

The Attorney General is amending part 1240 of the regulations of the Department of Justice to clarify the authority and procedures before immigration judges to adjudicate an affidavit of support under section 213A of the Immigration and Nationality Act. The Attorney General also is amending part 1205 of the regulations of the Department of Justice to conform the text of 8 CFR 1205.1(a)(3)(i)(C) to the text of 8 CFR 205.1(a)(3)(i)(C) as amended by the Secretary of Homeland Security. The Attorney General is exercising his authority under section 103(g) of the Act, and his authority under 28 U.S.C. 503, 509–510.

III. Regulatory Analyses

A. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) (5 U.S.C. 605(b)), as amended by the Small Business Regulatory Enforcement and Fairness Act of 1996 (SBRFA), requires an agency to prepare and make available to the public a regulatory flexibility analysis that describes the effect of the rule on small entities (*i.e.*, small businesses, small organizations, and small governmental jurisdictions). DHS has reviewed this regulation in accordance with the Act and has determined, with respect to the amendments made by this final rule to 8 CFR parts 204, 205, 213a, and 299, and the Department of Justice has determined, with respect to the amendments made to 8 CFR parts 1205.1 and 1240, that it will not have a significant economic impact on a substantial number of small entities.

The factual basis for this determination is that this rule applies to individuals who file affidavits of support on behalf of immigrants, and the immigrants they sponsor. The impact is on these persons in their capacity as individuals, so that they are not, for purposes of the rule, within the definition of small entities established by 5 U.S.C. 601(6). In this regard, it is important to note that it is the immigrant's relative in that relative's individual capacity, and not the firm, that incurs the obligation to support an employment-based immigrant who is subject to the affidavit of support requirement.

B. Unfunded Mandates Reform Act

Since the duties imposed on the sponsor arise from the sponsor's participation in a voluntary Federal program, this rule is not a Federal private sector mandate, as defined by 2 U.S.C. 658(7)(A)(ii). The rule implements statutory requirements placed on Federal, state, and local government agencies related to seeking reimbursement of benefits from a sponsor under an affidavit of support. Agencies must also provide certain reports to USCIS. Under 2 U.S.C. 1531, however, no Federal Intergovernmental Mandate Assessment is required because this rule ''incorporate[s] requirements specifically set forth in law.''

C. Administrative Procedure Act

Under 5 U.S.C. 553(d), a substantive rule generally may not enter into force until 30 days after publication in the **Federal Register**. A longer delay applies to a ''major rule,'' as defined in the Congressional Review Act, 5 U.S.C. 804, as amended by SBRFA. This final rule, however, is not a ''major rule,'' and so will enter into force on July 21, 2006. In accordance with the general rule that governs immigration cases, *Matter of Alarcon, supra,* this final rule will apply to any case decided on or after that date, even if the alien filed his or her application for an immigrant visa, for admission as an immigrant, or for adjustment of status, after December 19, 1997, but before July 21, 2006. The interim rule will continue to apply to any case adjudicated before July 21, 2006.

The Secretary of Homeland Security notes that the amendments made by this final rule to 8 CFR parts 204 and 205 were not included in the interim rule. No further notice and comment, however, is necessary with respect to these provisions. First, the addition of these provisions to the final rule is a direct result from, and a logical outgrowth of, the comments received concerning the impact of a visa petitioner's death on the alien beneficiary's case. Second, the Secretary of Homeland Security finds good cause that, under 5 U.S.C. 553(b)(3)(B), notice and comment on these issues is unnecessary because it is impracticable and not in the public interest to delay these provisions since they are not adverse to the interests of those affected by them. In fact, the provisions will benefit those affected by them, since, without these specific amendments, those affected by them would likely be unable to immigrate.

The Attorney General also finds that under 5 U.S.C. 553(b)(3)(B), notice and comment concerning the amendments to 8 CFR part 1240 is not necessary. These amendments are rules of agency practice and procedure. The amendments clarify the authority of an immigration judge to adjudicate issues relating to affidavits of support that arise in cases that are already within the immigration judge's jurisdiction.

D. Assessment of Regulatory Impact on the Family

The immigration law facilitates reunification of families by according preferences to aliens who are close relatives of citizens and resident aliens. The affidavit of support requirement, imposed by the Act itself, may make some family members ineligible to immigrate because their sponsoring relative cannot satisfy the income requirements. This final rule should, however, make it somewhat easier to comply with the affidavit of support requirement, thus increasing the likelihood that aliens subject to the requirement will be able to immigrate. For this reason, DHS has determined, as provided by section 654 of the 1999 Treasury and General Government Appropriations Act, Public Law 105–277, Division A, section 101(h), 112 Stat. 2681, 2681–528, that the provisions of this final rule that amend 8 CFR parts 204, 205, 213a, and 299 will not have an adverse impact on the strength or stability of the family. For the same reasons, the Attorney General makes the same finding with respect to the amendments that this rule makes to 8 CFR part 1240.

E. Paperwork Reduction Act

The information collection requirements contained in this rule (Form I–864, Affidavit of Support Under Section 213A of the Act, Form I–864EZ, EZ Affidavit of Support, Form I–864A, Contract Between Sponsor and Household Member, Form I–864W, Intending Immigrant's I–864 Exemption and Form I–865, Sponsor's Notice of Change of Address), have been previously approved for use by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act (PRA). The OMB control numbers for the Forms I–864, I–864A and I–865 are contained in 8 CFR 299.5, Display of control numbers. This final rule amends 8 CFR 299.5 to update the OMB control numbers for those Forms and to add the control numbers for the Forms I–864EZ and I–864W.

As already noted, this final rule also reflects the creation of two new Forms. First, USCIS established a new Form I–864EZ, EZ Affidavit of support under section 213A. A sponsor may use this Form I–864EZ, instead of Form I–864, if the sponsor meets all of these requirements: The sponsor is the Form I–130 visa petitioner (and there is no

need for a joint sponsor or a Form I–864A); the affidavit of support is filed on behalf of only one intending immigrant; the sponsor is seeking to qualify based on the sponsor's own income alone (not on the basis of assets); and all the sponsor's income is shown on IRS Forms W–2. Second, USCIS established a new Form I–864W, Intending Immigrant's I–864 Exemption. An intending immigrant submits the Form I–864W, instead of the Form I–864, to establish that the intending immigrant is not required to submit the Form I–864 because the intending immigrant (a) already has, or can be credited with, 40 quarters of coverage under the Social Security Act; (b) is the child of a U.S. citizen, and will acquire citizenship under section 320 of the Act if the application for admission as an immigrant or for adjustment of status is approved; or (c) is the widow(er) of a U.S. citizen or the battered spouse or child of a U.S. citizen or permanent resident alien. As noted, the final rule adds the OMB Control Number for these Forms to 8 CFR 299.5.

F. Executive Order 12866

Executive Order 12866, ''Regulatory Planning and Review,'' 58 FR 51735, October 4, 1993, requires a determination whether a regulatory action is ''significant'' and therefore subject to review by the Office of Management and Budget (OMB). This rule has been identified as significant under Executive Order 12866 and has been reviewed by OMB. This rule is not considered economically significant under section 3(f) of the Executive Order because it will have an annual effect on the economy of less than $100 million. DHS notes that the former Immigration and Naturalization Service did consider the interim rule to be an economically significant regulatory action. The former Service did not receive any comments on this estimate. After further consideration of the policy impact, we have reexamined how to define the baseline. Since it is reasonable to assume that the world absent this final regulation will resemble the present, the baseline should reflect the future effect of current government programs and policies. In this case, DHS forecasts that revisions from the Interim Final rule, and current status quo, will have an annual impact far below the $100 million threshold required for an economically significant regulation.

This final rule implements provisions of section 423 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104–193, as amended by IIRIRA. Under this legislation, any family-based immigrant, and in certain cases, an employment-based immigrant, is inadmissible as a likely public charge unless an eligible sponsor files a legally enforceable affidavit of support.

Public Law 104–193 also established new requirements limiting the ability of aliens—even those who are lawfully admitted for permanent residence—to obtain means-tested public benefits. The precise scope of these requirements, and of the statutory exceptions, is beyond the scope of this final rule since DHS does not administer the affected means-tested public benefit programs. DHS has concluded that these savings are more properly attributed to these other provisions of Public Law 104–193, as amended, rather than the affidavit of support requirements created by section 213A of the Act and implemented by the interim rule and this final rule. The implementation of section 213A of the Act is likely to have an impact on sponsors, sponsored aliens, and the Government, but DHS believes that the economic impact has not, since the interim rule entered into force, exceeded $100 million in any given fiscal year, nor is the impact likely to exceed this threshhold in the future.

Background

If a sponsored immigrant applies for designated Federal means-tested public benefits, the income and resources of the sponsor and the sponsor's spouse are ''deemed'' to be available to the sponsored immigrant in determining the sponsored immigrant's eligibility for the benefit. The underlying assumption of this deeming provision is that, since the sponsor has agreed in the Affidavit of Support to provide financial support for an immigrant, then that sponsor's income and resources should be taken into account when determining whether a sponsored immigrant is eligible for a designated means-tested benefit. In most cases, the counting of the sponsor's income and assets as the income and assets of the sponsored immigrant means that the sponsored immigrant is deemed to have income and assets at a level sufficient to make the sponsored immigrant ineligible for the benefit sought. Affidavits of support will be enforceable against sponsors by any agency providing designated Federal, state, or local means-tested benefits, with certain exceptions (notably emergency medical care, disaster relief, school lunches, foster care or adoption assistance for a child whose foster or adoptive parent is a citizen or a qualified alien, student loans, and Head Start benefits) until the sponsored immigrants become U.S. citizens or can be credited with 40 quarters of work.

Since the enactment of the first general immigration statute on August 3, 1882, the law has required all prospective immigrants to the United States to demonstrate that they would not become public charges after admission. Section 212(a)(4) of the Immigration and Nationality Act (INA), as amended in 1996, provides that immigrants may be inadmissible until they provide such evidence. Prior to these new public charge provisions and the legally enforceable and mandatory affidavit of support requirements specified in the 1996 Personal Responsibility and Work Opportunity Reconciliation Act and IIRIRA, there were no statutory provisions regarding the requirements or means by which prospective immigrants, whether adjusting status through the former Immigration and Naturalization Service in the United States or obtaining immigrant visas from Department of State consular officers overseas, could establish the availability of financial support in the United States.

Before implementation of the 1996 laws, prospective immigrants demonstrated to Consular and Immigration officers that they would not become public charges through several means, including the prospective immigrant's personal funds, savings, or assets; prearranged employment in the United States; a public charge bond; a non-binding affidavit of support from a relative or friend in the United States who had adequate income; or a combination of these methods. Although adequate income was not defined in statute or regulation, consular and immigration officers often used guidelines published in the Department of State Foreign Affairs manual to establish that prospective immigrants would not become public charges after entry. These guidelines suggested that, for an affidavit of support to be considered a favorable factor in establishing that the prospective immigrant would not become a public charge, the income of the person signing the affidavit of support should be equal to or greater than 100 percent of the applicable Federal poverty guideline. Although these non-binding affidavits of support were intended for use in assessing the financial support of family-based immigrants, they were occasionally filed on behalf of other categories of immigrants as well as other groups of aliens such as students and parolees. Three Federal programs—Aid to Families with Dependent Children (AFDC), Supplemental Security Income

(SSI), and Food Stamps—included the income of sponsors signing the affidavit of support for three years (or, under SSI, five years after 1992) following the immigrant's entry in considering the financial eligibility of sponsored immigrants for their benefit programs. Based on research conducted on immigrants admitted in FY 1994, about three-quarters of all family-based immigrants were sponsored using the discretionary affidavit of support.

Impact on Federal and State Benefit Agencies

The fiscal impact of this final rule is largely on Federal and State agencies administering designated means-tested public benefit programs, sponsors, and sponsored immigrants. These designated means-tested programs are required to implement sponsor deeming policies (discussed above) as part of determining the eligibility of a sponsored immigrant for such means-tested benefits. Sponsor deeming generally makes it more difficult for sponsored immigrants to become eligible for benefits since the sponsor's income and resources are counted as being available to the sponsored immigrant. This addition of a sponsor's income to a sponsored immigrant's income usually results in an income level that exceeds the level necessary for benefit eligibility. As part of this eligibility determination process, Federal and State agencies must determine whether a permanent resident applicant for means-tested public benefits has a sponsor under section 213A of the Act. To do so, agencies can ask the USCIS SAVE Program whether a permanent resident applicant has a sponsor under section 213A of the Act, and if so, to provide the name, last known address, and Social Security number of each sponsor. With this information, the agency can determine whether a permanent resident applicant is subject to sponsor deeming policies, and will potentially be able to notify the sponsor about the sponsored immigrant's application for benefits, as well as to request from a sponsor information on his or her current income and assets, as appropriate, to be used along with the immigrant's income and assets, as appropriate, to determine eligibility for means-tested public benefits. Such information is also necessary for an agency to seek reimbursement from sponsors for the amount of means-tested benefits that might be provided to sponsored immigrants.

Impact on Petitioner and Joint Sponsors

An alien who seeks admission as an immigrant under section 201(b)(2) or 203(a) of the Act, whether from abroad or by adjustment of status when already in the United States, is inadmissible unless the relative petitioning for the alien's admission has completed and signed a legally binding and enforceable affidavit of support on behalf of the intending immigrant and any accompanying family members. To be sufficient to allow the intending immigrant(s) to obtain lawful permanent resident status, the petitioner must demonstrate income that meets or exceeds 125 percent of the applicable poverty guideline for his or her household size, which includes the sponsored intending immigrant(s) as well as any other immigrants the petitioner previously sponsored and is still obliged to support. If the petitioner cannot meet this threshold, one or two joint sponsors who can meet the income requirements and who are willing to also submit legally binding affidavits of support may do so on behalf of these intending immigrants.

Before enactment of section 213A of the Act, most family-based immigrants obtained and submitted a non-binding affidavit of support. However, it was not universally the case that the affidavit of support was signed by the person who filed the visa petition. Now, under section 213A of the Act, each visa petitioner must sign a binding Form I–864, Affidavit of Support. Since only three-quarters of new immigrants were sponsored using the earlier non-binding affidavit of support and about one-quarter of these sponsors were persons other than the petitioner, there is an additional requirement for close to half of persons seeking the immigration of their relatives. There are additionally increased requirements for sponsors to qualify as well as new documentary provisions. Therefore, all sponsors have somewhat more responsibilities and many have an additional responsibility.

To complete the affidavit of support, a sponsor must complete Form I–864 and assemble the required supporting documentation. Supporting immigrants so that they will not become public charges may also impose costs on sponsors. These costs are difficult to quantify since in most cases the sponsored immigrants will become largely or entirely self-supporting. Under the sponsorship provisions of the law, however, a sponsor is required, as needed, to support each immigrant for whom they signed an affidavit of support at 125 percent of the poverty line until the sponsorship obligation terminates, usually through the sponsored immigrant naturalizing or being credited with 40 qualifying quarters under Title II of the Social Security Act.

Sponsors who sign the new affidavits of support can be held responsible for reimbursement of any Federally-funded means-tested public benefits, and potentially some State-funded programs, paid to sponsored immigrants while the affidavit of support is in effect.

Impact on Sponsored Immigrants

Sponsored immigrants are affected by the new provisions to the extent that they must present the documents to the Federal interviewing official and serve as the intermediary between the sponsor and the government official for obtaining additional supporting documentation or an affidavit of support from an additional or different joint sponsor. Sponsored immigrants are also less likely to be eligible for any means-tested public benefits since the deeming provisions cover more benefit programs and last a longer period of time than under the earlier non-binding affidavit of support. Barring submission of a sufficient affidavit of support for each immigrating family member, intending immigrants may find that their immigration—or that of some of their family members—is delayed. New provisions in the final rule allow each family unit to have two separate joint sponsors, thus reducing situations in which family unification does not occur because of the inability to find a joint sponsor who is willing and able to support the entire family unit at level specified in the applicable poverty guidelines.

Impact on the Administering Agencies

The interim rule also noted that the affidavit of support requirements have imposed some administrative costs on the Federal Government agencies administering the affidavit of support. Since all petitioners must now submit affidavits of support and a sizeable portion of immigrants require one or two joint sponsors, Federal officials have considerably more documentation to review. Additionally, if needed, certain household members of a sponsor may enter into an agreement with the sponsor to provide income to help support the sponsored immigrant(s) through signing an I–864A and submitting supporting documentation. Deficiencies in submitting complete information have increased requests for additional information and additional review by Federal officials.

Federal costs also relate to the printing and distribution of the Form I–

864 and related forms. This cost has been reduced somewhat by the availability of the affidavit of support forms for downloading from the USCIS Web page. The administrative costs arise, more significantly, from the additional time it takes to adjudicate applications for immigrant visas or adjustment of status. Before the enactment of section 213A of the Act, consular and immigration officers determined whether each new immigrant was likely to become a public charge based on a variety of factors, including the alien's age, health, and job skills; proof of a job offer in the United States; by examining the non-binding affidavit of support or by the submission of other documentation, including demonstration of significant assets. The use of Form I–134 was only one option that was available. The Form I–864, by contrast, is required in almost all family-based cases. Because use of the Form I–864 is more widespread, and because the statutory requirements for an acceptable Form I–864 are exacting, reviewing an affidavit of support is considerably more time-consuming now than it was before before enactment of section 213A of the Act.

Some of these costs may be offset by subsequent adjustments to fees for immigrant visa and adjustment of status applications, a cost borne primarily by new family-based immigrants to the United States. For example, section 232 of H.R. 3247, 106th Cong. (1st Sess. 1999), as enacted by section 1000(a)(7) of the Consolidated Appropriations Act, 2000, Public Law 106–113, permits consular officers to assess a fee for services designed to ensure that sponsors properly complete affidavits of support before they are forwarded to consular officers. Unlike the Department of State, DHS does not currently charge an additional filing fee when an adjustment of status case includes an affidavit of support. Thus, the costs that DHS incurs are not currently offset by application fees. The User Fee statute, 31 U.S.C. 9701, may warrant adjusting the USCIS fee schedule to include a fee to recover the costs associated with reviewing a Form I–864 in connection with an application for adjustment of status. The interim rule did not, however, include any provision relating to fees. Before adding a filing fee for the Form I–864 USCIS would, therefore, promulgate a separate rulemaking after a new notice and comment period. USCIS must also maintain automated sponsorship information on the sponsors of those immigrants who are sponsored and make this information available to benefit-providing agencies upon request.

This regulation may also have an economic impact on State and local governments, either because they choose to deem sponsor income and resources for their own programs or because they choose to make their own locally or State-funded assistance programs available to permanent residents while they are not eligible for Federal means-tested programs. Savings to States from reduced use of Federally funded means-tested public benefits toward which States match funds may be offset by some increased use of locally and State-funded programs. In the absence of information about what actions States will choose to take, costs and savings to State and local governments are not estimated.

G. Executive Order 13132

DHS certifies that this regulation will not have substantial direct effects on the States, on the relationship between the Federal Government and the States, or on the distribution of power and responsibilities among the various levels of government. In particular, this final rule does not in any way interfere with a State's ability to make its own policy choice about whether to attribute a sponsor's income and assets to a sponsored immigrant, for purposes of the sponsored immigrant's eligibility for State-funded benefits. Therefore, in accordance with section 6 of Executive Order 13132, it is determined that this rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement.

In this respect it is important to note the decisions of the Supreme Court in *Printz* v. *United States,* 521 U.S. 898 (1997), and *New York* v. *United States,* 505 U.S. 144 (1992). In these cases, the Court reaffirmed the fundamental constitutional principle that the ''[f]ederal Government may neither issue directives requiring the States to address particular problems, nor command the states' officers, or those of their political subdivisions, to administer or enforce a Federal regulatory program.'' *Printz,* 521 U.S. at 918. Nothing in section 213A of the Act, nor in this rule, violates this principle.

Whether to have any State-funded means-tested benefits remains a matter for each State to determine in accordance with its own constitutional processes and policy priorities. It is also for each State to determine whether to deem a sponsor's income to the sponsored immigrant, in determining a sponsored immigrant's eligibility for any State-funded means-tested benefits the state chooses to adopt. It also is for each State to determine whether to seek reimbursement from the sponsor for any State-funded means-tested benefits an alien may improperly receive. No State is required to take any action, other than to give public notice of any decision the State makes concerning these matters.

Section 213A of the Act does require a State agency that does want to obtain reimbursement to request it before filing suit. But since the State agency's right to seek reimbursement from the sponsor, on the basis of an affidavit of support, exists solely as a matter of Federal law, the requirement to request reimbursement is not a matter of compelling the State to administer a federal program. Rather, the requirement is simply a condition precedent to the State's exercise of a right that would not exist in the absence of section 213A of the Act. The States do have certain reporting requirements under section 213A of the Act, section 421 of Public Law 104–193, and this rule. But the *Printz* Court expressly refrained from holding that requiring States to provide information to the Federal Government violates the principle of the *Printz* decision. 521 U.S. at 918.

H. Executive Order 12988 Civil Justice Reform

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

List of Subjects

8 CFR Part 204

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

8 CFR Part 205

Administrative practice and procedures, Aliens, Immigration, Petitions.

8 CFR Part 213a

Administrative practice and procedures, Aliens, Affidavits of support, Immigrants.

8 CFR Part 299

Aliens, Forms, Immigration, Reporting and recordkeeping requirements.

8 CFR Part 1205

Administrative practice and procedures, Aliens, Immigration, Petitions.

8 CFR Part 1240

Administrative practice and procedure; Immigration.

Department of Homeland Security

8 CFR CHAPTER I—AUTHORITY AND ISSUANCE

■ Accordingly, for the reasons stated in the joint preamble, and pursuant to my authority as Secretary of Homeland Security, the interim rule adding 8 CFR part 213a and amending 8 CFR part 299 that was published at 62 FR 54346 on October 20, 1997, is adopted as a final rule with the following changes, and 8 CFR parts 204 and 205 are amended as follows:

PART 204—IMMIGRANT PETITIONS

■ 1. The authority citation for part 204 continues to read as follows:

Authority: 8 U.S.C. 1101, 1103, 1151, 1153, 1154, 1182, 1186a, 1255, 1641; 8 CFR part 2.

■ 2. Section 204.2 is amended by adding a new paragraph (i)(1)(iv) to read as follows:

§ 204.2 Petitions for relatives, widows and widowers, and abused spouses and children.

* * * * *

(i) * * *

(1) * * *

(iv) A currently valid visa petition previously approved to classify the beneficiary as an immediate relative as the spouse of a United States citizen must be regarded, upon the death of the petitioner, as having been approved as a Form I–360, Petition for Amerasian, Widow(er) or Special Immigrant for classification under paragraph (b) of this section, if, on the date of the petitioner's death, the beneficiary satisfies the requirements of paragraph (b)(1) of this section. If the petitioner dies before the petition is approved, but, on the date of the petitioner's death, the beneficiary satisfies the requirements of paragraph (b)(1) of this section, then the petition shall be adjudicated as if it had been filed as a Form I–360, Petition for Amerasian, Widow(er) or Special Immigrant under paragraph (b) of this section.

* * * * *

PART 205—REVOCATION OF APPROVAL OF PETITIONS

■ 3. The authority citation for part 205 continues to read as follows:

Authority: 8 U.S.C. 1101, 1103, 1151, 1153, 1154, 1155, 1182, and 1186a.

■ 4. Section 205.1 is amended by revising paragraph (a)(3)(i)(C) to read as follows:

§ 205.1 Automatic revocation.

(a) * * *

(3) * * *

(i) * * *

(C) Upon the death of the petitioner, unless:

(*1*) The petition is deemed under 8 CFR 204.2(i)(1)(iv) to have been approved as a Form I–360, Petition for Amerasian, Widow(er) or Special Immigrant under 8 CFR 204.2(b); or

(*2*) U.S. Citizenship and Immigration Services (USCIS) determines, as a matter of discretion exercised for humanitarian reasons in light of the facts of a particular case, that it is inappropriate to revoke the approval of the petition. USCIS may make this determination only if the principal beneficiary of the visa petition asks for reinstatement of the approval of the petition and establishes that a person related to the principal beneficiary in one of the ways described in section 213A(f)(5)(B) of the Act is willing and able to file an affidavit of support under 8 CFR part 213a as a substitute sponsor.

* * * * *

PART 213a—AFFIDAVITS OF SUPPORT ON BEHALF OF IMMIGRANTS

■ 5. The authority citation for part 213a continues to read as follows:

Authority: 8 U.S.C. 1183a; 8 CFR part 2.

■ 6. Section 213a.1 is amended by:

■ a. Revising the definitions for ''Domicile'', ''Household income'', ''Household size'', ''Income'', ''Sponsor'' and ''Sponsored immigrant'' and by

■ b. Adding the definitions for ''Joint sponsor'' and ''Substitute sponsor'' in proper alphabetical sequence.

The revisions and addition read as follows:

§ 213a.1 Definitions.

* * * * *

Domicile means the place where a sponsor has his or her principal residence, as defined in section 101(a)(33) of the Act, with the intention to maintain that residence for the foreseeable future.

* * * * *

Household income means the income used to determine whether the sponsor meets the minimum income requirements under sections 213A(f)(1)(E), 213A(f)(3), or 213A(f)(5) of the Act. It includes the income of the sponsor, and of the sponsor's spouse and any other person included in determining the sponsor's household size, if the spouse or other person is at least 18 years old and has signed a U.S. Citizenship and Immigration Services (USCIS) Form I–864A, Affidavit of Support Contract Between Sponsor and Household Member, on behalf of the sponsor and intending immigrants. The ''household income'' may not, however, include the income of an intending immigrant, unless the intending immigrant is either the sponsor's spouse or has the same principal residence as the sponsor and the preponderance of the evidence shows that the intending immigrant's income results from the intending immigrant's lawful employment in the United States or from some other lawful source that will continue to be available to the intending immigrant after he or she acquires permanent resident status. The prospect of employment in the United States that has not yet actually begun will not be sufficient to meet this requirement.

Household size means the number obtained by adding the number of persons specified in this definition. In calculating household size, no individual shall be counted more than once. If the intending immigrant's spouse or child is a citizen or already holds the status of an alien lawfully admitted for permanent residence, then the sponsor should not include that spouse or child in determining the total household size, unless the intending immigrant's spouse or child is a dependent of the sponsor.

(1) In all cases, the household size includes the sponsor, the sponsor's spouse and all of the sponsor's children, as defined in section 101(b)(1) of the Act (other than a stepchild who meets the requirements of section 101(b)(1)(B) of the Act, if the stepchild does not reside with the sponsor, is not claimed by the sponsor as a dependent for tax purposes, and is not seeking to immigrate based on the stepparent/stepchild relationship), unless these children have reached the age of majority under the law of the place of domicile and the sponsor did not claim them as dependents on the sponsor's Federal income tax return for the most recent tax year. The following persons must also be included in calculating the sponsor's household size: Any other persons (whether related to the sponsor or not) whom the sponsor has claimed as dependents on the sponsor's Federal income tax return for the most recent tax year, even if such persons do not have the same principal residence as the sponsor, plus the number of aliens the sponsor has sponsored under any other Forms I–864 for whom the sponsor's support obligation has not terminated, plus the number of aliens to be sponsored under the current Form I–864, even if such aliens do not or will not have the same principal residence as the sponsor. If a child, as defined in section 101(b)(1) of the Act, or spouse of the principal intending immigrant is

an alien who does not currently reside in the United States and who either is not seeking to immigrate at the same time as, or will not seek to immigrate within six months of the principal intending immigrant's immigration, the sponsor may exclude that child or spouse in calculating the sponsor's household size.

(2) If the sponsor chooses to do so, the sponsor may add to the number of persons specified in the first part of this definition the number of relatives (as defined in this section) of the sponsor who have the same principal residence as the sponsor and whose income will be relied on to meet the requirements of section 213A of the Act and this part.

* * * * *

Income means an individual's total income (adjusted gross income for those who file IRS Form 1040EZ) for purposes of the individual's U.S. Federal income tax liability, including a joint income tax return (e.g., line 22 on the 2004 IRS Form 1040, line 15 on the 2004 IRS Form 1040A, or line 4 on the 2004 IRS Form 1040EZ or the corresponding line on any future revision of these IRS Forms). Only an individual's Federal income tax return—that is, neither a state or territorial income tax return nor an income tax return filed with a foreign government—shall be filed with an affidavit of support, unless the individual had no duty to file a Federal income tax return, and claims that his or her state, territorial or foreign taxable income is sufficient to establish the sufficiency of the affidavit of support.

* * * * *

Joint sponsor means any individual who meets the requirements of section 213A(f)(1)(A), (B), (C), and (E) of the Act and 8 CFR 213a.2(c)(1)(i), and who, as permitted by section 213A(f)(5)(A) of the Act, is willing to submit a Form I–864 and accept joint and several liability with the sponsor or substitute sponsor, in any case in which the sponsor's or substitute sponsor's household income is not sufficient to satisfy the requirements of section 213A of the Act.

* * * * *

Sponsor means an individual who is either required to execute or has executed a Form I–864 under this part.

Sponsored immigrant means any alien who was an intending immigrant, once that person has been lawfully admitted for permanent residence, so that the affidavit of support filed for that person under this part has entered into force.

Substitute sponsor means an individual who meets the requirements of section 213A(f)(1)(A), (B), (C), and (E) of the Act and 8 CFR 213a.2(c)(1)(i), who is related to the principal intending immigrant in one of the ways described in section 213A(f)(5)(B) of the Act, and who is willing to sign a Form I–864 in place of the now-deceased person who filed the Form I–130 or Form I–129F that provides the basis for the intending immigrant's ability to seek permanent residence.

■ 7. Section 213a.2 is amended by:

■ a. Revising paragraphs (a)(1) and (a)(2)(i)(A) and (C);

■ b. Removing the ''or'' at the end of paragraph (a)(2)(ii)(A);

■ c. Revising paragraph (a)(2)(ii)(B);

■ d. Adding new paragraphs (a)(2)(ii)(C), (D), and (E);

■ e. Revising paragraphs (b)(1) and (b)(2);

■ f. Revising paragraphs (c), (e), and (f); and by

■ g. Adding paragraph (g).

The revisions and additions read as follows:

§ 213a.2 Use of affidavit of support.

(a) *General.* (1)(i)(A) In any case specified in paragraph (a)(2) of this section, an intending immigrant is inadmissible as an alien likely to become a public charge, unless the qualified sponsor specified in paragraph (b) of this section or a substitute sponsor and, if necessary, a joint sponsor, has executed on behalf of the intending immigrant a Form I–864, Affidavit of Support Under Section 213A of the Act, in accordance with section 213A of the Act, this section, and the instructions on Form I–864. The sponsor may use the Form I–864EZ, EZ Affidavit of Support Under Section 213A of the Act, rather than the Form I–864, if the sponsor meets the eligibility requirements on the instructions for the Form I–864EZ. Each reference in this section to Form I–864 is deemed to be a reference to Form I–864EZ for any case in which the sponsor is eligible to use the Form I–864EZ.

(B) If the intending immigrant claims that, under paragraph (a)(2)(ii)(A), (C), or (E) of this section, the intending immigrant is exempt from the requirement to file a Form I–864, the intending immigrant must include with his or her application for an immigrant visa or adjustment of status a properly completed Form I–864W, Intending Immigrant's I–864 Exemption.

(ii) An affidavit of support is executed when a sponsor signs a Form I–864 and that Form I–864 is submitted, together with the current edition of Form I–864P and the initial evidence required by this section, in accordance with this paragraph. The current edition Form I–864P is available on the Internet at *http://www.uscis.gov/graphics/formsfee/forms.* Those without Internet access may call (800) 870–3676 to obtain the Form I–864P.

(A) If the intending immigrant is applying for an immigrant visa, the intending immigrant must submit the Form I–864 (and any Forms I–864A) to the Department of State officer with jurisdiction over the intending immigrant's application for an immigrant visa, in accordance with instructions from the Department of State officer or the National Visa Center;

(B) If the intending immigrant is applying for adjustment of status, the intending immigrant must submit the Form I–864 (and any Forms I–864A) with the application for adjustment of status.

(iii) There must be a separate Form I–864 (and any Form(s) I–864A), with original signatures, for each principal visa petition beneficiary.

(iv) Each immigrant who will accompany the principal intending immigrant must be included on Form I–864 (and any Forms I–864A). See paragraph (f) of this section for further information concerning immigrants who intend to accompany or follow the principal intending immigrant to the United States.

(v)(A) Except as provided for under paragraph (a)(1)(v)(B) of this section, the Department of State officer, immigration officer, or immigration judge shall determine the sufficiency of a Form I–864 or I–864A based on the sponsor's, substitute sponsor's, or joint sponsor's reasonably expected household income in the year in which the intending immigrant filed the application for an immigrant visa or for adjustment of status, and based on the evidence submitted with the Form I–864 or Form I–864A and the Poverty Guidelines in effect when the intending immigrant filed the application for an immigrant visa or adjustment of status.

(B) If more than one year passes between the filing of the Form I–864 or Form I–864A and the hearing, interview, or examination of the intending immigrant concerning the intending immigrant's application for an immigrant visa or adjustment of status, and the Department of State officer, immigration officer or immigration judge determines, in the exercise of discretion, that the particular facts of the case make the submission of additional evidence necessary to the proper adjudication of the case, then the Department of State officer, immigration officer or immigration judge may direct the intending immigrant to submit additional evidence. A Department of State officer or immigration officer shall make the request in writing, and provide the intending immigrant not

less than 30 days to submit the additional evidence. An immigration judge may direct the intending immigrant to submit additional evidence and also set the deadline for submission of the initial evidence in any manner permitted under subpart C of 8 CFR part 1003 and any local rules of the Immigration Court. If additional evidence is required under this paragraph, an intending immigrant must submit additional evidence (including copies or transcripts of any income tax returns for the most recent tax year) concerning the income or employment of the sponsor, substitute sponsor, joint sponsor, or household member in the year in which the Department of State officer, immigration officer, or immigration judge makes the request for additional evidence. In this case, the sufficiency of the Form I–864 and any Form I–864A will be determined based on the sponsor's, substitute sponsor's, or joint sponsor's reasonably expected household income in the year the Department of State officer, immigration officer or immigration judge makes the request for additional evidence, and based on the evidence submitted in response to the request for additional evidence and on the Poverty Guidelines in effect when the request for evidence was issued.

(2)(i) * * *

(A) An immediate relative under section 201(b)(2)(A)(i) of the Act, including orphans and any alien admitted as a K nonimmigrant when the alien seeks adjustment of status;

* * * * *

(C) An employment-based immigrant under section 203(b) of the Act, if a relative (as defined in 8 CFR 213a.1) of the intending immigrant is a citizen or an alien lawfully admitted for permanent residence who either filed the employment-based immigrant petition or has a significant ownership interest in the entity that filed the immigrant visa petition on behalf of the intending immigrant. An affidavit of support under this section is not required, however, if the relative is a brother or sister of the intending immigrant, unless the brother or sister is a citizen.

(ii) * * *

(B) Seeks admission as an immigrant on or after December 19, 1997, in a category specified in paragraph (a)(2)(i) of this section with an immigrant visa issued on the basis of an immigrant visa application filed with the Department of State officer before December 19, 1997;

(C) Establishes, on the basis of the alien's own Social Security Administration record or those of his or her spouse or parent(s), that he or she has already worked, or under section 213A(a)(3)(B) of the Act, can already be credited with, 40 qualifying quarters of coverage as defined under title II of the Social Security Act, 42 U.S.C. 401, *et seq;*

(D) Is a child admitted under section 211(a) of the Act and 8 CFR 211.1(b)(1); or

(E) Is the child of a citizen, if the child is not likely to become a public charge (other than because of the provision of section 212(a)(4)(C) of the Act), and the child's lawful admission for permanent residence will result automatically in the child's acquisition of citizenship under section 320 of the Act, as amended. This exception applies to an alien orphan if the citizen parent(s) has (or have) legally adopted the alien orphan before the alien orphan's acquisition of permanent residence, and if both adoptive parents personally saw and observed the alien orphan before or during the foreign adoption proceeding. An affidavit of support under this part is still required if the citizen parent(s) will adopt the alien orphan in the United States only after the alien orphan's acquisition of permanent residence. If the citizen parent(s) adopted the alien orphan abroad, but at least one of the adoptive parents did not see and observe the alien orphan before or during the foreign adoption proceeding, then an affidavit of support under this part is still required, unless the citizen parent establishes that, under the law of the State of the alien orphan's intended residence in the United States, the foreign adoption decree is entitled to recognition without the need for a formal administrative or judicial proceeding in the State of proposed residence.

(b) * * *

(1) *For immediate relatives and family-based immigrants.* The person who filed the Form I–130 or Form I–600 immigrant visa petition (or the Form I–129F petition, for a K nonimmigrant seeking adjustment), the approval of which forms the basis of the intending immigrant's eligibility to apply for an immigrant visa or adjustment of status as an immediate relative or a family-based immigrant, must execute a Form I–864 on behalf of the intending immigrant. If the intending immigrant is the beneficiary of more than one approved immigrant visa petition, it is the person who filed the petition that is actually the basis for the intending immigrant's eligibility to apply for an immigrant visa or adjustment of status who must file the Form I–864.

(2) *For employment-based immigrants.* A relative of an intending immigrant seeking an immigrant visa under section 203(b) of the Act must file a Form I–864 if the relative either filed the immigrant visa petition on behalf of the intending immigrant or owns a significant ownership interest in an entity that filed an immigrant visa petition on behalf of the intending immigrant, but only if the relative is a citizen or an alien lawfully admitted for permanent residence. If the intending immigrant is the beneficiary of more than one relative's employment-based immigrant visa petition, it is the relative who filed the petition that is actually the basis for the intending immigrant's eligibility to apply for an immigrant visa or adjustment of status who must file the Form I–864.

(c) *Sponsorship requirements.* (1)(i) *General.* A sponsor must be:

(A) At least 18 years of age;

(B) Domiciled in the United States or any territory or possession of the United States; and

(C)(*1*) A citizen or an alien lawfully admitted for permanent residence in the case described in paragraph (a)(2)(i) of this section; or

(*2*) A citizen or national or an alien lawfully admitted for permanent residence if the individual is a substitute sponsor or joint sponsor.

(ii) *Determination of domicile.* (A) If the sponsor is residing abroad, but only temporarily, the sponsor bears the burden of proving, by a preponderance of the evidence, that the sponsor's domicile (as that term is defined in 8 CFR 213a.1) remains in the United States, *provided,* that a permanent resident who is living abroad temporarily is considered to be domiciled in the United States if the permanent resident has applied for and obtained the preservation of residence benefit under section 316(b) or section 317 of the Act, *and provided further*, that a citizen who is living abroad temporarily is considered to be domiciled in the United States if the citizen's employment abroad meets the requirements of section 319(b)(1) of the Act.

(B) If the sponsor is not domiciled in the United States, the sponsor can still sign and submit a Form I–864 so long as the sponsor satisfies the Department of State officer, immigration officer, or immigration judge, by a preponderance of the evidence, that the sponsor will establish a domicile in the United States on or before the date of the principal intending immigrant's admission or adjustment of status. The intending immigrant will be inadmissible under section 212(a)(4) of the Act, and the immigration officer or immigration judge must deny the intending

immigrant's application for admission or adjustment of status, if the sponsor has not, in fact, established a domicile in the United States on or before the date of the decision on the principal intending immigrant's application for admission or adjustment of status. In the case of a sponsor who comes to the United States intending to establish his or her principal residence in the United States at the same time as the principal intending immigrant's arrival and application for admission at a port-of-entry, the sponsor shall be deemed to have established a domicile in the United States for purposes of this paragraph, unless the sponsor is also a permanent resident alien and the sponsor's own application for admission is denied and the sponsor leaves the United States under a removal order or as a result of the sponsor's withdrawal of the application for admission.

(2) *Demonstration of ability to support intending immigrants.* In order for the intending immigrant to overcome the public charge ground of inadmissibility, the sponsor must demonstrate the means to maintain the intending immigrant at an annual income of at least 125 percent of the Federal poverty line. If the sponsor is on active duty in the Armed Forces of the United States (other than active duty for training) and the intending immigrant is the sponsor's spouse or child, the sponsor's ability to maintain income must equal at least 100 percent of the Federal poverty line.

(i) *Proof of income.* (A) The sponsor must include with the Form I–864 either a photocopy or an Internal Revenue Service-issued transcript of his or her complete Federal income tax return for the most recent taxable year (counting from the date of the signing, rather than the filing, of the Form I–864). However, the sponsor may, at his or her option, submit tax returns for the three most recent years if the sponsor believes that these additional tax returns may help in establishing the sponsor's ability to maintain his or her income at the applicable threshold set forth in Form I–864P, Poverty Guidelines. Along with each transcript or photocopy, the sponsor must also submit as initial evidence copies of all schedules filed with each return and (if the sponsor submits a photocopy, rather than an IRS transcript of the tax return(s)) all Forms W–2 (if the sponsor relies on income from employment) and Forms 1099 (if the sponsor relies on income from sources documented on Forms 1099) in meeting the income threshold. The sponsor may also include as initial evidence: Letter(s) evidencing his or her current employment and income, paycheck stub(s) (showing earnings for the most recent six months, financial statements, or other evidence of the sponsor's anticipated household income for the year in which the intending immigrant files the application for an immigrant visa or adjustment of status. By executing Form I–864, the sponsor certifies under penalty of perjury under United States law that the evidence of his or her current household income is true and correct and that each transcript or photocopy of each income tax return is a true and correct transcript or photocopy of the return that the sponsor filed with the Internal Revenue Service for that taxable year.

(B) If the sponsor had no legal duty to file a Federal income tax return for the most recent tax year, the sponsor must explain why he or she had no legal duty to a file a Federal income tax return for that year. If the sponsor claims he or she had no legal duty to file for any reason other than the level of the sponsor's income for that year, the initial evidence submitted with the Form I–864 must also include any evidence of the amount and source of the income that the sponsor claims was exempt from taxation and a copy of the provisions of any statute, treaty, or regulation that supports the claim that he or she had no duty to file an income tax return with respect to that income. If the sponsor had no legal obligation to file a Federal income tax return, he or she may submit other evidence of annual income. The fact that a sponsor had no duty to file a Federal income tax return does not relieve the sponsor of the duty to file Form I–864.

(C)(*1*) The sponsor's ability to meet the income requirement will be determined based on the sponsor's household income. In establishing the household income, the sponsor may rely entirely on his or her personal income, if it is sufficient to meet the income requirement. The sponsor may also rely on the income of the sponsor's spouse and of any other person included in determining the sponsor's household size, if the spouse or other person is at least 18 years old and has completed and signed a Form I–864A. A person does not need to be a U.S. citizen, national, or alien lawfully admitted for permanent residence in order to sign a Form I–864A.

(*2*) Each individual who signs Form I–864A agrees, in consideration of the sponsor's signing of the Form I–864, to provide to the sponsor as much financial assistance as may be necessary to enable the sponsor to maintain the intending immigrants at the annual income level required by section 213A(a)(1)(A) of the Act, to be jointly and severally liable for any reimbursement obligation that the sponsor may incur, and to submit to the personal jurisdiction of any court that has subject matter jurisdiction over a civil suit to enforce the contract or the affidavit of support. The sponsor, as a party to the contract, may bring suit to enforce the contract. The intending immigrants and any Federal, state, or local agency or private entity that provides a means-tested public benefit to an intending immigrant are third party beneficiaries of the contract between the sponsor and the other individual or individuals on whose income the sponsor relies and may bring an action to enforce the contract in the same manner as third party beneficiaries of other contracts.

(*3*) If there is no spouse or child immigrating with the intending immigrant, then there will be no need for the intending immigrant to sign a Form I–864A, even if the sponsor will rely on the continuing income of the intending immigrant to meet the income requirement. If, however, the sponsor seeks to rely on an intending immigrant's continuing income to establish the sponsor's ability to support the intending immigrant's spouse or children, then the intending immigrant whose income is to be relied on must sign the Form I–864A.

(*4*) If the sponsor relies on the income of any individual who has signed Form I–864A, the sponsor must also include with the Form I–864 and Form I–864A, with respect to the person who signed the Form I–864A, the initial evidence required under paragraph (c)(2)(i)(A) of this section. The household member's tax return(s) must be for the same tax year as the sponsor's tax return(s). An individual who signs Form I–864A certifies, under penalty of perjury, that the submitted transcript or photocopy of the tax return is a true and correct transcript or photocopy of the Federal income tax return filed with the Internal Revenue Service, and that the information concerning that person's employment and income is true and correct.

(*5*) If the person who signs the Form I–864A is not an intending immigrant, and is any person other than the sponsor's spouse or a claimed dependent of the sponsor, the sponsor must also attach proof that the person is a relative (as defined in 8 CFR 213a.1) of the sponsor and that the Form I–864A signer has the same principal residence as the sponsor. If an intending immigrant signs a Form I–864A, the sponsor must also provide proof that the sponsored immigrant has the same principal residence as the sponsor,

unless the sponsored immigrant is the sponsor's spouse.

(D) *Effect of failure to file income tax returns.* If a sponsor, substitute sponsor, joint sponsor, or household member did not file a Federal income tax return for the year for which a transcript or photocopy must be provided, the Form I–864 or Form I–864A will not be considered sufficient to satisfy the requirements of section 213A of the Act, even if the household income meets the requirements of section 213A of the Act, unless the sponsor, substitute sponsor, joint sponsor, or household member proves, by a preponderance of the evidence, that he or she had no duty to file. If the sponsor, substitute sponsor, joint sponsor or household member cannot prove that he or she had no duty to file, then the Form I–864 or Form I–864A will not be considered sufficient to satisfy the requirements of section 213A of the Act until the sponsor, substitute sponsor, joint sponsor, or household member proves that he or she has satisfied the obligation to file the tax return and provides a transcript or copy of the return.

(ii) *Determining the sufficiency of an affidavit of support.* The sufficiency of an affidavit of support shall be determined in accordance with this paragraph.

(A) *Income.* The sponsor must first calculate the total income attributable to the sponsor under paragraph (c)(2)(i)(C) of this section for the year in which the intending immigrant filed the application for an immigrant visa or adjustment of status.

(B) *Number of persons to be supported.* The sponsor must then determine his or her household size as defined in 8 CFR 213a.1.

(C) *Sufficiency of income.* Except as provided in this paragraph, or in paragraph (a)(1)(v)(B) of this section, the sponsor's affidavit of support shall be considered sufficient to satisfy the requirements of section 213A of the Act and this section if the reasonably expected household income for the year in which the intending immigrant filed the application for an immigrant visa or adjustment of status, calculated under paragraph (c)(2)(iii)(A) of this section, would equal at least 125 percent of the Federal poverty line for the sponsor's household size as defined in 8 CFR 213a.1, under the Poverty Guidelines in effect when the intending immigrant filed the application for an immigrant visa or for adjustment of status, except that the sponsor's income need only equal at least 100 percent of the Federal poverty line for the sponsor's household size, if the sponsor is on active duty (other than for training) in the Armed Forces of the United States and the intending immigrant is the sponsor's spouse or child. The sponsor's household income for the year in which the intending immigrant filed the application for an immigrant visa or adjustment of status shall be given the greatest evidentiary weight; any tax return and other information relating to the sponsor's financial history will serve as evidence tending to show whether the sponsor is likely to be able to maintain his or her income in the future. If the projected household income for the year in which the intending immigrant filed the application for an immigrant visa or adjustment of status meets the applicable income threshold, the affidavit of support may be held to be insufficient on the basis of the household income but only if, on the basis of specific facts, including a material change in employment or income history of the sponsor, substitute sponsor, joint sponsor or household member, the number of aliens included in Forms I–864 that the sponsor has signed but that have not yet entered into force in accordance with paragraph (e) of this section, or other relevant facts, it is reasonable to infer that the sponsor will not be able to maintain his or her household income at a level sufficient to meet his or her support obligations.

(iii) *Inability to meet income requirement.* (A) If the sponsor is unable to meet the minimum income requirement in paragraph (c)(2)(iii) of this section, the intending immigrant is inadmissible under section 212(a)(4) of the Act unless:

(*1*) The sponsor, the intending immigrant or both, can meet the significant assets provision of paragraph (c)(2)(iv)(B) of this section; or

(*2*) A joint sponsor executes a separate Form I–864.

(B) *Significant assets.* The sponsor may submit evidence of the sponsor's ownership of significant assets, such as savings accounts, stocks, bonds, certificates of deposit, real estate, or other assets. An intending immigrant may submit evidence of the intending immigrant's assets as a part of the affidavit of support, even if the intending immigrant is not required to sign a Form I–864A. The assets of any person who has signed a Form I–864A may also be considered in determining whether the assets are sufficient to meet this requirement. To qualify as ''significant assets'' the combined cash value of all the assets (the total value of the assets less any offsetting liabilities) must exceed:

(*1*) If the intending immigrant is the spouse or child of a United States citizen (and the child has reached his or her 18th birthday), three times the difference between the sponsor's household income and the Federal poverty line for the sponsor's household size (including all immigrants sponsored in any affidavit of support in force or submitted under this section);

(*2*) If the intending immigrant is an alien orphan who will be adopted in the United States after the alien orphan acquires permanent residence (or in whose case the parents will need to seek a formal recognition of a foreign adoption under the law of the State of the intending immigrant's proposed residence because at least one of the parents did not see the child before or during the adoption), and who will, as a result of the adoption or formal recognition of the foreign adoption, acquire citizenship under section 320 of the Act, the difference between the sponsor's household income and the Federal poverty line for the sponsor's household size (including all immigrants sponsored in any affidavit of support in force or submitted under this section);

(*3*) In all other cases, five times the difference between the sponsor's household income and the Federal poverty line for the sponsor's household size (including all immigrants sponsored in any affidavit of support in force or submitted under this section).

(C) *Joint sponsor.* A joint sponsor must execute a separate Form I–864 on behalf of the intending immigrant(s) and be willing to accept joint and several liability with the sponsor or substitute sponsor. A joint sponsor must meet all the eligibility requirements under paragraph (c)(1) of this section, except that the joint sponsor does not have to have filed a visa petition on behalf of the intending immigrant. The joint sponsor must demonstrate his or her ability to support the intending immigrant in the manner specified in paragraph (c)(2) of this section. A joint sponsor's household income must meet or exceed the income requirement in paragraph (c)(2)(iii) of this section unless the joint sponsor can demonstrate significant assets as provided in paragraph (c)(2)(iv)(A) of this section. The joint sponsor's household income must equal at least 125% of the Poverty Guidelines for the joint sponsor's household size, unless the joint sponsor is on active duty in the Armed Forces and the intending immigrant is the joint sponsor's spouse or child, in which case the joint sponsor's household income is sufficient if it equals at least 100% of

the Poverty Guidelines for the joint sponsor's household size. An intending immigrant may not have more than one joint sponsor, but, if the joint sponsor's household income is not sufficient to meet the income requirement with respect to the principal intending immigrant, any spouse and all the children who, under section 203(d) of the Act, seek to accompany the principal intending immigrant, then the joint sponsor may specify on the Form I–864 that the Form I–864 is submitted only on behalf of the principal intending immigrant and those accompanying family members specifically listed on the Form I–864. The remaining accompanying family members will then be inadmissible under section 212(a)(4) of the Act unless a second joint sponsor submits a Form I–864 on behalf of all the remaining family members who seek to accompany the principal intending immigrant and who are not included in the first joint sponsor's Form I–864. There may not be more than two joint sponsors for the family group consisting of the principal intending immigrant and the accompanying spouse and children who will accompany the principal intending immigrant.

(D) *Substitute sponsor.* In a family-sponsored case, if the visa petitioner dies after approval of the visa petition, but the U.S. Citizenship and Immigration Services determines, under 8 CFR 205.1(a)(3)(i)(C), that for humanitarian reasons it would not be appropriate to revoke approval of the visa petition, then a substitute sponsor, as defined in 8 CFR 213a.1, may sign the Form I–864. The substitute sponsor must meet all the requirements of this section that would have applied to the visa petitioner, had the visa petitioner survived and been the sponsor. The substitute sponsor's household income must equal at least 125% of the Poverty Guidelines for the substitute sponsor's household size, unless the intending immigrant is the substitute sponsor's spouse or child and the substitute sponsor is on active duty in the Armed Forces (other than active duty for training), in which case the substitute sponsor's household income is sufficient if it equals at least 100% of the Poverty Guidelines for the substitute sponsor's household size. If the substitute sponsor's household income is not sufficient to meet the requirements of section 213A(a)(f)(1)(E) of the Act and paragraph (c)(2) of this section, the alien will be inadmissible unless a joint sponsor signs a Form I–864.

(iv) *Remaining inadmissibility on public charge grounds.* Notwithstanding the filing of a sufficient affidavit of support under section 213A of the Act and this section, an alien may be found to be inadmissible under section 212(a)(4) of the Act if the alien's case includes evidence of specific facts that, when considered in light of section 212(a)(4)(B) of the Act, support a reasonable inference that the alien is likely at any time to become a public charge.

(v) *Verification of employment, income, and assets.* The Federal Government may pursue verification of any information provided on or with Form I–864, including information on employment, income, or assets, with the employer, financial or other institutions, the Internal Revenue Service, or the Social Security Administration. To facilitate this verification process, the sponsor, joint sponsor, substitute sponsor, or household member must sign and submit any necessary waiver form when directed to do so by the immigration officer, immigration judge, or Department of State officer who has jurisdiction to adjudicate the case to which the Form I–864 or I–864A relates. A sponsor's, substitute sponsor's, joint sponsor's, or household member's failure or refusal to sign any waiver needed to verify the information when directed to do so constitutes a withdrawal of the Form I–864 or I–864A, so that, in adjudicating the intending immigrant's application for an immigrant visa or adjustment of status, the Form I–864 or Form I–864A will be deemed not to have been filed.

(vi) *Effect of fraud or material concealment or misrepresentation.* A Form I–864 or Form I–864A is insufficient to satisfy the requirements of section 213A of the Act and this part, and the affidavit of support shall be found insufficient to establish that the intending immigrant is not likely to become a public charge, if the Department of State officer, immigration officer or immigration judge finds that Form I–864 or Form I–864A is forged, counterfeited, or otherwise falsely executed, or if the Form I–864 or Form I–864A conceals or misrepresents facts concerning household size, household income, employment history, or any other material fact. Any person who knowingly participated in the forgery, counterfeiting, or false production of a Form I–864 or Form I–864A, or in any concealment or misrepresentation of any material fact, may be subject to a civil penalty under section 274C of the Act, to criminal prosecution, or to both, to the extent permitted by law. If the person is an alien, the person may also be subject to removal from the United States.

* * * * *

(e) *Commencement and termination of support obligation.* (1) With respect to any intending immigrant, the support obligation and change of address obligation imposed on a sponsor, substitute sponsor, or joint sponsor under Form I–864, and any household member's support obligation under Form I–864A, all begin when the immigration officer or the immigration judge grants the intending immigrant's application for admission as an immigrant or for adjustment of status on the basis of an application for admission or adjustment that included the Form I–864 or Form I–864A. Any person completing and submitting a Form I–864 as a joint sponsor or a Form I–864A as a household member is not bound to any obligations under section 213A of the Act if, notwithstanding his or her signing of a Form I–864 or Form I–864A, the Department of State officer (in deciding an application for an immigrant visa) or the immigration officer or immigration judge (in deciding an application for admission or adjustment of status) includes in the decision a specific finding that the sponsor or substitute sponsor's own household income is sufficient to meet the income requirements under section 213A of the Act.

(2)(i) The support obligation and the change of address reporting requirement imposed on a sponsor, substitute sponsor and joint sponsor under Form I–864, and any household member's support obligation under Form I–864A, all terminate by operation of law when the sponsored immigrant:

(A) Becomes a citizen of the United States;

(B) Has worked, or can be credited with, 40 qualifying quarters of coverage under title II of the Social Security Act, 42 U.S.C. 401, *et seq., provided* that the sponsored immigrant is not credited with any quarter beginning after December 31, 1996, during which the sponsored immigrant receives or received any Federal means-tested public benefit;

(C) Ceases to hold the status of an alien lawfully admitted for permanent residence and departs the United States (if the sponsored immigrant has not filed USCIS Form I–407, Abandonment of Lawful Permanent Resident Status, this provision will apply only if the sponsored immigrant is found in a removal proceeding to have abandoned that status while abroad);

(D) Obtains in a removal proceeding a new grant of adjustment of status as

relief from removal (in this case, if the sponsored immigrant is still subject to the affidavit of support requirement under this part, then any individual(s) who signed the Form I–864 or I–864A in relation to the new adjustment application will be subject to the obligations of this part, rather than those who signed a Form I–864 or I–864A in relation to an earlier grant of admission as an immigrant or of adjustment of status); or

(E) Dies.

(ii) The support obligation under Form I–864 also terminates if the sponsor, substitute sponsor or joint sponsor dies. A household member's obligation under Form I–864A terminates when the household member dies. The death of one person who had a support obligation under a Form I–864 or Form I–864A does not terminate the support obligation of any other sponsor, substitute sponsor, joint sponsor, or household member with respect to the same sponsored immigrant.

(3) The termination of the sponsor's, substitute sponsor's, or joint sponsor's obligations under Form I–864 or of a household member's obligations under Form I–864A does not relieve the sponsor, substitute sponsor, joint sponsor, or household member (or their respective estates) of any reimbursement obligation under section 213A(b) of the Act and this section that accrued before the support obligation terminated.

(f) *Withdrawal of Form I–864 or Form I–864A.* (1) In an immigrant visa case, once the sponsor, substitute sponsor, joint sponsor, household member, or intending immigrant has presented a signed Form I–864 or Form I–864A to a Department of State officer, the sponsor, substitute sponsor, joint sponsor, or household member may disavow his or her agreement to act as sponsor, substitute sponsor, joint sponsor, or household member if he or she does so in writing and submits the document to the Department of State officer before the actual issuance of an immigrant visa to the intending immigrant. Once the intending immigrant has obtained an immigrant visa, a sponsor, substitute sponsor, joint sponsor, or household member cannot disavow his or her agreement to act as a sponsor, joint sponsor, or household member unless the person or entity who filed the visa petition withdraws the visa petition in writing, as specified in 8 CFR 205.1(a)(3)(i)(A) or 8 CFR 205.1(a)(3)(iii)(C), and also notifies the Department of State officer who issued the visa of the withdrawal of the petition.

(2) In an adjustment of status case, once the sponsor, substitute sponsor, joint sponsor, household member, or intending immigrant has presented a signed Form I–864 or Form I–864A to an immigration officer or immigration judge, the sponsor, substitute sponsor, joint sponsor, or household member may disavow his or her agreement to act as sponsor, substitute sponsor, joint sponsor, or household member only if he or she does so in writing and submits the document to the immigration officer or immigration judge before the decision on the adjustment application.

(g) *Aliens who accompany or follow-to-join a principal intending immigrant.* (1) To avoid inadmissibility under section 212(a)(4) of the Act, an alien who applies for an immigrant visa, admission, or adjustment of status as an alien who is accompanying, as defined in 22 CFR 40.1, a principal intending immigrant must submit clear and true photocopies of the signed Form(s) I–864 (and any Form(s) I–864A) filed on behalf of the principal intending immigrant.

(2)(i) To avoid inadmissibility under section 212(a)(4) of the Act, an alien who applies for an immigrant visa, admission, or adjustment of status as an alien who is following-to-join a principal intending immigrant must submit new Forms I–864 and I–864A, together with all documents or other evidence necessary to prove that the new Forms I–864 and I–864A comply with the requirements of section 213A of the Act and 8 CFR part 213a.

(ii) When paragraph (g)(2)(i) of this section requires the filing of a new Form I–864 for an alien who seeks to follow-to-join a principal sponsored immigrant, the same sponsor who filed the visa petition and Form I–864 for the principal sponsored immigrant must file the new Form I–864 on behalf of the alien seeking to follow-to-join. If that person has died, then the alien seeking to follow-to-join is inadmissible unless a substitute sponsor, as defined by 8 CFR 213a.1, signs a new Form I–864 that meets the requirements of this section. Forms I–864A may be signed by persons other than the person or persons who signed Forms I–864A on behalf of the principal sponsored immigrant.

(iii) If a joint sponsor is needed in the case of an alien who seeks to follow-to-join a principal sponsored immigrant, and the principal sponsored immigrant also required a joint sponsor when the principal sponsored immigrant immigrated, that same person may, but is not required to be, the joint sponsor for the alien who seeks to follow-to-join the principal sponsored immigrant.

■ 8. Section 213a.3(a) is revised to read as follows:

§ 213a.3 Notice of change of address.

(a)(1) If the address of a sponsor (including a substitute sponsor or joint sponsor) changes for any reason while the sponsor's support obligation under the affidavit of support remains in effect with respect to any sponsored immigrant, the sponsor shall file Form I–865, Sponsor's Notice of Change of Address, with U.S. Citizenship and Immigration Services (USCIS) no later than 30 days after the change of address becomes effective. As evidence that the sponsor, substitute sponsor, or joint sponsor has complied with this requirement, USCIS will accept a photocopy of the properly completed Form I–865, together with proof of the Form's delivery to the proper service center (such as a post-marked United States Postal Service Express Mail or certified mail receipt, showing that the sponsor mailed the Form I–865 to the proper USCIS service center, together with the corresponding post-marked United States Postal Service return receipt card or other proof of delivery provided by the United States Postal Service, or, if the sponsor, substitute sponsor, or joint sponsor sent the Form I–865 by a commercial delivery service, a photocopy of the shipping label and signature proof of delivery).

(2) If the sponsor is an alien, filing Form I–865 does not relieve the sponsor of the requirement under 8 CFR 265.1 also to file a Form AR–11, Alien's Change of Address Card.

* * * * *

■ 9. Section 213a.4 is amended by:

■ a. Revising paragraph (a);

■ b. Adding a heading to paragraph (b), and adding a sentence at the end of paragraph (b); and by

■ c. Revising paragraph (c).

The revisions and additions read as follows:

§ 213a.4 Actions for reimbursement, public notice, and congressional reports.

(a) *Requests for reimbursement; commencement of civil action.* (1) *By agencies.* (i) If an agency that provides a means-tested public benefit to a sponsored immigrant wants to seek reimbursement from a sponsor, household member, or joint sponsor, the program official must arrange for service of a written request for reimbursement upon the sponsor, household member, or joint sponsor, by personal service, as defined by 8 CFR 103.5a(a)(2), except that the person making personal service need not be a Federal Government officer or employee.

(ii) The request for reimbursement must specify the date the sponsor, household member, or joint sponsor's

support obligation commenced (this is the date the sponsored immigrant became a permanent resident), the sponsored immigrant's name, alien registration number, address, and date of birth, as well as the types of means-tested public benefit(s) that the sponsored immigrant received, the dates the sponsored immigrant received the means-tested public benefit(s), and the total amount of the means-tested public benefit(s) received.

(iii) It is not necessary to make a separate request for each type of means-tested public benefit, nor for each separate payment. The agency may instead aggregate in a single request all benefit payments the agency has made as of the date of the request. A state or local government may make a single reimbursement request on behalf of all of the state or local government agencies that have provided means-tested public benefits.

(iv) So that the sponsor, household member, or joint sponsor may verify the accuracy of the request, the request for reimbursement must include an itemized statement supporting the claim for reimbursement. The request for reimbursement must also include a notification to the sponsor, household member, or joint sponsor that the sponsor, household member, or joint sponsor must, within 45 days of the date of service, respond to the request for reimbursement either by paying the reimbursement or by arranging to commence payments pursuant to a payment schedule that is agreeable to the program official.

(v) Prior to filing a lawsuit against a sponsor, household member, or joint sponsor to enforce the sponsor, household member, or joint sponsor's support obligation under section 213A(b)(2) of the Act, a Federal, state, or local governmental agency or a private entity must wait 45 days from the date it serves a written request for reimbursement in accordance with this section.

(2) *By the sponsored immigrant.* Section 213A(b) of the Act does not require a sponsored immigrant to request the sponsor or joint sponsor to comply with the support obligation, before bringing an action to compel compliance.

(3) *Role of USCIS and DHS.* Upon the receipt of a duly issued subpoena, USCIS may provide a certified copy of a Form I–864 or Form I–864A that has been filed on behalf of a specific alien for use as evidence in a civil action to enforce the Form I–864 or Form I–864A, and may also disclose the last known address and social security number of the sponsor, substitute sponsor, or joint sponsor. Requesting information through the Systematic Alien Verification for Entitlement (SAVE) Programis sufficient, and a subpoena is not required, to obtain the sponsored immigrant's current immigration or citizenship status or the name, social security number and last known address of a sponsor, substitute sponsor, or joint sponsor.

(b) *Designation of means-tested public benefits.* * * * A sponsor, joint sponsor, or household member is not liable to reimburse any agency for any benefit with respect to which a public notice of the determination that the benefit is a means-tested public benefit was not published until after the date the benefit was first provided to the immigrant.

(c) *Congressional reports.* (1) For purposes of section 213A(i)(3) of the Act, USCIS will consider a sponsor or joint sponsor to be in compliance with the financial obligations of section 213A of the Act unless a party that has obtained a final judgment enforcing the sponsor or joint sponsor's obligations under section 213A(a)(1)(A) or 213A(b) of the Act has provided a copy of the final judgment to the USCIS by mailing a certified copy to the address listed in paragraph (c)(3) of this section. The copy should be accompanied by a cover letter that includes the reference ''Civil Judgments for Congressional Reports under section 213A(i)(3) of the Act.'' Failure to file a certified copy of the final civil judgment in accordance with this section has no effect on the plaintiff's ability to collect on the judgment pursuant to law.

(2) If a Federal, state, or local agency or private entity that administers any means-tested public benefit makes a determination under section 421(e) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 in the case of any sponsored immigrant, the program official shall send written notice of the determination, including the name of the sponsored immigrant and of the sponsor, to the address listed in paragraph (c)(3) of this section. The written notice should include the reference ''Determinations under 421(e) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.''

(3) The address referred to in paragraphs (c)(1) and (c)(2) of this section is: Office of Program and Regulation Development, U.S. Citizenship and Immigration Services, 20 Massachusetts Avenue, NW., Washington, DC, 20529.

PART 299—IMMIGRATION FORMS

■ 10. The authority citation for part 299 continues to read as follows:

Authority: 8 U.S.C. 1101 and note, 1103; 8 CFR part 2.

■ 11. Section 299.1 is amended in the table by revising the entries for Form I–864 and Form I–864A, and by adding Form I–864EZ and Form I–864W, in proper alphanumeric sequence, to read as follows:

§ 299.1 Prescribed forms.

* * * * *

Form No.	Edition date	Title and description
* * *	*	* * *
I–864	09/15/2003	Affidavit of support under Section 213A of the Act.
I–864A	09/15/2003	Contract between sponsor and household member.
I–864EZ	09/15/2003	EZ Affidavit of support under Section 213A of the Act.
I–864W	09/15/2003	Intending immigrant's I–864 exemption.
* * *	*	* * *

■ 12. Section 299.5 is amended in the table by revising headings and the entries for Form I–864, Form I–864A, and Form I–865, and by adding Form I–864EZ and Form I–864W, in proper alphanumeric sequence, to read as follows:

§ 299.5 Display of control numbers.

* * * * *

Form No.	Form title	Currently assigned OMB Control No.
* *	* * * * *	*
I–864	Affidavit of support under Section 213A of the Act	1615–0075
I–864A	Contract between sponsor and household member	1615–0075
I–864EZ	EZ Affidavit of support under Section 213A of the Act	1615–0075
I–864W	Intending immigrant's I–864 Exemption	1615–0075
I–865	Sponsor's Change of Address	1615–0076
* *	* * * * *	*

Department of Justice

8 CFR Chapter V—Authority and Issuance

■ Accordingly, for the reasons stated in the joint preamble and pursuant to the authority vested in me as the Attorney General of the United States, chapter V of title 8 of the Code of Federal Regulations is amended as follows:

PART 1205—REVOCATION OF APPROVAL OF PETITIONS

■ 13. The authority citation for part 1205 continues to read as follows:

Authority: 8 U.S.C. 1101, 1103, 1151, 1153, 1154, 1155, 1182, and 1186a.

■ 14. Section 1205.1 is amended by revising paragraph (a)(3)(i)(C) to read as follows:

§ 1205.1 Automatic revocation.

(a) * * *

(3) * * *

(i) * * *

(C) Upon the death of the petitioner, except as provided for in 8 CFR 205.1(a)(3)(i)(C).

* * * * *

PART 1240—PROCEEDINGS TO DETERMINE REMOVABILITY OF ALIENS IN THE UNITED STATES

■ 15. The authority citation for part 1240 is revised to read as follows:

Authority: 8 U.S.C. 1103, 1182, 1186a, 1224, 1225, 1226, 1227, 1251, 1252 note, 1252a, 1252b, 1362; secs. 202 and 203, Pub. L. 105–100 (111 Stat. 2160, 2193); sec. 902, Pub. L. 105–277, (112 Stat. 2681).

■ 16. Section 1240.11(a)(2) is amended by revising the second sentence and adding a new sentence at the end, to read as follows:

§ 1240.11 Ancillary matters, applications.

(a) * * *

(2) * * * The immigration judge shall inform the alien of his or her apparent eligibility to apply for any of the benefits enumerated in this chapter and shall afford the alien an opportunity to make application during the hearing, in accordance with the provisions of § 1240.8(d). In a relevant case, the immigration judge may adjudicate the sufficiency of an Affidavit of Support Under Section 213A (Form I–864), executed on behalf of an applicant for admission or for adjustment of status, in accordance with the provisions of section 213A of the Act and 8 CFR part 213a.

* * * * *

■ 17. Section 1240.34 is amended by adding at the end a new sentence, to read as follows:

§ 1240.34 Renewal of application for adjustment of status under section 245 of the Act.

* * * In a relevant case, the immigration judge may adjudicate the sufficiency of an Affidavit of Support Under Section 213A (Form I–864), executed on behalf of an applicant for admission or for adjustment of status, in accordance with the provisions of section 213A of the Act and 8 CFR part 213a.

■ 18. Section 1240.49(a) is amended by adding after the sixth sentence a new sentence, to read as follows:

§ 1240.49 Ancillary matters, applications.

(a) * * * In a relevant case, the immigration judge may adjudicate the sufficiency of an Affidavit of Support Under Section 213A (Form I–864), executed on behalf of an applicant for admission or for adjustment of status, in accordance with the provisions of section 213A of the Act and 8 CFR part 213a. * * *

* * * * *

Dated: June 13, 2006.

Alberto R. Gonzales,

Attorney General.

Dated: April 11, 2006.

Michael Chertoff,

Secretary.

[FR Doc. 06–5522 Filed 6–20–06; 8:45 am]

BILLING CODE 4410–10–P

Federal Register

Wednesday,
June 21, 2006

Part III

Department of Transportation

Federal Aviation Administration

14 CFR Parts 61, 63 et al.

Disqualification for Airman and Airman Medical Certificate Holders Based on Alcohol Violations or Refusals To Submit to Drug and Alcohol Testing; Final Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 61, 63, 65, 67, 91, 121, and 135

[Docket No.: FAA–2004–19835: Amendment No. 61–114 , 63–34, 65–47, 67–19, 91–291, 121–325, 135–105]

RIN 2120–AH82

Disqualification for Airman and Airman Medical Certificate Holders Based on Alcohol Violations or Refusals To Submit to Drug and Alcohol Testing

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This final rule changes the airman medical certification standards to disqualify an airman based on an alcohol test result of 0.04 or greater breath alcohol concentration (BAC) or a refusal to take a drug or alcohol test required by the Department of Transportation (DOT) or a DOT agency. Further, this rulemaking standardizes the time period for reporting refusals and certain test results to the FAA, and requires employers to report pre-employment and return-to-duty test refusals. It also amends the airman medical certification requirements to allow suspension or revocation of airman medical certificates for pre-employment and return-to-duty test refusals. Finally, we have updated the regulations to recognize current breath alcohol testing technology. These amendments are necessary to ensure that persons who engage in substance abuse do not operate aircraft or perform contract air traffic control duties until it is determined that these individuals can safely exercise the privileges of their certificates.

DATES: These amendments become effective July 21, 2006.

FOR FURTHER INFORMATION CONTACT: For technical information, Sherry M. de Vries, Aeromedical Standards and Substance Abuse Branch, Medical Specialties Division, AAM–210, Office of Aerospace Medicine, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–8693. For legal information, Michael Chase, Office of the Chief Counsel, AGC–200, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–8442.

SUPPLEMENTARY INFORMATION:

Availability of Rulemaking Documents

You can get an electronic copy using the Internet by:

(1) Searching the Department of Transportation's electronic Docket Management System (DMS) Web page (*http://dms.dot.gov/search*);

(2) Visiting the FAA's Regulations and Policies web page at *http://www.faa.gov/regulations_policies/*; or

(3) Accessing the Government Printing Office's Web page at *http://www.gpoaccess.gov/fr/index.html*.

You can also get a copy by sending a request to the Federal Aviation Administration, Office of Rulemaking, ARM–1, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267–9680. Make sure to identify the amendment number or docket number of this rulemaking.

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

Small Business Regulatory Enforcement Fairness Act

The Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996 requires FAA to comply with small entity requests for information or advice about compliance with statutes and regulations within its jurisdiction. If you are a small entity and you have a question regarding this document, you may contact its local FAA official, or the persons listed under **FOR FURTHER INFORMATION CONTACT**. You can find out more about SBREFA on the Internet at *http://www.faa.gov/avr/arm/sbrefa.cfm.*

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority.

This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Chapter 447, Section 44703, Airman Certificates, and Chapter 451, Section 45102, Alcohol and Controlled Substances Testing Programs. Under Section 44703, the FAA is authorized to issue an airman certificate to an individual who ''is qualified for, and physically able to perform the duties related to, the position to be authorized by the certificate.'' Under Section 45102, the FAA is charged with prescribing regulations to establish programs for drug and alcohol testing of employees performing safety-sensitive functions for air carriers and to take certificate or other action when an employee violates the testing regulations. This regulation is within the scope of the FAA's authority because it updates the existing regulations regarding airman certification of individuals who have violated the drug and alcohol testing regulations or who have otherwise demonstrated a substance abuse history through violation of State or local laws involving driving while intoxicated/driving under the influence. This rulemaking is a current example of the FAA's continuing efforts to ensure that only drug- and alcohol-free individuals perform safety-sensitive duties.

Discussion of Comments

General Overview

The FAA has revised regulations that apply to airmen who fail or refuse a drug or alcohol test. These changes conform the FAA's regulations to changes in DOT's and our own drug and alcohol testing regulations.

The comment period for the notice of proposed rulemaking (NPRM), (69 FR 74898) closed on March 14, 2005. The FAA received approximately 30 comments in response to the NPRM. Commenters included the Experimental Aircraft Association (EAA); the Air Line Pilots Association, International (ALPA); and the Drug and Alcohol Testing Industry Association (DATIA).

The majority of commenters favored the proposed changes. Approximately 20 commenters favored all of the proposals, and some of these commenters encouraged stricter standards including zero tolerance for alcohol consumption by pilots. Many of the commenters stated they approved of the proposals because they enhance safety. Three commenters raised issues disagreeing with one or more of the proposals. The remaining commenters offered suggestions, some of which were outside the scope of this rulemaking.

Should a refusal be a medically disqualifying condition?

ALPA disagreed with the proposal to define a refusal as a medically disqualifying condition. ALPA asserted substance abuse is a recognized medical condition under the American Psychiatric Association's Diagnostic and

Statistical Manual of Mental Disorders (DSM). In ALPA's opinion, the FAA should not mix the medical standards with non-medical policy concerns. ALPA acknowledges the current drug and alcohol testing regulations require such pilots to be removed from duty, evaluated and rehabilitated. However, ALPA takes exception with a separate diagnosis of substance abuse arising from a single confirmed alcohol test result or a refusal.

The Federal Air Surgeon sets the standards for airman medical certification based on sound medical judgement in reference to the aviation environment. Thus, while the Federal Air Surgeon may reference sources such as DSM, DSM is not the only basis for determining airman medical certification standards.

This final rule does not attempt to mix medical standards with non-medical policy concerns in this rulemaking, instead it merely harmonizes the FAA's medical certification requirements with the DOT's and FAA's drug and alcohol testing requirements. As ALPA notes, the DOT's and FAA's drug and alcohol testing regulations already recognize a positive drug test result, an alcohol test result of 0.04 or greater BAC, and a refusal as substance abuse requiring rehabilitation before the individual can be returned to perform a safety-sensitive function. In addition, regardless of whether the airman resumes the performance of safety-sensitive functions, the FAA's medical certification regulations already require an airman to demonstrate that he or she meets the standards in part 67 following a positive drug test result or BAC of 0.04 or greater.

The Omnibus Transportation Employees Testing Act of 1990, Title 49, United States Code, sections 45101–45105, already requires that every individual who violates the drug or alcohol testing regulations must be rehabilitated before that individual can be returned to the performance of a safety-sensitive function. (49 U.S.C. section 45103(b)) Since 2000, the DOT's regulations have required that, following a violation of the drug or alcohol testing regulations and before returning an individual to work, the employer must have a Substance Abuse Professional (SAP) make ''a face-to-face clinical assessment and evaluation to determine what assistance is needed by the employee to resolve problems associated with alcohol and/or drug use.'' (49 CFR section 40.293)

Incidentally, prior to the DOT's final rule published in 2000, 65 FR 79462 (December 19, 2000), establishing the current 49 CFR part 40, the SAP had discretion to determine whether an employee needed substance abuse assistance. The DOT removed this discretion in the final rule, stating ''we believe that there are no circumstances in which it is appropriate for a SAP to find that a violator of our regulations is not in need of education and/or treatment.'' 65 FR at 79508.

When should reports of refusals and drug and alcohol test results be sent to the FAA?

In the NPRM, we proposed standardizing the time period for reporting drug test results and refusals to 2 days. EAA opposed changing the notification for drug test results from 12 working days to 2 working days. Instead, EAA recommended a 7 working day notification requirement.

We have decided to adopt the amendment as proposed because we are not accelerating the schedule for drug test or refusal verification, we are merely requiring an administrative change to report the results to the FAA within 2 days for alcohol test results, drug test results, and refusal verifications. These changes ensure violations are reported to the FAA in a more timely manner. This standardization of 2 days will make the reporting requirements clear and consistent for employers and their service agents. The FAA notes that while we proposed to change the refusal reporting requirement for drug testing to 2 days, we inadvertently omitted the rule language for making a similar change to the alcohol refusal reporting requirement. We have corrected this omission.

How do driving under the influence (DUI) violations affect pilot certificate holders?

EAA questioned how DOT agencies and state and local law authorities would report such information to the FAA. EAA suggested new forms would be needed, and the FAA failed to account for this cost. This association also believed the proposed rule would significantly affect pilot certificate holders who have received a DUI for drugs or alcohol. In addition, EAA asked if pilots are allowed one DUI before their medical certificate is revoked, saying that aviation medical examiners (AME) currently forgive the first DUI. Also, EAA inquired whether a pilot would be suspended for 0.04 or less BAC. EAA said it is not clear whether a DUI or a positive test result not related to flying can result in the loss of the airman's medical certificate.

This final rule only standardizes the reporting periods as described earlier, and does not change the existing reporting requirements for DUI or other drug or alcohol violations found by DOT agencies, state, or local law authorities. Therefore, new forms are not necessary.

Pilot certificate holders who receive a DUI already encounter consequences under the existing FAA regulations. A pilot with one DUI can be evaluated by the AME to determine if there is an alcohol abuse problem. Similarly, the AME is required to defer issuance of a new medical certificate to the Federal Air Surgeon if the airman has refused a DOT alcohol test or has a DOT alcohol violation. As we explained in the preamble to the NPRM, the FAA has taken medical certificate action against pilots for one alcohol-related event. Although test results below 0.04 are not required to be reported to the FAA, it is possible, in certain circumstances, the pilot's medical certificate will be suspended or revoked for an alcohol test result of less than 0.04 BAC. However, under the FAA's regulations, an employer must remove a pilot from the performance of safety-sensitive work if the pilot has an alcohol test result between 0.02 and less than 0.04 BAC. The pilot cannot be returned to safety-sensitive work until he or she has an alcohol test result below 0.02 BAC or until the pilot's next scheduled duty period, but not less than 8 hours following the administration of the test.

Yes, an individual can lose his or her medical certificate for a DUI, DWI, test result, or refusal unrelated to flying. Losing a medical certificate for conduct unrelated to flying is not a new consequence resulting from this final rule.

How does an employer know when a medical certificate is valid?

EAA noted that it can be confusing for an employer to know if a medical certificate is valid after an employee has had a drug or alcohol violation. The association suggested specific language on this point.

In response to EAA's comments, we modified part 121, appendix I, section VII.C.2 to include clarifying language. We also modified part 121, appendix J, section V.C.4 to add the clarifying language and to make it consistent with the corresponding section in appendix I. An employer can refer to these sections for direction on medical certificate validity.

Miscellaneous Comments

The FAA received numerous comments outside the scope of the proposals. They included: applying

medical certification to mechanics and others performing safety-sensitive functions; zero alcohol tolerance; conducting breath alcohol testing immediately before each flight; reducing the breath alcohol concentration standard from 0.04 to 0.02 BAC; increasing the BAC standard above 0.04 BAC; increasing the timeframe of prohibition of substance abuse in the medical certification standards to extend longer than 2 years. We have not addressed them in this rulemaking.

Paperwork Reduction Act

The FAA described the information collection requirements associated with reporting the results of drug and alcohol testing in OMB control number 2120–0535. This NPRM would add the requirement to report refusals to take return-to-duty and pre-employment tests. This is an extremely small additional burden because these reports are already generated and sent to the employer under 49 CFR part 40 and 14 CFR part 121, appendices I and J, and are accounted for in OMB control number 2125–0529. Under the new requirement, employers would merely send these already existing reports on to the FAA, resulting in a total annual burden of fewer than 2 hours across the industry. Specifically, we estimate the annual burden associated with this NPRM to be 1.75 hours to the private sector, costing $35.00. The annual burden to the Federal Government would be 7 hours, costing $138.95. Because this burden is extremely small, we will not change Paperwork Burden Submission OMB control number 220–0535 at this time, but we will include the extra 1.75 hours in the next renewal in 2008.

International Compatibility

In keeping with U.S. obligation under the Convention on International Civil Aviation, it is FAA policy to comply with International Civil Aviation Organization (ICAO) Standards and Recommended Practices (SARPs) to the maximum extent practicable. SARPs do not address disqualification of an airman based on a refusal to take a required drug or alcohol test.

Executive Order 12866 and DOT Regulatory Policies and Procedures

Executive Order 12866, Regulatory Planning and Review, directs the FAA to assess both the costs and the benefits of a regulatory change. We are not allowed to propose or adopt a regulation unless we make a reasoned determination that the benefits of the intended regulation justify the costs. Our assessment of this rulemaking indicates that its economic impact is minimal. This action imposes minimal copying, mailing, and faxing costs on small entities subject to this rule. Because the costs and benefits of this action do not make it a ''significant regulatory action'' as defined in the Order, we have not prepared a ''regulatory evaluation,'' which is the written cost/benefit analysis ordinarily required for all rulemaking under the DOT Regulatory Policies and Procedures. We do not need to do a full evaluation where the economic impact of a rule is minimal.

Regulatory Evaluation, Regulatory Flexibility Analysis, International Trade Impact Assessment, and Unfunded Mandate Assessment

Changes to Federal regulations must undergo several economic analyses. First, Executive Order 12866 directs that each Federal agency shall propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs. Second, the Regulatory Flexibility Act of 1980 requires agencies to analyze the economic impact of regulatory changes on small entities. Third, the Trade Agreements Act (19 U.S.C. 2531–2533) prohibits agencies from setting standards that create unnecessary obstacles to the foreign commerce of the United States. In developing U.S. standards, this Trade Act requires agencies to consider international standards and, where appropriate, to be the basis of U.S. standards. Fourth, the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) requires agencies to prepare a written assessment of the costs, benefits, and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of $100 million or more annually (adjusted for inflation). This portion of the preamble summarizes the FAA's analysis of the economic impacts of this final rule.

The Department of Transportation Order DOT 2100.5 prescribes policies and procedures for simplification, analysis, and review of regulations. If the expected cost impact is so minimal that a proposal does not warrant a full evaluation, this order permits a statement to that effect. The basis for the minimal impact must be included in the preamble, if a full regulatory evaluation of the cost and benefits is not prepared. Such a determination has been made for this rule. The reasoning for this determination follows.

This final rule amends the airman medical certification standards to disqualifiy an airman based on an alcohol test result of 0.04 or greater BAC or a refusal to take a required drug or alcohol test. This rule enhances safety by ensuring that persons who engage in substance abuse do not operate aircraft or perform contract air traffic control tower operations until it is determined that these individuals can operate safely. This rulemaking does not impose additional drug and alcohol testing requirements. It only imposes reporting requirements on the aviation industry and the FAA. This final rule will have a minimal impact with positive net benefits, and a regulatory evaluation was not prepared.

The FAA has, therefore, determined this rulemaking action is not a ''significant regulatory action'' as defined in section 3(f) of Executive Order 12866, and is not ''significant'' as defined in DOT's Regulatory Policies and Procedures. In addition, the FAA has determined that this rulemaking action: (1) Will not have a significant economic impact on a substantial number of small entities; (2) will not affect international trade; and (3) will not impose an unfunded mandate on state, local, or tribal governments, or on the private sector.

Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (RFA) establishes ''as a principle of regulatory issuance that agencies shall endeavor, consistent with the objective of the rule and of applicable statutes, to fit regulatory and informational requirements to the scale of the business, organizations, and governmental jurisdictions subject to regulation.'' To achieve that principle, the RFA requires agencies consider flexible regulatory proposals, to explain the rationale for their actions, and to solicit comments. The RFA covers a wide-range of small entities, including small businesses, not-for-profit organizations and small governmental jurisdictions.

Agencies must perform a review to determine whether a proposed or final rule will have a significant economic impact on a substantial number of small entities. If the agency determines that it will, the agency must prepare a regulatory flexibility analysis as described in the RFA.

However, if an agency determines that a proposed or final rule is not expected to have a significant economic impact on a substantial number of small entities, section 605(b) of the RFA provides that the head of the agency may so certify and a regulatory flexibility analysis is not required. The certification must include a statement

providing the factual basis for this determination, and the reasoning should be clear.

This action imposes minimal copying, mailing, and faxing costs on small entities subject to this rule. Consequently, as the FAA Administrator, I certify that the rulemaking action will not have a significant economic impact on a substantial number of small entities.

International Trade Impact Assessment

The Trade Agreements Act of 1979 prohibits Federal agencies from establishing any standards or engaging in related activities that create unnecessary obstacles to the foreign commerce of the United States. Legitimate domestic objectives, such as safety, are not considered unnecessary obstacles. The statute also requires consideration of international standards and, where appropriate, that these international standards be the basis for U.S. standards. The FAA has assessed the potential effect of this rulemaking action and has determined that it only impacts domestic activities and will not have any trade-sensitive activity.

Unfunded Mandate Assessment

The Unfunded Mandates Reform Act of 1995 (the Act) is intended, among other things, to curb the practice of imposing unfunded Federal mandates on State, local, and tribal governments. Title II of the Act requires each Federal agency to prepare a written statement assessing the effects of any Federal mandate in a proposed or final agency rule that may result in an expenditure of $100 million or more (adjusted annually for inflation) in any one year by State, local, and tribal governments, in the aggregate, or by the private sector. The FAA currently uses an inflation-adjusted value of $120.7 million in lieu of $100 million.

This final rule does not contain such a mandate. The requirements of Title II do not apply.

Executive Order 13132, Federalism

The FAA has analyzed this proposed rule under the principles and criteria of Executive Order 13132, Federalism. We have determined that this action would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government, and therefore would not have federalism implications.

Environmental Analysis

FAA Order 1050.1D defines FAA actions that may be categorically excluded from preparation of a National Environmental Policy Act environmental impact statement. In accordance with FAA Order 1050.1D, appendix 4, paragraph 4(J) this NPRM qualifies for a categorical exclusion.

List of Subjects

14 CFR Part 61

Aircraft, Airmen, Alcohol abuse, Aviation safety, Drug abuse, Recreation and recreation areas, Reporting and recordkeeping requirements, Security measures, Teachers.

14 CFR Part 63

Aircraft, Airmen, Alcohol abuse, Aviation safety, Drug abuse, Navigation (air), Reporting and recordkeeping requirements, Security measures.

14 CFR Part 65

Air traffic controllers, Aircraft, Airmen, Airports, Alcohol abuse, Aviation safety, Drug abuse, Reporting and recordkeeping requirements, Security measures.

14 CFR Part 67

Airmen, Authority delegation (Government agencies), Health, Reporting and recordkeeping requirements.

14 CFR Part 91

Afghanistan, Agriculture, Air traffic control, Aircraft, Airmen, Airports, Aviation safety, Canada, Cuba, Ethiopia, Freight, Mexico, Noise control, Political candidates, Reporting and recordkeeping requirements, Yugoslavia.

14 CFR Part 121

Air carriers, Aircraft, Airmen, Alcohol abuse, Aviation safety, Charter flights, Drug abuse, Drug testing, Reporting and recordkeeping requirements, Safety, Transportation.

14 CFR Part 135

Air taxis, Aircraft, Airmen, Alcohol abuse, Aviation safety, Drug abuse, Drug testing, Reporting and recordkeeping requirements.

The Amendment

■ In consideration of the foregoing, the Federal Aviation Administration amends Chapter I of Title 14 parts 61, 63, 65, 67, 91,121, and 135 of the Code of Federal Regulations as follows:

PART 61—GENERAL

■ 1. The authority citation for part 61 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701–44703, 44707, 44709–44711, 45102–45103, 45301–45302.

■ 2. Revise § 61.14, paragraph (a) to read as follows:

§ 61.14 Refusal to submit to a drug or alcohol test.

(a) This section applies to an individual who holds a certificate under this part and is subject to the types of testing required under appendix I to part 121 or appendix J to part 121 of this chapter.

* * * * *

PART 63—CERTIFICATION: FLIGHT CREWMEMBERS OTHER THAN PILOTS

■ 3. The authority citation for part 63 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701–44703, 44707, 44709–44711, 45102–45103, 45301–45302.

■ 4. Revise § 63.12b, paragraph (a) to read as follows:

§ 63.12b Refusal to submit to a drug or alcohol test.

(a) This section applies to an individual who holds a certificate under this part and is subject to the types of testing required under appendix I to part 121 or appendix J to part 121 of this chapter.

* * * * *

PART 65—CERTIFICATION: AIRMEN OTHER THAN FLIGHT CREWMEMBERS

■ 5. The authority citation for part 65 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701–44703, 44707, 44709–44711, 45102–45103, 45301–45302.

■ 6. Revise § 65.23, paragraph (a) to read as follows:

§ 65.23 Refusal to submit to a drug or alcohol test.

(a) *General.* This section applies to an individual who holds a certificate under this part and is subject to the types of testing required under appendix I to part 121 or appendix J to part 121 of this chapter.

* * * * *

■ 7. Revise § 65.46a, paragraph (f) to read as follows:

§ 65.46a Misuse of alcohol.

* * * * *

(f) *Refusal to submit to a required alcohol test.* A covered employee may not refuse to submit to any alcohol test required under appendix J to part 121 of

this chapter. An employer may not permit an employee who refuses to submit to such a test to perform or continue to perform safety-sensitive functions.

PART 67—MEDICAL STANDARDS AND CERTIFICATION

■ 8. The authority citation for part 67 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701–44703, 44707, 44709–44711, 45102–45103, 45301–45303.

■ 9. Revise § 67.107, paragraph (b)(2) to read as follows:

§ 67.107 Mental.

* * * * *

(b) * * *

(2) A verified positive drug test result, an alcohol test result of 0.04 or greater alcohol concentration, or a refusal to submit to a drug or alcohol test required by the U.S. Department of Transportation or an agency of the U.S. Department of Transportation; or

* * * * *

■ 10. Revise § 67.207, paragraph (b)(2) to read as follows:

§ 67.207 Mental.

* * * * *

(b) * * *

(2) A verified positive drug test result, an alcohol test result of 0.04 or greater alcohol concentration, or a refusal to submit to a drug or alcohol test required by the U.S. Department of Transportation or an agency of the U.S. Department of Transportation; or

* * * * *

■ 11. Revise § 67.307, paragraph (b)(2) to read as follows:

§ 67.307 Mental.

* * * * *

(b) * * *

(2) A verified positive drug test result, an alcohol test result of 0.04 or greater alcohol concentration, or a refusal to submit to a drug or alcohol test required by the U.S. Department of Transportation or an agency of the U.S. Department of Transportation; or

* * * * *

PART 91—GENERAL OPERATING AND FLIGHT RULES

■ 12. The authority citation for part 91 continues to read as follows:

Authority: 49 U.S.C. 106(g), 1155, 40103, 40113, 40120, 44101, 44111, 44701, 44709, 44711, 44712, 44715, 44716, 44717, 44722, 46306, 46315, 46316, 46504, 46506–46507, 47122, 47508, 47528–47531, articles 12 and 29 of the Convention on International Civil Aviation (61 stat. 1180).

■ 13. Revise § 91.17 paragraphs (a)(4), (c)(1) introductory text and (c)(2) to read as follows:

§ 91.17 Alcohol or drugs.

(a) * * *

(4) While having an alcohol concentration of 0.04 or greater in a blood or breath specimen. Alcohol concentration means grams of alcohol per deciliter of blood or grams of alcohol per 210 liters of breath.

* * * * *

(c) * * *

(1) On request of a law enforcement officer, submit to a test to indicate the alcohol concentration in the blood or breath, when—

* * * * *

(2) Whenever the FAA has a reasonable basis to believe that a person may have violated paragraph (a)(1), (a)(2), or (a)(4) of this section, on request of the FAA, that person must furnish to the FAA the results, or authorize any clinic, hospital, or doctor, or other person to release to the FAA, the results of each test taken within 4 hours after acting or attempting to act as a crewmember that indicates an alcohol concentration in the blood or breath specimen.

* * * * *

PART 121—OPERATING REQUIREMENTS: DOMESTIC, FLAG, AND SUPPLEMENTAL OPERATIONS

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

Authority: 49 U.S.C. 106(g), 40113, 40119, 41706, 44101, 44701–44703, 44705, 44709–44711, 44713, 44716–44717, 44722, 44901, 44903–44904, 44912, 45101–45105, 46105.

■ 15. Revise § 121.458, paragraph (f) to read as follows:

§ 121.458 Misuse of alcohol.

* * * * *

(f) *Refusal to submit to a required alcohol test.* A covered employee must not refuse to submit to any alcohol test required under appendix J to this part. A certificate holder must not permit an employee who refuses to submit to such a test to perform or continue to perform safety-sensitive functions.

Appendix I to Part 121—Drug Testing Program

■ 16. Amend section II of Appendix I to part 121 by revising the definition of ''refusal to submit'' as follows:

* * * * *

§ II. Definitions.

* * * * *

Refusal to submit means that an employee engages in conduct including but not limited to that described in 49 CFR 40.191.

* * * * *

■ 17. Amend section VI of Appendix I to part 121 by revising paragraph D.1 as follows and removing and reserving paragraph D.2.

§ VI. Administrative and Other Matters.

* * * * *

D. *Refusal to Submit to Testing.*

1. Each employer must notify the FAA within 2 working days of any employee who holds a certificate issued under part 61, part 63, or part 65 of this chapter who has refused to submit to a drug test required under this appendix. Notification must be sent to: Federal Aviation Administration, Office of Aerospace Medicine, Drug Abatement Division (AAM–800), 800 Independence Avenue, SW., Washington, DC 20591, or by fax to (202) 267–5200.

* * * * *

■ 18. Amend section VII of Appendix I by revising paragraphs C.1, C.2, C.3, C.4 and adding paragraph C.6 to read as follows:

VII. Medical Review Officer/Substance Abuse Professional, and Employer Responsibilities.

* * * * *

C. *Additional Medical Review Officer, Substance Abuse Professional, and Employer Responsibilities Regarding 14 CFR part 67 Airman Medical Certificate Holders.*

1. As part of verifying a confirmed positive test result or refusal to submit to a test, the MRO must ask and the individual must answer whether he or she holds an airman medical certificate issued under 14 CFR part 67 or would be required to hold an airman medical certificate to perform a safety-sensitive function for the employer. If the individual answers in the affirmative to either question, in addition to notifying the employer in accordance with 49 CFR part 40, the MRO must forward to the Federal Air Surgeon, at the address listed in paragraph 5, the name of the individual, along with identifying information and supporting documentation, within 2 working days after verifying a positive drug test result or refusal to submit to a test.

2. During the SAP interview required for a verified positive test result or a refusal to submit to a test, the SAP must ask and the individual must answer whether he or she holds or would be required to hold an airman medical certificate issued under 14 CFR part 67 of this chapter to perform a safety-sensitive function for the employer. If the individual answers in the affirmative, the individual must obtain an airman medical certificate issued by

the Federal Air Surgeon dated after the verified positive drug test result date or refusal to test date. After the individual obtains this airman medical certificate, the SAP may recommend to the employer that the individual may be returned to a safety-sensitive position. The receipt of an airman medical certificate does not alter any obligations otherwise required by 49 CFR part 40 or this appendix.

3. An employer must forward to the Federal Air Surgeon within 2 working days of receipt, copies of all reports provided to the employer by a SAP regarding the following:

(a) An individual who the MRO has reported to the Federal Air Surgeon under section VII.C.1 of this appendix; or

(b) An individual who the employer has reported to the Federal Air Surgeon under section VI.D of this appendix.

4. The employer must not permit an employee who is required to hold an airman medical certificate under 14 CFR part 67 to perform a safety-sensitive duty to resume that duty until the employee has:

(a) Been issued an airman medical certificate from the Federal Air Surgeon after the date of the verified positive drug test result or refusal to test; and

(b) Met the return to duty requirements in accordance with 49 CFR part 40.

* * * * *

6. MROs, SAPs, and employers who send reports to the Federal Air Surgeon must keep a copy of each report for 5 years.

* * * * *

Appendix J to Part 121—Alcohol Misuse Prevention Program

■ 19. Amend section I.D. of Appendix J to part 121 by revising the definition of ''refusal to submit'' as follows:

I. GENERAL.

* * * * *

D. *Definitions.* * * *

* * * * *

Refusal to submit means that a covered employee has engaged in conduct including but not limited to that described in 49 CFR 40.261, or has failed to remain readily available for post-accident testing as required by this appendix.

* * * * *

■ 20. Amend section IV of Appendix J to part 121 by revising paragraph A.2(a)(2) to read as follows:

IV. HANDLING OF TEST RESULTS, RECORD RETENTION, AND CONFIDENTIALITY

* * * * *

2. *Period of Retention.*

(a) * * *

* * * * *

(2) Records of notifications to the Federal Air Surgeon of refusals to submit to testing and violations of the alcohol misuse prohibitions in this chapter by covered employees who hold medical certificates issued under part 67 of this chapter.

* * * * *

■ 21. Amend section V of Appendix J to Part 121 by revising paragraph (C)(4) to read as follows:

C. * * *

* * * * *

4. No covered employee who is required to hold an airman medical certificate in order to perform a safety-sensitive duty may perform that duty following a violation of this appendix until the covered employee obtains an airman medical certificate issued by the Federal Air Surgeon dated after the alcohol test result or refusal to test date. After the covered employee obtains this airman medical certificate, the SAP may recommend to the employer that the covered employee may be returned to a safety-sensitive position. The receipt of an airman medical certificate does not alter any obligations otherwise required by 49 CFR part 40 or this appendix.

* * * * *

■ 22. Amend section V of Appendix J to Part 121 by revising paragraph (D)(1) to read as follows:

D. Notice of Refusals

1. Except as provided in subparagraph 2 of this paragraph D, each covered employer must notify the FAA within 2 working days of any employee who holds a certificate issued under part 61, part 63, or part 65 of this chapter who has refused to submit to an alcohol test required under this appendix. Notification must be sent to: Federal Aviation Administration, Office of Aerospace Medicine, Drug Abatement Division (AAM–800), 800 Independence Avenue, SW., Washington, DC 20591, or by fax to (202) 267–5200.

* * * * *

PART 135—OPERATING REQUIREMENTS: COMMUTER AND ON-DEMAND OPERATIONS AND RULES GOVERNING PERSONS ON BOARD SUCH AIRCRAFT

■ 23. The authority citation for part 135 is amended to read as follows:

Authority: 49 U.S.C. 106(g), 41706, 40113, 44701–44702, 44705, 44709, 44711–44713, 44715–44717, 44722, 45101–45105.

■ 24. Revise § 135.253, paragraph (f) to read as follows:

§ 135.253 Misuse of alcohol.

* * * * *

(f) *Refusal to submit to a required alcohol test.* A covered employee may not refuse to submit to any alcohol test required under appendix J to part 121 of this chapter.

An operator or certificate holder may not permit an employee who refuses to submit to such a test to perform or continue to perform safety-sensitive functions.

Issued in Washington, DC, on June 15, 2006.

Marion C. Blakey,

Administrator.

[FR Doc. E6–9814 Filed 6–20–06; 8:45 am]

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Federal Register

Wednesday,
June 21, 2006

Part IV

The President

Memorandum of May 18, 2006—Assignment of Function Regarding Transfer of Items in the War Reserves Stockpile for the Republic of Korea

Federal Register
Vol. 71, No. 119
Wednesday, June 21, 2006

Presidential Documents

Title 3—

The President

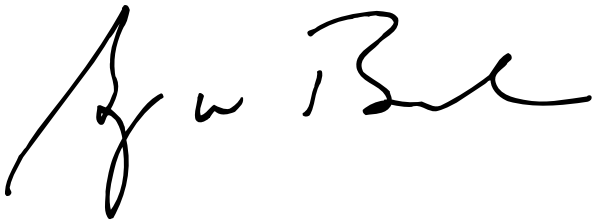
Memorandum of May 18, 2006

Assignment of Function Regarding Transfer of Items in the War Reserves Stockpile for the Republic of Korea

Memorandum for the Secretary of Defense

By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 301 of title 3, United States Code, I hereby assign to you the functions of the President under section 1 of Public Law 109–159 (119 Stat. 2955).

You are authorized and directed to publish this memorandum in the **Federal Register**.



THE WHITE HOUSE,
Washington, May 18, 2006.

[FR Doc. 06–5613
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Wednesday, June 21, 2006

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