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

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

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA-2004-18822; Airspace
Docket No. 04-ACE-48]

Modification of Class D Airspace; and Modification of Class E Airspace; Salina, KS

AGENCY: Federal Aviation
Administration (FAA), DOT.

ACTION: Direct final rule; confirmation of
effective date.

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

DATES: Effective 0901 UTC, January 20,
2005.

FOR FURTHER INFORMATION CONTACT:
Kathy Randolph, Air Traffic Division,
Airspace Branch, ACE-520C, DOT
Regional Headquarters Building, Federal
Aviation Administration, 901 Locust,
Kansas City, MO 64106; telephone:
(816) 329-2525.

SUPPLEMENTARY INFORMATION: The FAA
published this direct final rule with a
request for comments in the **Federal
Register** on September 24, 2004 (69 FR
57169). The **Federal Register**
subsequently published a correction to
the direct final rule on October 4, 2004
(69 FR 59303). The FAA uses the direct
final rulemaking procedure for a non-
controversial rule where the FAA
believes that there will be no adverse
public comment. This direct final rule
advised the public that no adverse
comments were anticipated, and that
unless a written adverse comment, or a
written notice of intent to submit such
an adverse comment, were received
within the comment period, the
regulation would become effective on
January 20, 2005. No adverse comments

were received, and thus this notice
confirms that this direct final rule will
become effective on that date.

Issued in Kansas City, MO, on November
1, 2004.

Anthony D. Roetzel,

*Acting Area Director, Western Flight Services
Operations.*

[FR Doc. 04-25132 Filed 11-10-04; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA-2004-18819; Airspace
Docket No. 04-ACE-45]

Modification of Class D Airspace; and Modification of Class E Airspace; Grand Island, NE

AGENCY: Federal Aviation
Administration (FAA), DOT.

ACTION: Direct final rule; confirmation of
effective date.

SUMMARY: This document confirms the
effective date of the direct final rule
which revises Class D and Class E
airspace at Grand Island, NE.

DATES: Effective 0901 UTC, January 20,
2005.

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

SUPPLEMENTARY INFORMATION: The FAA
published this direct final rule with a
request for comments in the **Federal
Register** on September 22, 2004 (69 FR
56690) and subsequently published a
correction to the direct final rule on
October 8, 2004 (69 FR 60284). The FAA
uses the direct final rulemaking
procedure for a non-controversial rule
where the FAA believes that there will
be no adverse public comment. This
direct final rule advised the public that
no adverse comments were anticipated,
and that unless a written adverse
comment, or a written notice of intent
to submit such an adverse comment,
were received within the comment
period, the regulation would become
effective on January 20, 2005. No
adverse comments were received, and

thus this notice confirms that this direct
final rule will become effective on that
date.

Issued in Kansas City, MO, on October 26,
2004.

Anthony D. Roetzel,

*Acting Area Director, Western Flight Services
Operations.*

[FR Doc. 04-25131 Filed 11-10-04; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA-2004-18823; Airspace
Docket No. 04-ACE-49]

Modification of Class E Airspace; Burwell, NE

AGENCY: Federal Aviation
Administration (FAA), DOT.

ACTION: Direct final rule; confirmation of
effective date.

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

DATES: Effective 0901 UTC, January 20,
2005.

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

SUPPLEMENTARY INFORMATION: The FAA
published this direct final rule with a
request for comments in the **Federal
Register** on September 24, 2004 (69 FR
57171). The FAA uses the direct final
rulemaking procedure for a non-
controversial rule where the FAA
believes that there will be no adverse
public comment. This direct final rule
advised the public that no adverse
comments were anticipated, and that
unless a written adverse comment, or a
written notice of intent to submit such
an adverse comment, were received
within the comment period, the
regulation would become effective on
January 20, 2005. No adverse comments
were received, and thus this notice
confirms that this direct final rule will
become effective on that date.

Issued in Kansas City, MO, on November 1, 2004.

Anthony D. Roetzel,

Acting Area Director, Western Flight Services Operations.

[FR Doc. 04-25133 Filed 11-10-04; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA-2004-18818; Airspace
Docket No. 04-ACE-44]

Modification of Class E Airspace; Fremont, NE

AGENCY: Federal Aviation
Administration (FAA), DOT.

ACTION: Direct final rule; confirmation of
effective date.

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

DATES: Effective 0901 UTC, January 20,
2005.

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

SUPPLEMENTARY INFORMATION: The FAA
published this direct final rule with a
request for comments in the **Federal
Register** on September 17, 2004 (69 FR
55947). The FAA uses the direct final
rulemaking procedure for a non-
controversial rule where the FAA
believes that there will be no adverse
public comment. This direct final rule
advised the public that no adverse
comments were anticipated, and that
unless a written adverse comment, or a
written notice of intent to submit such
an adverse comment, were received
within the comment period, the
regulation would become effective on
January 20, 2005. No adverse comments
were received, and thus this notice
confirms that this direct final rule will
become effective on that date.

Issued in Kansas City, MO, on October 26,
2004.

Anthony D. Roetzel,

*Acting Area Director, Western Flight Services
Operations.*

[FR Doc. 04-25130 Filed 11-10-04; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

15 CFR Part 744

[Docket No. 041004276-4276-01]

RIN 0694-AC98

Termination of Certain Emergencies With Respect to Yugoslavia and Related Removal of Restrictions on Transactions With Persons Identified by the Bracketed Initials [FRYM] Under the Export Administration Regulations

AGENCY: Bureau of Industry and
Security, Commerce.

ACTION: Final rule.

SUMMARY: In this rule, the Bureau of
Industry and Security amends the
Export Administration Regulations to
delete the section that sets forth license
requirements for exports and reexports
to designated persons identified by the
bracketed initials [FRYM]. The
Department of the Treasury, Office of
Foreign Assets Control (OFAC) used the
bracketed initials [FRYM] to identify
certain persons on the list of Specially
Designated Nationals and Blocked
Persons. OFAC discontinued the use of
those bracketed initials following the
termination of certain national
emergencies with respect to Yugoslavia.

DATES: This rule is effective November
12, 2004.

ADDRESSES: Although there is no public
comment period, written comments may
be sent to Sheila Quarterman, Office of
Exporter Services, Regulatory Policy
Division, Bureau of Industry and
Security, Department of Commerce, P.O.
Box 273, Washington, DC 20044 or to e-
mail address squarter@bis.doc.gov.

FOR FURTHER INFORMATION CONTACT: Joan
Roberts, Director, Foreign Policy
Division, Office of Nonproliferation and
Treaty Compliance, Bureau of Industry
and Security, Department of Commerce,
P.O. Box 273, Washington, DC 20044;
telephone: (202) 482-4252, or e-mail:
jroberts@bis.doc.gov.

SUPPLEMENTARY INFORMATION:

Background

This rule amends the Export
Administration Regulations (EAR) by
deleting section 744.16 in conformance
with the President's Executive Order
13304 of May 29, 2003, which, among
other actions, terminated certain
national emergencies with respect to
Yugoslavia that had been declared in
Executive Order 13088 of June 9, 1998,
and rescinded Executive Order 13192 of
January 17, 2001. Pursuant to these

Executive Orders, section 744.16 has
required a license for exports and
reexports by U.S. persons of any item
subject to the EAR to persons identified
by the bracketed initials [FRYM] on the
list of Specially Designated Nationals
and Blocked Persons maintained by the
Department of the Treasury's Office of
Foreign Assets Control (OFAC) and
found at 31 CFR Chapter V (Specially
Designated Nationals List).

Pursuant to Executive Order 13192,
restrictions had been imposed on
transactions with (a) former Yugoslav
president Slobodan Milosevic and his
close allies, (b) certain persons under
indictment by the International
Criminal Tribunal for the former
Yugoslavia, (c) persons attempting to
maintain or reestablish illegitimate
control over the former Yugoslavia, (d)
persons providing support to the
persons mentioned above and (e)
persons owned or controlled by or
acting on behalf of any persons
mentioned above. These persons were
identified by the bracketed initials
[FRYM] on the list of Specially
Designated Nationals and Blocked
Persons maintained by the Department
of the Treasury's Office of Foreign
Assets Control (OFAC) and found at 31
CFR Chapter V (Specially Designated
Nationals List).

At the same time that Executive Order
13304 terminated the Yugoslav
emergencies, it clarified the scope of
and took additional measures
concerning a separate national
emergency declared with respect to the
Western Balkans in Executive Order
13219 of June 26, 2001, pursuant to
which restrictions had been placed on
transactions with persons threatening
the peace or diminishing the stability of
the Western Balkans region. Persons
subject to the imposition of sanctions
under Executive Order 13219, as
modified by Executive Order 13304, are
identified by the bracketed acronym
[BALKANS] on the Specially Designated
Nationals List.

Executive Order 13304 extended the
restrictions imposed by Executive Order
13219 (relating to stability in the
Western Balkans) to include, among
others, persons under indictment by the
International Criminal Tribunal for the
former Yugoslavia that were previously
included within the scope of the 1998
emergency. As a result, certain persons
previously identified by the bracketed
initials [FRYM] are now identified by
the bracketed acronym [BALKANS] on
the Specially Designated Nationals List.
Pursuant to Executive Orders 13304 and
13219, OFAC administers a sanctions
regime against persons threatening the
peace or diminishing the stability of the

Western Balkans as well as persons indicted by the Criminal Tribunal for the Former Yugoslavia under parts 586 and 587 of the OFAC regulations (31 CFR 586 and 587). This rule removes outdated references to the individuals identified by the [FRYM] designation by deleting section 744.16 from the EAR. No license requirements under the EAR apply specifically to individuals with the [BALKANS] designation on the Specially Designated Nationals List.

This rule also removes a reference to section 744.16 in section 744.1 of the EAR.

Although the Export Administration Act expired on August 20, 2001, Executive Order 13222 of August 17, 2001 (3 CFR, 2001 Comp., p. 783 (2002)), as extended by the Notice of August 6, 2004 (69 FR 48763, August 10, 2004), continues the Regulations in effect under the International Emergency Economic Powers Act.

Rulemaking Requirements

1. This final rule has been determined to be not significant for purposes of E.O. 12866.

2. Notwithstanding any other provision of law, no person is required to respond to nor be subject to a penalty for failure to comply with a collection of information, subject to the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) (PRA), unless that collection of information displays a currently valid Office of Management and Budget (OMB) Control Number. This regulation involves collections previously approved by the OMB under control numbers 0694-0088, "Multi-Purpose Application," which carries a burden hour estimate of 58 minutes to prepare and submit form BIS-748. Burden hours associated with the Paperwork Reduction Act and Office and Management and Budget control number 0694-0088 are not impacted by this regulation.

3. This rule does not contain policies with federalism implications as that term is defined under Executive Order 13132.

4. The provisions of the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, the opportunity for public participation, and a delay in effective date, are inapplicable because this regulation involves a military and foreign affairs function of the United States (Sec. 5 U.S.C. 553 (a)(1)). Further, no other law requires that a notice of proposed rulemaking and an opportunity for public comment be given for this final rule. Because a notice of proposed rulemaking and an

opportunity for public comment are not required to be given for this rule under 5 U.S.C. 553 or by any other law, the analytical requirements of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) are not applicable. Therefore, this regulation is issued in final form. Although there is no public comment period, public comments on this regulation are welcome on a continuing basis. Comments should be submitted to Sheila Quartermann, Regulatory Policy Division, Bureau of Industry and Security, Department of Commerce, P.O. Box 273, Washington, DC 20044.

List of Subjects in 15 CFR Part 744

Exports, Reporting and recordkeeping requirements, Terrorism.

■ Accordingly, part 744 of the Export Administration Regulations (15 CFR parts 730-799) is amended as follows:

PART 744—[AMENDED]

■ 1. The authority citation for part 744 continues to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; 22 U.S.C. 3201 *et seq.*; 42 U.S.C. 2139a; Sec. 901-911, Pub. L. 106-387; Sec. 221, Pub. L. 107-56; E.O. 12058, 43 FR 20947, 3 CFR, 1978 Comp., p. 179; E.O. 12851, 58 FR 33181, 3 CFR, 1993 Comp., p. 608; E.O. 12938, 59 FR 59099, 3 CFR, 1994 Comp., p. 950; E.O. 12947, 60 FR 5079, 3 CFR, 1995 Comp., p. 356; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13099, 63 FR 45167, 3 CFR, 1998 Comp., p. 208; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; E.O. 13224, 66 FR 49079, 3 CFR, 2001 Comp., p. 786; Notice of October 29, 2003, 68 FR 62209, 3 CFR, 2003 Comp., p. 347; Notice of August 6, 2004, 69 FR 48763 (August 10, 2004).

§ 744.1 [Amended]

■ 2. Section 744.1 is amended by removing from paragraph (a)(1) the sentence "Section 744.16 prohibits exports and reexports by U.S. persons of items subject to the EAR to persons designated pursuant to Executive Order 13088, as amended by Executive Order 13192, including Slobodan Milosevic, his close associates, and persons determined to be under open indictment by the International Criminal Tribunal for the former Yugoslavia."

§ 744.16 [Removed and reserved]

■ 3. Part 744 is amended by removing and reserving § 744.16.

Dated: November 2, 2004.

Peter Lichtenbaum,
Assistant Secretary for Export Administration.

[FR Doc. 04-25143 Filed 11-10-04; 8:45 am]

BILLING CODE 3510-33-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[CGD05-04-202]

RIN 1625-AA09

Drawbridge Operation Regulation: Atlantic Intracoastal Waterway, Wrightsville Beach, NC

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is temporarily changing the regulations that govern the operation of the S.R. 74 Bridge across the Atlantic Intracoastal Waterway (AICW) mile 283.1, at Wrightsville Beach, NC. The rule allows the bridge to remain in the closed-to-navigation position from 7 p.m. to 10 p.m. on November 27, 2004, to facilitate the Annual Boat Flotilla Parade.

DATES: This rule is effective from 7 p.m. to 10 p.m. on November 27, 2004.

ADDRESSES: Documents indicated in this preamble as being available in the docket, are part of docket CGD05-04-202 and are available for inspection or copying at Commander (obr), Fifth Coast Guard District, Federal Building, 1st Floor, 431 Crawford Street, Portsmouth, Virginia 23704-5004 between 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays. The telephone number is (757) 398-6629. Fifth District maintains the public docket for this rulemaking.

FOR FURTHER INFORMATION CONTACT: Gary S. Heyer, Bridge Management Specialist, Fifth Coast Guard District, at (757) 398-6629.

SUPPLEMENTARY INFORMATION:

Good Cause for Not Publishing a NPRM

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 is impracticable and contrary to the public interest as the Annual Boat Flotilla Parade is scheduled for November 27th and immediate action is necessary to minimize the potential danger to the public. The bridge closure is a necessary measure to facilitate public safety that allows for the orderly movement of participants and vehicular traffic after the parade.

Good Cause for Making Rule Effective in Less Than 30 Days

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for

making this rule effective in less than 30 days after publication in the **Federal Register**. A 30-day delayed effective date is impracticable and contrary to the public interest as the event is scheduled for November 27th and immediate action is necessary to ensure public safety and provide for the orderly movement of participants and vehicular traffic after the parade.

Background and Purpose

NCDOT, who owns and operates this drawbridge, requested a temporary change to the operating regulations for the S.R. 74 Bridge at Wrightsville Beach to facilitate the Annual Boat Flotilla Parade. The parade is an annual event, attracting spectators from the surrounding cities and states and the closure of the bridge to vessels will facilitate public safety by allowing for the orderly movement of participants and vehicular traffic after the event.

The existing regulations are outlined at 33 CFR 117.821(a)(5). The bridge has a vertical clearance in the closed position to vessels at approximately 20 feet, at mean high water.

The Coast Guard has informed vessel operators with mast height greater than 20 feet of the closure period for the bridge so that these vessels can arrange their transits to minimize impact after the parade. Vessels with mast heights lower than 20 feet still can transit through the drawbridge and the AICW during this event since the drawbridge is closed, not the waterway.

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).

This conclusion was based on the fact that this rule will have minimal impact on maritime traffic transiting this area. Since the AICW will remain open to navigation during this event, mariners with mast height less than 20 feet may still transit through the bridge and vessels with mast heights greater than 20 feet can transit after the closed hours.

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.

This rule will not have a significant economic impact on a substantial number of small entities because even though the rule closes the S.R. 74 Bridge to mariners, those with mast heights less than 20 feet will still be able to transit through the bridge during the closed hours and mariners whose mast heights are greater than 20 feet will be able to transit after the closed hours.

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 businesses may send comments on this action of Federal employee 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 an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it 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. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. 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 M16475.1D, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2–1, paragraph (32)(e) of the Instruction, from further environmental documentation.

List of Subjects in 33 CFR Part 117

Bridges.

Regulations

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

PART 117—DRAWBRIDGE OPERATION REGULATIONS

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

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

■ 2. From 7 p.m. to 10 p.m. on November 27, 2004, in § 117.821 suspend paragraph (a)(5) and add a temporary paragraph (a)(7) to read as follows:

§ 117.821 Atlantic Intracoastal Waterway, Albermarle Sound to Sunset Beach.

(a) * * *

(7) From 7 p.m. to 10 p.m. on November 27, 2004, the S.R. 74 Bridge

mile 283.1 at Wrightsville Beach may remain closed to navigation.

* * * * *

Dated: November 1, 2004.

Sally Brice-O'Hara,

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

[FR Doc. 04–25206 Filed 11–10–04; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[CGD05–04–189]

RIN 1625-AA09

Drawbridge Operation Regulation: Cape Fear River, Wilmington, NC

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is changing the regulations that govern the operation of the Cape Fear River Memorial Bridge, at mile 26.8, in Wilmington, NC. This rule allows the bridge to remain in the closed-to-navigation position from 7:30 a.m. to 11 a.m. on November 14, 2004, to facilitate the 7th Annual Battleship NC Half Marathon.

DATES: This rule is effective from 7:30 a.m. to 11 a.m. on November 14, 2004.

ADDRESSES: Documents indicated in this preamble as being available in the docket, are part of docket CGD05–04–189 and are available for inspection or copying at Commander (obr), Fifth Coast Guard District, Federal Building, 4th Floor, 431 Crawford Street, Portsmouth, Virginia 23704–5004 between 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays. The telephone number is (757) 398–6629. Fifth District maintains the public docket for this rulemaking.

FOR FURTHER INFORMATION CONTACT: Gary S. Heyer, Bridge Management Specialist, Fifth Coast Guard District, at (757) 398–6629.

SUPPLEMENTARY INFORMATION:

Good Cause for Not Publishing a NPRM

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 is impracticable and contrary to the public interest as the 7th Annual Battleship North Carolina Half Marathon is scheduled for November 14th and immediate action is necessary

to minimize the potential danger to the public. The bridge closure is a necessary measure to facilitate public safety that allows for the orderly movement of participants and vehicular traffic during the marathon.

Good Cause for Making Rule Effective in Less Than 30 days

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective in less than 30 days after publication in the **Federal Register**. A 30-day delayed effective date is impracticable and contrary to the public interest as the event is scheduled for November 14th and immediate action is necessary to ensure public safety and provide for the orderly movement of participants and vehicular traffic during the marathon.

Background and Purpose

NCDOT, who owns and operates this movable (vertical lift-type) bridge, requested a temporary change to the operating regulations for the Cape Fear River Memorial Bridge in Wilmington NC, to facilitate the 7th Annual Battleship NC Half Marathon. The marathon is an annual event, attracting participants from the surrounding cities and states.

The existing regulations are outlined at 33 CFR 117.5, which requires the bridge to open on signal. The bridge has vertical clearances in the closed and full open positions to vessels of 65 feet and 135 feet at mean high water, respectively.

The Coast Guard has informed vessel operators with mast height greater than 65 feet of the closure period for the bridge so that these vessels can arrange their transits to minimize impact during the marathon. Vessels with mast heights lower than 65 feet still can transit through the drawbridge across Cape Fear River during this event since the drawbridge is closed not the waterway.

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).

This conclusion was based on the fact that this rule will have minimal impact on maritime traffic transiting this area. Since Cape Fear River will remain open to navigation during this event,

mariners with mast height less than 65 feet may still transit through the bridge and vessels with mast heights greater than 65 feet can transit after the closed hours.

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.

This rule will not have a significant economic impact on a substantial number of small entities because even though the rule closes the Cape Fear River Memorial Bridge to mariners, those with mast heights less than 65 feet will still be able to transit through the bridge during the closed hours and mariners whose mast heights are greater than 65 feet will be able to transit after the closed hours.

Assistance for Small Entities

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

Small businesses may send comments on this action of Federal employee 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 an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it 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. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. 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 M16475.1D, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2–1, paragraph (32)(e) of the Instruction, from further environmental documentation.

List of Subjects in 33 CFR Part 117

Bridges.

Regulations

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

PART 117—DRAWBRIDGE OPERATION REGULATIONS

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

Authority: 33 U.S.C. 499; Department of Homeland Security Delegation No. 0170.1; 33

CFR 1.05–1(g); section 117.255 also issued under the authority of Pub. L. 102–587, 106 Stat. 5039.

■ 2. Add temporary § 117.T824 to read as follows:

§ 117.T824 Cape Fear River.

From 7:30 a.m. to 11 a.m. on November 14, 2004, the Cape Fear River Memorial Bridge, mile 26.8 at Wilmington, may remain closed to navigation.

Dated: November 1, 2004.

Sally Brice-O'Hara,

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

[FR Doc. 04–25207 Filed 11–10–04; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[COTP Mobile–04–034]

RIN 1625–AA87

Security Zone; Port of Mobile, Mobile Ship Channel, Mobile, AL

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing temporary security zones around all cruise ships while transiting or moored in the Port of Mobile and Mobile Ship Channel shoreward of the Mobile Sea Buoy. These security zones are needed to ensure the safety and security of these vessels. Entry into these zones is prohibited, unless specifically authorized by the Captain of the Port Mobile, or a designated representative.

DATES: This rule is effective from 8 a.m. (c.s.t.) on October 14, 2004, until 6 p.m. (c.s.t.) on April 14, 2005.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket [COTP Mobile–04–034] and are available for inspection or copying at Marine Safety Office Mobile, Brookley Complex, Bldg 102, South Broad Street, Mobile, AL 36615–1390 between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Lieutenant (LT) Maurice York, Operations Department, Marine Safety Office Mobile, at (251) 441–5940.

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, and under 5 U.S.C. 553(d)(3), good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Publishing an NPRM and delaying its effective date would be contrary to public interest because immediate action is needed to protect cruise ships and passengers from destruction, loss, or injury from sabotage or other subversive acts, accidents, or other causes of a similar nature while a cruise ship is transiting the Mobile Ship Channel or Port of Mobile, and while moored in the Port of Mobile.

This rule is temporary. But because of continued security concerns, the Coast Guard does intend to establish similar permanent security zones. A NPRM will be published in the **Federal Register** and will allow the public an opportunity to comment on that proposed rule.

Background and Purpose

On September 11, 2001, both towers of the World Trade Center and the Pentagon were attacked by terrorists. The President has continued the national emergencies he declared following those attacks (69 FR 55313, Sep. 13, 2004) (continuing the emergency declared with respect to terrorist attacks); (69 FR 56923, Sep. 22, 2002) (continuing emergency with respect to persons who commit, threaten to commit or support terrorism). The President also has found pursuant to law, including the Magnuson Act (50 U.S.C. 191 *et seq.*), that the security of the United States is and continues to be endangered following the terrorist attacks (E.O. 13,273, 67 FR 56215 (Sep. 3, 2002) (security of U.S. endangered by disturbances in international relations of U.S. and such disturbances continue to endanger such relations)). In response to these terrorist acts and warnings, heightened awareness for the security and safety of all vessels, ports, and harbors is necessary. Due to the increased security concerns surrounding the transit of cruise ships, the Captain of the Port Mobile is establishing a temporary security zone around all cruise ships while such vessels are transiting the Mobile Ship Channel or Port of Mobile, and while moored in the Port of Mobile.

Discussion of Rule

The Coast Guard is establishing temporary security zones for the Port of Mobile and Mobile Ship channel. This rule establishes security zones that prohibit movement within 25 yards of all cruise ships while moored in the Port of Mobile, and prohibits movement within 100 yards of any cruise ship while transiting the Mobile Ship Channel or the Port of Mobile. For the purpose of this rule the term “cruise ship” is defined as a passenger vessel over 100 gross tons, carrying more than 12 passengers for hire, making a voyage lasting more than 24 hours any part of which is on the high seas, and for which passengers are embarked or disembarked in the United States or its territories. This definition covers passenger vessels that must comply with 33 CFR parts 120 and 128.

These security zones will be enforced when a cruise ship transiting inbound passes the Mobile Sea Buoy in approximate position 28°07'50" N, 88°04'12" W, at all times during transit through the Mobile Ship Channel and Port of Mobile, and while moored in the Port of Mobile. A security zone will exist during each cruise ship's transit outbound the Port of Mobile and the Mobile Ship Channel. Enforcement of the security zone will cease once the cruise ship passes the Mobile Sea Buoy on its outbound voyage.

These security zones are needed to protect the safety of life, property and the environment in the area. All vessels are prohibited from moving within these zones unless specifically authorized by the Captain of the Port Mobile, or a designated representative.

Persons or vessels that desire to enter into one of these security zones for the purpose of passing or overtaking a cruise ship that is in transit on the Mobile Ship Channel or in the Port of Mobile must contact the on-scene Coast Guard representative, request permission to conduct such action, and receive authorization from the on-scene Coast Guard representative prior to initiating such action. The on-scene Coast Guard representative may be contacted on VHF–FM channel 16. All persons and vessels authorized to enter into a security zone must obey any direction or order of the Captain of the Port or designated representative.

The Captain of the Port Mobile or a designated representative will inform the public through broadcast notice to mariners of the enforcement periods for these security zones.

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).

These security zones will only be enforced while cruise ships are located shoreward of the Mobile Sea Buoy, are transiting the Mobile Ship Channel, and are moored in the Port of Mobile. Once a cruise ship is moored in the Port of Mobile, the security zone will be reduced to only 25 yards around the cruise ship. While the cruise ship is moored, other vessels will be able to safely transit around this zone provided they approach no closer than 25 yards. Additionally, while a cruise ship is in transit on the Mobile Ship Channel or in the Port of Mobile, the Captain of the Port or a designated representative may allow other persons or vessels to enter into the security zone for the purpose of passing or overtaking a cruise ship if such persons or vessels obtain permission from the on-scene Coast Guard representative prior to initiating such action.

Notifications of the enforcement periods of these security zones will be made to the marine community through broadcast notice to mariners. The impacts on routine navigation are expected to be minimal.

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 for the reasons enumerated under the Regulatory Evaluation section of this rule.

If you are a small business entity and are significantly affected by this regulation please contact LT Maurice York, Operations Department, Marine Safety Office Mobile, at (251) 441–5940.

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 they may better evaluate its effects on them and participate in the rulemaking process. Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency’s responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

Collection of Information

This rule 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 this rule 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. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Environment

We have analyzed this rule under Commandant Instruction M16475.1D, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2–1, paragraph (34)(g), of the Instruction, from further environmental documentation because this rule is not expected to result in any significant adverse environmental impact as described in the National Environmental Policy Act of 1969 (NEPA).

A final “Environmental Analysis Checklist” and a final “Categorical Exclusion Determination” will be

available for inspection or copying 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 § 165.T08–139 is added to read as follows:

§ 165.T08–139 Security Zone; Port of Mobile, Mobile Ship Channel, Mobile, AL.

(a) *Definition.* As used in this section—

Cruise ship means a passenger vessel over 100 gross tons, carrying more than 12 passengers for hire, making a voyage lasting more than 24 hours any part of which is on the high seas, and for which passengers are embarked or disembarked in the United States or its territories. This definition covers passenger vessels that must comply with 33 CFR parts 120 and 128.

(b) *Location.* The following areas are security zones: all waters of the Port of Mobile and Mobile Ship Channel—

(1) Within 100 yards of a cruise ship that is transiting shoreward of the Mobile Sea Buoy (located in approximate position 28°07'50" N, 88°4'12" W; NAD 83), and

(2) Within 25 yards of a cruise ship that is moored shoreward of the Mobile Sea Buoy.

(c) *Effective period.* This section is effective from 8 a.m. (CST) on October 14, 2004, until 6 p.m. (CST) on April 14, 2005.

(d) *Periods of Enforcement.* This rule will only be enforced when a cruise ship is transiting the Mobile Ship Channel shoreward of the Mobile Sea Buoy, while transiting in the Port of Mobile, or while moored in the Port of Mobile.

(e) *Regulations.* (1) In accordance with the general regulations in § 165.33 of this part, entry into a security zone is prohibited unless authorized by the Captain of the Port Mobile or a designated representative.

(2) While a cruise ship is transiting on the Mobile Ship Channel shoreward of

the Mobile Sea Buoy, and while transiting in the Port of Mobile, all persons and vessels are prohibited from entering within 100 yards of a cruise ship.

(3) While a cruise ship is moored in the Port of Mobile, all persons and vessels are prohibited from entering within 25 yards of a cruise ship.

(4) Persons or vessels that desire to enter into the security zone for the purpose of passing or overtaking a cruise ship that is in transit on the Mobile Ship Channel or in the Port of Mobile must contact the on-scene Coast Guard representative, request permission to conduct such action, and receive authorization from the on-scene Coast Guard representative prior to initiating such action. The on-scene Coast Guard representative may be contacted on VHF–FM channel 16.

(5) All persons and vessels authorized to enter into this security zone shall obey any direction or order of the Captain of the Port or designated representative. The Captain of the Port Mobile may be contacted by telephone at (251) 441–5976. The on-scene Coast Guard representative may be contacted on VHF–FM channel 16.

(6) All persons and vessels shall comply with the instructions of the Captain of the Port Mobile and designated on-scene U.S. Coast Guard patrol personnel. On-scene U.S. Coast Guard patrol personnel include commissioned, warrant, and petty officers of the U.S. Coast Guard.

Dated: October 15, 2004.

Gary T. Croot,

Commander, U.S. Coast Guard, Captain of the Port Mobile, Acting.

[FR Doc. 04–25129 Filed 11–10–04; 8:45 am]

BILLING CODE 4910–15–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[R07–OAR–2004–IA–0005; FRL–7836–4]

Approval and Promulgation of State Implementation Plans; State of Iowa

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is announcing a revision to the Iowa State implementation plan (SIP) establishing exemptions for equipment that is either used for nonproduction activities or exhausted inside a building, to establish an exemption for manually-operated equipment, and to establish exemptions

for emission units that can be classified as small units. The State has determined that air pollution emissions from this equipment are negligible and these exemptions are likely to result in no significant impact on human health or the environment.

DATES: This direct final rule will be effective January 11, 2005, without further notice, unless EPA receives adverse comment by December 13, 2004. If adverse comment is received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Regional Material in EDocket (RME) ID Number R07–OAR–2004–IA–0005, by one of the following methods:

1. *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.

2. *Agency Web site:* <http://docket.epa.gov/rmepub/>. RME, EPA's electronic public docket and comment system, is EPA's preferred method for receiving comments. Once in the system, select "quick search;" then key in the appropriate RME Docket identification number. Follow the on-line instructions for submitting comments.

3. *E-mail:* hamilton.heather@epa.gov.

4. *Mail:* Heather Hamilton, Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101.

5. *Hand Delivery or Courier:* Deliver your comments to Heather Hamilton, Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101.

Instructions: Direct your comments to RME ID No. R07–OAR–2004–IA–0005. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at <http://docket.epa.gov/rmepub/>, 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 RME, [regulations.gov](http://www.regulations.gov), or e-mail. The EPA RME Web site and the Federal [regulations.gov](http://www.regulations.gov) Web site are "anonymous access" systems, which means EPA will not know your identity or contact information unless you provide it in the body of your comment.

If you send an e-mail comment directly to EPA without going through RME or regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the electronic docket are listed in the RME index at <http://docket.epa.gov/rmepub/>. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in RME or in hard copy at the Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101. The Regional Office's official hours of business are Monday through Friday, 8 to 4:30 excluding Federal holidays. The interested persons wanting to examine these documents should make an appointment with the office at least 24 hours in advance.

FOR FURTHER INFORMATION CONTACT: Heather Hamilton at (913) 551-7039, or by e-mail at hamilton.heather@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document whenever "we," "us," or "our" is used, we mean EPA. This section provides additional information by addressing the following questions:

What Is a SIP?

What Is the Federal Approval Process for a SIP?

What Does Federal Approval of a State Regulation Mean to Me?

What Is Being Addressed in This Document?

Have the Requirements for Approval of a SIP Revision Been Met?

What Action is EPA Taking?

What Is a SIP?

Section 110 of the Clean Air Act (CAA) requires States to develop air pollution regulations and control strategies to ensure that State air quality

meets the national ambient air quality standards (NAAQS) established by EPA. These ambient standards are established under section 109 of the CAA, and they currently address six criteria pollutants. These pollutants are: Carbon monoxide, nitrogen dioxide, ozone, lead, particulate matter, and sulfur dioxide.

Each State must submit these regulations and control strategies to us for approval and incorporation into the Federally-enforceable SIP.

Each federally-approved SIP protects air quality primarily by addressing air pollution at its point of origin. These SIPs can be extensive, containing State regulations or other enforceable documents and supporting information such as emission inventories, monitoring networks, and modeling demonstrations.

What Is the Federal Approval Process for a SIP?

In order for State regulations to be incorporated into the federally-enforceable SIP, States must formally adopt the regulations and control strategies consistent with State and Federal requirements. This process generally includes a public notice, public hearing, public comment period, and a formal adoption by a State-authorized rulemaking body.

Once a State rule, regulation, or control strategy is adopted, the State submits it to us for inclusion into the SIP. We must provide public notice and seek additional public comment regarding the proposed Federal action on the State submission. If adverse comments are received, they must be addressed prior to any final Federal action by us.

All State regulations and supporting information approved by EPA under section 110 of the CAA are incorporated into the federally-approved SIP. Records of such SIP actions are maintained in the Code of Federal Regulations (CFR) at title 40, part 52, entitled "Approval and Promulgation of Implementation Plans." The actual State regulations which are approved are not reproduced in their entirety in the CFR outright but are "incorporated by reference," which means that we have approved a given State regulation with a specific effective date.

What Does Federal Approval of a State Regulation Mean to Me?

Enforcement of the State regulation before and after it is incorporated into the federally-approved SIP is primarily a State responsibility. However, after the regulation is federally approved, we are authorized to take enforcement action against violators. Citizens are also

offered legal recourse to address violations as described in section 304 of the CAA.

What Is Being Addressed in This Document?

EPA is approving a revision to the SIP for the State of Iowa which establishes exemptions from its construction permitting program for low-emitting equipment that is either used for nonproduction activities or exhausted inside a building, an exemption for manually-operated equipment, and exemptions for emission units that can be classified as small units.

Equipment that is used for nonproduction activities or exhausted inside a building includes carving, cutting, routing, turning, drilling, machining, sawing, surface grinding, sanding, planing, buffing, sandblast cleaning, shot blasting, shot peening, or polishing ceramic artwork, leather, metals (other than beryllium), plastics, concrete, rubber, paper stock, and wood or wood products. (Iowa Administrative Code 567, chapter 22, Controlling Pollution, 22.1(2)u.)

Manually-operated equipment exemptions include equipment used for buffing, polishing, carving, cutting, drilling, machining, routing, sanding, sawing, scarfing, surface grinding, or turning. (Iowa Administrative Code 567, Chapter 22, Controlling Pollution, 22.1(2)v.)

The exemption for small units defines such units as emission units and associated control equipment (if applicable) that emit less than 40 pounds per year of lead and lead compounds expressed as lead; 5 tons per year of sulfur dioxide; 5 tons per year of nitrogen oxides; 5 tons per year of volatile organic compounds; 5 tons per year of carbon monoxide; 5 tons per year of particulate matter; 2.5 tons per year of PM10, and 5 tons per year of hazardous air pollutants. An emission unit that emits hazardous air pollutants is eligible for this exemption provided that the emission unit is not required to be reviewed for compliance with emission standards for hazardous air pollutants, or emission standards for hazardous air pollutants for source categories. An emission unit that emits air pollutants that are not regulated air pollutants as defined in the Iowa rules are not eligible to use this exemption. This exemption applies to both existing and new or modified small units.

An owner or operator that utilizes the small unit exemption must maintain on site an "exemption justification document." The exemption justification document must document conformance and compliance with the emission rate

limits contained in the definition of "small unit" for the particular emission unit or group of similar emission units for which the exemption applies. The controls described in the exemption justification document establish a limit on potential emissions.

The revision addresses the concern that small units may together lead to negative environmental impacts by use of a "substantial small unit" provision. A substantial small unit is defined as a unit that emits 75 percent of the small unit thresholds. The owner or operator of the facility must notify the state within 90 days of the end of a calendar year for which the aggregate emissions from substantial small units at the facility exceed any of the cumulative notice thresholds.

A cumulative notice threshold is the total combined emissions from all substantial small units using the small unit exemption which emit at the facility 0.6 tons per year of lead and lead compounds expressed as lead; 40 tons per year of sulfur dioxide; 40 tons per year of nitrogen oxides; 40 tons per year of volatile organic compounds; 100 tons per year of carbon monoxide; 25 tons per year of particulate matter; 15 tons per year of PM₁₀; or 10 tons per year of any hazardous air pollutant or 25 tons per year of any combination of hazardous air pollutants.

In the event that the small unit or substantial small unit thresholds are exceeded, the owner or operator is subject to penalties for violation of the rule and must apply for air construction permits. (Iowa Administrative Code 567, Chapter 22, Controlling Pollution, 22.1(2)w.) Emission units which would be classified as major sources or modifications are not eligible for any of these exemptions.

Iowa adopted the rule revisions after a lengthy stakeholder process. Informational meetings were held in June and July, 2003, and a public hearing was held on October 7, 2003. No comments were received at the public hearing or during the comment period.

The State has reviewed the exemptions to determine whether sources operating under these exemptions might be anticipated to cause any air quality problems with respect to the NAAQS. The State has concluded that emission increases would be insignificant. EPA has concluded that exemption of emission units with such small emissions would not be expected to affect attainment or maintenance of any NAAQS.

Have the Requirements for Approval of a SIP Revision Been Met?

The State submittal has met the public notice requirements for SIP submissions in accordance with 40 CFR 51.102. The submittal also satisfied the completeness criteria of 40 CFR part 51, appendix V. In addition, as explained above and in more detail in the technical support document which is part of this document, the revision meets the substantive SIP requirements of the CAA, including section 110 and implementing regulations.

What Action Is EPA Taking?

EPA is revising the SIP for the State of Iowa for the purpose of adding information to establish exemptions for equipment that is either used for nonproduction activities or exhausted inside a building, to establish an exemption for manually-operated equipment, and to establish exemptions for emission units that can be classified as small units. The revision for 567–22.1(2)“u” and 567–22.1(2)“v” was effective October 8, 2003, and the revision for 567–22.1(2)“w” was effective January 14, 2004. This action is being processed as a direct final action because the revisions were made as a result of the state’s negotiated rulemaking process and no comments were submitted during the state’s public comment and hearing process. Therefore, we do not anticipate any adverse comments. Please note that if EPA receives adverse comment on part of this rule and if that part can be severed from the remainder of the rule, EPA may adopt as final those parts of the rule that are not the subject of an adverse comment.

Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a “significant regulatory action” and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, “Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use” (66 FR 28355, May 22, 2001). This action merely approves State law as meeting Federal requirements and imposes no additional requirements beyond those imposed by State law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under State law and does not impose

any additional enforceable duty beyond that required by State law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4).

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a State rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the CAA. This rule also is not subject to Executive Order 13045, “Protection of Children from Environmental Health Risks and Safety Risks” (62 FR 19885, April 23, 1997), because it is not economically significant.

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

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other

required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by January 11, 2005. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of

such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: November 1, 2004.

James B. Gulliford,

Regional Administrator, Region 7.

■ Chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

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

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

Subpart Q—Iowa

■ 2. In § 52.820 the table in paragraph (c) is amended under chapter 22 by revising the entry for "567–22.1" to read as follows:

§ 52.820 Identification of plan.

* * * * *

(c) * * *

EPA-APPROVED IOWA REGULATIONS

Iowa citation	Title	State effective date	EPA approval date	Explanation
Iowa Department of Natural Resources, Environmental Protection Commission (567)				
*	*	*	*	*
Chapter 22—Controlling Pollution				
567–22.1	Permits Required for New or Existing Stationary Sources.	10/8/03 1/14/04	11/12/04 [<i>insert FR page number where the document begins</i>].	Subrules 22.1(2), 22.1(2) "g," 22.1(2) "i" have a state effective date of 5/23/01. Subrules 22.1(2) "u" and "v" have a state effective date of 10/8/03 and subrule 22.1(2) "w" has a state effective date of 1/14/04.
*	*	*	*	*

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[FR Doc. 04–24918 Filed 11–10–04; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[R05–OAR–2004–IL–0003; FRL–7831–8]

Approval and Promulgation of Implementation Plans; Illinois; Approval of a Site-Specific Sulfur Dioxide Plan Revision for CILCO Edwards Station

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: On July 29, 2003, Illinois submitted a site-specific sulfur dioxide (SO₂) State Implementation Plan (SIP) revision request for the Central Illinois Light Company's Edwards Generating Station in Peoria County, Illinois (CILCO Edwards). This revision request is identical to an earlier temporary SIP revision, which EPA approved on April

13, 2000 (65 FR 19838). Therefore, EPA is approving the July 29, 2003, permanent SIP revision request.

DATES: This "direct final" rule is effective on January 11, 2005 unless EPA receives adverse written comments by December 13, 2004. If adverse comment is received, EPA will publish a timely withdrawal of the rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Submit comments, identified by Regional Material in EDocket (RME) ID No. R05–OAR–2004–IL–0003, by one of the following methods:

Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.

Agency Web site: <http://docket.epa.gov/rmepub/>. Regional Material in EDocket (RME), EPA's electronic public docket and comments system, is EPA's preferred method for receiving comments. Once in the system, select "quick search," then key in the appropriate RME Docket identification number. Follow the on-line instructions for submitting comments.

E-mail: bortzer.jay@epa.gov.

Fax: (312) 886–5824.

Mail: You may send written comments to: J. Elmer Bortzer, Chief, Air Programs Branch, (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

Hand delivery: Deliver your comments to: J. Elmer Bortzer, Chief, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, 18th floor, Chicago, Illinois 60604.

Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m. excluding Federal holidays.

Instructions: Direct your comments to Regional Material in EDocket (RME) ID No. R05–OAR–2004–IL–0003. EPA's policy is that all comments received will be included in the public docket without change, 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 Regional Material in EDocket (RME), regulations.gov, or e-mail. The EPA RME Web site and the federal regulations.gov Web site are "anonymous access" systems, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through RME or 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 instructions on submitting comments, go to Section I of the **SUPPLEMENTARY INFORMATION** section of the related proposed rule which is published in the Proposed Rules section of this **Federal Register**.

Docket: All documents in the electronic docket are listed in the Regional Material in EDocket (RME) index at <http://docket.epa.gov/rmepub/index.jsp>. Although listed in the index, some information is not publicly available, i.e., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Publicly available docket materials are available either electronically in RME or in hard copy at Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. (We recommend that you telephone Mary Portanova, Environmental Engineer, at (312) 353-5954 before visiting the Region 5 office.) This Facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: Mary Portanova, Environmental Engineer, Criteria Pollutant Section, Air Programs Branch, EPA Region 5, Chicago, Illinois 60604, (312) 353-5954, portanova.mary@epa.gov.

SUPPLEMENTARY INFORMATION: The supplementary information is organized in the following order:

I. General Information

- A. Does This Action Apply to Me?
- B. How Can I Get Copies of This Document and Other Related Information?
- C. How and To Whom Do I Submit Comments?
- II. What Action Is Being Taken in This Document?
- III. What Has Changed in the Illinois SO₂ SIP?
- IV. What Is EPA's Final Rulemaking Action?
- V. Statutory and Executive Order Reviews

I. General Information

A. Does This Action Apply to Me?

This action applies to a single source, CILCO Edwards Generating Station, in Peoria County, IL.

B. How Can I Get Copies of This Document and Other Related Information?

1. The Regional Office has established an electronic public rulemaking file available for inspection at Regional Material in EDocket (RME) under RME ID No. R05-OAR-2004-IL-0003, and a hard copy file which is available for inspection at the Regional Office. The official public file consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although a part of the official docket, the public rulemaking file does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The official public rulemaking file is the collection of materials that is available for public viewing at the Air Programs Branch, Air and Radiation Division, EPA Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m. excluding Federal holidays.

2. **Electronic Access.** You may access this **Federal Register** document electronically through the regulations.gov Web site located at <http://www.regulations.gov> where you can find, review, and submit comments on Federal rules that have been published in the **Federal Register**, the Government's legal newspaper, and are open for comment.

For public commenters, it is important to note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing at the EPA Regional Office, as EPA receives them and without change, unless the comment contains

copyrighted material, CBI, or other information whose disclosure is restricted by statute. When EPA identifies a comment containing copyrighted material, EPA will provide a reference to that material in the version of the comment that is placed in the official public rulemaking file. The entire printed comment, including the copyrighted material, will be available at the Regional Office for public inspection.

C. How and To Whom Do I Submit Comments?

You may submit comments electronically, by mail, or through hand delivery/courier. To ensure proper receipt by EPA, identify the appropriate rulemaking identification number by including the text "Public comment on proposed rulemaking Region 5 Air Docket "R05-OAR-2004-IL-0003" in the subject line on the first page of your comment. Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be marked "late." EPA is not required to consider these late comments.

For detailed instructions on submitting public comments and on what to consider as you prepare your comments see the **ADDRESSES** section and the section I General Information of the **SUPPLEMENTARY INFORMATION** section of the related proposed rule which is published in the Proposed Rules section of this **Federal Register**.

II. What Action Is Being Taken in This Document?

EPA is approving a site-specific request to revise Illinois' SO₂ SIP for CILCO Edwards in Bartonville, Illinois. The requested revision limits the SO₂ emissions of the plant's three boilers. On April 15, 1999, the Illinois Pollution Control Board (IPCB) granted CILCO Edwards a variance to the SO₂ emission limits of 35 Illinois Administrative Code (IAC) 214.141. EPA approved the variance on April 13, 2000 (65 FR 19838). Under the terms of the variance, CILCO Edwards could apply to the IPCB to convert the variance to a permanent site-specific SIP revision. If CILCO Edwards chose not to apply for permanence, the variance was to expire on February 28, 2002. CILCO Edwards did apply for permanence, filing its petition of site-specific rulemaking with the Office of the Clerk of the IPCB on April 26, 2002. The Notice of Hearing for this petition was filed August 21, 2002, and the public hearing was held on October 11, 2002. The IPCB adopted the variance's emission limits into 35

IAC 214.561, and Illinois submitted this rule to the EPA as a SIP revision request on July 29, 2003.

The regulatory language in 35 IAC 214.561, as published in the Illinois Register on July 25, 2003 (27 IR 12101), is identical to the language which the EPA approved as a SIP revision on April 13, 2000 (65 FR 19838). Therefore, the EPA is relying on the April 13, 2000 action to support its rulemaking action on Illinois' July 29, 2003 request. For further information, please see 65 FR 19838.

III. What Has Changed in the Illinois SO₂ SIP?

This SIP revision request simply makes permanent the following SO₂ emission limits in the Illinois SIP at 35 IAC 214.561: CILCO Edwards operates three boilers, numbered 1, 2, and 3. The average SO₂ emissions from Boilers 1, 2, and 3, as a group, may not exceed 4.71 lb/MMBTU actual heat input.

The average SO₂ emissions from any one boiler may not exceed 6.6 lb/MMBTU actual heat input.

CILCO Edwards must determine compliance with these limits on a daily basis using the SO₂ methodology of the Phase II Acid Rain program set forth in 40 CFR part 75.

A plantwide SO₂ emissions limit for CILCO Edwards limits Boilers 1, 2, and 3, as a group, to 34,613 pounds SO₂ per hour (lb/hr) on a 24-hour average. Compliance with the plantwide limit must also be determined on a daily basis using the Phase II Acid Rain methodology.

IV. What Is EPA's Final Rulemaking Action?

EPA is approving the July 29, 2003, site-specific SO₂ SIP revision request for the Central Illinois Light Company's Edwards Generating Station in Peoria County, Illinois.

V. Statutory and Executive Order Reviews

Executive Order 12866: Regulatory Planning and Review

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget.

Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

For the above reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply,

Distribution, or Use" (66 FR 28355, May 22, 2001).

Regulatory Flexibility Act

This action merely approves State law as meeting Federal requirements and imposes no additional requirements beyond those imposed by State law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

Unfunded Mandates Reform Act

Because this rule approves pre-existing requirements under State law and does not impose any additional enforceable duty beyond that required by State law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4).

Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

Executive Order 13132: Federalism

This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a State rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act.

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

This rule also is not subject to Executive Order 13045 "Protection of Children From Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), because it is not economically significant.

National Technology Transfer Advancement Act

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

Paperwork Reduction Act

This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

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. Section 804, however, exempts from section 801 the following types of rules: rules of particular applicability; rules relating to agency management or personnel; and rules of agency organization, procedure, or practice that do not substantially affect the rights or obligations of non agency parties. 5 U.S.C. 804(3). EPA is not required to submit a rule report regarding today's action under section 801 because this is a rule of particular applicability.

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by January 11, 2005. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

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

Dated: October 20, 2004.

Bharat Mathur,

Acting Regional Administrator, Region 5.

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

PART 52—[AMENDED]

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

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

Subpart O—Illinois

■ 2. Section 52.720 is amended by adding paragraph (c)(171) to read as follows.

§ 52.720 Identification of plan.

* * * * *

(c) * * *

(171) On July 29, 2003, the Illinois Environmental Protection Agency submitted a site-specific revision to the State Implementation Plan (SIP) for sulfur dioxide (SO₂) for the Central Illinois Light Company's E. D. Edwards Generating Station in Peoria County, Illinois.

(i) *Incorporation by reference.* Illinois Administrative Code Title 35: Environmental Protection, Subtitle B: Air Pollution, Chapter 1: Pollution Control Board Subchapter C: Emissions Standards and Limitations for Stationary Sources, Part 214: Sulfur Limitations, Subpart X: Utilities Section 214.561 E.D. Edwards Electric Generating Station which was amended at 27 *Ill. Reg.* 12101, effective July 11, 2003.

* * * * *

[FR Doc. 04-24916 Filed 11-10-04; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY**40 CFR Parts 239 and 258**

[FRL-7836-6]

Adequacy of Minnesota Municipal Solid Waste Landfill Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Removal of immediate final rule.

SUMMARY: Because EPA received adverse comment, we are removing the

immediate final rule for Adequacy of Minnesota Municipal Solid Waste Landfill Program. We published the immediate final rule on September 10, 2004 (69 FR 54756), approving Minnesota's research, development, and demonstration (RD&D) permit requirements. We stated in the immediate final rule that unless adverse comments were received on or before October 12, 2004, the final determination would be effective on November 9, 2004. We subsequently received adverse comments on October 12, 2004. As a result we are publishing this notice of removal in the **Federal Register**. We will address the comment in a subsequent final action based on the parallel proposal also published on September 10, 2004 (69 FR 54760).

DATES: As of November 12, 2004, EPA removes the immediate final rule published on September 10, 2004 (69 FR 54756).

FOR FURTHER INFORMATION CONTACT:

Donna Twickler, mailcode DW-8J, Waste Management Branch, U.S. EPA Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, telephone (312) 886-6184, twickler.donna@epa.gov.

Dated: November 3, 2004.

Norman Niedergang,

Acting Regional Administrator, Region 5.

[FR Doc. 04-25095 Filed 11-10-04; 8:45 am]

BILLING CODE 6560-50-P

FEDERAL COMMUNICATIONS COMMISSION**47 CFR Part 73**

[DA 04-3475, MM Docket No. 99-277, RM-9666]

Digital Television Broadcast Service; Corpus Christi, TX

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, by this document, denies the petitions for reconsideration filed by Channel 7 of Corpus Christi, Inc. and Minerva L. Lopez of the Report and Order, which substituted DTV channel 8 for DTV channel 47 at Corpus Christi, Texas. *See* 68 FR 68254, December 8, 2003. With this action, this proceeding is terminated.

FOR FURTHER INFORMATION CONTACT: Alan Aronowitz, Media Bureau, (202) 418-1600.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Memorandum Opinion and Order, MM

Docket No. 99-277, adopted October 28, 2004, and released November 5, 2004. The full text of this document is available for public inspection and copying during regular business hours in the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY-A257, Washington, DC. This document may also be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., 445 12th Street, SW., Room CY-B402, Washington, DC, 20554, telephone 301-816-2820, facsimile 301-816-0169, or via e-mail joshir@erols.com.

This document does not contain [new or modified] information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Pub. L. 104-13. In addition, therefore, 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, Pub. L. 107-198, *see* 44 U.S.C. 3506(c)(4).

The Commission will send a copy of this Memorandum Opinion & Order in a report to be sent to Congress and the General Accountability Office pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A) because there are no rules attached. This was a petition for reconsideration that was denied.

List of Subjects in 47 CFR Part 73

Digital television broadcasting, Television.

Federal Communications Commission.

Clay C. Pendarvis,

Associate Chief, Video Division, Media Bureau.

[FR Doc. 04-25218 Filed 11-10-04; 8:45 am]

BILLING CODE 6712-01-P

FEDERAL COMMUNICATIONS COMMISSION**47 CFR Part 73**

[DA 04-3473, MB Docket No. 04-281, RM-11041]

Digital Television Broadcast Service and Television Broadcast Service; Mobile, AL

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Paxson Communications Corporation, substitutes DTV channel 18 for TV channel 61 at Mobile, Alabama. *See* 69 FR 46476, August 3, 2004. DTV channel 18 can be allotted to Mobile, Alabama, in compliance with

Sections 73.622(a) and 73.625(a) at coordinates 30–36–45 N. and 87–38–43 W. with a power of 396, HAAT of 552 meters and with a DTV service population of 1115 thousand. With this action, this proceeding is terminated.

DATES: Effective December 20, 2004.

FOR FURTHER INFORMATION CONTACT: Pam Blumenthal, Media Bureau, (202) 418–1600.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MB Docket No. 04–281, adopted October 28, 2004, and released November 5, 2004. The full text of this document is available for public inspection and copying during regular business hours in the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY–A257, Washington, DC 20554. This document may also be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., 445 12th Street, SW., Room CY–B402, Washington, DC 20554, telephone (301) 816–2820, facsimile (301) 816–0169, or via e-mail joshir@erols.com.

This document does not contain [new or modified] information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13. In addition, therefore, 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).

The Commission will send a copy of this [Report & Order, etc.] in a report to be sent to Congress and the General Accounting Office pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A).

List of Subjects in 47 CFR Part 73

Television broadcasting.

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

PART 73—[AMENDED]

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

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

§ 73.606 [Amended]

■ 2. Section 73.606(b), the Table of Television Allotments under Alabama, is amended by removing TV channel 61 at Mobile.

§ 73.622 [Amended]

■ 3. Section 73.622(b), the Digital Table of Television Allotments under

Alabama, is amended by adding DTV channel 18 at Mobile.

Federal Communications Commission.

Barbara A. Kreisman,

Chief, Video Division, Media Bureau.

[FR Doc. 04–25219 Filed 11–10–04; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 04–3474, MB Docket No. 04–183, RM–10964]

Digital Television Broadcast Service; Billings, MT

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Montana State University, allots DTV channel *16 for noncommercial educational use at Billings, Montana. *See* 69 FR 30854, June 1, 2004. DTV channel *16 can be allotted to Billings, Montana, in compliance with the principle community coverage requirements of Section 73.625(a) at reference coordinates 45–45–35 N. and 108–27–14 W. with a power of 1000, HAAT of 209 meters. Since the community of Billings is located within 400 kilometers of the U.S.-Canadian border, concurrence from the Canadian government was obtained for this allotment. With this action, this proceeding is terminated.

DATES: Effective December 20, 2004.

FOR FURTHER INFORMATION CONTACT: Pam Blumenthal, Media Bureau, (202) 418–1600.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MB Docket No. 04–183, adopted October 28, 2004, and released November 5, 2004. The full text of this document is available for public inspection and copying during regular business hours in the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY–A257, Washington, DC. This document may also be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., 445 12th Street, SW., Room CY–B402, Washington, DC 20554, telephone 301–816–2820, facsimile 301–816–0169, or via e-mail joshir@erols.com.

This document does not contain [new or modified] information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13. In addition, therefore, 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).

The Commission will send a copy of this [Report & Order etc.] in a report to be sent to Congress and the General Accounting Office pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A).

List of Subjects in 47 CFR Part 73

Digital television broadcasting, Television.

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

PART 73—[AMENDED]

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

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

§ 73.622 [Amended]

■ 2. Section 73.622(b), the Table of Digital Television Allotments under Montana, is amended by adding DTV channel *16 at Billings.

Federal Communications Commission.

Barbara A. Kreisman,

Chief, Video Division, Media Bureau.

[FR Doc. 04–25220 Filed 11–10–04; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 300

[Docket No. 040617186–4302–02; I.D. 051704D]

RIN 0648–AS39

International Fisheries; Pacific Tuna Fisheries; Restrictions for 2004 Purse Seine and Longline Fisheries in the Eastern Tropical Pacific Ocean

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

ACTION: Final rule.

SUMMARY: NMFS publishes this final rule to implement the 2004 management measures to prevent overfishing of the eastern tropical Pacific Ocean (ETP) tuna stocks, consistent with recommendations by the Inter-American Tropical Tuna Commission (IATTC) that have been approved by the Department

of State (DOS) under the Tuna Conventions Act. The purse seine fishery for tuna in the Convention Area will be closed from December 13, 2004 through December 31, 2004. This final rule will also close the U.S. longline fishery in the Convention Area for the remainder of 2004 if the bigeye tuna catch in the Convention Area reaches the reported level of catch made in 2001. These actions are taken to limit fishing mortality on tuna stocks caused by purse seine fishing and longline fishing in the Convention Area and contribute to the long-term conservation of tuna stocks at levels that support healthy fisheries.

DATES: Effective December 13, 2004 through December 31, 2004.

ADDRESSES: Copies of the regulatory impact review/regulatory flexibility analysis may be obtained from the Southwest Regional Administrator, Southwest Region, NMFS, 501 W. Ocean Blvd., Suite 4200, Long Beach, CA 90902-4213.

This **Federal Register** document is also accessible via the Internet at the Office of the **Federal Register's** website at <http://www.gpoaccess.gov/>.

FOR FURTHER INFORMATION CONTACT: J. Allison Routt, Sustainable Fisheries Division, Southwest Region, NMFS, (562) 980-4030.

SUPPLEMENTARY INFORMATION: The United States is a member of the IATTC, which was established under the Convention for the Establishment of an Inter-American Tropical Tuna Commission signed in 1949 (Convention). The IATTC was established to provide an international arrangement to ensure the effective international conservation and management of highly migratory species of fish in the Convention Area. The Convention Area is defined to include the waters of the ETP bounded by the coast of the Americas, the 40° N. and 40° S. parallels, and the 150° W. meridian. The IATTC has maintained a scientific research and fishery monitoring program for many years and annually assesses the status of stocks of tuna and the fisheries to determine appropriate harvest limits or other measures to prevent overexploitation of tuna stocks and promote viable fisheries. Under the Tuna Conventions Act, 16 U.S.C. 951-962, NMFS must publish regulations to carry out IATTC recommendations and resolutions that have been approved by DOS. A proposed rule and request for comments was published in the **Federal Register** (69 FR 122) on June 25, 2004. The Southwest Regional Administrator also is required by regulations at 50 CFR

300.29(b)(3) to issue a direct notice to the owners or agents of U.S. vessels that operate in the ETP of actions recommended by the IATTC and approved by the DOS. Notices to the fleet were issued in October 2003, May 2004, and again in October 2004 regarding these actions.

At an extraordinary meeting in October 2003, the IATTC adopted a resolution addressing yellowfin, bigeye, and skipjack tuna conservation for 2003 and 2004. The resolution called upon the Parties to the Convention and cooperating non-Parties to prohibit tuna purse seine fishing in a portion of the Convention Area for the month of December 2003 and to close the entire Convention Area for a 6-week period beginning August 1, 2004. The 2003 closure was implemented by separate action last year. At the IATTC June 2004 meeting, the October 2003 resolution was revised. The June 2004 resolution ("revised resolution") is a multi-annual program on the conservation of tuna in the eastern Pacific Ocean for 2004, 2005, and 2006.

The revised resolution offers Parties a choice for closing the purse seine fishery in the Convention Area: either a 6-week closure beginning August 1, 2004, or a 6-week closure beginning November 20, 2004. This closure will target fishing activity that results in high catches of juvenile tuna. Therefore, the closure should result in improved yields from the stocks later in the year or in subsequent years.

The revised resolution also calls upon each Party and cooperating non-Party to take measures necessary to ensure that each nation's longline catch of bigeye tuna in the Convention Area during 2004 will not exceed the total longline catch by the nation in the Convention Area in 2001. The U.S. catch level for 2001 is estimated to have been 150 metric tons in the Convention Area. This is intended to prevent overfishing of the stock, which has declined in recent years while longline fishing effort has greatly expanded.

The IATTC action at the extraordinary meeting in October 2003 came after considering a variety of measures, including the use of quotas and partial fishery closures as implemented in 1999 through 2002 and the full month purse seine closure used in 2003. The revised resolution of June 2004 incorporated flexibility for nations to administer the purse seine closure in accordance with national legislation and national sovereignty. The selected measures should provide protection against overfishing of the stocks in a manner that is fair, equitable, and readily

enforceable. The DOS has approved the IATTC recommendations.

The conservation and management measures are based on 2004 assessments of the condition of the tuna stocks in the ETP and historic catch and effort data for different portions of the ETP, as well as records relating to implementation of quotas and closures in prior years. The measures are limited to the Convention Area and are believed by the IATTC scientific staff to be sufficient to reduce the risk of overfishing of tuna stocks, especially when considered in combination with the measures implemented in December 2003. The IATTC met in June 2004 and reviewed new tuna stock assessments and fishery information and considered the new assessment and information. In evaluating possible management measures for 2004 and future years, the IATTC selected a multi-annual time/area approach to conserve and manage the tuna stocks in the Convention Area.

The Regional Administrator, Southwest Region, sent notices October 2003, May 2004, and October 2004 to owners and agents of U.S. fishing vessels of the actions that were recommended by the IATTC and have been approved by the DOS.

This final rule implements the late closure to purse seining in the Convention Area from December 13, 2004 through December 31, 2004. This approach is intended to limit fishing mortality and prevent overfishing in an effort to conserve tuna in a fair, equitable, and readily enforceable manner. This final rule also provides that the U.S. longline fishery for bigeye tuna in the Convention Area will close for the remainder of the calendar year 2004 if the catch reaches 150 metric tons, the catch level of 2001. This means that no bigeye tuna may be taken and retained or possessed after the closure. NMFS will provide notice of closure of the longline fishery in the **Federal Register**. These actions ensure that U.S. vessels fish in accordance with the conservation and management measures that the IATTC recommended in June 2004. A separate rulemaking will be implemented in 2005 for conservation and management measures in that year. This provides greater flexibility for rulemaking in the event that the IATTC revises its recommendation for that year.

Comments and Responses

During the comment period for the proposed rule, NMFS received comments from tuna industry organizations, environmental organizations, members of the public, and the Western Pacific Fishery

Management Council. Key issues and concerns are summarized below and responded to as follows:

Timing of the Closure

Comment 1: Vessel owners do not support the closure period set forth in the proposed rule. They prefer that the closure take place during the period November 20, 2004, to December 31, 2004. The vessel owners have two specific reasons for preferring the year-end closure. First, the weather conditions on the high seas and in the Convention Area at year-end are normally more problematic than during the August-September period. Fishing conditions are affected by weather and the vessel owners would prefer that the closure not take place during the period when the weather is least likely to adversely affect fishing. Second, there is currently a short supply of fish, and fish prices have finally begun to return to levels that support economically profitable fishing. A mid-year closure could prevent U.S. vessels from capitalizing on this opportunity. Finally, a later closure allows better opportunity for planning operations and scheduling repairs maintenance during the closure. For these reasons U.S. vessel owners would prefer to delay the closure until later in the year.

Response: NMFS has decided to implement the late closure supported by industry for the reasons presented.

Comment 2: One commenter expressed a preference for the August 1 through September 11, 2004, closure.

Response: NMFS considered this closure. However, the overwhelming majority of commenters favored of the 6-week closure beginning November 20, 2004. For the reasons stated in Comment 1, NMFS has chosen to implement the later closure. The impacts discussed in the RIR are the same under both closure options.

2001 U.S. Longline Catch

Comment 3: It is probably wrong to assume that the catch of bigeye in the ETP by U.S. flagged longline vessels is no more than 100 metric tons.

Response: NMFS agrees and has concluded that the catch in 2001 was 150 metric tons. In response to comments, NMFS scientists reevaluated the U.S. longline catch of bigeye tuna for 2001. NMFS scientists estimated the longline bigeye tuna catch east of 150° W. meridian by multiplying the numbers of fish reported as retained in log books from the Hawaii and California based longline fleets times the mean weight of bigeye tuna from the Hawaii-based longline fishery. Three data sets were used to estimate bigeye catches east of 150° W. meridian. These

were the Hawaii-based longline logbooks data (1999–2003), the Honolulu market sample data (1999), and the State of Hawaii Fish Dealer Data (2000–2003). In addition, U.S. flagged longline vessels operate out of California and catch bigeye tuna east of 150° W. These vessels are required to fill in either the NMFS Western Pacific Daily Longline Fishing Log or High Seas Pelagic Longline Logs and submit them to the NMFS Southwest Regional Office in Long Beach, California. These logbook data provide fishing location and catch by species. The estimated U.S. longline bigeye tuna catch was 150 metric tons in 2001. The relatively low yields in 2001 and 2002 were probably caused by unusual fishing patterns that reflected regulatory initiatives to the U.S. longline fleet targeting swordfish in the ETP.

Comment 4: Why were the 2001 levels used and not earlier years that may be more indicative of U.S. historical catches?

Response: The IATTC Secretariat recommended and the IATTC chose the year 2001 for the bigeye longline benchmark because this was the most recent year that nations party to or cooperating with the IATTC were able to supply a complete annual data set and because this represented the last year before a substantial increase in eastern Pacific longline fishing. Parties to the IATTC wanted to limit longline effort to this lower level.

Bigeye Longline Quota

Comment 5: A commenter asked who conducted the analysis on which the initial estimate of 100 metric tons of bigeye tuna was based and questioned if it was based on the best available data. Further, the commenter wanted to know what protocols govern the monitoring of U.S. longline bigeye catches in the IATTC area; and which NMFS office is taking the lead on this issue. The commenter requested NMFS communicate better on issues within the Convention Area that may affect fisheries by vessels based different regions.

Response: The initial estimate of 2001 U.S. longline catch of bigeye tuna in the Convention Area was derived by the NMFS Southwest Region using landings and log book data from both Hawaii and California. While the preliminary estimate of the U.S. catch in 2001 was 100 metric tons, after receiving public comments, NMFS reviewed the initial estimate and made adjustments based on a sound statistical basis. NMFS will implement a protocol for monitoring U.S. longline bigeye catches in the Convention Area so that the fishery can be closed if the U.S. catch limit for 2004

is reached before the end of the year. In addition, NMFS will also give direct notice of any longline closure to fishing vessel owners and operators. The Southwest Region has the lead for collaborating with the DOS and constituents in implementing conservation recommendations of the IATTC. The Southwest Region recognizes that longline vessels based in Hawaii may fish in the Convention Area and thus could be affected by measures recommended by the IATTC and approved by DOS. The Southwest Region will increase its efforts to communicate with all stakeholders including the relevant fishery management councils prior to IATTC meetings to ensure that the interests of all U.S. fisheries are considered in development of U.S. positions at IATTC. The Southwest Region also will inform the councils of IATTC actions as soon after meetings as practicable. NMFS fully recognizes that the regional councils have roles as principals in highly migratory species fisheries management under the Magnuson-Stevens Fishery Conservation and Management Act and is working to ensure that measures under international conventions are compatible and coordinated to the extent necessary.

Changes From the Proposed Rule

The final rule differs from the proposed rule by implementing the late closure alternative provided by the revised resolution. Based on comments received on the proposed rule, the U.S. has chosen the late closure. Also, comments received during the comment period requested that NMFS reevaluate the U.S. longline catch of bigeye tuna in the Convention Area for 2001. NMFS agreed and concluded that the catch in 2001 was 150 metric tons.

Corrections and Technical Changes

One commenter noted that the cite to 50 CFR 200.29 in the Classification section was in error and should be corrected to read 50 CFR 300.29. This has been corrected. The reference described at 50 CFR 300.29(b)(3) as requiring the Southwest Regional Administrator to give direct notice of IATTC actions to owners and operators of ETP purse seine vessels is not correct. Actually, § 300.29(b)(3) requires the Southwest Regional Administrator to give operators and owners of any type of vessel direct notice of closure actions that affect those vessels. The distinction is relevant to this final rule because § 300.29(b)(3) applies to the longline fleet as well as the purse seine fleet. This has been corrected.

Classification

This action is implemented under the regulations for the Pacific Tuna Fisheries found at 50 CFR 300.29.

On December 8, 1999, NMFS prepared a biological opinion (BO) assessing the impacts of the fisheries as they would operate under the interim final regulations (65 FR 47, January 3, 2000) implementing the International Dolphin Conservation Program Act (IDCPA). For the final rule (69 FR 176, September 13, 2004) to implement the IDCPA, NMFS amended the incidental take statement included in the December 8, 1999, BO. NMFS concluded that the fishing activities conducted under those regulations are not likely to jeopardize the continued existence of any endangered or threatened species under the jurisdiction of NMFS or result in the destruction or adverse modification of critical habitat. This final rule will not result in any changes in the fisheries such that there would be impacts beyond those considered in that BO. The IATTC has also taken action to reduce sea turtle injury and mortality

from interactions in the purse seine fishery so impacts of the fisheries should be lower than in the past. Because this closure does not alter the scope of the fishery management regime analyzed in the IDCPA rule, or the scope of the impacts considered in that consultation, NMFS is relying on that analysis to conclude that this final rule will not likely adversely effect any endangered or threatened species under the jurisdiction of NMFS or result in the destruction or adverse modification of critical habitat. Therefore, NMFS has determined that additional consultation is not required for this action.

The U.S. ETP tuna purse seine fisheries occasionally interact with a variety of species of dolphin, and dolphin takes are authorized and managed under the IDCPA. These conservation management measures in this final rule do not affect the administration of that program, which is consistent with section 303(a)(2) of the Marine Mammal Protection Act.

This final rule has been determined to be not significant for the purposes of Executive Order 12866.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that the proposed rule for this action would not have a significant economic impact on a substantial number of small entities. The factual basis for the certification was published in the proposed rule. No comments were received regarding the economic impacts of this action. However, a number of commenters suggested changing the date of the closure to, among other things, ease the economic impacts of the rule. In response, NMFS has done what the commenters asked. As a result, a regulatory flexibility analysis was not prepared.

Authority: 16 U.S.C. 951–962.

Dated: November 9, 2004.

John Oliver,

Deputy Assistant Administrator for Operations, National Marine Fisheries Service.

[FR Doc. 04–25302 Filed 11–10–04; 8:45 am]

BILLING CODE 3510–22–S

Proposed Rules

Federal Register

Vol. 69, No. 218

Friday, November 12, 2004

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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1260

[Docket No. LS-04-09]

Beef Promotion and Research; Reapportionment

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would adjust representation on the Cattlemen's Beef Promotion and Research Board (Board), established under the Beef Promotion and Research Act of 1985 (Act), to reflect changes in cattle inventories and cattle and beef imports that have occurred since the most recent Board reapportionment rule became effective in 2002. These adjustments are required by the Beef Promotion and Research Order (Order) and would result in a decrease in Board membership from 108 to 104, effective with the Department of Agriculture's (Department) appointments for terms beginning early in the year 2006.

DATES: Written comments must be received by December 13, 2004.

ADDRESSES: Send any written comments to Kenneth R. Payne, Chief, Marketing Programs Branch, Room 2638-S, Livestock and Seed Program, Agricultural Marketing Service (AMS), USDA, STOP 0251, 1400 Independence Avenue, SW., Washington, DC 20250-0251.

Comments may be sent by facsimile to (202) 720-1125 and by electronic mail to BeefComments@usda.gov or <http://www.regulations.gov>. Comments received may be inspected between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays, at the above office. State that your comments refer to Docket No. LS-04-09. Additionally, the comments and the proposed rule may be found at <http://www.ams.usda.gov/lsg/mpb/rp-beef.htm>.

FOR FURTHER INFORMATION CONTACT:

Kenneth R. Payne, Chief, Marketing Programs Branch on (202) 720-1115, fax (202) 720-1125, or by e-mail at Kenenth.Payne@usda.gov.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

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

Executive Order 12988

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. It is not intended to have retroactive effect.

Section 11 of the Act provides that nothing in the Act may be construed to preempt or supersede any other program relating to beef promotion organized and operated under the laws of the United States or any State. There are no administrative proceedings that must be exhausted prior to any judicial challenge to the provisions of this rule.

The Regulatory Flexibility Act and the Paperwork Reduction Act

Pursuant to the requirements set forth in the Regulatory Flexibility Act (RFA) (5 United States Code (U.S.C.) 601 *et seq.*). The Administrator of AMS has considered the economic effect of this action on small entities and has determined that this proposed rule will not have a significant economic impact on a substantial number of small entities. The purpose of RFA is to fit regulatory actions to the scale of businesses subject to such actions in order that small businesses will not be unduly burdened.

In the January 30, 2004, issue of "Cattle," the Department's National Agricultural Statistics Service (NASS) estimates that in 2004 the number of cattle operations in the United States totaled about 1.1 million. The majority of these operations subject to the Order, 7 CFR 1260.101 *et seq.*, are considered small businesses under the criteria established by the Small Business Administration.

The proposed rule imposes no new burden on the industry. It only adjusts representation on the Board to reflect changes in domestic cattle inventory and cattle and beef imports. This action would adjust representation on the Board, established under the Act. The

adjustments are required by the Order and would result in a decrease in Board membership from 108 to 104.

Background and Proposed Action

The Board was initially appointed August 4, 1986, pursuant to the provisions of the Act (7 U.S.C. 2901 *et seq.*) and the Order issued thereunder. Domestic representation on the Board is based on cattle inventory numbers, and importer representation is based on the conversion of the volume of imported cattle, beef, or beef products into live animal equivalencies.

Section 1260.141(b) of the Order provides that the Board shall be composed of cattle producers and importers appointed by the Department from nominations submitted by certified producer organizations. A producer may only be nominated to represent the unit in which that producer is a resident.

Section 1260.141(c) of the Order provides that at least every 3 years and not more than every 2 years, the Board shall review the geographic distribution of cattle inventories throughout the United States and the volume of imported cattle, beef, and beef products and, if warranted, shall reapportion units and/or modify the number of Board members from units in order to reflect the geographic distribution of cattle production volume in the United States and the volume of cattle, beef, or beef products imported into the United States.

Section 1260.141(d) of the Order authorizes the Board to recommend to the Department modifications in the number of cattle per unit necessary for representation on the Board.

Section 1260.141(e)(1) provides that each geographic unit or State that includes a total cattle inventory equal to or greater than 500,000 head of cattle shall be entitled to one representative on the Board. Section 1260.141(e)(2) provides that States that do not have total cattle inventories equal to or greater than 500,000 head shall be grouped, to the extent practicable, into geographically-contiguous units, each of which have a combined total inventory of not less than 500,000 head. Such grouped units are entitled to at least one representative on the Board. Each unit that has an additional one million head of cattle within a unit qualifies for additional representation on the Board as provided in § 1260.141(e)(4). As provided in § 1260.141(e)(3), importers

are represented by a single unit, with the number of Board members based on a conversion of the total volume of imported cattle, beef, or beef products into live animal equivalencies.

The initial Board appointed in 1986 was composed of 113 members. Reapportionment based on a 3-year average of cattle inventory numbers and import data, reduced the Board to 111 members in 1990 and 107 members in 1993 before the Board was increased to 111 members in 1996. The Board was decreased to 110 members in 1999, 108 members in 2001, and will be decreased to 104 members with appointments for terms effective early in 2006.

The current Board representation by States or units has been based on an average of the January 1, 1999, 2000, and 2001 inventory of cattle in the various States as reported by NASS of the Department. Current importer representation has been based on a combined total average of the 1998, 1999, and 2000 live cattle imports as published by the Foreign Agricultural Service of the Department and the average of the 1998, 1999, and 2000 live animal equivalents for imported beef products.

Recommendations concerning Board reapportionment were approved by the Board at its June 24, 2004, meeting. In considering reapportionment, the Board reviewed cattle inventories as well as cattle, beef, and beef product import data for the period January 1, 2002, to January 1, 2004. The Board recommended that a 3-year average of cattle inventories and import numbers should be continued. The Board determined that an average of the January 1, 2002, 2003, and 2004 Department cattle inventory numbers

would best reflect the number of cattle in each State or unit since publication of the 2001 reapportionment rule.

The Board reviewed the February 24, 2004, Department's Economic Research Service circular, "Livestock, Dairy, and Poultry Outlook," to determine proper importer representation. The Board recommended the use of a combined total of the average of the 2001, 2002, and 2003 cattle import data and the average of the 2001, 2002, and 2003 live animal equivalents for imported beef products. The method used to calculate the total number of live cattle equivalents was the same as that used in the previous reapportionment of the Board. The recommendation for importer representation is based on the most recent 3-year average of data available to the Board at its June 24, 2004, meeting to be consistent with the procedures used for domestic representation.

The Board's recommended reapportionment plan would decrease the number of representatives on the Board from 108 to 104. Four States—Minnesota, Montana, Nebraska, and Wyoming—lose one member each. The States and units affected by the reapportionment plan and the current and proposed member representation per unit are as follows: (Units are listed with the State makeup recommended by the Board.)

States	Current representation	Proposed representation
1. Minnesota	3	2
2. Montana	3	2
3. Nebraska	7	6
4. Wyoming	2	1

The 2004 nomination and appointment process was in progress while the Board was developing its recommendations. Thus, the Board reapportionment as proposed by this rulemaking would be effective, if adopted, with 2005 nominations and appointments that will be effective early in the year 2006.

List of Subjects in 7 CFR Part 1260

Administrative practice and procedure, Advertising, Agricultural research, Imports, Marketing agreement, Meat and meat products, Reporting and recordkeeping requirements.

For reasons set forth in the preamble, it is proposed that 7 CFR part 1260 be amended as follows:

PART 1260—BEEF PROMOTION AND RESEARCH

1. The authority citation for 7 CFR part 1260 continues to read as follows:

Authority: 7 U.S.C. 2901 *et seq.*

2. In § 1260.141, paragraph (a) and the table immediately following it, are revised to read as follows:

§ 1260.141 Membership of Board.

(a) Beginning with the 2005 Board nominations and the associated appointments effective early in the year 2006, the United States shall be divided into 39 geographical units and 1 unit representing importers, and the number of Board members from each unit shall be as follows:

CATTLE AND CALVES ¹

State/unit	(1,000 Head)	Directors
1. Alabama	1,390	1
2. Arizona	843	1
3. Arkansas	1,857	2
4. California	5,217	5
5. Colorado	2,700	3
6. Florida	1,757	2
7. Idaho	2,000	2
8. Illinois	1,367	1
9. Indiana	857	1
10. Iowa	3,517	4
11. Kansas	6,533	7
12. Kentucky	2,350	2
13. Louisiana	853	1
14. Michigan	1,003	1
15. Minnesota	2,467	2
16. Mississippi	1,063	1
17. Missouri	4,400	4
18. Montana	2,433	2
19. Nebraska	6,283	6
20. Nevada	507	1
21. New Mexico	1,547	2

CATTLE AND CALVES ¹—Continued

State/unit	(1,000 Head)	Directors
22. New York	1,420	1
23. North Carolina	910	1
24. North Dakota	1,867	2
25. Ohio	1,233	1
26. Oklahoma	5,233	5
27. Oregon	1,400	1
28. Pennsylvania	1,637	2
29. South Dakota	3,767	4
30. Tennessee	2,227	2
31. Texas	13,833	14
32. Utah	887	1
33. Virginia	1,607	2
34. Wisconsin	3,333	3
35. Wyoming	1,387	1
36. Northwest .....	.....	1
Alaska	12	.....
Hawaii	153	.....
Washington	1,117	.....
Total	1,408	.....
37. Northeast .....	.....	1
Connecticut	57	.....
Delaware	24	.....
Maine	94	.....
Massachusetts	50	.....
New Hampshire	40	.....
New Jersey	45	.....
Rhode Island	6	.....
Vermont	285	.....
Total	600	.....
38. Mid-Atlantic .....	.....	1
District of Columbia	0	.....
Maryland	240	.....
West Virginia	400	.....
Total	640	.....
39. Southeast .....	.....	2
Georgia	1,260	.....
South Carolina	430	.....
Total	1,690	.....
40. Importer ²	8,378	8

¹ 2002, 2003, and 2004 average of January 1 cattle inventory data.² 2001, 2002, and 2003 average of annual import data.

* * * * *

Dated: November 5, 2004.

A.J. Yates,

Administrator, Agricultural Marketing
Service.

[FR Doc. 04-25198 Filed 11-10-04; 8:45 am]

BILLING CODE 3410-02-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA-2004-19443; Directorate
Identifier 2004-CE-32-AD]

RIN 2120-AA64

**Airworthiness Directives; EXTRA
Flugzeugbau GmbH Model EA-300 and
EA-300/S Airplanes****AGENCY:** Federal Aviation
Administration (FAA), DOT.**ACTION:** Notice of proposed rulemaking
(NPRM).**SUMMARY:** The FAA proposes to
supersede Airworthiness Directive (AD)
98-03-14, which applies to certain
EXTRA Flugzeugbau GmbH (EXTRA)

Model EA-300 and EA-300/S airplanes. AD 98-03-14 currently requires you to inspect the upper longeron cutout-bridge for cracks, repairing any cracks found, and modifying this area. This proposed AD would retain the actions of AD 98-03-14 and incorporate new service information. For owner/operators of the affected airplanes that were able to do the modification required in AD 98-03-14, no further action would be required. This proposed AD results from mandatory continuing airworthiness information (MCAI) issued by the airworthiness authority for Germany. We are issuing this proposed AD to detect and correct cracks in the upper longeron cutout-bridge, which could cause the upper longeron cutout-bridge to fail resulting in structural damage to the fuselage.

This condition could lead to loss of control of the airplane.

DATES: We must receive any comments on this proposed AD by December 15, 2004.

ADDRESSES: Use one of the following 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 20590-001.

- *Fax:* 1-202-493-2251.

- *Hand Delivery:* Room PL-401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

To get the service information identified in this proposed AD, contact Extra Flugzeugbau GmbH, Flugplatz Dinslaken, D-46569 Hünxe, Germany.

To view the comments to this proposed AD, go to <http://dms.dot.gov>. The docket number is FAA-2004-19443.

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

SUPPLEMENTARY INFORMATION:

Comments Invited

How do I comment on this proposed AD? We invite you to submit any written relevant data, views, or arguments regarding this proposal. Send your comments to an address listed under **ADDRESSES**. Include the docket number, "FAA-2004-19443; Directorate Identifier 2004-CE-32-AD" at the beginning of your 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 rulemaking. Using the search function of our docket Web site, anyone can find and read the comments received into any of our dockets, including the name of the individual who sent the comment (or signed the comment on behalf of an association, business, labor union, etc.). This is docket number FAA-2004-19443. 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>.

Are there any specific portions of this proposed AD I should pay attention to? We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. If you contact us through a nonwritten communication and that contact relates to a substantive part of this proposed AD, we will summarize the contact and place the summary in the docket. We will consider all comments received by the closing date and may amend this proposed AD in light of those comments and contacts.

Docket Information

Where can I go to view the docket information? You may view the AD docket that contains the proposal, any comments received, and any final disposition in person at the DMS Docket Offices between 9 a.m. and 5 p.m. (eastern standard time), Monday through Friday, except Federal holidays. The Docket Office (telephone 1-800-647-5227) is located on the plaza level of the Department of Transportation NASSIF Building at the street address stated in **ADDRESSES**. You may also view the AD docket on the Internet at <http://dms.dot.gov>. The comments will be available in the AD docket shortly after the DMS receives them.

Discussion

Has FAA taken any action to this point? The Luftfahrt-Bundesamt (LBA), which is the airworthiness authority for Germany, notified us that life cycle testing of the upper longeron cutout-bridge revealed potential cracks. This condition caused us to issue AD 98-03-14, Amendment 39-10307 (63 FR 5881, February 5, 1998). AD 98-03-14 currently requires you to do the following for certain EXTRA Model EA-300 and EA-300/S airplanes:

- Inspect the upper longeron cutout-bridge for cracks;
- Repair any cracks you find; and
- Modify this area.

You were required to do these actions following EXTRA Service Bulletin EA-300 & EA-300/S, Doc: SB-300-3-93, Issue: A, Date: January 12, 1994.

What has happened since AD 98-03-14 to initiate this proposed action? LBA notified FAA of the need to change AD 98-03-14. The LBA reports that not all affected airplanes could have the required modification done following EXTRA Service Bulletin EA-300 & EA-300/S, Doc: SB-300-3-93, Issue: A, Date: January 12, 1994.

Installing the new steel sleeves may cause distortion to the upper longeron bridge cutout and the fuselage. The distortion may cause misalignment of the steel sleeves fore and aft of the cutouts.

This caused EXTRA to issue a new service bulletin. The new service bulletin includes additional procedures for modifying the upper longeron cutout-bridge. If you modify the upper longeron bridge-cutout following Procedure II, the new service bulletin specifies replacing the new bridges every 1,000 hours time-in-service (TIS).

What is the potential impact if FAA took no action? If not detected and corrected, cracks in the upper longeron cutout-bridge could cause the upper longeron cutout-bridge to fail, which could result in structural damage to the fuselage. This failure could lead to loss of control of the airplane.

Is there service information that applies to this subject? EXTRA has issued Service Bulletin EA-300 & EA-300/S Doc: SB-300-3-93, Issue: B, Date: June 10, 1998.

What are the provisions of this service information? The service bulletin includes procedures for:

- Inspecting the upper longeron cutout-bridge for cracks;
- Repairing any cracks found in the upper longeron cutout-bridge;
- Modifying the upper longeron cutout-bridge using Procedure I or Procedure II; and
- If Procedure II was used, replacing the new bridges every 1,000 hours TIS.

What action did the LBA take? The LBA classified this service bulletin as mandatory and issued German AD Number D-1994-043R1, dated May 17, 2004, to ensure the continued airworthiness of these airplanes in Germany.

Did the LBA inform the United States under the bilateral airworthiness agreement? These EXTRA Model EA-300 and EA-300/S airplanes are manufactured in Germany 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.

Under this bilateral airworthiness agreement, the LBA has kept us informed of the situation described above.

FAA's Determination and Requirements of This Proposed AD

What has FAA decided? We have examined the LBA's findings, reviewed all available information, and determined that AD action is necessary

for products of this type design that are certificated for operation in the United States.

Since the unsafe condition described previously is likely to exist or develop on other EXTRA Model EA-300 and EA-300/S airplanes of the same type design that are registered in the United States, we are proposing AD action. The proposed AD is to detect and correct cracks in the upper longeron cutout-bridge, which could result in structural damage to the fuselage. This failure could lead to loss of control of the airplane.

What would this proposed AD require? This proposed AD would supersede 98-03-14 with a new AD that would retain the actions required in AD 98-03-14 and incorporate new service information.

How does the revision to 14 CFR part 39 affect this proposed AD? On July 10, 2002, we published a new version of 14 CFR part 39 (67 FR 47997, July 22, 2002), which governs FAA's AD system. This regulation now includes material that relates to altered products, special flight permits, and alternative methods of compliance. This material previously

was included in each individual AD. Since this material is included in 14 CFR part 39, we will not include it in future AD actions.

Costs of Compliance

How many airplanes would this proposed AD impact? We estimate that this proposed AD affects 54 airplanes in the U.S. registry.

What would be the cost impact of this proposed AD on owners/operators of the affected airplanes? We estimate the following costs to do the proposed inspection:

Labor cost	Parts cost	Total cost per airplane	Total cost on U.S. operators
3 workhours × \$65 per hour = \$195	Not applicable	\$195	\$195 × 54 = \$10,530.

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

Labor cost	Parts cost	Total cost per airplane
10 workhours × \$65 per hour = \$650	\$200	\$650 + \$200 = \$850.

What is the difference between the cost impact of this proposed AD and the cost impact of AD 98-03-14? The difference between the cost impact of AD 98-03-14 and this proposed AD is the proposed replacement of the new bridges every 1,000 hours TIS if the upper longeron bridge-cutout is modified following Procedure II of the new service bulletin.

Regulatory Findings

Would this proposed AD impact various entities? 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.

Would this proposed AD involve a significant rule or regulatory action? For the reasons discussed above, I certify that this proposed 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 proposed AD and

placed it in the AD Docket. You may get a copy of this summary by sending a request to us at the address listed under ADDRESSES. Include "AD Docket No. 2004-CE-32-AD" in your request.

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 Federal Aviation Administration proposes to amend 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

- 2. The FAA amends § 39.13 by removing Airworthiness Directive (AD) 98-03-14, Amendment 39-10307 (63 FR 5881, February 5, 1998), and by adding a new AD to read as follows:

EXTRA Flugzeugbau GmbH: Docket No. FAA-2004-19443; Directorate Identifier 2004-CE-32-AD; Supersedes AD 98-03-14, Amendment 39-10307.

When Is the Last Date I Can Submit Comments on This Proposed AD?

- (a) We must receive comments on this proposed airworthiness directive (AD) by December 15, 2004.

What Other ADs Are Affected by This Action?

- (b) This AD supersedes AD 98-03-14, Amendment 39-10307.

What Airplanes Are Affected by This AD?

- (c) This AD affects the following airplane models and serial numbers that:
 - (i) are certificated in any category; and
 - (ii) have not had the left-hand (LH) and right-hand (RH) upper longeron bridge-cutouts inspected and modified following EXTRA Service Bulletin EA-300 & EA-300/S Doc: SB-300-3-93, Issue: A, Date: January 12, 1994.

Model	Serial numbers
EA-300	V1 and 01 through 50.
EA-300/S	1 through 17.

What Is the Unsafe Condition Presented in This AD?

- (d) This AD is the result of mandatory continuing airworthiness information (MCAI) issued by the airworthiness authority for Germany. The actions specified in this AD are intended to detect and correct cracks in the upper longeron cutout-bridge, which could cause the upper longeron cutout-bridge to fail resulting in structural damage to the fuselage. This condition could lead to loss of control of the airplane.

What Must I Do To Address This Problem?

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

Actions	Compliance	Procedures
(1) Inspect the LH and RH upper longeron cutout-bridge, part number (P/N) PC-23102.1X) for cracks. (2) If you find any cracks in the upper longeron cutout-bridged during the inspection required in paragraph (e)(1) of this AD, do the following: (i) Repair any cracks; and (ii) Modify the upper longeron cutout-bridge. (3) If you do not find any cracks in the upper longeron cutout-bridge during the inspection required in paragraph (e)(1) of this AD, you must still modify the upper longeron cutout-bridge. (4) If you modified the upper longeron cutout-bridge following EXTRA Service Bulletin EA-300 & EA-300/S Doc: SB-300-3-93, Issue: A, Date: January 12, 1994, or EXTRA Service Bulletin EA-300 & EA-300/S Doc: SB-300-3-93, Issue: B, Date: June 10, 1998, Procedure I, you do not need to do any further actions. (5) If you modified the upper longeron cutout-bridge following Procedure II of EXTRA Service Bulletin EA-300 & EA-300/S Doc: SB-300-3-93, Issue: B, Date: June 10, 1998, you must replace the new internal bridges every 1,000 hours TIS.	Upon accumulating 1,000 hours time-in-service (TIS) on the upper longeron or within the next 100 hours TIS after March 16, 1998 (the effective date of AD 98-03-14), whichever occurs later, unless already done. Before further flight after the inspection required in paragraph (e)(1) of this AD, unless already done. Before further flight after the inspection required in paragraph (e)(1) of this AD, unless already done. As of the effective date of this AD As of the effective date of this Ad	Follow EXTRA Service Bulletin EA-300 & EA-300/S Doc: SB-300-3-93, Issue: A, Date: January 12, 1994; or EXTRA Service Bulletin EA-300 & EA-300/S Doc: SB-300-3-93, Issue: B, Date: June 10, 1998. Follow EXTRA Service Bulletin EA-300 & EA-300/S Doc: SB-300-3-93, Issue: A, Date: January 12, 1994; or EXTRA Service Bulletin EA-300 & EA-300/S Doc: SB-300-3-93, Issue: B, Date: June 10, 1998. Follow EXTRA Service Bulletin EA-300 & EA-300/S Doc: SB-300-3-93, Issue: A, Date: January 12, 1994; or EXTRA Service Bulletin EA-300 & EA-300/S Doc: SB-300-3-93, Issue: B, Date: June 10, 1998. As stated in EXTRA Service Bulletin EA-300 & EA-300/S Doc: SB-300-3-93, Issue: A, Date: January 12, 1994, or EXTRA Service Bulletin EA-300 & EA-300/S Doc: SB-300-3-93, Issue: B, Date: June 10, 1998. As stated EXTRA Service Bulletin EA-300 & EA-300/S Doc: SB-300-3-93, Issue: A, Date: January 12, 1994; or EXTRA Service Bulletin EA-300 & EA-300/S Doc: SB-300-3-93, Issue: B, Date: June 10, 1998.

May I Request an Alternative Method of Compliance?

(f) You may request a different method of compliance or a different compliance time for this AD by following the procedures in 14 CFR 39.19. Unless FAA authorizes otherwise, send your request to your principal inspector. The principal inspector may add comments and will send your request to the Manager, Standards Office, Small Airplane Directorate, FAA. For information on any already approved alternative methods of compliance, contact Karl Schletzbaum, Aerospace Engineer, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, MO 64106; telephone: (816) 329-4146; facsimile: (816) 329-4090.

Is There Other Information That Relates to This Subject?

(g) German AD Number D-1994-043R1, dated May 17, 2004, also addresses the subject of this AD.

May I Get Copies of the Documents Referenced in This AD?

(h) To get copies of the documents referenced in this AD, contact Extra Flugzeugbau GmbH, Flugplatz Dinslaken, D-46569 Hünxe, Germany. To view the AD docket, go to the Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL-401, Washington, DC, or on the Internet at <http://dms.dot.gov>. This is docket number FAA-2004-19443.

Issued in Kansas City, Missouri, on November 5, 2004.

James E. Jackson,
*Acting Manager, Small Airplane Directorate,
Aircraft Certification Service.*

[FR Doc. 04-25193 Filed 11-10-04; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA-2004-19568; Directorate Identifier 2004-NM-112-AD]

RIN 2120-AA64

Airworthiness Directives; Dornier Model 328-300 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for certain Dornier Model 328-300 series airplanes. This proposed AD would require repetitive inspections for discrepancies of the heat pack rotor assembly and rotor drive clips of the brake unit of the main landing gear (MLG), and replacing the assembly if any discrepancy is found. This proposed AD is prompted by reports of

cracking and breakage of the heat pack rotor assemblies. We are proposing this AD to find and fix discrepancies of the heat pack rotor assembly of the brake unit of the MLG and consequent loss of braking capability, which could result in the airplane overrunning the runway during take-off or landing.

DATES: We must receive comments on this proposed AD by December 13, 2004.

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.

- By fax: (202) 493-2251.

- Hand Delivery: Room PL-401 on the plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this proposed AD, contact AvCraft Aerospace GmbH, P.O. Box 1103, D-82230 Wessling, Germany.

You can examine the contents of this 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., room PL-401, on the plaza level of the Nassif Building, Washington, DC.

FOR FURTHER INFORMATION CONTACT:

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

Plain language information: Marcia Walters, marcia.walters@faa.gov.

SUPPLEMENTARY INFORMATION:

Docket Management System (DMS)

The FAA has implemented new procedures for maintaining AD dockets electronically. As of May 17, 2004, new AD actions are posted on DMS and assigned a docket number. We track each action and assign a corresponding directorate identifier. The DMS AD docket number is in the form "Docket No. FAA-2004-99999." The Transport Airplane Directorate identifier is in the form "Directorate Identifier 2004-NM-999-AD." Each DMS AD docket also lists the directorate identifier ("Old Docket Number") as a cross-reference for searching purposes.

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 under **ADDRESSES**. Include "Docket No. FAA-2004-19568; Directorate Identifier 2004-NM-112-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 submitted 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 our docket 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 can review the DOT's complete Privacy Act Statement in the **Federal Register**

published on April 11, 2000 (65 FR 19477-78), or you can visit <http://dms.dot.gov>.

We are reviewing the writing style we currently use in regulatory documents. We are interested in your comments on whether the style of this document is clear, and your suggestions to improve the clarity of our communications that affect you. You can get more information about plain language at <http://www.faa.gov/language> and <http://www.plainlanguage.gov>.

Examining the Docket

You can 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 DMS receives them.

Discussion

The Luftfahrt-Bundesamt (LBA), which is the airworthiness authority for Germany, notified us that an unsafe condition may exist on certain Dornier Model 328-300 series airplanes. The LBA advises that operators have reported inspection findings of cracking and breakage of the heat pack rotor assemblies at the rotor drive clips of the brake unit of the main landing gear (MLG). The cause of these discrepancies is under investigation. These discrepancies, if not corrected, could result in the airplane overrunning the runway during take-off or landing.

Relevant Service Information

Dornier has issued Service Bulletin 328J-32-169, dated November 20, 2002; including Dunlop Aerospace Limited Service Bulletin AHA2227-32-1292, Revision 1, dated July 19, 2002. The service bulletin describes procedures for repetitive detailed visual inspections/ checks for discrepancies of the heat pack rotor assembly and rotor drive clips of the brake unit of the MLG, and replacement of the heat pack assembly with a new assembly if any discrepancy is found. The discrepancies include the following:

- Cracks or breakage of the heat pack rotor assembly.
- Rotors with clips that are loose or have missing rivets.
- Rotors with large pieces of carbon missing.

Accomplishing the actions specified in the service information is intended to

adequately address the unsafe condition.

The LBA mandated the service information and issued German airworthiness directive D-2004-003, dated January 8, 2004, to ensure the continued airworthiness of these airplanes in Germany.

FAA's Determination and Requirements of the Proposed AD

This airplane model is manufactured in Germany 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, the LBA has kept the FAA informed of the situation described above. We have examined the LBAs findings, evaluated all pertinent information, and determined that we need to issue an AD for products of this type design that are certificated for operation in the United States.

Therefore, we are proposing this AD, which would require accomplishing the actions specified in the service information described previously, except as discussed under "Differences Between the Proposed AD and Service Information."

Differences Between the Proposed AD and Service Information

Although the service bulletin specifies to return any unserviceable heat pack assemblies with unserviceable rotor assemblies to the parts manufacturer, this proposed AD would not include that requirement.

Although the service bulletin recommends accomplishing the inspection/check of the heat pack rotor assemblies "at every wheel removal and at every brake installation," we have determined that this imprecise compliance time would not address the identified unsafe condition in a timely manner. In developing an appropriate compliance time for this AD, we considered not only the manufacturer's recommendation, but the degree of urgency associated with addressing the subject unsafe condition, the average utilization of the affected fleet, and the time necessary to perform the inspection. In light of all of these factors, we find a compliance time of "At the next brake installation or within 24 months after the effective date of this AD" for completing the initial inspection, and at repetitive intervals "not to exceed the next brake installation or 24 months, whichever occurs first," to be warranted, in that those times represent precise times for

affected airplanes to continue to operate without compromising safety.

These differences have been coordinated with the LBA.

Clarification of Inspection Terminology

In this proposed AD, the “detailed visual inspection/check” specified in the service bulletin is referred to as a “detailed inspection.” We have included the definition for a detailed inspection in a note in the proposed AD.

Interim Action

We consider this proposed AD interim action. If final action is later identified, we may consider further rulemaking then.

Costs of Compliance

This proposed AD would affect about 49 airplanes of U.S. registry. The proposed inspection would take about 1 work hour per airplane, at an average labor rate of \$65 per work hour. Based on these figures, the estimated cost of the proposed AD for U.S. operators is \$3,185, or \$65 per airplane, per inspection cycle.

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. 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 FAA amends § 39.13 by adding the following new airworthiness directive (AD):

Fairchild Dornier GmbH (Formerly Dornier Luftfahrt GmbH): Docket No. FAA–2004–19568; Directorate Identifier 2004–NM–112–AD.

Comments Due Date

(a) The Federal Aviation Administration must receive comments on this AD action by December 13, 2004.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Dornier Model 328–300 series airplanes; certificated in any category; equipped with a Dunlop brake unit having part number AHA2227–3 or –4.

Unsafe Condition

(d) This AD was prompted by reports of cracking and breakage of the heat pack rotor assemblies. We are issuing this AD to find and fix discrepancies of the heat pack rotor assembly of the brake unit of the main landing gear (MLG) and consequent loss of braking capability, which could result in the airplane overrunning the runway during take-off or landing.

Compliance

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

Repetitive Inspections/Replacement if Necessary

(f) At the next brake installation or within 24 months after the effective date of this AD, whichever is first: Accomplish a detailed inspection for discrepancies of the heat pack rotor assembly and rotor drive clips of the brake unit of the MLG by doing all the actions specified in the Accomplishment Instructions of Dornier Service Bulletin 328J–32–169, dated November 20, 2002. If any discrepancy is found, before further flight, replace the heat pack rotor assembly with a new assembly in accordance with the service bulletin. Repeat the inspection thereafter at intervals not to exceed the next brake installation or 24 months, whichever is first.

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.”

Alternative Methods of Compliance (AMOCs)

(g) 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.

Related Information

(h) German airworthiness directive D–2004–003, dated January 8, 2004, also addresses the subject of this AD.

Issued in Renton, Washington, on November 3, 2004.

Kevin M. Mullin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 04–25192 Filed 11–10–04; 8:45 am]

BILLING CODE 4910–13–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[R07–OAR–2004–IA–0005; FRL–7836–3]

Approval and Promulgation of State Implementation Plans; State of Iowa

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve a revision to the Iowa state implementation plan (SIP) for the purpose of adding information to establish exemptions for equipment that is either used for nonproduction activities or exhausted inside a building, to establish an exemption for manually-operated equipment, and to establish exemptions for emission units that can be classified as small units. The state has determined that air pollution emissions from this equipment are negligible and these exemptions are likely to result in no significant impact on human health or the environment.

DATES: Comments on this proposed action must be received in writing by December 13, 2004.

ADDRESSES: Comments may be mailed to Heather Hamilton, Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101. Comments may also be submitted electronically or through hand delivery/courier; please follow the detailed instructions in the Addresses section of the direct final rule which is located in the rules section of this **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Heather Hamilton at (913) 551–7039, or by e-mail at hamilton.heather@epa.gov.

SUPPLEMENTARY INFORMATION: In the final rules section of the **Federal Register**, EPA is approving the state's revision to the state implementation plan as a direct final rule without prior proposal because the Agency views this as a noncontroversial revision amendment and anticipates no relevant adverse comments to this action. A detailed rationale for the approval is set forth in the direct final rule. If no relevant adverse comments are received in response to this action, no further activity is contemplated in relation to this action. If EPA receives relevant adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed action. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. Please note that if EPA receives adverse comment on part of this rule and if that part can be severed from the remainder of the rule, EPA may adopt as final those parts of the rule that are not the subject of an adverse comment. For additional information, see the direct final rule which is located in the rules section of this **Federal Register**.

Dated: November 1, 2004.

James B. Gulliford,

Regional Administrator, Region 7.

[FR Doc. 04-24919 Filed 11-10-04; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[R05-OAR-2004-IL-0003; FRL-7831-9]

Approval and Promulgation of Air Quality Implementation Plans; Illinois; Approval of a Site-Specific Sulfur Dioxide Plan Revision for CILCO Edwards Station

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve a July 29, 2003, site-specific sulfur dioxide (SO₂) SIP revision request for the Central Illinois Light Company's Edwards Generating Station in Peoria County, Illinois. Illinois' requested SIP revision makes permanent a variance to the SO₂ SIP which EPA approved on April 13, 2000. EPA is proposing to approve the SIP revision request.

In the final rules section of this **Federal Register**, EPA is approving the SIP revision as a direct final rule

without prior proposal, because EPA views this as a noncontroversial revision and anticipate no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this proposed rule, no further activity is contemplated in relation to this proposed rule. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time.

DATES: Written comments must be received on or before December 13, 2004.

ADDRESSES: Submit comments, identified by Regional Material in EDocket (RME) ID No. R05-OAR-2004-IL-0003 by one of the following methods:

Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.

Agency Web site: <http://docket.epa.gov/rmepub/index.jsp>. Regional Material in EDocket (RME), EPA's electronic public docket and comment system, is EPA's preferred method for receiving comments. Once in the system, select "quick search," then key in the appropriate RME Docket identification number. Follow the on-line instructions for submitting comments.

E-mail: bortzer.jay@epa.gov.

Fax: (312) 886-5824.

Mail: You may send written comments to: J. Elmer Bortzer, Chief, Air Programs Branch, (AR-18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

Hand delivery: Deliver your comments to: J. Elmer Bortzer, Chief, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, 18th floor, Chicago, Illinois 60604.

Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m. excluding Federal holidays.

Instructions: Direct your comments to Regional Material in EDocket (RME) ID No. R05-OAR-2004-IL-0003. EPA's policy is that all comments received will be included in the public docket without change, 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 Regional Material in EDocket (RME), regulations.gov, or e-mail. The EPA Regional Material in EDocket (RME) Web site and the federal regulations.gov Web site are "anonymous access" systems, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through RME or 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 instructions on submitting comments, go to Section I of the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: All documents in the electronic docket are listed in the Regional Material in EDocket (RME) index at <http://www.epa.gov/rmepub/index.jsp>. Although listed in the index, some information is not publicly available, *i.e.*, Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Publicly available docket materials are available either electronically in RME or in hard copy at Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. (Please telephone Mary Portanova at (312) 353-5954 before visiting the Region 5 Office.)

FOR FURTHER INFORMATION CONTACT:

Mary Portanova, Environmental Engineer, Criteria Pollutant Section, Air Programs Branch (AR-18J), USEPA, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353-5954. portanova.mary@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does This Action Apply to Me?

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

II. What Action Is EPA Taking Today?

III. Where Can I Find More Information About This Proposal and the Corresponding Direct Final Rule?

I. General Information

A. Does This Action Apply to Me?

This action applies to a single source, CILCO Edwards Generating Station, in Peoria County, IL.

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

1. **Submitting CBI.** Do not submit Confidential Business Information (CBI) to EPA through Regional Material in EDocket (RME), 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:

- Identify the rulemaking by docket number and other identifying information (subject heading, **Federal Register** date and page number).
- Follow directions—The agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.
- Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.
- Describe any assumptions and provide any technical information and/or data that you used.
- If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.
- Provide specific examples to illustrate your concerns, and suggest alternatives.
- Explain your views as clearly as possible, avoiding the use of profanity or personal threats.
- Make sure to submit your comments by the comment period deadline identified.

II. What Action Is EPA Taking Today?

On July 29, 2003, Illinois submitted a site-specific sulfur dioxide (SO₂) State

Implementation Plan (SIP) revision request for the Central Illinois Light Company's Edwards Generating Station in Peoria County, Illinois (CILCO Edwards). This revision request sets forth SO₂ emission limits for CILCO Edwards' three boilers. These limits are identical to the emission limits within an earlier temporary SIP revision which EPA approved on April 13, 2000 (65 FR 19838). Therefore, EPA is proposing to approve the July 29, 2003, permanent SIP revision request.

III. Where Can I Find More Information About This Proposal and the Corresponding Direct Final Rule?

For additional information, see the Direct Final Rule which is located in the Rules section of this **Federal Register**. Copies of the request and the EPA's analysis are available electronically at Regional Material in EDocket (RME) or in hard copy at the above address. (Please telephone Mary Portanova at (312) 353-5954 before visiting the Region 5 Office.)

Dated: October 20, 2004.

Bharat Mathur,

Acting Regional Administrator, Region 5.

[FR Doc. 04-24917 Filed 11-10-04; 8:45 am]

BILLING CODE 6560-50-P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

41 CFR Parts 51-2, 51-3, and 51-4

[Docket No. 2004-01-01]

RIN 3037-AA00

Governance Standards for Central Nonprofit Agencies and Nonprofit Agencies Participating in the Javits-Wagner-O'Day Program

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Notice of proposed rulemaking; request for comments.

SUMMARY: The Committee for Purchase From People Who Are Blind or Severely Disabled (The Committee), which is responsible for administering and overseeing the implementation of the Javits-Wagner-O'Day (JWOD) Act, proposes to amend its regulations by requiring nonprofit agencies awarded Government contracts under the authority of the JWOD Act, as well as central nonprofit agencies designated by the Committee and nonprofit agencies that would like to qualify for participation in the JWOD Program, to comply with new governance standards.

The proposed governance standards are primarily based on standards that are common practice in nonprofit and business communities. These new standards would include, among other things, standards concerning the practices of boards of directors and the reasonableness of executive and other employee compensation. Recent accounts alleging, and public concern regarding, isolated instances of excessive compensation packages for nonprofit agency executives; a perceived lack of full disclosure in the financial reporting of nonprofit agencies; and the absence of formal guidelines to establish independent boards of directors for JWOD-affiliated central nonprofit agencies and nonprofit agencies prompted this proposed change. If fully implemented, this change would help promote sound governance procedures for central nonprofit agencies and nonprofit agencies participating in the JWOD Program, help ensure the effective and transparent administration of Government contract funds, and continue to maintain a high level of public support for the JWOD Program's employment mission.

DATES: Submit your written comments on this proposed rule on or before January 11, 2005. No public meeting will be held.

Comments on the information collection aspects of this proposed rule will be considered if received by January 11, 2005. The Office of Management and Budget (OMB) has up to 60 days to approve or disapprove information collection but may respond after 30 days. Therefore, to ensure maximum consideration, your comments should be received by OMB by December 13, 2004.

ADDRESSES: Send your comments on the proposed rule in one of the following ways:

- By electronic mail (preferred method) to rulecomments@jwod.gov;
 - By fax, to the attention of G. John Heyer, to (703) 603-0655;
 - By postal mail to Committee for Purchase From People Who Are Blind or Severely Disabled, 1421 Jefferson Davis Highway, Jefferson Plaza 2, Suite 10800, Arlington, VA 22202-3259; or
 - Through the Federal eRulemaking Portal at <http://www.regulations.gov>.
- Follow the instructions on the site for submitting comments.

For more information on how to submit your comments, please refer to the "Public Comments Solicited" section below.

You may submit comments on the information collection aspects of the

proposed rule to the Desk Officer for the Committee for Purchase From People Who Are Blind or Severely Disabled, OMB, Office of Information and Regulatory Affairs, via facsimile or e-mail using the following fax number and e-mail address: 202/395-6566 (fax); *OIRA_DOCKET@omb.eop.gov* (e-mail). Please provide a copy of your comments to Janet Yandik, Information Management Specialist, Committee for Purchase From People Who Are Blind or Severely Disabled, 1421 Jefferson Davis Highway, Jefferson Plaza 2, Suite 10800, Arlington, VA, 22202-3259; (703) 603-0655 (fax); or *rulecomments@jwod.gov* (e-mail).

Comments will be made available for public inspection, from 9 a.m. to 4 p.m. on weekdays, at the Committee for Purchase From People Who Are Blind or Severely Disabled, 1421 Jefferson Davis Highway, Jefferson Plaza 2, Suite 10800, Arlington, VA 22202-3259.

FOR FURTHER INFORMATION CONTACT: G. John Heyer, by telephone at (703) 603-0665, by fax at (703) 603-0655, by e-mail at *jheyer@jwod.gov*, or by postal mail at Committee for Purchase From People Who Are Blind or Severely Disabled, 1421 Jefferson Davis Highway, Jefferson Plaza 2, Suite 10800, Arlington, VA, 22202-3259.

SUPPLEMENTARY INFORMATION:

Background

The regulations at 41 CFR Chapter 51, titled "Committee for Purchase From People Who Are Blind or Severely Disabled," provide the requirements, standards, and procedures for the JWOD Program. The JWOD Program creates jobs and training opportunities for people who are blind or who have other severe disabilities. Its primary means of doing so is by requiring Government agencies to purchase selected products and services from nonprofit agencies employing such individuals. As a result, JWOD employees are able to lead more productive, independent lives.

Named for its enabling legislation, the Javits-Wagner-O'Day Act of 1971 (41 U.S.C. 46-48c), the JWOD Program is a mandatory source of supply for Federal employees. The JWOD Program is administered by the Committee for Purchase From People Who Are Blind or Severely Disabled. Two national, independent organizations, National Industries for the Blind (NIB) and NISH, have been designated by the Committee as central nonprofit agencies, and these organizations help State and private nonprofit agencies participate in the JWOD Program.

Governance Standards

The Committee proposes to require nonprofit agencies awarded Government contracts under the authority of the JWOD Act, as well as central nonprofit agencies designated by the Committee and nonprofit agencies that would like to qualify for participation in the JWOD Program, to comply with new governance standards. For the purposes of this proposal, the term governance includes, but is not limited to, the structure of the central nonprofit agency's or nonprofit agency's governing authority, such as its Board of Directors; auditing and reporting of the central nonprofit agency's or nonprofit agency's finances; executive compensation packages provided by the central nonprofit agency or nonprofit agency; and the central nonprofit agency's or nonprofit agency's conflict of interest policy. Adopting the proposed governance standards would mean adding a new § 51-2.10 to the regulations to provide the standards for central nonprofit agencies, qualified nonprofit agencies participating in the JWOD Program, and nonprofit agencies that would like to qualify for participation in the JWOD Program; adding two new paragraphs to the regulations at § 51-3.2 to provide a reference to the standards and reporting requirements for central nonprofit agencies; and adding a new paragraph to the regulations at § 51-4.3 to provide a reference to the standards for nonprofit agencies.

To date, the Committee's regulations have not included governance standards. While the Committee believes, based on its experience managing the JWOD Program, that the overwhelming majority of JWOD-affiliated central nonprofit agencies and nonprofit agencies operate in an ethical and accountable manner, recent accounts alleging (and public concern regarding) isolated instances of excessive compensation packages for nonprofit agency executives, a perceived lack of full disclosure in the financial reporting of nonprofit agencies, and the absence of formal guidelines to establish independent boards of directors for JWOD-affiliated central nonprofit agencies and nonprofit agencies have prompted the need for explicitly stated standards. Therefore, in order to help maintain the integrity of the JWOD Program, the Committee is proposing to add the governance standards listed below to the regulations at 41 CFR 51-2.10.

Each central nonprofit agency, qualified nonprofit agency participating in the JWOD Program, and nonprofit

agency that would like to qualify for participation in the JWOD Program would have to comply with Committee-approved governance standards. In evaluating the governance of designated central nonprofit agencies and nonprofit agencies, the Committee would consider compliance to be certification, as described under the heading "Certification" below, by the agency that the Board of Directors (or, in the case of noncorporate entities such as State and local governments, an equivalent governing authority):

- Does not include family members of the central nonprofit agency's or nonprofit agency's management team;
 - Does not have the Chairperson also serving as the central nonprofit agency's or nonprofit agency's Chief Executive Officer (CEO), President, Executive Director, or equivalent;
 - Has an audit committee to oversee the central nonprofit agency's or nonprofit agency's financial affairs, and audits are conducted by an independent auditing firm that is overseen by the audit committee;
 - Reviews and certifies executive compensation packages, and develops and implements an annual evaluation process for the Board or other governing authority, as well as for the central nonprofit agency's or nonprofit agency's CEO, President, Executive Director, or equivalent;
 - Has adopted a conflict of interest policy, and discloses all members' business relationships with the central nonprofit agency or nonprofit agency as a part of that policy;
 - Turns over Board, or other governing authority, membership on a recurring schedule;
 - Reviews and validates all Internal Revenue Service (IRS) Form 990s and all attachments, and certifies that such filings identify all sources of compensation income from the central nonprofit agency or nonprofit agency and related entities;
 - Has at least one financial expert serving; and
 - Publishes and makes public the minutes of Board, or other governing authority, meetings.
- Further, in assessing the reasonableness of executive and other employee compensation, the Committee would consider:
- The size and complexity of the central nonprofit agency's or nonprofit agency's charter or mission;
 - The mission area, geographic size, and financial condition of the central nonprofit agency or nonprofit agency;
 - The technical and professional qualifications required for positions in

the central nonprofit agency or nonprofit agency;

- Compensation packages paid at comparable central nonprofit agencies or nonprofit agencies;
- The percentage of the net revenues to the central nonprofit agency or nonprofit agency realized from the JWOD Program paid to employees and to senior management;
- The extent to which the central nonprofit agency's or nonprofit agency's executive compensation packages exceed the total compensation offered to the typical, highest paid (excluding any retention allowances and Presidential rank awards), senior executive service (SES), career Federal government employee, as explained below; and
- For only nonprofit agencies (not central nonprofit agencies), the median compensation package for the nonprofit agency's direct labor hour workers and how that median compares to the compensation packages offered to executives.

Currently, the total compensation package offered to the typical, highest paid (excluding any retention allowances and Presidential rank awards), SES, career Federal government employee amounts to approximately \$207,000 per year. This amount changes annually, according to adjustments in the salary and benefits for Federal government employees. The Committee would generally consider a central nonprofit agency's or nonprofit agency's executive compensation package unreasonable if it exceeds the total compensation offered to the typical, highest paid (excluding any retention allowances and Presidential rank awards), SES, career Federal government employee, unless the central nonprofit agency or nonprofit agency can provide adequate justification for the level of executive compensation to the Committee. The basis for comparing a central nonprofit agency's or nonprofit agency's executive compensation to a Federal employee's compensation lies in the fact that the JWOD Program is a Federal program and the funds obtained through the JWOD Program are Federal contract funds.

The proposed standards also include procedures that the Committee would follow if a central nonprofit agency or qualified nonprofit agency participating in the JWOD Program violates the governance standards set forth at 41 CFR 51–2.10. Violation by a qualified nonprofit agency participating in the JWOD Program would be handled in accordance with established procedures at 41 CFR 51–4.5, “Violations by nonprofit agencies.” Violation by a central nonprofit agency would be

investigated by the Committee's staff. The central nonprofit agency concerned would be afforded an opportunity to submit a statement of facts and evidence. The Committee staff would report its findings to the Committee, together with its recommendation. In reviewing the case, the Committee may request the submission of additional evidence or may conduct its own investigation. If a central nonprofit agency failed to correct its violations of the governance standards, the Committee, after affording the central nonprofit agency an opportunity to address the Committee on the matter, may terminate the central nonprofit agency's designation as a central nonprofit agency and its eligibility to participate in the JWOD Program.

Further, if a nonprofit agency that would like to qualify for participation in the JWOD Program was in violation of the proposed governance standards set forth at 41 CFR 51–2.10, that agency could fail to qualify for participation in the JWOD Program.

These new standards should help promote an environment of sound governance and adequate internal controls for JWOD-affiliated central nonprofit agencies and nonprofit agencies, as well as help ensure the effective and transparent administration of Government contract funds obtained through the JWOD Program. Further, these proposed standards should not impose an undue burden on central nonprofit agencies, nor on nonprofit agencies, because such standards are common practice in nonprofit and business communities.

Certification

Certification by a central nonprofit agency that the governance standards set forth in the proposed § 51–2.10 have or have not yet been met would occur on a new annual certification form, due to the Committee by November 1 of each year. Certification by a qualified nonprofit agency participating in the JWOD Program that the governance standards set forth in the proposed § 51–2.10 have or have not yet been met would occur on the existing annual certification forms (Committee Form 403, Annual Certification—Qualified Nonprofit Agencies Serving People Who Are Blind, or Committee Form 404, Annual Certification—Qualified Nonprofit Agencies Serving People Who Are Severely Disabled), due to the Committee by December 1 of each year. Certification by a nonprofit agency that would like to qualify for participation in the JWOD Program that the governance standards set forth in the proposed § 51–2.10 have or have not yet been met

would occur on the existing initial certification forms (Committee Form 401, Initial Certification—Qualified Nonprofit Agency Serving People Who Are Blind, or Committee Form 402, Initial Certification—Qualified Nonprofit Agency Serving People Who Are Severely Disabled). These certifications are explained in more detail below, under the heading “Paperwork Reduction Act.”

As a part of the certification, central nonprofit agencies and nonprofit agencies would have to supply information on the total (cash and noncash) compensation paid to their key employees during either the fiscal year for which they are submitting an annual certification (for central nonprofit agencies and qualified nonprofit agencies participating in the JWOD Program) or the dates covered by the report (for initial certification of nonprofit agencies that would like to participate in the JWOD Program). We base our definition of a “key employee” on the definition provided by the IRS in the instructions to the IRS Form 990; a “key employee” is any person having responsibilities or powers similar to those of officers, directors, or trustees. The term includes the chief management and administrative officials of an organization (such as a CEO, President, Executive Director, or equivalent) but does not include the heads of separate departments or smaller units within an organization. A chief financial officer and the officer in charge of administration or program operations are both key employees if they have the authority to control the organization's activities, its finances, or both. The “heads of separate departments” are managers within their specific areas but not for the organization as a whole and, therefore, are not key employees.

The information we would require would consist of:

- The name, address, and title of each key employee;
- A numerical estimate of the average hours per week each key employee worked in his or her position;
- The salary, fees, bonuses, and severance payments paid to each key employee;
- All forms of deferred compensation and future severance payments and all payments to welfare benefit plans (including, but not limited to, medical, dental, life insurance, severance pay, and disability plans) paid on behalf of each key employee; and
- All taxable and nontaxable fringe benefits (including, but not limited to, payments made under indemnification arrangements, the value of personal use

of housing, automobiles, or other assets owned or leased by the agency or provided for the agency's use without charge) provided to each key employee. In summary, the information that central nonprofit agencies and nonprofit agencies would provide to us would be the same as what is required under Part IV of the IRS Form 990.

We are proposing to require this information instead of a photocopy of an agency's most recently compiled IRS Form 990s because, due to differing cycles of fiscal years and filing for extensions of the deadline to submit IRS Form 990s, central nonprofit agencies and nonprofit agencies may be two or three years behind the current fiscal year in filing their IRS Form 990s. Out-of-date information would do little to help the Committee determine whether a central nonprofit agency or nonprofit agency is currently meeting the requirements of the Committee's regulations. Therefore, we would require central nonprofit agencies and nonprofit agencies to submit current information on the total compensation packages offered to key employees.

Public Comments Solicited

We invite public comments on this proposed rule. Please submit your comments by the date given in the DATES section using one of the options offered in the ADDRESSES section. Please mention the docket number (2004-01-01) at the top of your comments. As all comments received will be made available for public inspection, please do not include any information, such as your street address or telephone number, that you would prefer to remain private. If you choose to send your comments by postal mail, please include a DOS-formatted 3½-inch disk with your written comments. If you have any questions about how to comment on this proposed rule, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

All comments we receive will be made available for public inspection, from 9 a.m. to 4 p.m. on weekdays, at the address listed in the ADDRESSES section. To facilitate public inspection of comments, please call (703) 603-7740 to notify us of your intention to inspect comments before coming to the Committee office.

Certifications and Required Determinations

Regulatory Flexibility Act

I certify that the changes proposed in this rule would not have a significant impact on a substantial number of small entities (Regulatory Flexibility Act, 5

U.S.C. 605(b)). The major factors considered for this certification were:

1. If approved, the action will not result in any additional reporting, recordkeeping, or compliance requirements for small entities other than the small organizations that will furnish the service to the Government.

2. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46-48c).

We invite comments on this certification. Please submit your comments by the date given in the DATES section using one of the options offered in the ADDRESSES section. Commenters should identify the statement(s) underlying the certification on which they are providing additional information.

Executive Order 12866

The Office of Management and Budget has determined that this proposal is "not significant" for purposes of Executive Order 12866.

a. If adopted, this proposal would not have an annual economic effect of \$100 million or adversely affect an economic sector, productivity, jobs, the environment, or other units of government. A cost-benefit and economic analysis is not required. This proposal would have minimal effects on regulated entities.

b. If adopted, this proposal would not create inconsistencies with other agencies' actions. No other Federal agency has any role in managing the JWOD Program.

c. If adopted, this proposal would not materially affect entitlements, grants, user fees, loan programs, or the rights and obligations of their recipients.

d. If adopted, this proposal would not raise novel legal or policy issues. This proposal is designed to incorporate standard, high-quality business practices into the requirements for central nonprofit agencies and nonprofit agencies participating in the JWOD Program.

Executive Order 12988

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. If this proposed rule is adopted: (1) It will have no preemptive effect on State and local laws and regulations; (2) no retroactive effect will be given to this rule; and (3) administrative proceedings will not be required before parties may file suit in court challenging this rule.

Executive Order 13132

This proposal does not contain policies with federalism implications

sufficient to warrant preparation of a Federalism Assessment under Executive Order 13132 (August 4, 1999).

Unfunded Mandates Reform Act

This proposed rule has been reviewed under the Unfunded Mandates Reform Act (2 U.S.C. 1501 *et seq.*). If adopted, this proposed rule would not impose an unfunded mandate on State, local, or Tribal governments or the private sector of more than \$100 million per year, nor would it have a significant or unique effect on State, Tribal, or local governments or the private sector.

Paperwork Reduction Act

Office of Management and Budget (OMB) regulations at 5 CFR 1320 implement provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). A Federal agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

The OMB regulations at 5 CFR 1320.3(c) define a "collection of information" as the obtaining of information by or for an agency by means of identical questions posed to, or identical reporting, recordkeeping, or disclosure requirements imposed on, 10 or more persons. In addition, the OMB regulations at 5 CFR 1320.3(c)(4)(i) state that any recordkeeping, reporting, or disclosure requirement contained in a rule of general applicability (such as this proposed rule) is deemed to involve 10 or more persons. This proposal would require a new certification from central nonprofit agencies, qualified nonprofit agencies participating in the JWOD Program, and nonprofit agencies that would like to qualify for participation in the JWOD Program and would require these agencies to supply information on the total (cash and noncash) compensation paid to their key employees (as explained above under the heading "Certification"). These new information collections would require OMB approval under the Paperwork Reduction Act.

Simultaneous with the publication of this proposed rule, we have submitted an application for information collection approval from OMB to require a new annual certification from central nonprofit agencies that the governance standards in proposed 41 CFR 51-2.10 have or have not yet been met. This certification would include a requirement that central nonprofit agencies supply information on the total (cash and noncash) compensation paid to their key employees during the fiscal year for which they are submitting an annual certification. The application for

information collection approval from OMB also requests a revision to our existing annual certification forms, which are due to us from qualified nonprofit agencies participating in the JWOD Program by December 1 of each year. The revised forms would include the new certification proposed in this document and a requirement that nonprofit agencies supply information on the total (cash and noncash) compensation paid to their key employees during the fiscal year for which they are submitting an annual certification. In addition, the application for information collection approval from OMB requests a revision to our existing initial certification forms, which are required for nonprofit agencies that would like to participate in the JWOD Program. The revised forms would include the new certification proposed in this document and a requirement that nonprofit agencies supply information on the total (cash and noncash) compensation paid to their key employees during the dates covered by the report. We will notify the public of OMB's response to our application in the final rule for this regulation.

We are asking OMB to approve, for the first time, a new Committee Form 405, which would be the Annual Certification—Central Nonprofit Agencies. The new form would be due to the Committee by November 1 of each year from the two designated central nonprofit agencies (currently NIB and NISH). The new form would require each central nonprofit agency's Officer of the Board and Agency Executive to certify, via signature, that the governance standards in § 51–2.10 have or have not yet been met. If the governance standards have not yet been met, an explanation (with relevant documentation attached) would be required. The new form would also require central nonprofit agencies to supply, and certify the accuracy and completeness of, information on the total (cash and noncash) compensation paid to their key employees during the fiscal year for which they are submitting an annual certification. Lastly, the new form would ask if any changes have been made during the past year to the central nonprofit agency's articles of incorporation or bylaws. This last piece of information has been offered sporadically over the years by central nonprofit agencies; including it on the new form would standardize the collection of this information.

We expect that completing this new certification form would require a moderate amount of time for central nonprofit agencies even though the

certification and any documents to support the certification do not exceed the knowledge and information normally possessed by a prudent person in the ordinary course of business dealings. We estimate that it would take an average of 20 hours for a respondent to complete the form, including reading the appropriate instructions; referring to and reading the new governance standards (as provided in § 51–2.10, below); certifying that the new standards have or have not been met; if necessary, providing a brief explanation concerning why the governance standards have not yet been met and attaching appropriate documentation; gathering and recording information on the total (cash and noncash) compensation paid to the agency's key employees during the fiscal year for which the agency is submitting an annual certification; certifying that the central nonprofit agency's articles of incorporation or bylaws have or have not changed during the most recent fiscal year; and, if necessary, attaching any changes to the articles of incorporation or bylaws. Therefore, for the total number of respondents completing this form (2), the new information collection requirements would result in a total annual burden of 40 hours.

Committee Form 403 (Annual Certification—Qualified Nonprofit Agencies Serving People Who Are Blind) and Committee Form 404 (Annual Certification—Qualified Nonprofit Agencies Serving People Who Are Severely Disabled) are already approved by OMB and assigned OMB control numbers 3037–0001 and 3037–0002, respectively. Both of these control numbers expire on March 31, 2006. We have submitted a revision request to OMB to update these two forms to include a new certification statement that would require each nonprofit agency's Officer of the Board and Agency Executive to certify, via signature, that the governance standards in § 51–2.10 have or have not yet been met. If the governance standards have not yet been met, an explanation (with relevant documentation attached) would be required. In addition, each nonprofit agency would have to supply, and certify the accuracy and completeness of, information on the total (cash and noncash) compensation paid to their key employees during the fiscal year for which they are submitting an annual certification.

We expect the additional certification on Committee Form 403 or 404 would require a moderate time for respondents even though the certification and any documents to support the certification

do not exceed the knowledge and information normally possessed by a prudent person in the ordinary course of business dealings. We estimate that it would take an average of 19 hours for a respondent to read the appropriate instructions; refer to and read the new standards (as provided in § 51–2.10, below); certify that the new standards have or have not been met; if necessary, provide a brief explanation concerning why the governance standards have not yet been met and attach appropriate documentation; and gather and record information on the total (cash and noncash) compensation paid to the agency's key employees during the fiscal year for which the agency is submitting an annual certification. Therefore, for the total number of respondents completing both of these forms (642; 77 for Form 403, and 565 for Form 404), the new information collection requirements would result in an additional annual burden of 12,198 hours (1,463 hours for Form 403, and 10,735 hours for Form 404). In addition, in accordance with 41 CFR 51–4.3(b)(4), relevant records would have to be made available for inspection at any reasonable time to representatives of the Committee or the central nonprofit agency representing the nonprofit agency.

In addition, Committee Form 401 (Initial Certification—Qualified Nonprofit Agency Serving People Who Are Blind) and Committee Form 402 (Initial Certification—Qualified Nonprofit Agency Serving People Who Are Severely Disabled) are already approved by OMB and assigned OMB control numbers 3037–0004 and 3037–0003, respectively. Both of these control numbers expire on March 31, 2005. We have submitted a revision request to OMB to update these two forms to include a new certification statement that would require each nonprofit agency's Officer of the Board and Agency Executive to certify, via signature, that the governance standards in § 51–2.10 have or have not yet been met. If the governance standards have not yet been met, an explanation (with relevant documentation attached) would be required. In addition, each nonprofit agency would have to supply, and certify the accuracy and completeness of, information on the total (cash and noncash) compensation paid to their key employees during the dates covered by the report.

We expect the additional certification on Committee Form 401 or 402 would require a moderate time for respondents even though the certification and any documents to support the certification do not exceed the knowledge and

information normally possessed by a prudent person in the ordinary course of business dealings. We estimate that it would take an average of 19 hours for a respondent to read the appropriate instructions; refer to and read the new standards (as provided in § 51–2.10, below); certify that the new standards have or have not been met; if necessary, provide a brief explanation concerning why the governance standards have not yet been met and attach appropriate documentation; and gather and record information on the total (cash and noncash) compensation paid to the agency's key employees during the dates covered by the report. Therefore, for the total number of respondents completing both of these forms (32; 2 for Form 401, and 30 for Form 402), the new information collection requirements would result in an additional annual burden of 608 hours (38 hours for Form 401, and 570 hours for Form 402).

OMB regulations at 5 CFR part 1320 require that interested members of the public and affected agencies have an opportunity to comment on information collection and recordkeeping activities. We invite comments on: (1) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of burden, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the 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; and (4) ways to minimize the burden of the collection of information on those who are to respond. See the **DATES** and **ADDRESSES** sections of this proposed rule for information on submitting your comments on this information collection.

List of Subjects

41 CFR Part 51–2

Organization and functions
(Government agencies).

41 CFR Part 51–3

Government procurement,
Handicapped.

41 CFR Part 51–4

Reporting and recordkeeping
requirements.

For the reasons set forth in the preamble, the Committee proposes to amend parts 51–2, 51–3, and 51–4 of

title 41, chapter 51 of the Code of Federal Regulations as follows:

1. The authority citation for parts 51–2, 51–3, and 51–4 continues to read as follows:

Authority: 41 U.S.C. 46–48c.

PART 51–2—COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

2. Add a new § 51–2.10 to read as follows:

§ 51–2.10 Program participant governance.

Each central nonprofit agency, qualified nonprofit agency participating in the JWOD Program, and nonprofit agency that would like to qualify for participation in the JWOD Program must comply with Committee-approved governance standards.

(a) In evaluating the governance of central nonprofit agencies and nonprofit agencies, the Committee will consider compliance to be certification by the agency, in accordance with paragraph (d) of this section, that the Board of Directors (or, in the case of noncorporate entities such as State and local governments, an equivalent governing authority):

(1) Does not include family members of the central nonprofit agency's or nonprofit agency's management team;

(2) Does not have the Chairperson also serving as the central nonprofit agency's or nonprofit agency's Chief Executive Officer (CEO), President, Executive Director, or equivalent;

(3) Has an audit committee to oversee the central nonprofit agency's or nonprofit agency's financial affairs, and audits are conducted by an independent auditing firm that is overseen by the audit committee;

(4) Reviews and certifies executive compensation packages, and develops and implements an annual evaluation process for the Board or other governing authority, as well as for the central nonprofit agency's or nonprofit agency's CEO, President, Executive Director, or equivalent;

(5) Has adopted a conflict of interest policy, and discloses all members' business relationships with the central nonprofit agency or nonprofit agency as a part of that policy;

(6) Turns over Board, or other governing authority, membership on a recurring schedule;

(7) Reviews and validates all Internal Revenue Service (IRS) Form 990s and all attachments, and certifies that such filings identify all sources of compensation income from the central nonprofit agency or nonprofit agency and related entities;

(8) Has at least one financial expert serving; and

(9) Publishes and makes public the minutes of Board, or other governing authority, meetings.

(b) In assessing the reasonableness of executive and other employee compensation, the Committee will consider:

(1) The size and complexity of the central nonprofit agency's or nonprofit agency's charter or mission;

(2) The mission area, geographic size, and financial condition of the central nonprofit agency or nonprofit agency;

(3) The technical and professional qualifications required for positions in the central nonprofit agency or nonprofit agency;

(4) Compensation packages paid at comparable central nonprofit agencies or nonprofit agencies;

(5) The percentage of the net revenues to the central nonprofit agency or nonprofit agency realized from the JWOD Program paid to employees and to senior management;

(6) The extent to which the central nonprofit agency's or nonprofit agency's executive compensation packages exceed the total compensation offered to the typical, highest paid (excluding any retention allowances and Presidential rank awards), senior executive service, career Federal government employee; and

(7) For only nonprofit agencies, the median compensation package for the nonprofit agency's direct labor hour workers and how that median compares to the compensation packages offered to executives.

(c) Certification. (1) A central nonprofit agency must certify that the governance standards set forth in paragraphs (a) and (b) of this section have or have not yet been met by completing the annual certification form (Committee Form 405) and providing the completed form to the Committee by November 1 of each year.

(2) Qualified nonprofit agencies participating in the JWOD Program must certify that the governance standards set forth in paragraphs (a) and (b) of this section have or have not yet been met on the annual certification form required by § 51–4.3(a) of this chapter.

(3) Nonprofit agencies that would like to qualify for participation in the JWOD Program must certify that the governance standards set forth in paragraphs (a) and (b) of this section have or have not yet been met on the initial certification form required by § 51–4.2(c) of this chapter.

(d) Violations. (1) Violations of the governance standards set forth in paragraphs (a) and (b) of this section by

central nonprofit agencies will be investigated by the Committee's staff. The central nonprofit agency concerned will be afforded an opportunity to submit a statement of facts and evidence. The Committee staff will report its findings to the Committee, together with its recommendation. In reviewing the case, the Committee may request the submission of additional evidence or may conduct its own investigation. If a central nonprofit agency fails to correct its violations of the governance standards set forth in paragraphs (a) and (b) of this section, the Committee, after affording the central nonprofit agency an opportunity to address the Committee on the matter, may terminate the central nonprofit agency's designation as a central nonprofit agency and its eligibility to participate in the JWOD Program.

(2) Violations of the governance standards set forth in paragraphs (a) and (b) of this section by qualified nonprofit agencies participating in the JWOD Program will be handled in accordance with 41 CFR 51-4.5, "Violations by nonprofit agencies," of this chapter.

(e) The information collection requirements set forth in this section for central nonprofit agencies are included on Committee Form 405, which has approved by the Office of Management and Budget (OMB) under OMB control number 3037-xxxx. The information collection requirements set forth in this section for qualified nonprofit agencies participating in the JWOD Program are included on Committee Forms 403 and 404, which have been approved by the Office of Management and Budget (OMB) under OMB control numbers 3037-0001 and 3037-0002, respectively. The information collection requirements set forth in this section for nonprofit agencies that would like to qualify for participation in the JWOD Program are included on Committee Forms 401 and 402, which have been approved by the Office of Management and Budget (OMB) under OMB control numbers 3037-0004 and 3037-0003, respectively. A Federal agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

PART 51-3—CENTRAL NONPROFIT AGENCIES

3. Amend § 51-3.2 by adding new paragraphs (o) and (p) to read as follows:

§ 51-3.2 Responsibilities under the JWOD Program.

* * * * *

(o) Submit to the Committee, by November 1 of each year, a completed copy of the Annual Certification—Central Nonprofit Agency (Committee Form 405) covering the fiscal year ending the preceding September 30.

(p) Comply with Committee-approved governance standards, as provided in § 51-2.10 of this chapter.

PART 51-4—NONPROFIT AGENCIES

4. Amend § 51-4.3 by adding a new paragraph (b)(10) to read as follows:

§ 51-4.3 Maintaining qualification.

* * * * *

(b) * * *

(10) Comply with Committee-approved governance standards, as provided in § 51-2.10 of this chapter.

* * * * *

Dated: November 5, 2004.

Leon A. Wilson, Jr.,

Executive Director, Committee for Purchase From People Who Are Blind or Severely Disabled.

[FR Doc. 04-25233 Filed 11-10-04; 8:45 am]

BILLING CODE 6353-01-P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 64

[CC Docket Nos. 90-71 and 98-67, CG Docket No. 03-123; DA 04-3266; 04-137]

Petitions for Reconsideration of Telecommunications Relay Service Requirements

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document seeks public comment on petitions filed for reconsideration and is extending the filing dates already set for two of the four petitions for reconsideration to coincide with the dates set forth in this document.

DATES: Interested parties may file oppositions to the petitions for reconsideration on or before November 15, 2004. Replies to an opposition may be filed on or before November 30, 2004. Parties that may have already submitted comments in this proceeding need not resubmit those comments unless they choose to update them.

ADDRESSES: Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT:

Dana Jackson, Consumer and Governmental Affairs Bureau, Disability

Rights Office at (202) 418-2247 (voice), (202) 418-7898 (TTY), or e-mail at Dana.Jackson@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's public notice DA 04-3266, released October 15, 2004. When filing oppositions and replies to an opposition, please reference CC Docket Nos. 90-571 and No. 98-67 or CG Docket No. 03-123. Oppositions and replies to an opposition may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies. See Electronic Filing of Documents in Rulemaking Proceedings, 63 FR 24121, May 1, 1998. Oppositions and replies to an opposition filed through the ECFS can be sent as an electronic file via the Internet to <http://www.fcc.gov/e-file/ecfs.html>. Generally, only one copy of an electronic submission must be filed. If multiple docket or rulemaking numbers appear in the caption of this proceeding, however, commenters must transmit one electronic copy of the oppositions and replies to an opposition to each docket or rulemaking number referenced in the caption. In completing the transmittal screen, commenters should include their full name, Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit electronic oppositions and replies to an opposition by Internet e-mail. To get filing instructions, commenters should send an e-mail to ecfs@fcc.gov, and should include the following words in the body of the message, "get form <your e-mail address>." A sample form and directions will be sent in reply. 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, commenters must submit two additional copies for each additional docket or rulemaking number. Filings can be sent by hand or messenger delivery, by electronic media, 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). The Commission's contractor, Natek, Inc., will receive hand-delivered or messenger-delivered paper filings or electronic media 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 and

electronic media sent by 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 mail, Express Mail, and Priority Mail should be addressed to 445 12th Street, SW., Washington, DC 20554. All filings must be addressed to the Commission's Secretary, Marlene H. Dortch, Office of the Secretary, Federal Communications Commission, 445 12th Street, SW., Room TW-B204 Washington, DC 20554. Parties who choose to file by paper should also submit their oppositions and replies to an opposition on diskette. These diskettes should be submitted, along with three paper copies, to: Dana Jackson, Consumer and Governmental Affairs Bureau, Disability Rights Office, 445 12th Street, SW., Room CY-A626, Washington, DC 20554. Such a submission should be on a 3.5 inch diskette formatted in an IBM compatible format using Word 97 or compatible software. The diskette should be accompanied by a cover letter and should be submitted in "read only" mode. The diskette should be clearly labeled with the commenter's name, proceeding (including the lead docket number in this case, CC Docket Nos. 90-571 and 98-67 or CG Docket No. 03-123, type of pleading (opposition or reply opposition), date of submission, and the name of the electronic file on the diskette. The label should also include the following phrase "Disk Copy—Not an Original." Each diskette should contain only one party's pleadings, preferably in a single electronic file. In addition, commenters must send diskette copies to the Commission's copy contractor, Best Copy and Printing (BCPI), Inc., Portals II, 445 12th Street, SW., Room CY-B402, Washington, DC 20554. Pursuant to section 1.1206 of the Commission's rules, 47 CFR 1.1206, this proceeding will be conducted as a permit-but-disclose proceeding in which *ex parte* communications are subject to disclosure. The full text of this document 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. This document and copies of subsequently filed documents in this matters may also be purchased from the Commission's duplicating contract, BCPI, Inc., Portals II, 445 12th Street, SW., Room CY-B402, Washington, DC 20554. Customers may

contact BCPI, Inc. at their Web site <http://www.bcpiweb.com> or call 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 and Governmental Affairs Bureau at (202) 418-0530 (voice), (202) 418-0432 (TTY). This public notice can also be downloaded in Word or Portable Document Format (PDF) at: <http://www.fcc.gov/cgb/dro>.

Synopsis

On September 30, 2004, Communication Service for the Deaf, Inc. ("CSD") filed a petition for reconsideration, *see* Communication Service for the Deaf, Inc. Petition for Reconsideration, CC Docket No. 98-67, filed September 30, 2004, to the June 30, 2004 *Report and Order, Order on Reconsideration, and Further Notice of Proposed Rulemaking*. *See* Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities, *Report and Order, Order on Reconsideration, and Further Notice of Proposed Rulemaking*, CC Docket No. 90-571, CC Docket No. 98-67 and CG Docket No. 03-123, FCC 04-137, 19 FCC Rcd 12475, June 30, 2004; published at 69 FR 53346, September 1, 2004 and 69 FR 53382, September 1, 2004. CSD requests that the Commission authorize compensation from the Interstate TRS Fund for Video Relay Service (VRS) users and individuals who speak Spanish; eliminate the speed of answer waiver for VRS providers by January 1, 2005, and provide adequate compensation to enable VRS providers to meet this standard; and permit VRS providers to immediately recover costs associated with the research and development of solutions for handling emergency calls. On October 1, 2004, Hands On Video Relay Service, Inc. ("Hands On") filed a petition for partial reconsideration to the June 30, 2004 *Report and Order, Order on Reconsideration, and Further Notice of Proposed Rulemaking*. *See* Hands On Video Relay Service, Inc. *Petition for Partial Reconsideration*, CC Docket No. 90-571, CC Docket No. 98-67 and CG Docket No. 03-123, filed October 1, 2004. Hands On requests the Commission to reconsider the dismissal of its application for certification as a TRS provider; the extension of the speed of answer waiver for VRS; the setting of \$8.854 as the final VRS compensation rate for 2003-2004; the refusal to provide full retroactivity to the final 2003-2004 VRS compensation

rate; and the refusal to authorize the reimbursement for ASL to Spanish VRS.

On October 1, 2004, the National Video Relay Service Coalition ("the Coalition") filed a petition for reconsideration to the June 30, 2004 *Report and Order, Order on Reconsideration, and Further Notice of Proposed Rulemaking*. *See* National Video Relay Service Coalition *Petition for Reconsideration*, CC Docket No. 98-67, filed October 1, 2004. The National Video Relay Coalition is an *ad hoc* group that includes the following organizations: Telecommunications for the Deaf, Inc. ("TDI"), Deaf and Hard of Hearing Consumer Advocacy Network ("DHHCAN"), National Association of the Deaf ("NAD"), The Association for Late Deafened Adults ("ALDA"), the American Association of People with Disabilities ("AAPD"), Deaf and Hard of Hearing in Government ("DHHIG"), the California Coalition of Agencies Serving the Deaf and Hard of Hearing ("CCASDHH"), the Student Body Government of Gallaudet University ("SBG"), and the Registry of Interpreters for the Deaf, Inc. ("RID"). The Coalition requests that the Commission reconsider its decision to not authorize TRS reimbursement for ASL to Spanish VRS.

On October 1, 2004, Hamilton Relay, Inc. ("Hamilton") filed a petition for reconsideration to the June 30, 2004 *Report and Order, Order on Reconsideration and Further Notice of Proposed Rulemaking*. *See* Hamilton Relay, Inc. *Petition for Reconsideration*, CC Docket No. 98-67, filed October 1, 2004. Hamilton requests the Commission reconsider the decision to extend "rate of return regulation" to traditional TRS.

On October 5, 2004, the Commission released a public notice stating that oppositions to CSD's and Hands On's petitions for reconsideration must be filed within 15 days of the date public notice is published in the **Federal Register** and that replies to an opposition must be filed within 10 days after the time for filing oppositions has expired. Accordingly, in this public notice, the Commission is extending the opposition and reply dates set for CSD's and Hands On's petitions for reconsideration to coincide with the dates set forth below in this public notice for all four petitions challenging the June 30, 2004 *Report and Order, Order on Reconsideration, and Further Notice of Proposed Rulemaking*.

Federal Communications Commission.

Jay Keithley,

*Deputy Chief, Consumer & Governmental
Affairs Bureau.*

[FR Doc. 04-24745 Filed 11-10-04; 8:45 am]

BILLING CODE 6712-01-P

Notices

Federal Register

Vol. 69, No. 218

Friday, November 12, 2004

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

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

November 5, 2004.

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

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

the collection of information unless it displays a currently valid OMB control number.

Animal Plant and Health Inspection Service

Title: Virus-Serum-Toxin Act and Regulations in 9 CFR, Subchapter E, Parts 101-124.

OMB Control Number: 0579-0013.

Summary of Collection: The Animal and Plant Health Inspection Service (APHIS) is responsible for ensuring that veterinary biological products are pure, safe, potent, and effective. This program is conducted under the Virus-Serum-Toxin Act (21 U.S.C. 151 *et seq.*) and the regulations in 9 CFR Subchapter E, Parts 102 to 124. To fulfill its mission of preventing the importation, preparation, sale, or shipment of harmful veterinary biological products, the Veterinary Biologics Division of APHIS issues licenses to qualified establishments that produce biological products, and issues permits to importers seeking to import such products into the United States. In order to effectively implement the licensing, production, labeling, importation, and other requirements, APHIS employs a number of information gathering tools such as establishment license applications, product license applications, product permit applications, product and test report forms and field study summaries.

Need and Use of the Information: APHIS uses the information collected as a primary basis for the approval or acceptance of issuing licenses or permits to ensure veterinary biological products that are used in the United States are pure, safe, potent, and effective. Also, APHIS uses the information to monitor the serials for purity, safety, potency and efficacy that are produced by licensed manufacturers prior to their release for marketing.

Description of Respondents: Business or other for profit; State, Local or Tribal Government.

Number of Respondents: 500.

Frequency of Responses:

Recordkeeping; Reporting: On occasion.

Total Burden Hours: 51,617.

Animal Plant and Health Inspection Service

Title: Importation of Tomatoes from France, Morocco, Western Sahara, Chile, and Spain.

OMB Control Number: 0579-0131.

Summary of Collection: The Department of Agriculture is responsible for preventing plant diseases or insect pests from entering the United States, as well as the spread of pests not widely distributed and eradicating those imported when eradication is feasible. Regulations in 7 CFR 319.56 thru 319.56-8 prohibit or restrict the importation of fruits and vegetables into the United States from certain parts of the world to prevent the introduction and dissemination of plant pests, including fruit flies. These regulations allow tomatoes from Spain, Chile, France, Morocco, and Western Sahara to be imported into the United States (subject to certain conditions).

Need and Use of the Information: The Animal and Plant Health Inspection Service (APHIS) will collect information using the phytosanitary certificate certifying that the tomatoes were grown in registered greenhouses in a specified area of the exporting country. If the information is not collected, APHIS' ability to protect the United States from exotic insect pests would be severely compromised.

Description of Respondents: Business or other for profit; Individuals or households; Farms.

Number of Respondents: 34.

Frequency of Responses:

Recordkeeping; Reporting: On occasion.

Total Burden Hours: 1,704.

Animal Plant and Health Inspection Service

Title: BSE—Certificate of Origin.

OMB Control Number: 0579-0183.

Summary of Collection: Regulations in 9 CFR parts 93, 94, 95, and 96 govern the importation of certain animals, animal products, and animal byproducts into the United States in order to prevent the introduction of various animal diseases, including bovine spongiform encephalopathy (BSE). BSE is a progressive neurological disorder of cattle that result from infection by an unconventional transmissible agent.

Need and Use of the Information: The Animal and Plant Health Inspection Service (APHIS) will collect the applicant's name, address, the name and address of the individual who is exporting the material or product, the type and amount of material or product being shipped, the intended use of the material or product, and the origin and destination points of the material or product being shipped using form VS-

16-3, Import Permit Application. The information contained in the VS form 16-3 enables APHIS to determine whether the shipment qualifies for import into the United States. Without the information it would be impossible for APHIS to effectively prevent BSE-contaminated animal products from entering the United States.

Description of Respondents: Business or other for profit.

Number of Respondents: 1,000.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 1,494.

Sondra Blakey,

Departmental Information Collection Clearance Officer.

[FR Doc. 04-25141 Filed 11-10-04; 8:45 am]

BILLING CODE 3410-34-P

DEPARTMENT OF AGRICULTURE

Cooperative State Research, Education, and Extension Service

Office of the Under Secretary, Research, Education, and Economics; Notice of Solicitation

AGENCY: Cooperative State Research, Education, and Extension Service, USDA.

ACTION: Notice of solicitation for membership to the Forestry Research Advisory Council.

SUMMARY: In accordance with the Federal Advisory Committee Act, the United States Department of Agriculture (USDA) announces solicitation for nominations to fill nine anticipated vacancies on the Forestry Research Advisory Council. The terms of nine members expire December 31, 2004. Nominations for a three-year appointment for all nine positions are sought.

DATES: Nominations must be received on or before December 16, 2004.

ADDRESSES: The address for hand-delivered nominations or nominations submitted using an express mail or overnight courier service is: Office of the Forestry Research Advisory Council; Cooperative State Research, Education, and Extension Service; U.S. Department of Agriculture; Room 3213 Waterfront Center; 800 9th Street, SW., Washington, DC 20024; fax: (202) 401-1706. Nominations sent via the U.S. Postal Service must be sent to the following address: Cooperative State Research, Education, and Extension Service; U.S. Department of Agriculture; Office of the Forestry Research Advisory Council; Mail Stop 2210; 1400

Independence Avenue, SW., Washington, DC 20250-2210.

FOR FURTHER INFORMATION CONTACT:

Catalino A. Blanche, Designated Federal Officer, Forestry Research Advisory Council; Office of the Forestry Research Advisory Council; Cooperative State Research, Education, and Extension Service; U.S. Department of Agriculture; Mail Stop 2210; 1400 Independence Avenue, SW., Washington, DC 20250-2210; telephone: (202) 401-4190; fax: (202) 401-1706; e-mail:

cblanche@reeusda.gov, or contact Dr. Hao Tran, Staff Assistant, Research and Development, Forest Service, U.S. Department of Agriculture; telephone: (202) 205-1293; fax: (202) 205-1530; e-mail: *htran@fs.fed.us*.

SUPPLEMENTARY INFORMATION: The Forestry Research Advisory Council was established to provide advice to the Secretary of Agriculture on accomplishing efficiently the purposes of the McIntire-Stennis Act of 1962 (16 U.S.C. 582a-4, *et seq.*). The Council also provides advice related to the Forest Service research program, authorized by the Forest and Rangeland Resources Research Act of 1978 (Pub. L. 95-307, 92 Stat. 353, as amended, 16 U.S.C. 1600 (note)). The Council is composed of 20 voting members from the following membership categories:

- Federal and State agencies concerned with developing and utilizing the Nation's forest resources. In particular committee membership, will include representation from the National Forest System and Forest and Range Experiment Stations leaders, Forest Service;
- The forest industries;
- The forestry schools of the State certified eligible institutions, and State agricultural experiment stations; and
- Volunteer public groups concerned with forests and related natural resources.

Nominees will be carefully reviewed for their broad expertise, leadership, and relevancy to a membership category. Nominations for one individual who fits several of the categories, or for more than one person who fits one category will be accepted. Please indicate the specific membership category for each nominee.

Each nominee must complete Form AD-755, Advisory Committee Membership Background Information (which can be obtained from the contact persons above) and will be vetted before selection. Send the nominee's name, resume, and the completed Form AD-755 as noted above. Applicants are strongly encouraged to submit nominations via overnight mail or

delivery service to ensure timely receipt by the USDA.

Done at Washington, DC, this 28th day of October, 2004.

Joseph J. Jen,

Under Secretary, Research, Education, and Economics.

[FR Doc. 04-25142 Filed 11-10-04; 8:45 am]

BILLING CODE 3410-22-P

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

Agency Information Collection Activities: Proposed Collection: Comment Request: FNS-583, Food Stamp Program Employment and Training Program Activity Report

AGENCY: Food and Nutrition Service, USDA.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act, this notice invites the general public and other public agencies to comment on a proposed revision to the information collection burden for the Food Stamp Program Employment and Training Program, currently approved under OMB No. 0584-0339. This notice proposes to add 10.23 hours to the currently approved burden to account for the time it takes State agencies to request more funds after initial allocations are made.

DATES: Written comments must be submitted on or before January 11, 2005.

ADDRESSES: The Food and Nutrition Service invites interested persons to submit comments on this proposed information collection. Send comments to Dale Walton, Program Analyst, Program Design Branch, Program Development Division, FSP, FNS, 3101 Park Center Drive, Room 810, Alexandria, Virginia 22302-1594, (703) 305-2432.

Comments are invited on: (a) Whether the proposed revision is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden of the proposed collection of information, including 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 form of information technology.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

FOR FURTHER INFORMATION CONTACT: Dale Walton at (703) 305-2432, or send e-mail to dale.walton@fns.usda.gov via the Internet.

SUPPLEMENTARY INFORMATION:

Title of Information Collection: FNS-583, Employment and Training Program Activity Report.

OMB Number: 0584-0339.

Expiration Date: June 30, 2005.

Type of Request: Revision of a currently approved collection.

Abstract: 7 CFR 273.7(c)(8) requires State agencies to submit quarterly Employment and Training (E&T) Program Activity Reports containing monthly figures for participation in the program. The Food and Nutrition Service (FNS) uses Form FNS-583 to collect participation data. The information collected on the FNS-583 report includes:

- On the first quarter report, the number of work registrants receiving food stamps as of October 1 of the new fiscal year;
- On each quarterly report, by month, the number of new work registrants; the number of able-bodied adults without dependents (ABAWDs) applicants and recipients participating in qualifying components; the number all other applicants and recipients (including ABAWDs involved in non-qualifying activities participating in components; and the number of ABAWDs exempt under the State agency's 15% exemption allowance.

- On the fourth quarter report, the total number of individuals who participated in each component, which is also sorted by ABAWD and non-ABAWD participants, and the number of individuals who participated in the E&T Program during the fiscal year.

7 CFR 273.7(d)(1)(i)(F) provides that if a State agency will not expend all of the funds allocated to it for a fiscal year, FNS will reallocate unexpended funds to other State agencies during the fiscal year or the subsequent fiscal year as FNS considers appropriate and equitable. After initial E&T allocations are made, State agencies may request more funds, as needed. Typically, FNS receives nine such requests per year. The burden is being revised by adding 10.23 hours to it to account for the time it takes States to prepare these requests. After receiving the State requests FNS will reallocate unexpended funds as provided above. Following is the

revised estimated burden for E&T reporting including the burden for State agencies to request additional funds.

Current FNS-583 Report

Reporting

Frequency: The FNS-583 report must be completed and submitted to FNS on a quarterly basis by the 45th day following the end of the quarter.

Affected Public: State governments.

Number of Respondents: 53.

Number of Responses: 212.

Estimated Time per Response: 106.3 hours per State agency.

Estimated Total Annual Reporting Burden: 22,538 hours.

Recordkeeping

Number of Respondents: 53.

Number of Records: 212.

Number of Hours per Record: 0.137 hours.

Estimated Total Annual Recordkeeping Burden: 29 hours.

Requests for Additional Funds

Reporting

Frequency: Requests for additional funds are made on an as needed basis.

Affected Public: State governments.

Number of Respondents: 53.

Number of Responses: 9.

Estimated Time per Response: 1 hour per request.

Estimated Total Annual Reporting Burden: 9 hours.

Recordkeeping

Number of Respondents: 53.

Number of Records: 9.

Number of Hours per Record: 0.137 hours.

Estimated Total Annual Recordkeeping Burden: 1.23 hours.

Total Annual Reporting and Recordkeeping Burden: 22,577.23 hours.

Dated: October 27, 2004.

Roberto Salazar,

Administrator, Food and Nutrition Service.

[FR Doc. 04-25175 Filed 11-10-04; 8:45 am]

BILLING CODE 3410-30-P

393) and the Federal Advisory Committee Act of 1972 (FACA), the U.S. Department of Agriculture, Forest Service, Davy Crockett National Forest Resource Advisory Committee (RAC) meeting will meet on November 30, 2004.

DATES: The Davy Crockett National Forest RAC meeting will be held on November 30, 2004.

ADDRESSES: The Davy Crockett National Forest RAC meeting will be held at the Davy Crockett Ranger Station located on State Highway 7, approximately one-quarter mile west of FM 227 in Houston County, Texas. The meeting will begin at 6 p.m. and adjourn at approximately 9 p.m. A public comment period will be at 8:45 p.m.

FOR FURTHER INFORMATION CONTACT:

Raoul Gagne, District Ranger, Davy Crockett National Forest, Rt. 1, Box 55 FS, Kennard, Texas 75847: Telephone: 936-655-2299 or e-mail at: rgagne@fs.fed.us.

SUPPLEMENTARY INFORMATION: The Davy Crockett National Forest RAC proposes projects and funding to the Secretary of Agriculture under section 203 of the Secure Rural Schools and Community Self Determination Act of 2000. The purpose of the November 30, 2004 meeting is to review and approve project proposals to submit to the Forest Supervisor for National Forests and Grasslands in Texas. These meetings are open to the public. The public may present written comments to the RAC. Each formal RAC meeting will also have time, as identified above, allocated for hearing public comments. Depending on the number of persons wishing to comment and time available, the time for individual oral comments may be limited.

Dated: November 5, 2004.

Raoul W. Gagne,

Designated Federal Officer, Davy Crockett National Forest RAC.

[FR Doc. 04-25179 Filed 11-10-04; 8:45 am]

BILLING CODE 3410-11-M

DEPARTMENT OF AGRICULTURE

Forest Service

Ravalli County Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Ravalli County Resource Advisory Committee will be meeting to discuss 2004 projects and the Fred Burr 80 project and hold a short public forum (question and answer session). The

DEPARTMENT OF AGRICULTURE

Forest Service

Notice of Public Meeting, Davy Crockett National Forest Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Secure Rural Schools and Community Self Determination Act of 2000 (Pub. L. 106-

meeting is being held pursuant to the authorities in the Federal Advisory Committee Act (Public Law 92-463) and under the Secure Rural Schools and Community Self-Determination Act of 2000 (Public Law 106-393). The meeting is open to the public.

DATES: The meeting will be held on November 23, 2004, 6:30 p.m.

ADDRESSES: The meeting will be held at the Ravalli County Administration Building, 215 S. 4th Street, Hamilton, Montana. Send written comments to Dan Ritter, Acting District Ranger, Stevensville Ranger District, 88 Main Street, Stevensville, MT 59870, by facsimile (406) 777-7423, or electronically to dritter@fs.fed.us.

FOR FURTHER INFORMATION CONTACT: Dan Ritter, Acting Stevensville District Ranger and Designated Federal Officer, Phone: (406) 777-5461.

Dated: November 5, 2004.

David T. Bull,
Forest Supervisor.

[FR Doc. 04-25180 Filed 11-10-04; 8:45 am]

BILLING CODE 3410-11-M

DEPARTMENT OF AGRICULTURE

Natural Resources Conservation Service

Notice of Intent: To Request Comments on a Currently Approved Information Collection

AGENCY: Natural Resources Conservation Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: This notice announces the intention of the Natural Resources Conservation Service (NRCS) to request comments on a newly approved information collection, 0578-0030, Emergency Watershed Protection Program.

Public Participation: The NRCS invites full public participation to promote open communication and better decision making. All persons and organizations that have an interest in the Emergency Watershed Program are urged to provide comments.

Scoping Process: Public participation is requested throughout the scoping process. The NRCS is soliciting comment from the public indicating what issues and impacts the public believes should be encompassed within the scope of the EWP. Comments are invited on:

(a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility;

(b) The accuracy of the Agency's estimate of 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, such as through the use of appropriate automated, electronic, mechanical, or other technologic collection techniques or other forms of information technology.

Date Scoping Comments are Due: Comments on this notice must be received by January 11, 2005 to ensure consideration. Comments may be sent to Phyllis I. Williams, Agency OMB Clearance Officer, U.S. Department of Agriculture, Natural Resources Conservation Service, 5601 Sunnyside Avenue, Mailstop 5460, Beltsville, MD 20705-5000; (301) 504-2170; phyllis.i.williams@usda.gov.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (Public Law 104-13), and the Office of Management and Budget (OMB) regulations at 5 CFR part 1320 (60 FR 44978, August 29, 1995).

Government Paperwork Elimination Act

NRCS is committed to compliance with the Government Paperwork Elimination Act (GPEA) and the Freedom to E-File Act, which require government agencies in general, and NRCS in particular, to provide the option of submitting information or

transacting business electronically to the maximum extent possible.

FOR FURTHER INFORMATION CONTACT: Phyllis I. Williams.

SUPPLEMENTARY INFORMATION:

Title: Emergency Watershed Protection Program.

OMB Number: 0578-0030.

Expiration Date of Approval: March 31, 2005.

Type of Request: To request comments on a currently approved collection for which approval will expire.

Abstract: The primary objective of the Natural Resources Conservation Service (NRCS) is to work in partnership with the American people and the farming and ranching community to conserve and sustain our natural resources. The purpose of Emergency Watershed Protection Program (EWP) information collection is to provide EWP assistance to sponsors to undertake emergency measures to retard runoff and prevent soil erosion to safeguard lives and property from floods, drought, and the products of erosion on any watershed whenever fire, flood, or other natural disaster is causing or has caused a sudden impairment of that watershed.

The sponsor's request is submitted formally as a letter (now the Appendix to the NRCS-PDM-20A) to the NRCS State Conservationist for consideration. The NRCS-PDM-20, Damage Survey Report (DSR), is the Agency decision-making document that includes the economic, social, and environmental evaluation and the engineer's cost estimate.

This information collection allows the responsible Federal official to make EWP eligibility determinations and provide Federal cost-share payments to the sponsor. This request is necessary to implement the EWP Program for which NRCS has statutory authority.

The table below lists the forms in this collection, the uses for each document, and the applicable programs. These forms constitute this information collection and reflect the documents used by EWP sponsors to request participation in the recovery program.

Form number	Form title	OMB number	Program
NRCS-PDM-20	Damage Survey Report	0578-0030	EWP Recovery.
NRCS-PDM-20A	Appendix to the DSR, Request for Participation in the Program	0578-0030	EWP Recovery.

NRCS will ask OMB for 3-year approval within 60 days of submitting the request.

Estimate of Burden: Public reporting burden for this collection of information

is estimated to average 3.5 hours, or 117 minutes, per response.

Respondents: State government, State agency or a legal subdivision thereof, local unit of government, or any Native American Tribe or Tribal organization as defined in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b), with a legal interest in or responsibility for the values threatened by a watershed emergency. All of the foregoing entities must be capable of obtaining necessary land rights and capable of carrying out any operation and maintenance responsibilities that may be required.

Estimated Number of Respondents: 360.

Estimated Total Annual Burden on Respondents: 4,770 hours.

All responses to this notice will be summarized and included in the request for OMB approval.

All comments will also become a matter of public record.

Signed at Washington, DC, on November 4, 2004.

Bruce I. Knight,

Chief, Natural Resources Conservation Service.

[FR Doc. 04-25234 Filed 11-10-04; 8:45 am]

BILLING CODE 3410-16-P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Additions and Deletions

AGENCY: Committee for Purchase from People Who Are Blind or Severely Disabled.

ACTION: Additions to and deletions from Procurement List.

SUMMARY: This action adds to the Procurement List services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities, and deletes from the Procurement List products previously furnished by such agencies.

DATES: Effective December 12, 2004.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, Virginia, 22202-3259.

FOR FURTHER INFORMATION CONTACT: Sheryl D. Kennerly, (703) 603-7740.

SUPPLEMENTARY INFORMATION:

Additions

On September 17, 2004, the Committee for Purchase From People Who Are Blind or Severely Disabled published notice (69 FR 56037) of

proposed additions to the Procurement List. After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the services and impact of the additions on the current or most recent contractors, the Committee has determined that the services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46-48c and 41 CFR 51-2.4.

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the services to the Government.

2. The action will result in authorizing small entities to furnish the services to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46-48c) in connection with the services proposed for addition to the Procurement List.

End of Certification

Accordingly, the following services are added to the Procurement List:

Services

Service Type/Location: Custodial Services, Center for Information Services (CIS) Data Center, 1173 Branchton Road, Boyers, Pennsylvania.

NPA: The Easter Seal Society of Western Pennsylvania, Pittsburgh, Pennsylvania
Contract Activity: Office of Personnel Management, Washington, DC.

Service Type/Location: Laundry Service, Alien Detention & Removal (ADR), Immigration & Customs Enforcement (IEC), Customs & Border Protection (CBP), San Diego, California.

NPA: Job Options, Inc., San Diego, California.
Contract Activity: Department of Homeland Security, Laguna Niguel, California.

Deletions

On September 17, 2004, the Committee for Purchase From People Who Are Blind or Severely Disabled published notice (69 FR 56037/38) of proposed deletions to the Procurement List. After consideration of the relevant matter presented, the Committee has determined that the products listed below are no longer suitable for procurement by the Federal Government under 41 U.S.C. 46-48c and 41 CFR 51-2.4.

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action may result in additional reporting, recordkeeping or other compliance requirements for small entities.

2. The action may result in authorizing small entities to furnish the products to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46-48c) in connection with the products deleted from the Procurement List.

End of Certification

Accordingly, the following products are deleted from the Procurement List:

Products

Product/NSN: Cleaner, Multi-Purpose, 7930-01-398-0938.

NPA: Lighthouse for the Blind, St. Louis, Missouri.

Contract Activity: GSA, Southwest Supply Center, Fort Worth, Texas.

Product/NSN: Cleaning Compound, Rug and Upholstery, 7930-00-724-9556.

NPA: None currently authorized.

Contract Activity: GSA, Southwest Supply Center, Fort Worth, Texas.

Product/NSN: Detergent, General Purpose, 7930-00-282-9700.

NPA: Lighthouse for the Blind, St. Louis, Missouri.

Contract Activity: GSA, Southwest Supply Center, Fort Worth, Texas.

Product/NSN: Enamel, 8010-01-333-0916.

NPA: Lighthouse for the Blind, St. Louis, Missouri.

Contract Activity: GSA, Hardware & Appliances Center, Kansas City, Missouri.

Product/NSN: Net, Laundry, 3510-00-841-8376, 3510-00-841-8384.

NPA: Industries of the Blind, Inc., Greensboro, North Carolina.

Contract Activity: GSA, Southwest Supply Center, Fort Worth, Texas.

Product/NSN: Soap, Toilet, 8520-00-141-2519.

NPA: Lighthouse for the Blind, St. Louis, Missouri.

Contract Activity: GSA, Southwest Supply Center, Fort Worth, Texas.

Sheryl D. Kennerly,

Director, Information Management.

[FR Doc. 04-25230 Filed 11-10-04; 8:45 am]

BILLING CODE 6353-01-P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED**Procurement List; Proposed Deletions**

AGENCY: Committee for Purchase from People Who Are Blind or Severely Disabled.

ACTION: Proposed deletions from Procurement List.

SUMMARY: The Committee is proposing to delete from Procurement List services furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

COMMENTS MUST BE RECEIVED ON OR BEFORE: December 12, 2004.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, Virginia, 22202-3259.

FOR FURTHER INFORMATION CONTACT: Sheryl D. Kennerly, (703) 603-7740.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2) and 41 CFR 51-2.3. Its purpose is to provide interested persons an opportunity to submit comments on the proposed actions.

Deletions*Regulatory Flexibility Act Certification*

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. If approved, the action may result in additional reporting, recordkeeping or other compliance requirements for small entities.
2. If approved, the action may result in authorizing small entities to furnish the services to the Government.
3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46-48c) in connection with the services proposed for deletion from the Procurement List.

End of Certification

The following services are proposed for deletion from the Procurement List:

Services:

Service Type/Location: Medical Transcription, 97th Medical Group, Altus AFB, Oklahoma.

NPA: New Vision Enterprises, Inc., Louisville, Kentucky.

Contract Activity: Department of the Air Force, Altus AFB, Oklahoma.

Service Type/Location: Medical Transcription, Dwight D. Eisenhower Department of Veterans Affairs Medical Center, Leavenworth, Kansas.

NPA: New Vision Enterprises, Inc., Louisville, Kentucky.

Contract Activity: Department of Veterans Affairs, Washington, DC.

Sheryl D. Kennerly,

Director, Information Management.

[FR Doc. 04-25231 Filed 11-10-04; 8:45 am]

BILLING CODE 6353-01-P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED**Procurement List; Redesignation of Services**

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Redesignation of Procurement List services.

SUMMARY: This notice redesignates services on the Procurement List which will be procured on a Facility-wide basis rather than for individual buildings as the new building opens. These services are being performed for the General Services Administration, Public Buildings Service, Washington, DC.

EFFECTIVE DATE: November 12, 2004.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, Virginia 2202-3259.

FOR FURTHER INFORMATION CONTACT: Sheryl D. Kennerly, (703) 603-7740.

SUPPLEMENTARY INFORMATION: The following services are on the Procurement List to be performed by the designated nonprofit agency for the General Services Administration, Public Buildings Service as identified below:

Service Type/Location: Custodial, Food and Drug Administration, CDER Lab/Office Building, White Oak, Maryland.

NPA: Alliance, Inc., Baltimore, Maryland.

Contract Activity: General Services Administration, Public Building Service, Washington, DC.

The above services will be procured by the GSA/Public Buildings Service on a Facility-wide basis and are thus being redesignated collectively on the Procurement List as set forth below, and the nonprofit agency identified below has been designated as the qualified nonprofit agency authorized to provide the services.

Service Type/Location: Custodial, Facility-wide, Food and Drug Administration, White Oak, Maryland.

NPA: Alliance, Inc., Baltimore Maryland.

Contract Activity: General Services Administration, Public Building Service, Washington, DC.

Sheryl D. Kennerly,

Director, Information Management.

[FR Doc. 04-25232 Filed 11-10-04; 8:45 am]

BILLING CODE 6353-01-P

DEPARTMENT OF COMMERCE**Economic Development Administration****Notice of Petitions by Producing Firms for Determination of Eligibility To Apply for Trade Adjustment Assistance**

AGENCY: Economic Development Administration (EDA), Commerce.

ACTION: To give all interested parties an opportunity to comment.

Petitions have been accepted for filing on the dates indicated from the firms listed below.

LIST OF PETITION ACTION BY TRADE ADJUSTMENT ASSISTANCE FOR PERIOD SEPTEMBER 1, 2004-OCTOBER 15, 2004

Firm name	Address	Date petition accepted	Product
Tech II, LLC	511 East Highway 33 Perkins, OK 74059.	01-Sep-04	Plastic molds.
Lawrence Paper Company (The)	2801 Lakeview Road Lawrence, KS 66044.	14-Sep-04	Corrugated boxes and displays, thermoform plastic packaging, and spiral wound tubes.
Shamrock Piep Tools, Inc	10928 South Choctaw Baton Rouge, LA 70815.	20-Sep-04	Sewer cleaning tools including nozzles, pumps, hoses, rods and jets.
Tulsa Tube Bending Co., Inc	4192 South Galveston Tulsa, OK 74107	20-Sep-04	Fabricated pipe and fittings.
Quik Water, Inc.	8939 West 21st Street Sand Springs, OK 74063.	24-Sep-04	Contact water heaters.

LIST OF PETITION ACTION BY TRADE ADJUSTMENT ASSISTANCE FOR PERIOD SEPTEMBER 1, 2004–OCTOBER 15, 2004—
Continued

Firm name	Address	Date petition accepted	Product
CAD Oilfield Specialties, Inc., d.b.a. CAD Control Systems.	1017 Freeman Road Broussard, LA 70518.	27-Sep-04	Blow out prevention control systems.
L. E. Smith Glass Company	1900 Liberty Street Mt. Pleasant, PA 15666.	27-Sep-04	Hand molded and decorative glass giftware and lighting components.
Waterford Furniture Makers	800 Kemper Street Lynchburg, VA 24501.	27-Sep-04	Bedroom furniture.
Envirotrol, Inc.	432 Green Street Sewickley, PA 15143	28-Sep-04	Activated carbon pollution control equipment.
Sheppard Enterprises, Inc. d.b.a. Sheppard Envelope Co.	133 Southbridge Street Auburn, MA 01501.	28-Sep-04	Envelopes.
Green Mountain Wood Products and Nantucket Post Cap, Inc.	44 Hull Street Randolph, VT 05060	15-Oct-04	Wind chime parts.
Omega Plastics, Inc.	24401 Capital Boulevard Clinton Township, MI 48036.	30-Sep-04	Plastic parts for automotive use, e.g. caps and closures, and injection type molds.
Toland Enterprises, Inc.	1750 South Lane Mandeville, LA 70471	30-Sep-04	Decorative flags.
Circle Y Saddles, Inc.	201 Morris Street Yoakum, TX 77995 ...	05-Oct-04	Saddles.
JMC Manufacturing Co.	13519 Northwest Industrial Bridgeton, MO 63044.	05-Oct-04	Laminated and fabricated wood products.
Glassautomatic, Inc.	RR 4, Box 1340 Mt. Pleasant, PA 15666.	08-Oct-04	Cut glass.
J. K. Tool & Die, Inc.	321 N. Washington Road Apollo, PA 15613.	08-Oct-04	Stamping dies for the electronics industry.
Packerware Corporation	2330 Packer Road Lawrence, KS 66049.	08-Oct-04	Plastic drink cups.
Silicon Forest Electronics, Inc	6204 East 18th Street Vancouver, WA 98661.	08-Oct-04	Printed circuit assemblies.

The petitions were submitted pursuant to Section 251 of the Trade Act of 1974 (19 U.S.C. 2341). Consequently, the United States Department of Commerce has initiated separate investigations to determine whether increased imports into the United States of articles like or directly competitive with those produced by each firm contributed importantly to total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of each petitioning firm. Any party having a substantial interest in the proceedings may request a public hearing on the matter. A request for a hearing must be received by Trade Adjustment Assistance, Room 7315, Economic Development Administration, U.S. Department of Commerce, Washington, DC 20230, no later than the close of business of the tenth calendar day following the publication of this notice.

The Catalog of Federal Domestic Assistance official program number and title of the program under which these petitions are submitted is 11.313, Trade Adjustment Assistance.

Dated: November 5, 2004.

Anthony J. Meyer,

Senior Program Analyst, Office of Strategic Initiatives.

[FR Doc. 04-25181 Filed 11-10-04; 8:45 am]

BILLING CODE 3510-24-P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-891]

Amended Final Determination of Sales at Less Than Fair Value: Hand Trucks and Certain Parts Thereof From the People's Republic of China

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

ACTION: Notice of amended final determination of sales at less than fair value.

SUMMARY: On October 7, 2004, the Department of Commerce announced the final determination of the sales at less than fair value investigation for hand trucks and certain parts thereof from the People's Republic of China for the period April, 1, 2003, through September 30, 2003. These final results were published in the **Federal Register** on October 14, 2004.

On October 15, 2004, Qingdao Huatian Hand Truck Co., Ltd., Qingdao Taifa Group Co., Ltd., True Potential Co., Qingdao Future Tool Inc., Gleason Industrial Products, Inc., and Precision Products Inc. submitted ministerial error allegations. On October 20, 2004, the same companies submitted rebuttal comments. Based on these allegations,

we made changes to the margin calculation of Qingdao Huatian Hand Truck Co., Ltd., Qingdao Taifa Group Co., Ltd., True Potential Co., Qingdao Future Tool Inc., and Shandong Machinery Import & Export Group. The final weighted-average dumping margins for these companies are listed below in the section entitled "Amended Final Determination."

EFFECTIVE DATE: November 12, 2004.

FOR FURTHER INFORMATION CONTACT: Dan Alexy, Audrey Twyman or Stephen Cho, AD/CVD Operations, Office 1, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW, Washington, DC 20230; telephone (202) 482-1540, (202) 482-3534 and (202) 482-3798, respectively.

Background

On October 14, 2004, the Department of Commerce (the "Department") published the final determination of this investigation. See *Notice of Final Determination of Sales at Less Than Fair Value: Hand Trucks and Certain Parts Thereof from the People's Republic of China*, 69 FR 60980 ("Final Determination"). The period of investigation is April, 1, 2003, through September 30, 2003.

On October 15, 2004, we received ministerial error allegations, filed

pursuant to 19 CFR 351.224(c) of the Department's regulations, from Qingdao Huatian Hand Truck Co., Ltd. ("Huatian"), Qingdao Taifa Group Co., Ltd. ("Taifa"), True Potential Co. ("True Potential"), and Qingdao Future Tool Inc. ("Future Tool") (collectively, the "respondents"), and Gleason Industrial Products, Inc., and Precision Products Inc. (collectively, the "petitioners") regarding the Department's final margin calculation. On October 20, 2004, the petitioners and the respondents submitted rebuttal comments. All parties requested that we correct the errors and publish a notice of amended final results in the **Federal Register**, pursuant to 19 CFR 351.224(e).

Scope of the Investigation

For the purpose of this investigation, the product covered consists of hand trucks manufactured from any material, whether assembled or unassembled, complete or incomplete, suitable for any use, and certain parts thereof, namely the vertical frame, the handling area and the projecting edges or toe plate, and any combination thereof.

A complete or fully assembled hand truck is a hand-propelled barrow consisting of a vertically disposed frame having a handle or more than one handle at or near the upper section of the vertical frame; at least two wheels at or near the lower section of the vertical frame; and a horizontal projecting edge or edges, or toe plate, perpendicular or angled to the vertical frame, at or near the lower section of the vertical frame. The projecting edge or edges, or toe plate, slides under a load for purposes of lifting and/or moving the load.

That the vertical frame can be converted from a vertical setting to a horizontal setting, then operated in that horizontal setting as a platform, is not a basis for exclusion of the hand truck from the scope of this petition. That the vertical frame, handling area, wheels, projecting edges or other parts of the hand truck can be collapsed or folded is not a basis for exclusion of the hand truck from the scope of the petition. That other wheels may be connected to the vertical frame, handling area, projecting edges, or other parts of the hand truck, in addition to the two or more wheels located at or near the lower section of the vertical frame, is not a basis for exclusion of the hand truck from the scope of the petition. Finally, that the hand truck may exhibit physical characteristics in addition to the vertical frame, the handling area, the projecting edges or toe plate, and the two wheels at or near the lower section of the vertical frame, is not a basis for

exclusion of the hand truck from the scope of the petition.

Examples of names commonly used to reference hand trucks are hand truck, convertible hand truck, appliance hand truck, cylinder hand truck, bag truck, dolly, or hand trolley. They are typically imported under heading 8716.80.50.10 of the *Harmonized Tariff Schedule of the United States* ("HTSUS"), although they may also be imported under heading 8716.80.50.90. Specific parts of a hand truck, namely the vertical frame, the handling area and the projecting edges or toe plate, or any combination thereof, are typically imported under heading 8716.90.50.60 of the HTSUS. Although the HTSUS subheadings are provided for convenience and customs purposes, the Department's written description of the scope is dispositive.

Excluded from the scope are small two-wheel or four-wheel utility carts specifically designed for carrying loads like personal bags or luggage in which the frame is made from telescoping tubular material measuring less than $\frac{5}{8}$ inch in diameter; hand trucks that use motorized operations either to move the hand truck from one location to the next or to assist in the lifting of items placed on the hand truck; vertical carriers designed specifically to transport golf bags; and wheels and tires used in the manufacture of hand trucks.

Amended Final Determination

After analyzing the submissions, we have determined in accordance with section 735(e) of the Tariff Act of 1930, as amended, ("the Act") and 19 CFR 351.224 that we made ministerial errors in the margin calculations for Huatian and Taifa. The ministerial errors include an error alleged by Huatian pertaining to the Department's deduction of international freight from certain U.S. sales of Huatian, an error alleged by the respondents in the calculation of the selling, general, and administrative expenses ("SG&A") ratio, and two errors alleged by the petitioners, one, on the correct weight code for certain hand truck models in Taifa's margin calculation, and the other, on the proper unit of measure for bearings in Huatian's margin calculation.

Specifically:

- We inadvertently neglected to add the actual freight incurred for certain U.S. sales of Huatian.
- We inadvertently included movement expenses in the calculation of the SG&A ratio which resulted in the double-counting of these expenses.
- We inadvertently neglected to correct the error in weight code for certain hand truck models when

applying facts available in Taifa's margin calculation.

- We inadvertently neglected to include the proper unit of measure for bearings when applying facts available in Huatian's margin calculation.

For a detailed discussion of the ministerial error allegations and the Department's analysis, see Memorandum from Team to Jeffrey A. May, Deputy Assistant Secretary for Import Administration, entitled "Ministerial Error Allegations," dated November 5, 2004.

We are amending the final determination of the antidumping duty investigation of hand trucks from the People's Republic of China ("PRC") to reflect the correction of the above-cited ministerial errors. As a result of corrections of the ministerial errors in the *Final Determination*, the revised final weighted-average dumping margins are as follows:

Exporter/manufacturer	Original weighted-average margin percentage	Revised weighted-average margin percentage
Qingdao Huatian Hand Truck Co., Ltd.	45.04	46.48
Qingdao Taifa Group Co., Ltd.	27.00	26.49
True Potential Co.	24.90	33.68
Qingdao Future Tool Inc.	30.56	32.76
Shandong Machinery Import & Export Group	30.56	32.76
PRC-wide Rate	386.75	383.60

Continuation of Suspension of Liquidation

Pursuant to section 735(c)(1)(B) of the Act, we will instruct U.S. Customs and Border Protection ("CBP") to continue to suspend liquidation of all imports of subject merchandise from the PRC entered, or withdrawn from warehouse, for consumption on or after May 24, 2004, the date of publication of our *Preliminary Determination*. CBP shall continue to require a cash deposit or the posting of a bond equal to the estimated amount by which the normal value exceeds the U.S. price as revised and shown above. These instructions suspending liquidation will remain in effect until further notice.

This determination is issued and published in accordance with sections 735(d) and 777(i) of the Act.

James J. Jochum,

Assistant Secretary for Import Administration.

[FR Doc. E4-3155 Filed 11-10-04; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration**

[I.D. 110104B]

Magnuson-Stevens Act Provisions; Atlantic Highly Migratory Species; Exempted Fishing, Scientific Research, Display, and Chartering Permits

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

ACTION: Issuance of 2005 Exempted Fishing, Scientific Research, Display, and Chartering Permits; request for comments.

SUMMARY: NMFS announces the intent to issue Exempted Fishing Permits (EFPs), Scientific Research Permits (SRPs), Display, and Chartering Permits for the collection of Atlantic highly migratory species (HMS). The Permits would authorize collections of a limited number of tunas, swordfish, billfishes, and sharks from Federal waters in the Atlantic Ocean and Gulf of Mexico for the purposes of scientific data collection and public display. Generally, these permits will be valid through December 31, 2005. NMFS also announces the intent to consider issuing permits upon receiving applications from U.S. fishermen whose vessels fish for Atlantic HMS while operating under chartering arrangements within the Exclusive Economic Zone (EEZ) of other nations to collect data consistent with the International Commission for the Conservation of Atlantic Tunas (ICCAT) recommendations and to ensure consistency with another country's regulations without violating U.S. regulations.

DATES: Written comments on these collection, research and fishing activities will be considered by NMFS in issuing such EFPs/SRPs/Display/Chartering Permits if received on or before December 13, 2004.

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

- Email: ID110104B@noaa.gov. Include in the subject line the following identifier: I.D.110104B.
- Mail: Christopher Rogers, Chief, Highly Migratory Species Management Division (F/SF1), NMFS, 1315 East-West Highway, Silver Spring, MD 20910.
- Fax: (301)713-1917.

FOR FURTHER INFORMATION CONTACT: Heather Stirratt or Sari Kiraly, by phone: 301-713-2347 or fax: 301-713-1917.

SUPPLEMENTARY INFORMATION: EFPs, SRPs, Display, and Chartering Permits

are requested and issued under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*) and/or the Atlantic Tunas Convention Act (16 U.S.C. 971 *et seq.*). Regulations at 50 CFR 600.745 and 50 CFR 635.32 govern scientific research activity, exempted fishing, chartering arrangements, and exempted educational activity with respect to Atlantic HMS.

Issuance of EFPs, SRPs, Display, and Chartering Permits may be necessary for the collection of scientific data and for public display because the possession of certain shark species is prohibited, possession of billfishes on board commercial fishing vessels is prohibited, and because the commercial fisheries for bluefin tuna, swordfish, and large coastal sharks may be closed for extended periods, during which time the collection of live animals and/or biological samples would otherwise be prohibited. In addition, NMFS regulations at 50 CFR 635.32 regarding the implantation or attachment of archival tags in Atlantic HMS require prior authorization and a report on implantation activities.

NMFS seeks public comment on its intention to issue EFPs for the purpose of collecting biological samples under at-sea fisheries observer programs. NMFS intends to issue EFPs to any NMFS employee or NMFS-approved contractor/observer to bring onboard and possess (for scientific research purposes, biological sampling, measurement, etc.) any Atlantic swordfish, Atlantic shark, or Atlantic billfish, provided the fish is a recaptured tagged fish, dead prior to being brought onboard, or specifically authorized for sampling by the Director of NMFS' Office of Sustainable Fisheries at the request of the Southeast Fisheries Science Center or the Northeast Fisheries Science Center. On average, several hundred swordfish and sharks are collected by at-sea observers under such EFPs in any given year.

Collection of bluefin tuna may be authorized for scientific research, age and growth, genetic, and spawning studies. In 2003, a total of eleven permits, which authorized collection of 485 bluefin tuna for the purposes of archival tagging and research were issued.

NMFS is also seeking public comment on its intention to issue Display Permits for the collection of restricted species of sharks for the purpose of public display. In the Final Fishery Management Plan for Atlantic Tunas, Swordfish and Sharks (HMS FMP), NMFS established a public display and research quota of 60 metric tons wet weight for this purpose.

NMFS has preliminarily determined that, based on average weight of sharks landed, approximately 3,000 sharks could be taken with this current quota. The actual number of sharks that would be taken depends on the species and size of the sharks. NMFS believes that harvesting this amount for public display will have a minimal impact on the stock. In 2004, nine Display Permits, which authorized the collection of 373 large coastal, 133 small coastal, 96 prohibited sharks for display purposes were issued. The total number reported as actually taken will not be known until early 2005. However, of the 433 large coastal, 144 small coastal, and 102 prohibited sharks authorized for collection in nine Display Permits issued during 2003, only one small coastal shark was reported taken from Federal waters.

Generally, the authorized collections or exemptions would involve activities otherwise prohibited by regulations implementing the HMS FMP and Amendment 1 to the Atlantic Billfish Fishery Management Plan. The EFPs, if issued, may authorize recipients to fish for and possess tunas, billfishes, swordfish, and sharks outside the applicable Federal commercial seasons, size limits and/or retention limits, or to fish for and possess prohibited species.

NMFS has undertaken a restructuring of the exempted fishing application and reporting procedures for Atlantic HMS. To that effect, on November 10, 2003, NMFS published a final rule (68 FR 63738), effective on December 10, 2003, that modified the existing regulations with the intent of improving monitoring of these fishing activities, particularly those conducted to collect sharks for public display and those undertaken for scientific research.

Specifically, the final rule contains the following provisions: (1) EFP holders must notify the local NMFS Office for Law Enforcement at least 24 hours prior to departure for all fishing trips conducted to collect HMS for the purpose of public display; (2) all live HMS retained for the purpose of public display must be tagged while still on board the fishing vessel with either a conventional dart tag or a microchip Passive Integrated Transponder (PTT) tag, both of which will be supplied by NMFS; (3) if warranted, NMFS may specify conditions for conducting fishing activities to collect HMS for public display in order to minimize mortalities of either targeted or bycatch species; (4) NMFS reserves the right to place an at-sea observer on board an authorized HMS collection vessel; (5) EFP and SRP holders must report all HMS collection activities regardless of

whether they occur inside or outside the EEZ; (6) negative reports must be submitted for months when no HMS are collected; (7) applicants for EFP and SRP renewals must include with the application the previous year's year-end report and any delinquent reports for permits issued in prior years to obtain the new permit; and (8) prohibitions concerning the submission of false information and violations of the terms and conditions of EFPs and SRPs. Although unrelated to these provisions, the rule also addresses EFPs for the pelagic longline directed swordfish fishery, in that EFPs would no longer be required for vessels to delay offloading of swordfish when an approved vessel monitoring system (VMS) is operating on board the vessel.

In December 2003, NMFS published the Final Rule (68 FR 74747) implementing the Final Amendment 1 to the Fishery Management Plan for Atlantic Tunas, Swordfish and Sharks. While the rule focuses primarily on shark management measures, the issuance of EFPs and SRPs is also addressed where a separate display permitting system for HMS is to be developed apart from EFPs and SRPs issued for other purposes. This is an administrative change only, and current quotas as well as application and reporting requirements remain as established under the existing system.

Comments are also requested for the issuance of Chartering Permits to vessels fishing for HMS while operating under chartering arrangements within the EEZ of other nations. In November 2004, NMFS published the Final Rule requiring prior notification and approval from NMFS, via issuance of a Chartering Permit, before a vessel begins to fish under a chartering arrangement. These Chartering Permits would allow a U.S. fishing vessel to fish in a manner consistent with another country's regulations without violating U.S. regulations, and would ensure that such vessels report to the proper authorities, consistent with ICCAT recommendations. To date, NMFS has only received applications from and issued one of these Chartering Permits, which includes one pelagic longline vessel in a fleet of many thousands.

Final decisions on the issuance of any EFPs/SRPs/Display/Chartering Permits will depend on the submission of all required information about the proposed activities, NMFS' review of public comments received on this notice, consistency with conclusions in the Final Environmental Impact Statement (EIS) contained in the Final HMS FMP (64 FR 13575; March 19, 1999), Environmental Assessments

(EAs) or EISs, and any consultations with appropriate Regional Fishery Management Councils, states, or Federal agencies. NMFS does not anticipate any environmental impacts from the issuance of these EFPs other than impacts already assessed in the Final HMS FMP.

All requests for EFPs/SRPs/Display/Chartering Permits of a type or nature not addressed in this **Federal Register** Notice will have a separate Notice filed and separate public comment period.

Authority: 16 U.S.C. 971 *et seq.* and 16 U.S.C. 1801 *et seq.*

Dated: November 5, 2004.

Bruce C. Morehead,

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

[FR Doc. 04-25211 Filed 11-10-04; 8:45 am]

BILLING CODE 3510-22-S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 110404E]

Endangered Species; File No. 1260

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

ACTION: Issuance of permit modification.

SUMMARY: Notice is hereby given that the NMFS Southeast Fisheries Science Center (SEFSC) has been issued a modification to scientific research Permit No. 1260.

ADDRESSES: The modification and related documents are available for review upon written request or by appointment in the following office(s):

Permits, Conservation and Education Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301)713-2289; fax (301)713-0376; and Southeast Region, NMFS, 9721 Executive Center Drive North, St. Petersburg, FL 33702-2432; phone (727)570-5301; fax (727)570-5320.

FOR FURTHER INFORMATION CONTACT:

Patrick Opay or Ruth Johnson, (301)713-2289.

SUPPLEMENTARY INFORMATION: Notices were published in the Federal Register on July 15, 2004 (69 FR 42426) and July 19, 2004 (69 FR 42970) that modifications of Permit No. 1260, issued June 29, 2001 (66 FR 34621), had been requested by the above-named organization. The requested modification has been granted under the authority of the Endangered Species Act

of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*) and the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR parts 222-226).

The modification to Permit No. 1260 authorizes the SEFSC to attach conventional or pop-up archival tag (PAT) satellite transmitters to the pygal region of up to 15 leatherback sea turtles (*Dermochelys coriacea*) that may be boated during the Pelagic Longline Fishery Observers project. Additionally, the SEFSC is authorized to handle, flipper and passive integrated transponder (PIT) tag, tissue sample and blood sample all turtles on all projects under Permit No. 1260 and now has the option of deploying either PAT or conventional satellite tags via a tether attachment to the 20 loggerhead sea turtles (*Caretta caretta*) for which satellite tagging was already authorized under the existing Pelagic Longline Fishery Observers project.

The modification also authorizes the annual hoop netting or dip netting, measuring, weighing, flipper and PIT tagging, tissue biopsying, blood sampling and release of an additional 100 leatherback, 120 loggerhead, 100 green (*Chelonia mydas*), 50 hawksbill (*Eretmochelys imbricata*), 50 Kemp's ridley (*Lepidochelys kempii*) and 20 olive ridley (*Lepidochelys olivacea*) sea turtles. A subset of 20 of the leatherbacks, 20 of the loggerheads, 20 of the greens, 20 of the hawksbills, 20 of the Kemp's ridleys and 5 of the olive ridleys captured annually will have satellite transmitters attached to them. None of the activities authorized under this modification are expected to result in mortality. The research will be conducted in waters of the Atlantic Ocean (including the Caribbean) and Gulf of Mexico during the remainder of the permit which expires June 30, 2006. The purpose of the research is to gather the necessary information to implement NMFS management activities as required by the ESA and implementing regulations.

Issuance of this modification, as required by the ESA was based on a finding that such permit (1) was applied for in good faith, (2) will not operate to the disadvantage of the endangered and threatened species which are the subject of this permit, and (3) is consistent with the purposes and policies set forth in section 2 of the ESA.

Dated: November 5, 2004.

Stephen L. Leathery,

*Chief, Permits, Conservation and Education
Division, Office of Protected Resources,
National Marine Fisheries Service.*

[FR Doc. 04-25210 Filed 11-10-04; 8:45 am]

BILLING CODE 3510-22-S

DEPARTMENT OF COMMERCE

Patent and Trademark Office

[Docket No. 2004-P-049]

Grant of Interim Extension of the Term of U.S. Patent No. 4,603,123; Piroxicam Betadex

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 one-year interim extension of the term of U.S. Patent No. 4,603,123.

FOR FURTHER INFORMATION CONTACT: Karin Ferriter by telephone at (571) 272-7744; by mail marked to her attention and addressed to Mail Stop Patent Ext., Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450; by fax marked to her attention at (571) 273-7744, or by e-mail to Karin.Ferriter@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 October 25, 2004, patent owner Chiesi Farmaceutici S.p.A. timely filed an application under 35 U.S.C. 156(d)(5) for an interim extension of the term of U.S. Patent No. 4,603,123. The patent claims the active ingredient piroxicam betadex in the human drug product Brexidol®. The application indicates that a New Drug Application for Brexidol® (piroxicam betadex) 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 the 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 one year as required by 35 U.S.C. 156(d)(5)(B). Since the regulatory review period is anticipated to continue beyond the expiration date of the patent November 13, 2004, 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. 4,603,123 is granted for a period of one year from the expiration date of the patent, i.e., until November 13, 2005.

Dated: November 4, 2004.

Jon W. Dudas,

Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.

[FR Doc. 04-25204 Filed 11-10-04; 8:45 am]

BILLING CODE 3510-16-P

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in Indonesia

November 8, 2004.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner, Bureau of Customs and Border Protection adjusting limits.

EFFECTIVE DATE: November 12, 2004.

FOR FURTHER INFORMATION CONTACT: Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482-4212. For information on the quota status of these limits, refer to the Bureau of Customs and Border Protection website (<http://www.cbp.gov>), or call (202) 344-2650. For information on embargoes and quota re-openings, refer to the Office of Textiles and Apparel Web site at <http://otexa.ita.doc.gov>.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The current limit for Categories 647/648 is being increased for the cancellation of special shift, reducing the limit for Categories 347/348 to account for the special shift being returned to Category 647/648.

A description of the textile and apparel categories in terms of HTS numbers is available in the **CORRELATION:** Textile and Apparel

Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 69 FR 4926, published on February 2, 2004). Also see 68 FR 65254, published on November 19, 2003.

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

November 8, 2004.

Commissioner,
*Bureau of Customs and Border Protection,
Washington, DC 20229.*

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on November 13, 2003, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in Indonesia and exported during the twelve-month period which began on January 1, 2004 and extends through December 31, 2004.

Effective on November 12, 2004, you are directed to adjust the limits for the categories listed below, as provided for under the Uruguay Round Agreement on Textiles and Clothing:

Category	Twelve-month restraint limit ¹
Levels in Group I	
347/348	3,246,042 dozen.
647/648	5,986,332 dozen.

¹ The limits have not been adjusted to account for any imports exported after December 31, 2003.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,
D. Michael Hutchinson,
Acting Chairman, Committee for the Implementation of Textile Agreements.
[FR Doc. E4-3153 Filed 11-10-04; 8:45 am]

BILLING CODE 3510-DS-S

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton, Wool and Man-Made Fiber Textiles and Textile Products Produced or Manufactured in Taiwan

November 8, 2004.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner, Bureau of Customs and Border Protection adjusting limits.

EFFECTIVE DATE: November 12, 2004.

FOR FURTHER INFORMATION CONTACT: Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482-4212. For information on the quota status of these limits, refer to the Bureau of Customs and Border Protection Web site (<http://www.cbp.gov>), or call (202) 344-2650. For information on embargoes and quota re-openings, refer to the Office of Textiles and Apparel Web site at <http://otexa.ita.doc.gov>.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The current limits for certain categories are being adjusted for swing, carryover, and the cancellation of special shift.

A description of the textile and apparel categories in terms of HTS numbers is available in the **CORRELATION:** Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 69 FR 4926, published on February 2, 2004). Also see 68 FR 59927, published on October 20, 2003.

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

November 8, 2004.

Commissioner,
Bureau of Customs and Border Protection,
Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on October 14, 2003, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in Taiwan and exported during the twelve-month period which began on January 1, 2004 and extends through December 31, 2004.

Effective on November 12, 2004, you are directed to adjust the current limits for the following categories, as provided for under the Uruguay Round Agreement on Textiles and Clothing:

Category	Twelve-month limit ¹
Sublevels in Group I	
218	26,994,032 square meters.
363	13,503,334 numbers.

Category	Twelve-month limit ¹
Within Group I Sub-group	
200	872,228 kilograms.
Sublevels in Group II	
345	151,705 dozen.
347/348	1,507,717 dozen of which not more than 1,281,967 dozen shall be in Categories 347-W/348-W ² .
433	17,113 dozen.
434	11,774 dozen.
436	5,619 dozen.
440	6,086 dozen.
442	46,635 dozen.
633/634/635	1,667,128 dozen of which not more than 978,503 dozen shall be in Categories 633/634 and not more than 867,079 dozen shall be in Category 635.
638/639	6,609,797 dozen.
643	581,011 numbers.
645/646	4,148,768 dozen.
647/648	5,411,066 dozen of which not more than 5,147,889 dozen shall be in Categories 647-W/648-W ³ .
Within Group II Sub-group	
333/334/335	370,065 dozen of which not more than 198,580 dozen shall be in Category 335.
351	278,741 dozen.

¹ The limits have not been adjusted to account for any imports exported after December 31, 2003.

² Category 347-W: only HTS numbers 6203.19.1020, 6203.19.9020, 6203.22.3020, 6203.22.3030, 6203.42.4005, 6203.42.4010, 6203.42.4015, 6203.42.4025, 6203.42.4035, 6203.42.4045, 6203.42.4050, 6203.42.4060, 6203.49.8020, 6210.40.9033, 6211.20.1520, 6211.20.3810, and 6211.32.0040; Category 348-W: only HTS numbers 6204.12.0030, 6204.19.8030, 6204.22.3040, 6204.22.3050, 6204.29.4034, 6204.62.3000, 6204.62.4005, 6204.62.4010, 6204.62.4020, 6204.62.4030, 6204.62.4040, 6204.62.4050, 6204.62.4055, 6204.62.4065, 6204.69.6010, 6204.69.9010, 6210.50.9060, 6211.20.1550, 6211.20.6810, 6211.42.0030 and 6217.90.9050.

³ Category 647-W: only HTS numbers 6203.23.0060, 6203.23.0070, 6203.29.2030, 6203.29.2035, 6203.43.2500, 6203.43.3500, 6203.43.4010, 6203.43.4020, 6203.43.4030, 6203.43.4040, 6203.49.1500, 6203.49.2015, 6203.49.2030, 6203.49.2045, 6203.49.2060, 6203.49.8030, 6210.40.5030, 6211.20.1525, 6211.20.3820, and 6211.33.0030; Category 648-W: only HTS numbers 6204.23.0040, 6204.23.0045, 6204.29.2020, 6204.29.2025, 6204.29.4038, 6204.63.2000, 6204.63.3000, 6204.63.3510, 6204.63.3530, 6204.63.3532, 6204.63.3540, 6204.69.2510, 6204.69.2530, 6204.69.2540, 6204.69.2560, 6204.69.6030, 6210.50.5035, 6211.20.1555, 6211.20.6820, 6211.43.0040 and 6217.90.9060.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,
D. Michael Hutchinson,
Acting Chairman, Committee for the Implementation of Textile Agreements.
[FR Doc. E4-3154 Filed 11-10-04; 8:45 am]

BILLING CODE 3510-DS-S

DEPARTMENT OF DEFENSE

Office of the Secretary

Meeting of the Defense Policy Board Advisory Committee

AGENCY: Department of Defense, Defense Policy Board Advisory Committee.

ACTION: Notice of meeting.

SUMMARY: The Defense Policy Board Advisory Committee will meet in closed session at the Pentagon on December 8, 2004 from 0930 to 2000 and December 9, 2004 from 0830 to 1500.

The purpose of the meeting is to provide the Secretary of Defense, Deputy Secretary of Defense and Under Secretary of Defense for Policy with independent, informed advice on major matters of defense policy. The Board will hold classified discussions on national security matters.

In accordance with section 10(d) of the Federal Advisory Committee Act, Public Law No. 92-463, as amended (5 U.S.C. App II (1982)), it has been determined that this meeting concerns matters listed in 5 U.S.C. 552B(c)(1) (1982), and that accordingly this meeting will be closed to the public.

Dated: November 5, 2004.

Jeannette Owings-Ballad,

*OSD Federal Register Liaison Officer,
Department of Defense.*

[FR Doc. 04-25196 Filed 11-10-04; 8:45 am]

BILLING CODE 5001-06-P

ELECTION ASSISTANCE COMMISSION

Sunshine Act Meeting

AGENCY: United States Election Assistance Commission.

ACTION: Notice of public meeting agenda.

DATE & TIME: Tuesday, November 23, 2004, 10 a.m.–12 noon.

PLACE: U.S. Election Assistance Commission, 1225 New York Ave., NW., Suite 1100, Washington, DC 20005. (Metro Stop: Metro Center)

AGENDA: The Commission will receive updates and reports on the following:

Title II Requirements Payments; Court Case Update; Results from the HAVA College Poll Worker Program; Election Day Data Collection Update. The Commission will also receive presentations on EAC Election Day Activities and other items. Presentations will include: Election Day at the EAC Office; Election Day Reports from the Field; Election Day Summary; EAC Plan of Action for 2005.

PERSON TO CONTACT FOR INFORMATION:

Bryan Whitener, Telephone: (202) 566-3100.

DeForest B. Soaries, Jr.

Chairman, U.S. Election Assistance Commission.

[FR Doc. 04-25339 Filed 11-9-04; 3:50 pm]

BILLING CODE 6820-YN-M

DEPARTMENT OF ENERGY

[Docket No. EA-298]

Application To Export Electric Energy; ISO New England Inc.

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of application.

SUMMARY: ISO New England Inc. (ISO-NE) has applied for authority to transmit electric energy from the United States to Canada pursuant to section 202(e) of the Federal Power Act.

DATES: Comments, protests or requests to intervene must be submitted on or before November 29, 2004.

ADDRESSES: Comments, protests or requests to intervene should be addressed as follows: Office of Coal & Power Systems (FE-27), Office of Fossil Energy, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585-0350 (FAX 202-287-5736).

FOR FURTHER INFORMATION CONTACT: Ellen Russell (Program Office) 202-586-9624 or Michael Skinner (Program Attorney) 202-586-2793.

SUPPLEMENTARY INFORMATION: Exports of electricity from the United States to a foreign country are regulated and require authorization under section 202(e) of the Federal Power Act (FPA) (16 U.S.C. 824a(e)).

On October 4, 2004, the Office of Fossil Energy (FE) of the Department of Energy (DOE) received an application from ISO-NE to transmit electric energy from the United States to Canada. ISO-NE is the private, non-profit Independent System Operator for New England. ISO-NE administers the New England electricity markets and operates the bulk electric power system in the New England region. ISO-NE is

responsible for protecting the short-term reliability of the New England control area, for administering competitive and efficient wholesale markets in New England, and for administering the New England Power Pool (NEPOOL) Open Access Transmission Tariff on behalf of the NEPOOL participants.

In its role as control area operator, ISO-NE administers electricity transactions entered into by the NEPOOL participants and is responsible for scheduling transmission service over the bulk power transmission and generating facilities in New England. The electricity transactions administered by ISO-NE include electricity exports to Canadian entities.

On March 24, 2004, the Federal Energy Regulatory Commission (FERC) issued an order granting Regional Transmission Organization (RTO) status to ISO-NE, subject to the fulfillment of certain requirements. In accordance with that order, ISO-NE will become the RTO for New England in the near future. In its application, ISO-NE states that commencement of its operations as the RTO will not have any substantive effect on the way it will administer electricity exports to Canada. In that regard, ISO-NE has requested that, if DOE grants its request in this proceeding, any order issued by DOE explicitly recognize the impending commencement of ISO-NE's operations as an RTO and provide for the continuation of its export authority once that conversion to an RTO occurs.

In its application ISO-NE requested that DOE expedite the processing of this application in order to have electricity export authority in place upon completion of the transition to the FERC-approved RTO. Accordingly, DOE has shortened the public comment period to 15 days.

ISO-NE proposes to arrange for the delivery of electric energy to Canada over the existing international transmission facilities owned by Joint Owners of the Highgate Project, Maine Electric Power Company and Vermont Electric Transmission Company. The construction, operation, maintenance, and connection of each of the international transmission facilities to be utilized by ISO-NE, as more fully described in the application, has previously been authorized by a Presidential permit issued pursuant to Executive Order 10485, as amended.

Procedural Matters

Any person desiring to become a party to this proceeding or to be heard by filing comments or protests to this application should file a petition to intervene, comment or protest at the

address provided above in accordance with §§ 385.211 or 385.214 of the FERC's Rules of Practice and Procedures (18 CFR 385.211, 385.214). Fifteen copies of each petition and protest should be filed with DOE on or before the date listed above.

Comments on the ISO-NE application to export electric energy to Canada should be clearly marked with Docket EA-298. Additional copies are to be filed directly with James H. Douglass, Senior Regulatory Counsel, ISO New England Inc., One Sullivan Road, Holyoke, MA 01040-2841 and Perry D. Robinson, Ballard Spahr Andrews & Ingersoll, LLP, 601 13th Street, NW., Suite 1000 South, Washington, DC 20005.

A final decision will be made on this application after the environmental impacts have been evaluated pursuant to the National Environmental Policy Act of 1969, and a determination is made by the DOE that the proposed action will not adversely impact on the reliability of the U.S. electric power supply system.

Copies of this application will be made available, upon request, for public inspection and copying at the address provided above or by accessing the Fossil Energy Home Page at <http://www.fe.de.gov>. Upon reaching the Fossil Energy Home page, select "Electricity Regulation," and then "Pending Proceedings" from the options menus.

Issued in Washington, DC, on November 8, 2004.

Anthony J. Como,

Deputy Director, Electric Power Regulation, Office of Fossil Energy.

[FR Doc. 04-25201 Filed 11-10-04; 8:45 am]

BILLING CODE 6450-01-P

DEPARTMENT OF ENERGY

[FE Docket No. PP-85-3]

Application To Transfer Presidential Permit; Boliden Westmin (Canada) Limited and Boliden Power Limited

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of application.

SUMMARY: Boliden Westmin (Canada) Limited (BWCL) and Boliden Power Limited (BPL) have jointly applied to transfer Presidential Permit PP-85-2 from BWCL to BPL.

DATES: Comments, protests, or requests to intervene must be submitted on or before December 13, 2004.

ADDRESSES: Comments, protests, or requests to intervene should be addressed as follows: Office of Fossil Energy, FE-27, Forrestal Building, U.S.

Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT: Ellen Russell (Program Office) 202-586-9624 or Michael T. Skinker (Program Attorney) 202-586-2793.

SUPPLEMENTARY INFORMATION: The construction, operation, maintenance, and connection of facilities at the international border of the United States for the transmission of electric energy between the United States and a foreign country is prohibited in the absence of a Presidential permit issued pursuant to Executive Order (EO) 10485, as amended by EO 12038. Existing Presidential permits are not transferable or assignable. However, in the event of a proposed voluntary transfer of facilities, in accordance with the regulations at 10 CFR 205.323, the existing permit holder and the transferee are required to file a joint application with DOE that includes a statement of reasons for the transfer.

On October 20, 2004, BWCL and BPL, both wholly-owned subsidiaries of Boliden AB, a Swedish Corporation, jointly filed an application with the Office of Fossil Energy (FE) of the Department of Energy (DOE) to transfer from BWCL to BPL the international transmission facilities authorized by Presidential Permit PP-85-2. The permitted facilities "loop" into and out of Canada, through the State of Alaska, and do not interconnect with the electricity delivery system of Alaska. No physical change to authorized facilities is expected. The facilities proposed to be transferred are described as:

One 35,000-volt (35-kV) alternating current transmission line which crosses the U.S. international border from British Columbia, Canada, passes through the State of Alaska, and re-enters British Columbia at a second point on the U.S. international border.

Procedural Matters: Any person desiring to become a party to this proceeding or to be heard by filing comments or protests to this application should file a petition to intervene, comment or protest at the address provided above in accordance with §§ 385.211 or 385.214 of the FERC's Rules of Practice and Procedures (18 CFR 385.211, 385.214). Fifteen copies of each petition and protest should be filed with the DOE on or before the date listed above.

Additional copies of such petitions to intervene or protests also should be filed directly with: W. S. Garton and Christopher Horte, Bull, Housser & Tupper, 3000-1055 West Georgia Street, Vancouver, BC, V6E 3R3, Canada.

Before a Presidential permit may be issued or amended, the DOE must determine that the proposed action will not adversely impact on the reliability of the U.S. electric power supply system. In addition, DOE must consider the environmental impacts of the proposed action (*i.e.*, granting the Presidential permit, with any conditions and limitations, or denying the permit) pursuant to the National Environmental Policy Act of 1969. DOE also must obtain the concurrence of the Secretary of State and the Secretary of Defense before taking final action on a Presidential permit application.

Copies of this application will be made available, upon request, for public inspection and copying at the address provided above. In addition, the application may be reviewed or downloaded from the Fossil Energy home page at: <http://www.fe.doe.gov>. Upon reaching the Fossil Energy home page, select "Electricity Regulation" from the options menu, and then "Pending Proceedings."

Issued in Washington, DC, on November 8, 2004.

Anthony J. Como,

*Deputy Director, Electric Power Regulation,
Office of Fossil Energy.*

[FR Doc. 04-25200 Filed 11-10-04; 8:45 am]

BILLING CODE 6450-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. IC04-574-001, FERC-574]

Commission Information Collection Activities, Proposed Collection; Comment Request; Submitted for OMB Review

November 5, 2004.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice.

SUMMARY: In compliance with the requirements of section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 3507, the Federal Energy Regulatory Commission (Commission) has submitted the information collection described below to the Office of Management and Budget (OMB) for review and reinstatement of this information collection requirement. Any interested person may file comments directly with OMB and should address a copy of those comments to the Commission as explained below. The Commission received no comments in response to an earlier **Federal Register** notice of August 20, 2004 (69 FR 51649-

50), and has made this notification in its submission to OMB.

DATES: Comments on the collection of information are due by December 10, 2004.

ADDRESSES: Address comments on the collection of information to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Federal Energy Regulatory Commission Desk Officer. Comments to OMB should be filed electronically, c/o [Pamela L. Beverly@omb.eop.gov](mailto:Pamela_L._Beverly@omb.eop.gov) and include the OMB Control No. as a point of reference. The Desk Officer may be reached by telephone at 202-395-4650. A copy of the comments should also be sent to the Federal Energy Regulatory Commission, Office of the Executive Director, ED-30, Attention: Michael Miller, 888 First Street, NE., Washington, DC 20426. Comments may be filed either in paper format or electronically. Those persons filing electronically do not need to make a paper filing. For paper filings, such comments should be submitted to the Office of the Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426 and should refer to Docket No. IC04-574-001.

Documents filed electronically via the Internet must be prepared in WordPerfect, MS Word, Portable Document Format, or ASCII format. To file the document, access the Commission's Web site at <http://www.ferc.gov> and click on "Make an E-filing," and then follow the instructions for each screen. First time users will have to establish a user name and password. The Commission will send an automatic acknowledgment to the sender's e-mail address upon receipt of comments. User assistance for electronic filings is available at 202-502-8258 or by e-mail to efiling@ferc.gov. Comments should not be submitted to the e-mail address.

All comments are available for review at the Commission or may be viewed on the Commission's Web site at <http://www.ferc.gov>, using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support at FERCOnlineSupport@ferc.gov or toll-free at (866) 208-3676, or for TTY, contact (202) 502-8659.

FOR FURTHER INFORMATION CONTACT: Michael Miller may be reached by telephone at (202) 502-8415, by fax at (202) 273-0873, and by e-mail at michael.miller@ferc.gov.

SUPPLEMENTARY INFORMATION:

Description

The information collection submitted for OMB review contains the following:

1. *Collection of Information:* FERC–574 “Gas Pipeline Certificates: Hinshaw Exemption”.

2. *Sponsor:* Federal Energy Regulatory Commission.

3. *Control No.:* 1902–0116.

The Commission is now requesting that OMB approve and reinstate with a three-year extension of the expiration date, with no changes to the existing collection. The information filed with the Commission is mandatory.

4. *Necessity of the Collection of Information:* Submission of this information is necessary to enable the Commission to carry out its responsibilities in implementing the statutory provisions of sections 1(c), 4, 7, 10(a) and 16 of the Natural Gas Act (NGA). Natural gas pipeline companies file applications with the Commission furnishing information in order for a determination to be made as to whether the applicant qualifies for an exemption from the provisions of the Natural Gas Act (section 1(c)).

The exemption applies to companies engaged in the transportation or sale for resale of natural gas in interstate commerce if: (a) It receives gas at or within the boundaries of the state from another person; (b) such gas is transported, sold, consumed within such state; and (c) the rates, service and facilities of such company are subject to the regulation by a State Commission. The data required to be filed by a pipeline companies is specified by 18 Code of Federal Regulations (CFR) part 152.

5. *Respondent Description:* The respondent universe currently comprises 1 natural gas company (on average per year) subject to the Commission’s jurisdiction.

6. *Estimated Burden:* 245 total hours, 1 respondent (average per year), 1 response per respondent, and 245 hours per response (average).

7. *Estimated Cost Burden to Respondents:* 245 hours / 2080 hours per years × \$107,185 per year = \$12,625.

Statutory Authority: Sections 1(c), 4, 7 of the Natural Gas Act (15 U.S.C. 717–717w).

Magalie R. Salas,

Secretary.

[FR Doc. 04–25162 Filed 11–10–04; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY**Federal Energy Regulatory Commission**

[Docket Nos. CP05–8–000, CP05–9–000, and CP05–10–000]

Starks Gas Storage L.L.C.; Notice of Application

November 3, 2004.

Take notice that on October 26, 2004 Starks Storage L.L.C. (Starks), c/o 1800, 855 2nd Street, SW., P.O. Box 2850, Calgary, AB T2P 2S5, Canada, filed in Docket No. CP05–8–000, CP05–9–000, and CP05–10,000, an application for (1) a certificate of public convenience and necessity under section 7(c) of the Natural Gas Act (NGA) for authorization to construct, own, operate, and maintain an underground natural gas storage facility at the Starks salt dome and a related pipeline in Calcasieu and Beauregard Parishes, Louisiana; (2) a blanket certificate under Part 157, Subpart F of the Commission’s regulations; (3) a blanket certificate under Part 284, Subpart G of the Commission’s regulations, (4) authorization to provide storage services at market-based rates; (5) approval of a pro-forma gas tariff; and (6) waiver of certain Commission regulations and requirements. The details are all more fully set forth in the application which is on file with the Commission and open to public inspection. This filing may be also viewed on the web at <http://www.ferc.gov> using the “eLibrary” link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, call (202) 502–8222 or TTY, (202) 208–1659.

Any questions regarding this application should be directed to Jason A. Dubchak, Legal Counsel, c/o 1800, 855 2nd Street, SW., P.O. Box 2850, Calgary, AB T2P 2S5, Canada, phone (403) 645–5047; or Douglas F. John, John & Hengerer, 1200 17th Street, NW., Suite 600, Washington, DC 20036–3013, phone (202) 439–8801.

There are two ways to become involved in the Commission’s review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the comment date stated below, file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission’s Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18

CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. Unless filing electronically, a party must submit 14 copies of any paper filing 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.

Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission’s Web site under the “e-Filing” link.

Comment Date: November 24, 2004.

Magalie R. Salas,

Secretary.

[FR Doc. E4–3131 Filed 11–10–04; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY**Federal Energy Regulatory Commission**

[Docket No. EG05–21–000, et al.]

Caprock Wind LLC, et al.; Electric Rate and Corporate Filings

November 4, 2004.

The following filings have been made with the Commission. The filings are listed in ascending order within each docket classification.

1. Caprock Wind LLC

[Docket No. EG05–21–000]

On November 1, 2004, Caprock Wind LLC (Caprock), a Delaware limited liability company with its principal place of business in San Francisco, California, filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's regulations.

Caprock states that it intends to construct and operate an 80 MW wind powered generation facility located in Quay County, New Mexico (Facility) and to generate and sell therefrom wholesale electric power. Caprock further states that approximately 60 MW of the 80 MW Facility is expected to begin commercial operations in December 2004.

Comment Date: 5 p.m. Eastern Time on November 22, 2004.

2. Potomac Edison Company

[Docket No. EL03–55–005]

Take notice that on October 28, 2004, Potomac Edison Company d/b/a/ Allegheny Power submitted a refund report in compliance with the Commission's Order on Remand issued September 28, 2004 in Docket No. EL03–55–003, 108 FERC ¶61,316 (2004).

Comment Date: 5 p.m. Eastern Time on November 18, 2004.

3. Coral Power, L.L.C.; Constellation Power Source, Inc.

[Docket No. ER96–25–026 and ER97–2261–018]

Take notice that on October 29, 2004, Coral Power, L.L.C. (Coral Power) and Constellation Power Source, Inc. (Constellation) submitted a filing in response to the request for additional information pursuant to the Commission's deficiency letter issued on October 4, 2004 in Docket Nos. ER96–25–025 and ER97–2261–016.

Coral Power and Constellation state that copies of the filing were served on parties on the official service list in the above-captioned proceeding.

Comment Date: 5 p.m. Eastern Time on November 19, 2004.

4. Lake Road Generating Company, L.P.

[Docket No. ER99–1714–003]

Take notice that on October 29, 2004, Lake Road Generating Company, L.P. (Lake Road Gen) submitted for filing a notice of change in status in connection with the transfer of the ownership interests that were held indirectly by National Energy & Gas Transmission, Inc. in Lake Road Gen, which owns an approximately 750 MW (net) combined cycle generating facility located near Killingly, CT, to the creditors of Lake Road Gen.

Comment Date: 5 p.m. Eastern Time on November 19, 2004.

5. ISO New England Inc.

[Docket No. ER01–316–014]

Take notice that on October 29, 2004, ISO New England Inc. (ISO) submitted for filing its Index of Customers for the third quarter of 2004 for its Tariff for Transmission Dispatch and Power Administration Services in compliance with Commission Order No. 614.

Comment Date: 5 p.m. Eastern Time on November 19, 2004.

6. Midwest Independent Transmission System Operator, Inc.

[Docket Nos. ER03–86–006 and ER03–83–005]

Take notice that on October 28, 2004, the Midwest Independent Transmission System Operator, Inc. (Midwest ISO), submitted proposed revisions to the Midwest ISO Open Access Transmission Tariff (OATT), which are intended to remove TRANSLink references from the OATT based on the Commission's Letter Orders issued September 22, 2004 in Docket Nos. ER03–83–004 and ER003–86–003. The Midwest ISO requests an effective date of October 30, 2004.

The Midwest ISO states that it has electronically served a copy of this filing, with attachments, upon all Midwest ISO Members, Member representatives of Transmission Owners and Non-Transmission Owners, the Midwest ISO Advisory Committee participants, as well as all state commissions within the region. In addition, the Midwest ISO also states that the filing has been electronically posted on the Midwest ISO's Web site at <http://www.midwestiso.org> under the heading "Filings to FERC" for other interested parties in this matter. The Midwest ISO further states that it will provide hard copies to any interested parties upon request.

Comment Date: 5 p.m. Eastern Time on November 19, 2004.

7. New York Independent System Operator, Inc.

[Docket No. ER04–1144–001]

Take notice that on October 29, 2004, the New York Independent System Operator, Inc. (NYISO) tendered for filing an amendment to its August 20, 2004 filing in Docket No. ER04–1144–001, which proposed tariff amendments to establish a comprehensive planning process for reliability needs for New York. NYISO states that the amendment to the filing provides information responsive to the Commission's October 19, 2004 deficiency letter in the same proceeding.

The NYISO has served a copy of this filing on the service list maintained by the Commission in this proceeding. Additionally, the NYISO has electronically served a copy of this filing on the official representative of each of its customers, on each participant in its stakeholder committees, and on the New York State Public Service Commission. The NYISO has also served the electric utility regulatory agencies of New Jersey and Pennsylvania.

Comment Date: 5 p.m. Eastern Time on November 19, 2004.

8. Southwestern Public Service Company

[Docket No. ER05–88–000]

Take notice that on October 29, 2004, Southwestern Public Service Company (SPS) tendered for filing, proposed changes in the Power Sales Agreements applicable to the following wholesale full requirements customers: Central Valley Electric Cooperative, Inc., Farmers' Electric Cooperative, Inc. of New Mexico, Lea County Electric Cooperative, Inc. and Roosevelt County Electric Cooperative, Inc. (the Customers). SPS states that it is making the filing to modify the terms under which SPS delivers to the Customers power allocations the Customers receive from the Western Area Power Administration. SPS requests an effective date of October 1, 2004.

SPS states that it has served a copy of the complete filing on each of the affected customers. SPS also states that it has mailed a complete copy of the filing to the Public Utility Commission of Texas and to the New Mexico Public Regulation Commission. Finally, SPS states that copies of the filing are available for public inspection in the offices of SPS in Amarillo, Texas.

Comment Date: 5 p.m. Eastern Time on November 19, 2004.

9. Virginia Electric and Power Company

[Docket No. ER05-95-000]

Take notice that on October 29, 2004, Virginia Electric and Power Company (Dominion Virginia Power) tendered for filing a notice of termination of power supply contract designated as First Revised Rate Schedule FERC No. 94. Dominion Virginia Power requests an effective date of January 1, 2005.

Dominion Virginia Power states that copies of the filing were served upon Central Virginia Electric Cooperative, the Virginia State Corporation Commission, and the North Carolina Utilities Commission.

Comment Date: 5 p.m. Eastern Time on November 19, 2004.

10. Smarr EMC

[Docket No. ER05-96-000]

Take notice that on October 29, 2004, Smarr EMC (Smarr) tendered for filing with the Commission, pursuant to 18 CFR 35.13, revisions to Smarr's Second Revised Rate Schedule FERC No. 1. Smarr requests an effective date of effective January 1, 2005.

Smarr states that copies of this filing have been mailed to each of Smarr's Member-Owner/Purchasers.

Comment Date: 5 p.m. Eastern Time on November 19, 2004.

11. Wisconsin Public Service Corporation

[Docket No. ER05-97-000]

Take notice that, on October 29, 2004, Wisconsin Public Service Corporation (WPSC) tendered for filing three revised service agreements between WPSC and Washington Island Electric Cooperative (Washington Island), WPSC and Manitowoc Public Utilities (Manitowoc) and WPSC and Upper Peninsula Power Company (UPPCo) (Revised Service Agreements). WPSC states that the Revised Service Agreements update the Customers' demand nominations and are being filed under WPSC's FERC Electric Tariff, Fourth Revised Volume No. 1. WPSC requests an effective date of January 1, 2005.

WPSC states that a copy of the filing was served upon Washington Island, Manitowoc, UPPCo, the Public Service Commission of Wisconsin, and the Michigan Public Service Commission.

Comment Date: 5 p.m. Eastern Time on November 19, 2004.

12. Southern Company Services, Inc.

[Docket No. ER05-99-000]

Take notice that on October 29, 2004 Southern Company Services, Inc. submitted the annual informational schedules filing required under: (1) The

Unit Power Sales Agreement dated July 20, 1988, between Southern Companies (i.e., Alabama Power Company, Georgia Power Company, Gulf Power Company, Mississippi Power Company, Savannah Electric and Power Company, and Southern Company Services, Inc.) and Florida Power & Light Company (FPL); (2) the Unit Power Sales Agreement dated August 17, 1988, between Southern Companies and Jacksonville Electric Authority (JEA); and (3) Unit Power Sales Agreement dated July 19, 1988 between Southern Companies and Florida Power Corporation (FPC).

Southern Companies states that copies of the material filed herewith have been sent to representatives of FPL, FPC and JEA.

Comment Date: 5 p.m. Eastern Time on November 19, 2004.

13. Alabama Power Company

[Docket No. ER05-100-000]

Take notice that on October 29, 2004 Alabama Power Company (APCo) submitted for filing proposed Amended and Restated Agreement for Partial Requirements Service and Complementary Services and the proposed Agreement for Transmission and Other Complementary Services between Alabama Power Company and the Alabama Municipal Electric Authority.

Comment Date: 5 p.m. Eastern Time on November 19, 2004.

14. Southern Company Services, Inc.

[Docket No. ER05-101-000]

Take notice that on October 28, 2004 Southern Company Services, Inc. (SCS), acting as agent for Georgia Power Company (Georgia Power), submitted for filing the annual informational filing regarding Georgia Power's provision of transmission services resulting from the sale of the electric generating facility known as Scherer Unit No. 4 to Florida Power and Light Company (FPL) and Jacksonville Electric Authority (JEA).

SCS states that copies of the filed materials have been sent to representatives of FPL and JEA.

Comment Date: 5 p.m. Eastern Time on November 19, 2004.

15. Mississippi Power Company

[Docket No. ER05-102-000]

Take notice that on October 29, 2004, Mississippi Power Company submitted an annual informational filing required under the Transmission Facilities Agreement between Gulf States Utilities Company and Mississippi Power Company.

Comment Date: 5 p.m. Eastern Time on November 19, 2004.

16. Southern Company Services, Inc.

[Docket No. ER05-103-000]

Take notice that on October 29, 2004 Southern Company Services, Inc. (Southern Company) submitted its annual informational filing under the Southern Company System Intercompany Interchange Contract, as amended and restated, between the Operating Companies of the Southern Company (Alabama Power Company, Georgia Power Company, Gulf Power Company, Mississippi Power Company, Savannah Electric and Power Company and Southern Power Company).

Southern Company states that copies of this informational filing have been furnished to representatives of each of the Operating Companies.

Comment Date: 5 p.m. Eastern Time on November 19, 2004.

17. PPL Electric Utilities Corporation

[Docket No. ER05-104-000]

Take notice that on October 29, 2004, PPL Electric Utilities Corporation (PPL Electric) filed on behalf of itself and Metropolitan Edison Corporation (Met-Ed) Second Revised Service Agreement No. 941 under PJM Interconnection, L.L.C., FERC Electric Tariff, Sixth Revised Volume No. 1. PPL Electric states that the Service Agreement No. 941 is an Interconnection Agreement between Met-Ed and PPL Electric and has been revised to include a Third Supplemental Agreement relating to the establishment of an additional point of interconnection. PPL Electric requests an effective date of September 29, 2004.

PPL Electric states that copies of the filing were served upon Met-Ed.

Comment Date: 5 p.m. Eastern Time on November 19, 2004.

18. Midwest Generation, LLC

[Docket No. ER05-105-000]

Take notice that on October 29, 2004, Midwest Generation, LLC (MWGen) submitted its Third Revised Sheet No. 1 under MWGen's FERC Electric Tariff, Original Volume No. 3, increasing its revenue requirement for Reactive Power Capability to reflect the return to operation of two of MWGen's generating units (Will County Units 1 and 2).

MWGen states that copies of the filing were served upon the Illinois Commerce Commission, Commonwealth Edison Company, and PJM Interconnection, L.L.C.

Comment Date: 5 p.m. Eastern Time on November 19, 2004.

19. PJM Interconnection, L.L.C.

[Docket No. ER05-106-000]

Take notice that on October 29, 2004, PJM Interconnection, L.L.C. (PJM)

submitted the interim allocation of financial transmission rights for the zone of Duquesne Light Company, covering the period from its integration into PJM on January 1, 2005 until the end of PJM's current planning period on May 31, 2005. PJM requests an effective date of January 1, 2005.

PJM states that copies of the filing were served on all PJM members and the utility regulatory commissions in the PJM region.

Comment Date: 5 p.m. Eastern Time on November 19, 2004.

20. PJM Interconnection, L.L.C.

[Docket No. ER05-107-000]

Take notice that on October 29, 2004, PJM Interconnection, L.L.C. (PJM), tendered for filing an unexecuted agreement for network integration transmission service (Service Agreement) with Southern Indiana Gas and Electric Co. d/b/a Vectren Energy Delivery, Inc., Hoosier Energy Rural Electric Cooperative, Inc. and Southern Indiana Rural Electric Cooperative (collectively the Joint Operating Group). PJM states that it is filing the agreement because it is unexecuted and includes provisions not reflected in PJM's Open Access Transmission Tariff. PJM also states that the Service Agreement is meant to replace a previous agreement by which the Joint Operating Group took network integration transmission service under the open access transmission tariff of American Electric Power Service Corp., and is intended to maintain continuity of service. PJM requests an effective date of October 1, 2004.

PJM states that copies of this filing were served upon each member of the Joint operating Group as well as the affected state commission.

Comment Date: 5 p.m. Eastern Time on November 19, 2004.

21. Ameren Services Company

[Docket No. ER05-108-000]

Take notice that on October 29, 2004, Ameren Services Company (Ameren), on behalf of Illinois Power Company d/b/a AmerenIP (AmerenIP), submitted a revised Schedule 4R, Illinois Retail Load Energy Imbalance Service, to the Open Access Transmission Tariff of Illinois Power Company, Illinois Power Company FERC Electric Tariff, Fourth Revised Volume No. 8. Ameren states that the filing provides that the imbalance service that AmerenIP offers to retail electric suppliers in Illinois under Schedule 4R will, effective December 1, 2004, be identical in all material respects, as to rate design, terms and conditions, to the retail

imbalance service offered under Schedule 4A, Illinois Retail Energy Imbalance Service, of the OATT of the Ameren Operating Companies (Central Illinois Public Service Company dba AmerenCIPS and Union Electric Company dba AmerenUE).

Ameren states that it has served a copy of the complete filing on all current customers under Schedule 4R and on the Illinois Commerce Commission and a copy of the transmittal letter on other IP OATT customers providing them with notice of the filing. Ameren also states that it has posted a copy of the filing on the Midwest ISO's website at www.midwestiso.org under the heading "Filings to FERC" and has made a copy available for public inspection in its main offices in St. Louis, Missouri.

Comment Date: 5 p.m. Eastern Time on November 19, 2004.

22. Southwest Power Pool, Inc.

[Docket No. ER05-109-000]

Take notice that on October 29, 2004, Southwest Power Pool, Inc. (SPP) submitted for filing revised pages to its Open Access Transmission Tariff intended to provide for an Aggregate Transmission Service Study process. SPP states that this process will be used to evaluate long-term transmission service requests in order to provide the necessary available transmission capacity to accommodate all such requests at the minimum total cost. SPP requests an effective date of February 1, 2005.

SPP states that it has served a copy of its transmittal letter on each of its Members and Customers. SPP also states that a complete copy of this filing will be posted on the SPP Web site <http://www.spp.org>, and is also being served on all affected state commissions.

Comment Date: 5 p.m. Eastern Time on November 19, 2004.

23. Wisconsin Electric Power Company

[Docket No. ER05-110-000]

Take notice that on October 29, 2004, Wisconsin Electric Power Company (Wisconsin Electric) tendered for filing a fully executed Master Power Purchase and Sale Agreement (Master Agreement), designated as FERC Electric Rate Schedule No. 114, between Wisconsin Electric and Exelon Generation Company, LLC. (ExGen). Wisconsin Electric requests that this Master Agreement become effective immediately.

Wisconsin Electric states that copies of this filing were served on the Public Service Commission of Wisconsin, the Michigan Public Service Commission and ExGen.

Comment Date: 5 p.m. Eastern Time on November 19, 2004.

24. TransCanada Hydro Northeast Inc.

[Docket No. ER05-111-000]

Take notice that on October 29, 2004, TransCanada Hydro Northeast Inc. (TC Hydro NE) filed with the Commission an application requesting that the Commission accept for filing a Market-Based Tariff for TC Hydro NE, and otherwise grant TC Hydro NE the authority to sell energy and capacity and ancillary services in wholesale transactions at negotiated, market-based rates pursuant to Part 35 of the Commission's regulations. TC Hydro NE requests an effective date of November 29, 2004.

Comment Date: 5 p.m. Eastern Time on November 19, 2004.

25. Commonwealth Edison Company

[Docket No. ER05-112-000]

Take notice that on October 29, 2004, Commonwealth Edison Company (ComEd) filed a notice of termination of the wholesale power sales agreements (PSAs) on file with the Commission in Docket No. ER00-933-000 between ComEd and Entergy-Koch Trading, LP under ComEd's wholesale power sales tariffs, designated as Service Agreement No. 149 under Commonwealth Edison Company FERC Electric Tariff No. 2, and Service Agreement No. 6 under Commonwealth Edison Company FERC Electric Tariff No. 6. The PSAs terminate effective December 31, 2004.

Comment Date: 5 p.m. Eastern Time on November 19, 2004.

26. Pacific Gas and Electric Company

[Docket No. ER05-113-000]

Take notice that on October 29, 2004, Pacific Gas and Electric Company (PG&E) tendered for filing an annual rate update, including rate schedule sheet revisions, to become effective January 1, 2005, to its Reliability Must-Run Service Agreements (RMR Agreements) with the California Independent System Operator Corporation (ISO) for Helms Power Plant (PG&E First Revised Rate Schedule FERC No. 207), Humboldt Power Plant (PG&E First Revised Rate Schedule FERC No. 208), Hunters Point Power Plant (PG&E First Revised Rate Schedule FERC No. 209), San Joaquin Power Plant (PG&E First Revised Rate Schedule FERC No. 211) and Kings River Watershed (PG&E Rate Schedule FERC No. 226).

PG&E states that copies of the filing have been served upon the ISO, the California Electricity Oversight Board and the California Public Utilities Commission.

Comment Date: 5 p.m. Eastern Time on November 19, 2004.

27. Duke Energy Oakland, LLC

[Docket No. ER05-115-000]

Take notice that on October 29, 2004, Duke Energy Oakland, LLC (DEO) pursuant to 16 USC 824d and Part 35.13 of the Commission's Regulations, submitted for filing revisions to certain Reliability Must-Run Rate Schedules in its Reliability Must Run Agreement (RMR) with the California Independent System Operator Corporation. DEO further tendered for filing an informational filing detailing and supporting the proposed changes to its Annual Fixed Revenue Requirements under its RMR Agreement.

DEO states that copies of the filing were served upon the California ISO, Pacific Gas and Electric Company, the Public Utilities Commission of the State of California, and the Electricity Oversight Board of the State of California.

Comment Date: 5 p.m. Eastern Time on November 19, 2004.

28. Wabash Valley Power Association, Inc.

[Docket No. ER05-117-000]

Take notice that on October 29, 2004, Wabash Valley Power Association, Inc. (Wabash Valley) submitted for filing an Agreement for Electric Service between Wabash Valley and one of its Members, Carroll County REMC, implementing service under Schedule EDR-5 of Wabash Valley's FERC Electric Tariff, Original Volume No. 1 Wabash Valley requests an effective date of January 1, 2005.

Wabash Valley states that copies of the filing were served upon each of Wabash Valley's Members and the public utility commissions in Illinois, Indiana, Michigan and Ohio.

Comment Date: 5 p.m. Eastern Time on November 19, 2004.

29. New York Independent System Operator, Inc.

[Docket No. ER05-119-000]

Take notice that on October 29, 2004, the New York System Operator, Inc. (NYISO) tendered for filing proposed revisions to its Market Administration and Control Area Services Tariff (Services Tariff) designed to extend the current methodology and rate used to calculate payments for Voltage Support Service through the end of calendar year 2005. The NYISO requests an effective date of January 1, 2005.

The NYISO states that it has electronically served a copy of this filing on the official representative of

each of its customers, on each participant in its stakeholder committees, and on the New York State Public Service Commission. The NYISO states that it has also served the state regulatory commissions of New Jersey and Pennsylvania.

Comment Date: 5 p.m. Eastern Time on November 19, 2004.

30. Conectiv Energy Supply, Inc.

[Docket No. ER05-121-000]

Take notice that, on October 29, 2004, Conectiv Energy Supply, Inc. (CESI) submitted for filing a Service Agreement to its Market Based Rate Tariff a contract under which CESI will provide full requirements service to Delmarva Power & Light Company's retail residential load in Virginia. CESI requests an effective date of January 1, 2005.

CESI states that this filing was served on the Virginia State Corporation Commission.

Comment Date: 5 p.m. Eastern Time on November 19, 2004.

31. Midwest Independent Transmission System Operator, Inc.

[Docket No. ER05-122-000]

Take notice that on October 29, 2004, the Midwest Independent Transmission System Operator, Inc. (Midwest ISO) and the Midwest ISO Transmission Owners, submitted proposed revisions to Attachment O (Rate Formulae) of the Midwest ISO Open Access Transmission Tariff, which revisions are intended to correct an inconsistency with respect to the treatment of long-term interest as described in the Commission Uniform System of Accounts. Midwest ISO and Midwest ISO Transmission Owners have requested an effective date of January 1, 2005.

The Midwest ISO states that it has electronically served a copy of the filing, with attachments, on all Midwest ISO Members, Member representatives of Transmission Owners and Non-Transmission Owners, the Midwest ISO Advisory Committee participants, as well as all state commissions within the region. In addition, Midwest ISO states that the filing has been electronically posted on the Midwest ISO's Web site at <http://www.midwestiso.org> under the heading "Filings to FERC" for other interested parties in this matter. The Midwest ISO states that it will also provide hard copies to any interested parties upon request.

Comment Date: 5 p.m. Eastern Time on November 19, 2004.

32. Duke Energy Vermillion, LLC

[Docket No. ER05-123-000]

Take notice that on October 29, 2004, Duke Energy Vermillion, LLC (Duke Vermillion) tendered for filing its proposed tariff and supporting cost data for its Monthly Revenue Requirement for Reactive Supply and Voltage Control from Generation Sources Service provided to the Midwest Independent Transmission System Operator, Inc. (Midwest ISO). Duke Vermillion requests an effective date of November 1, 2004.

Duke Vermillion has served a copy of the filing on the Midwest ISO.

Comment Date: 5 p.m. Eastern Time on November 19, 2004.

33. PJM Interconnection, L.L.C.

[Docket No. ER05-124-000]

Take notice that on October 29, 2004, PJM Interconnection, L.L.C. (PJM) submitted amendments to Schedule 2 of the PJM Open Access Transmission Tariff (PJM Tariff) to incorporate the revenue requirements for Reactive Support and Voltage Control for Generation Sources Service (Reactive Power) of PPL University Park (PPL-UP), Lower Mount Bethel Energy, LLC (Lower Mount Bethel), Reliant Energy Aurora, LP (Aurora), Big Sandy Peaker Plant, LLC (Big Sandy), Wolf Hills Energy, LLC (Wolf Hills), Rolling Hills Generating, L.L.C. (Rolling Hills), Twelvepole Creek, LLC (Twelvepole Creek), and Reliant Energy Seward, LLC (Seward).

PJM states that copies of this filing have been served on all PJM members, including PPL-UP, Lower Mount Bethel, Aurora, Big Sandy, Wolf Hills, Rolling Hills, Twelvepole Creek, and Seward and each state electric utility regulatory commission in the PJM region.

Comment Date: 5 p.m. Eastern Time on November 19, 2004.

34. Pacific Gas and Electric Company

[Docket No. ER05-125-000]

Take notice that on October 29, 2004, Pacific Gas and Electric Company (PG&E) submitted an informational filing under its Reliability Must-Run Service Agreements with the California Independent System Operator Corporation (ISO) for Helms Power Plant (PG&E First Revised Rate Schedule FERC No. 207), Humboldt Power Plant (PG&E First Revised Rate Schedule FERC No. 208), Hunters Point Power Plant (PG&E First Revised Rate Schedule FERC No. 209), San Joaquin Power Plant (PG&E First Revised Rate Schedule FERC No. 211) and Kings

River Watershed (PG&E Rate Schedule FERC No. 226).

PG&E states that copies of PG&E's filing have been served upon the ISO, the California Electricity Oversight Board and the California Public Utilities Commission.

Comment Date: 5 p.m. Eastern Time on November 19, 2004.

35. Entergy Services, Inc.

[Docket No. ER05-127-000]

Take notice that on October 29, 2004, Entergy Services, Inc. (ESI), on behalf of Entergy Louisiana, Inc. (ELI) as purchaser and Entergy Gulf States, Inc. (EGS) as seller, filed an amendment to the master power purchase and sale agreement between ELI and EGS. ESI requests an effective date of January 1, 2005.

ESI states that copies of this filing were served on the affected state utility commissions and members of the official service list.

Comment Date: 5 p.m. Eastern Time on November 19, 2004.

36. Duke Energy South Bay, LLC

[Docket No. ER05-128-000]

Take notice that on October 29, 2004, Duke Energy South Bay, LLC (DESB) submitted for filing revisions to certain Reliability Must-Run Rate Schedules in its Reliability Must Run Agreement (RMR) with the California Independent System Operator Corporation. DESB also submitted an informational filing detailing and supporting the proposed changes to its Annual Fixed Revenue Requirements under its RMR Agreement.

Comment Date: 5 p.m. Eastern Time on November 19, 2004.

37. PJM Interconnection, L.L.C.

[Docket Nos. ER05-157-000, ER05-158-000, ER05-159-000, ER05-160-000, ER05-161-000, and ER05-162-000]

Take notice that on October 29, 2004, PJM Interconnection, L.L.C. (PJM) tendered for filing six agreements for network integration transmission service (Service Agreements) under the PJM open access transmission tariff (PJM Tariff). PJM states that the agreements, each of which has been executed by the customer, are with Blue Ridge Power Agency, Inc., Central Virginia Electric Cooperative, the City of Dowagiac, Michigan, the City of Sturgis, Michigan, and Ormet Primary Aluminum Corp. (collectively the Parties). PJM requests an effective date of October 1, 2004.

PJM states that a copy of this filing has been served upon each of the Parties, as well as the affected state commissions.

Comment Date: 5 p.m. Eastern Time on November 19, 2004.

38. ISO New England Inc., et al.; Bangor Hydro-Electric Company, Central Maine Power Company, New England Power Company, Northeast Utilities Service Company, NSTAR Electric & Gas Corporation, The United Illuminating Company and Vermont Electric Power Company, Inc.; The Consumers of New England v. New England Power Pool

[Docket Nos. RT04-2-005, ER04-116-005, ER04-157-008, and EL01-39-005]

Take notice that on October 29, 2004, ISO New England Inc., (NEPOOL) and the New England transmission owners (consisting of Bangor Hydro-Electric Company; Central Maine Power Company; New England Power Company; Northeast Utilities Service Company on behalf of its operating companies: The Connecticut Light and Power Company, Western Massachusetts Electric Company, Public Service Company of New Hampshire, Holyoke Power and Electric Company, and Holyoke Water Power Company; NSTAR Electric & Gas Corporation on behalf of its operating affiliates: Boston Edison Company, Commonwealth Electric Company, Canal Electric Company, and Cambridge Electric Light Company; The United Illuminating Company; Vermont Electric Power Company, Inc. submitted a report regarding compliance with paragraph 95 of the Commission's order issued March 24, 2004, 106 FERC ¶61,280 (2004).

NEPOOL states that copies of said filing have been served upon all parties to this proceeding, upon all NEPOOL Participants (electronically), non-Participant Transmission Customers, and the governors and regulatory agencies of the six New England states.

Comment Date: 5 p.m. Eastern Time on November 19, 2004.

Standard Paragraph

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 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 comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant and all parties to 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.

Linda Mitry,

Deputy Secretary.

[FR Doc. E4-3133 Filed 11-10-04; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project Nos. 2403-048, 2534-068, 2666-023, 2712-055, and 2600-056]

PPL Maine, LLC; Bangor-Pacific Hydro Associates; Notice of Availability of Draft Environmental Assessment

November 3, 2004.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission (Commission or FERC) regulations contained in the Code of Federal Regulations (CFR) (18 CFR Part 380 [FERC Order No. 486, 52 F.R. 47897]), the Office of Energy Projects staff (staff) reviewed the applications for amendment of licenses for the Veazie Project, which is located on the Penobscot River in Penobscot County, Maine; the Milford Project, which is located on the Penobscot and Stillwater Rivers in Penobscot County, Maine; the West Enfield Project which is located on the Penobscot River in Penobscot County, Maine; the Stillwater Project, which is located on the Stillwater River in Penobscot County, Maine; and the Medway Project, which is located on the West Branch Penobscot River in Penobscot County, Maine, and prepared a draft environmental assessment (DEA) for the projects. In this DEA, staff analyzes the potential environmental

effects of the proposed license amendments and concludes that the amendments would not constitute a major federal action significantly affecting the quality of the human environment.

A copy of the DEA is available for review at the Commission in the Public Reference Room, or it may be viewed on the Commission's Web site at <http://www.ferc.gov> using the "e-Library" link. Enter the docket number (P-2403) in the docket number field to access the document. For assistance, call (202) 502-8222 or (202) 502-8659 (for TTY).

Any comments should be filed by November 30, 2004, and should be addressed to Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Please reference the project names and numbers on all comments (p-2403-048 *et al.*). For further information, please contact Robert Fletcher at (202) 502-8901, or at robert.fletcher@ferc.gov.

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 at <http://www.ferc.gov> under the "e-Filing" link. The Commission strongly encourages electronic filings.

Magalie R. Salas,
Secretary.

[FR Doc. E4-3130 Filed 11-10-04; 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

November 3, 2004.

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.:* 2607-009.

c. *Date Filed:* October 12, 2004.

d. *Applicants:* Northbrook Carolina Hydro, L.L.C. (Northbrook/Transferor) and Advantage Investment Group, LLC (AIG/Transferee).

e. *Name of Project:* Spencer Mountain.

f. *Location:* On the South Fork Catawba River, in Gaston County, North Carolina. The project does not utilize federal lands.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791a-825r.

h. *Applicants Contact:* Steven J. Sinclair, Northbrook Carolina Hydro, L.L.C., 20 North Wacker Drive, Suite 3121, Chicago, IL 60606, (312) 419-1991 (Transferor); David W. Hoyle, Jr., Advantage Investment Group, LLC, P.O. Box 708, Dallas, NC 28034, (704) 922-4884 (Transferee).

i. *FERC Contact:* Regina Saizan, (202) 502-8765.

j. *Deadline for filing comments and or motions:* December 6, 2004.

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-2607-009) on any comments 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 document on that resource agency.

k. *Description of Transfer:* Northbrook and AIG jointly seek Commission approval to transfer the license for the Spencer Mountain Hydroelectric Project No. 2607 from Northbrook to AIG.

l. *Locations of Application:* 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 "e-Library" 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 addresses 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, 385.211, 385.214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. *Filing and Service of Responsive Documents:* Any filings must bear in all capital letters the title "COMMENTS", "PROTEST", OR "MOTION TO INTERVENE," as applicable, and the Project Number of the particular application to which the filing refers. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

p. *Agency Comments:* Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Magalie R. Salas,
Secretary.

[FR Doc. E4-3129 Filed 11-10-04; 8:45 am]

BILLING CODE 6717-01-P

ENVIRONMENTAL PROTECTION AGENCY

[SFUND-2004-0003; FRL-7837-2]

Agency Information Collection Activities; Submission to OMB for Review and Approval; Comment Request; CAMEO Software Usability Evaluation Survey, EPA ICR Number 2132.01

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 an Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval. This is a request for a new collection. This ICR describes the nature of the information collection and its estimated burden and cost.

DATES: Additional comments may be submitted on or before December 13, 2004.

ADDRESSES: Submit your comments, referencing docket ID number SFUND-2004-0003, to (1) EPA online using EDOCKET (our preferred method), by email to superfund.docket@epa.gov, or by mail to: EPA Docket Center, Environmental Protection Agency, Superfund Docket, Mail Code 5305T, 1200 Pennsylvania Ave., NW., Washington, DC 20460, and (2) OMB at: Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Sherry Fielding, Office of Emergency Prevention, Preparedness and Response (OEPPR), Mail Code 5104A, U.S.

Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (202) 564-6174; fax number: (202) 564-8211; email address: fielding.sherry@epa.gov.

SUPPLEMENTARY INFORMATION: EPA has submitted the following ICR to OMB for review and approval according to the procedures prescribed in 5 CFR 1320.12. On March 12, 2004 (69 FR 11851), EPA sought comments on this ICR pursuant to 5 CFR 1320.8(d). EPA received no comments.

EPA has established a public docket for this ICR under Docket ID No. SFUND-2004-0003, which is available for public viewing at the Superfund Docket in the EPA Docket Center (EPA/DC), EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566-1744, and the telephone number for the Superfund Docket is (202) 566-0276. An electronic version of the public docket is available through EPA Dockets (EDOCKET) at <http://www.epa.gov/edocket>. Use EDOCKET to submit or view public comments, access the index listing of the contents of the public docket, and to access those documents in the public docket that are available electronically. Once in the system, select "search," then key in the docket ID number identified above.

Any comments related to this ICR should be submitted to EPA and OMB within 30 days of this notice. EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing in EDOCKET as EPA receives them and without change, unless the

comment contains copyrighted material, CBI, or other information whose public disclosure is restricted by statute. When EPA identifies a comment containing copyrighted material, EPA will provide a reference to that material in the version of the comment that is placed in EDOCKET. The entire printed comment, including the copyrighted material, will be available in the public docket.

Although identified as an item in the official docket, information claimed as CBI, or whose disclosure is otherwise restricted by statute, is not included in the official public docket, and will not be available for public viewing in EDOCKET. For further information about the electronic docket, see EPA's **Federal Register** notice describing the electronic docket at 67 FR 38102 (May 31, 2002), or go to <http://www.epa.gov/edocket>.

Title: CAMEO Software Usability Evaluation Survey.

Abstract: The Environmental Protection Agency (EPA), Office of Emergency Prevention, Preparedness and Response (OEPPR), is requesting an Information Collection Request (ICR) to conduct a nationwide survey of Computer-aided Management of Emergency Operations (CAMEO) Web site listserv members and users to determine user satisfaction with the CAMEO software and its features. CAMEO is a system of software applications used widely to plan for and respond to chemical emergencies. It is one of the tools developed by EPA to assist front-line chemical emergency planners and responders. Users can employ CAMEO to access, store, and evaluate information critical for developing emergency plans. In addition, CAMEO supports regulatory compliance by helping users meet the chemical inventory reporting requirement of SARA Title III. CAMEO has been in use by local emergency planners, first responders, state and tribal groups, and industry personnel since 1988. During the intervening years, EPA surveyed CAMEO users in 1994 and 1997 to identify needed changes and enhancements. While these previous surveys were the starting point of the current CAMEO survey, survey materials have been modified to capture emerging needs of users, particularly as they relate to the availability of Emergency Planning and Community Right-to-Know (EPCRA) and Risk Management Program Rule data.

The survey will be conducted via the Internet after 600 names are randomly selected from the CAMEO Listserv. EPA will send prior notification to the entire Listserv (6,000-7,000 names) informing users of the survey and the process. EPA

will send a message to the 600 selected participants with a link to the Web-based survey; there will be no passwords to access the survey. In completing the survey, EPA will not require participants to provide any identifying information.

The primary goals of this research are to: (i) Evaluate customer satisfaction with CAMEO; (ii) probe current user practices and preferences regarding several important sets of issues, including the effectiveness of selected Agency products and services, required reporting requirements, and new homeland security responsibilities; and (iii) identify emerging user needs. EPA will use the information collected through this survey to judge the success and efficacy of the Agency's chemical emergency technical assistance efforts and improve program implementation.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in 40 CFR are listed in 40 CFR part 9 and are identified on the form and/or instrument, if applicable.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average one-half hour (0.5 hours) per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Members of the CAMEO Web site listserv.

Estimated Number of Respondents: 200.

Frequency of Response: One-time.

Estimated Total Annual Hour Burden: 100.

Estimated Total Annual Cost: \$7,000, includes \$0 annual capital/startup or O&M costs, and \$7,000 annual labor costs.

Dated: November 2, 2004.

Oscar Morales,

Director, Collection Strategies Division.

[FR Doc. 04-25216 Filed 11-10-04; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

[Docket No: WA-04-005; FRL-7837-1]

Adequacy Status of the Yakima PM₁₀ Nonattainment Area Limited Maintenance Plan and Redesignation Request for Transportation Conformity Purposes

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of adequacy.

SUMMARY: In this notice, EPA is notifying the public that we have found the Yakima PM₁₀ Nonattainment Area Limited Maintenance Plan and Redesignation Request adequate for transportation conformity purposes. On March 2, 1999, the D.C. Circuit Court ruled that submitted State Implementation Plans (SIPs) cannot be used for conformity determinations until EPA has found them adequate. As a result of this adequacy finding, the area automatically meets the budget test for future transportation conformity. This affects future transportation conformity determinations prepared, reviewed and approved by the Yakima Valley Council of Governments, Washington State Department of Transportation, Federal Highway Administration and the Federal Transit Administration.

DATES: This finding is effective November 29, 2004.

FOR FURTHER INFORMATION CONTACT: The finding is available at EPA's conformity Web site: <http://www.epa.gov/otaq/transp.htm>, (once there, click on the "Transportation Conformity" button, then look for "Adequacy Review of SIP Submissions"). You may also contact Wayne Elson, U.S. EPA, Region 10, Office of Air, Waste, and Toxics (AWT-107), 1200 Sixth Ave, Seattle WA 98101; (206) 553-1463 or elson.wayne@epa.gov.

SUPPLEMENTARY INFORMATION:

Background

Today's notice is simply an announcement of a finding that we have already made. EPA Region 10 sent a letter to the Washington Department of Ecology, October 12, 2004, stating that the SIP is adequate for transportation conformity purposes.

Transportation conformity is required by section 176(c) of the Clean Air Act. EPA's conformity rule requires that transportation plans, programs, and projects conform to SIPs. Conformity to a SIP means that transportation activities will not produce new air quality violations, worsen existing violations, or delay timely attainment of the national ambient air quality standards.

The criteria by which we determine whether a SIP is adequate for conformity purposes are outlined in 40 CFR 93.118(e)(4). Please note that an adequacy review is separate from EPA's completeness review and it also should not be used to prejudge our ultimate approval of the SIP. Even if we find a SIP adequate for conformity, the SIP could later be disapproved.

We have described our process for determining the adequacy in SIPs in guidance dated May 14, 1999. This guidance is now reflected in the amended transportation conformity rule, July 1, 2004 (69 FR 40004). We followed this process in making our adequacy determination.

Authority: 42 U.S.C. 7401-7671q.

Dated: November 4, 2004.

Ronald A. Kreizenbeck,

Acting Regional Administrator, Region 10.

[FR Doc. 04-25221 Filed 11-10-04; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

[ER-FRL-6657-6]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared pursuant to the Environmental Review Process (ERP), under Section 309 of the Clean Air Act and Section 102(2)(c) of the National Environmental Policy Act, as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 564-7167.

An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated April 02, 2004 (69 FR 17403).

Draft EISs

ERP No. D-AFS-G65094-NM Rating LO, Ojo Caliente Proposed Transmission Line, Authorization for Construction, Operation, and Maintenance of a New 115kV Transmission Line and Substation, Carson National Forest and BLM Taos Field Office, Taos and Rio Arriba Counties, NM.

Summary: EPA has no objection to the selection of the preferred Alternative D with options. ERP No. D-AFS-J65424-MT Rating EC2, Fishtrap Project, Proposed Timber Harvest, Prescribed Burning Road Construction and Other Restoration Activities, Lolo National Forest, Plains/Thompson Falls Ranger District, Sanders County, MT.

Summary: EPA supports Alternative 2 and it's potential to improve water quality, reduce road density and decrease habitat fragmentation in the long-term. However, EPA expressed concerns about the short-term impacts of increased sedimentation on water quality and bull trout. EPA recommend earlier implementation of road BMP improvements and road restoration relative to timber harvest and road construction, and additional road closure and decommissioning in the Upper Fishtrap drainage.

ERP No. D-DHS-D11036-MD Rating EC2, National Biodefense Analysis and Countermeasures Center (NBACC) Facility at Fort Detrick, Construction and Operation, Fort Detrick, Frederick County, MD.

Summary: EPA is concerned with the fracture trace located directly on the proposed project site and the potential impacts to groundwater.

Final EISs

ERP No. F-AFS-K65263-CA Meteor Project, Proposal for Harvesting Timber and Conducting Associated Activities on 744 Acres, Implementation, Klamath National Forest, Salmon River Ranger District, Siskiyou County, CA.

Summary: The Final EIS addressed EPA's concerns and no formal comments were sent to the preparing agency.

Dated: November 8, 2004.

Robert W. Hargrove,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 04-25202 Filed 11-10-04; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

[ER-FRL-6657-5]

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 564-7167 or <http://www.epa.gov/compliance/nepa>.

Weekly receipt of Environmental Impact Statements
Filed November 1, 2004. Through
November 5, 2004

Pursuant to 40 CFR 1506.9.

EIS No. 040512, Draft EIS, BLM, ID, Fire, Fuels and Related Vegetation Management Direction Plan Amendment, Upper Snake River District (The District), Amending 12 Existing Land Use Plans, Several Counties, ID, Comment Period Ends: February 10, 2005, Contact: Eric Limbach (208) 478-6392.

EIS No. 040513, Final EIS, BLM, CA, King Range National Conservation Area (KRNCA) Resource Management Plan, Implementation, Humboldt and Mendocino Counties, CA, Wait Period Ends: December 13, 2004, Contact: Lynda J. Roush (707) 825-2300.

EIS No. 040514, Final EIS, AFS, AK, Resurrection Creek Stream and Riparian Restoration Project, Proposes to Accelerate the Recovery of Riparian Areas, Fish and Wildlife Habitat, Chugach National Forest, Seward Ranger District, Kenai Peninsula Borough, AK, Wait Period Ends: December 13, 2004, Contact: Debora Cooper (907) 224-3374.

EIS No. 040515, Draft EIS, AFS, ID, Paddy Flat Vegetation Project, Harvesting and Regenerate Timber Stands Precommercially Thin Plantations, Rapid, Kennally and Camp Creeks, Payette National Forest, McCall Ranger District, Valley County, ID, Comment Period Ends: December 27, 2004, Contact: Dan Anderson (208) 634-0435.

EIS No. 040516, Final EIS, FHW, TX, TX-121 Highway Construction, I-30 to Farm-to-Market 1187 (FM 1187), Funding, USCG Section 9 and U.S. Army COE Section 10 and 404 Permits Issuance, Fort Worth, Tarrant County, TX, Wait Period Ends: December 13, 2004, Contact: Salvador Deocampo, P.E. (512) 536-5950.

EIS No. 040517, Draft EIS, AFS, MT, McSutten Decision Area, Implementation of Harvest and Associated Activities, Prescribed Burning, and Road Management, Kootenai National Forest, Rexford Ranger District, Lincoln County, MT, Comment Period Ends: December 27, 2004, Contact: Chris Fox (406) 296-7155.

EIS No. 040518, Draft EIS, FHW, NY, NYS Route 17—Elmira to Chemung Project, Proposed Highway Reconstruction, New Highway Construction, Bridge Rehabilitation/Replacement, Funding and U.S. Army COE Section 404 Permit, Town and City of Elmira, Town of Ashland and Chemung, Chemung County, NY, Comment Period Ends: December 31, 2004, Contact: Peter J. White (607) 324-8473.

EIS No. 040519, Final EIS, NSF, Project IceCube Comprehensive Environmental Evaluation, Antarctica, Wait Period Ends: January 12, 2005, Contact: Polly A. Penhale (703) 292-8033.

EIS No. 040520, Draft EIS, DOE, UT, Moab Uranium Mill Trailings Remediation, Proposal To Clean Up Surface Contamination and Implement a Ground Water Strategy, Grand and San Juan Counties, UT, Comment Period Ends: February 18, 2005, Contact: Donald R. Metzler (800) 637-4575.

This document is available on the Internet at: <http://gj.em.doe.gov/moab>.

EIS No. 040521, Draft EIS, STB, TX, Southwest Gulf Railroad Project, Construction and Operation Exemption, To Transport Limestone from Vulcan Construction Materials (VCM) Quarry to Del Rio Subdivision, Medina County, TX, Comment Period Ends: January 10, 2005, Contact: Rini Ghosh (202) 565-1539.

This document is available on the Internet at: <http://www.stb.dot.gov>.

EIS No. 040522, Draft Supplement, GSA, MD, U.S. Food and Drug Administration (FDA) Consolidation, Updated and New Information, Constructing a New Eastern Access Road and over Paint Branch, Construct Additional Facilities to Support Expanded Program, Relocating The Day Care Center, Federal Research Center at White Oak, Silver Spring, Montgomery, MD, Comment Period Ends: January 3, 2005, Contact: Denise Decker (301) 595-5156.

EIS No. 040523, Final EIS, COE, AZ, Va Shly'ay Akimel Salt River Ecosystem Restoration Feasibility Study, Increasing and Improving Native Vegetation, in Portions of the Salt River Pima-Maricopa Indian Community (SRPMIC) and the City of Mesa, Maricopa County, AZ, Wait Period Ends: December 13, 2004, Contact: Kayla Eckert, Ext. 253, (602) 640-2003.

EIS No. 040524, Final EIS, AFS, MT, Robert-Wedge Post-Fire Project, Salvage Trees and Rehabilitate Lands, Flathead National Forest, Glacier View Ranger District, Flathead County, MT, Wait Period Ends: December 13, 2004, Contact: Michele Draggoo (406) 387-3827.

EIS No. 040525, Final EIS, NOAA, WA, CA, OR, 2005-2006 Pacific Coast Groundfish Fishery, Proposed Acceptable Biological Catch and Optimum Yield Specifications and Management Measures, WA, OR and

CA, Wait Period Ends: December 13, 2004, Contact: D. Robert Lohn (206) 526-6150.

This document is available on the Internet at: <http://www.pcouncil.org/nepa/nepatrack.html>.

Amended Notices

EIS No. 040402, Revised Draft EIS, IBR, CA, NV, CA, NV, Truckee River Operating Agreement (TROA) Modify Operations of Five Federal and Two Non-Federal Reservoirs to Facilitate Distribution of Water, Truckee River Basin, El Dorado, Nevada, Placer and Sierra Counties, CA and Douglas, Lyon, Storey and Washoe Counties, NV, Comment Period Ends: December 30, 2004, Contact: Kenneth Parr (775) 882-3436.

Revision of **Federal Register** Notice Published on 08/27/04: CEQ Comment Period Ending 10/29/2004 has been Extended to 12/30/2004.

EIS No. 040506, Final EIS, BIA, NY, St. Regis Mohawk Tribe, Mohawk Mountain Casino and Resort, Proposed Transfer of 66 Acres of Land into Federal Trust Status, Fee-to-Trust Acquisition, Sullivan County, NY, Wait Period Ends: December 6, 2004, Contact: Jim Kardatzke (615) 467-1675.

Review of **Federal Register** Notice Published on 11/05/2004: The above BIA EIS should have appeared in the 11/05/2004 **Federal Register**. The 30 Day Wait Period is Calculated from 11/05/2004.

Dated: November 8, 2004.

Robert W. Hargrove,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 04-25203 Filed 11-10-04; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

[FRL-7837-4]

Science Advisory Board Staff Office; Notification of a Meeting of the Science Advisory Board

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The EPA Science Advisory Board (SAB) Staff Office announces a meeting of the chartered SAB to hold discussions with EPA about the Agency's science program in preparation for its upcoming advisory about the EPA science and budget request for FY 2006.

DATES: A public face-to-face meeting of the SAB will be held from 1 p.m. to 5:30 p.m. on November 30, 2004.

ADDRESSES: The SAB meeting will be held at the Washington Terrace Hotel, 1515 Rhode Island Avenue, NW., Washington, DC 20005.

FOR FURTHER INFORMATION CONTACT: Any member of the public wishing further information concerning this meeting should contact Mr. Tom Miller, Designated Federal Officer, EPA Science Advisory Board Staff Office (1400F), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; telephone (202) 343-9982; Fax (202) 233-0643; or via e-mail at miller.tom@epa.gov. General information about the SAB as well as any updates concerning the meetings announced in this notice, may be found on the SAB Web site at <http://www.epa.gov/sab>.

SUPPLEMENTARY INFORMATION:

Background: The SAB was established by 42 U.S.C. 4365 to provide independent scientific and technical advice, consultation, and recommendations to the EPA Administrator on the technical basis for Agency positions and regulations. The EPA has requested that the SAB consider and comment on the Agency's science programs and budget requests for FY 2006. The SAB will hold a series of discussions with EPA offices to gather relevant information and learn more about the Agency's science programs in preparation for its advisory at a face-to-face meeting to be scheduled in February, 2005.

The first meeting, to be held on November 30, 2004, will be fact-finding in nature. Subsequent fact-finding meetings associated with this advisory will be conducted by telephone conference. These meetings or telephone conferences will be announced in the **Federal Register** as time permits. Those meetings that are held without advance notice in the **Federal Register** will be announced on the SAB Web site at least 5 working days prior to each meeting. All SAB meetings or telephone conferences will be open to the public.

Procedures for Providing Public Comments: It is the policy of the EPA SAB to accept written public comments of any length, and to accommodate oral public comments whenever possible. The SAB Staff Office expects that public statements presented at the meeting will not be repetitive of previously submitted oral or written statements. Oral Comments: In general, each individual or group requesting an oral presentation at a face-to-face meeting

will be limited to a total time of ten minutes (unless otherwise indicated). Interested parties should contact the DFO in writing (e-mail, fax or mail—see contact information above) by close of business November 26, 2004 in order to be placed on the public speaker list for the meeting. Speakers should bring at least 35 copies of their comments and presentation slides for distribution to the participants and public at the meeting. Written Comments: Although the SAB Staff Office accepts written comments until the date of the meeting (unless otherwise stated), written comments should be received in the SAB Staff Office at least seven business days prior to the meeting date so that the comments may be made available to the panel for their consideration. Comments should be supplied to the DFO at the address/contact information noted above 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). Those providing written comments and who attend the meeting are also asked to bring 35 copies of their comments for public distribution.

Meeting Accommodations: Individuals requiring special accommodation to access the public meetings listed above should contact the DFO at least five business days prior to the meeting so that appropriate arrangements can be made.

Dated: November 4, 2004.

Vanessa T. Vu,

Director, EPA Science Advisory Board Staff Office.

[FR Doc. 04-25222 Filed 11-10-04; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

[FRL-7837-3]

Science Advisory Board Staff Office; Notification of a Science Advisory Board Workshop on Nanotechnology, Biotechnology, and Information Technology

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The EPA Science Advisory Board (SAB) is conducting a workshop on nanotechnology, biotechnology, and information technology. The workshop is open to the public, however, seating for the public will be limited and available on a first-come basis only to

those who pre-register (see Workshop Registration below).

DATES: The SAB workshop will be held on Wednesday, December 1, 2004, beginning at 8:30 a.m. and adjourning no later than 1:30 p.m., Thursday, December 2, 2004.

ADDRESSES: The SAB workshop will be held at Washington Terrace Hotel, 1515 Rhode Island Avenue, NW., Washington, DC 20005.

FOR FURTHER INFORMATION CONTACT: Any member of the public wishing further information concerning this workshop should contact Ms. Vickie Richardson, EPA Science Advisory Board Staff Office (1400F), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; telephone (202) 343-9978; Fax (202) 233-0643; or via e-mail at richardson.vickie@epa.gov. General information about the EPA Science Advisory Board, may be found on the SAB Web site (<http://www.epa.gov/sab>).

Workshop Registration—Members of the public wishing to attend must pre-register no later than 12 noon Eastern Time on Friday November 26, 2004. Please pre-register via e-mail or fax to Ms. Vickie Richardson (see above information), providing your name, title, organization, mailing address, phone and e-mail.

SUPPLEMENTARY INFORMATION: The SAB was established by 42 U.S.C. 4365 to provide independent scientific and technical advice, consultation, and recommendations to the EPA Administrator on the technical basis for Agency positions and regulations. The SAB is convening this workshop to learn more about recent developments in nanotechnology, biotechnology and information technology. The workshop is intended to educate and inform the SAB, so that it may better understand the potential applications and implications of these technologies for science and research programs at EPA. The workshop will include advisory members of the SAB, the Clean Air Scientific Advisory Committee (CASAC), the Advisory Council on Clean Air Compliance Analysis (COUNCIL), their committees, and invited EPA and outside experts in the fields of nanotechnology, biotechnology and information technology. It will begin with a series of plenary presentations. Following the plenary overviews, workshop participants will be assigned to break out groups to learn more about the specific topic areas. The Workshop will conclude with the attendees identifying a number of issues that it will consider conducting in order to assist the EPA science programs

develop the necessary flexibility to deal with these issues as they become a larger part of EPA's mission over time.

Although the SAB is a Federal Advisory Committee, this workshop is an administrative meeting and, therefore, not subject to the open meeting requirements of the Federal Advisory Committee Act. However, the Workshop is open to the public. Seating for the public will be limited and available on a first come basis only to those who pre-register (see Workshop Registration above).

A draft Workshop agenda is posted on the SAB Web site under "Recent Additions" (www.epa.gov/sab/whatsnew.htm). An updated Agenda will be posted prior to the Workshop. Workshop Proceedings will be available at a date to be announced on the SAB Web site.

Meeting Access: Individuals requiring special accommodation at this workshop should contact Ms. Richardson at least five business days in advance so that appropriate arrangements can be made.

Dated: November 4, 2004.

Vanessa T. Vu,
Director, EPA Science Advisory Board Staff
Office.

[FR Doc. 04-25223 Filed 11-10-04; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

[OPP-2004-0337; FRL-7683-8]

Ferbam; Notice of Receipt of Requests for Amendments to Delete Uses in Certain Pesticide Registrations and to Cancel Certain Product Registrations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In accordance with section 6(f)(1) of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), as amended, EPA is issuing a notice of receipt of request for amendments by registrants to delete uses in certain registrations and to cancel certain product registrations containing the pesticide ferbam. Section 6(f)(1) of FIFRA provides that a registrant of a pesticide product may at any time request that any of its pesticide registrations be cancelled or amended to terminate one or more uses. FIFRA further provides that, before acting on the request, EPA must publish a notice of receipt of any request in the **Federal Register**.

DATES: The deletions are effective on January 11, 2005, unless the Agency receives a written withdrawal request on or before January 11, 2005, or unless the Agency receives substantive comments within the comment period that would merit its further review of these requests. The Agency will consider withdrawal requests postmarked no later than January 11, 2005.

ADDRESSES: Written withdrawal requests may be submitted electronically, by mail, or through hand delivery/courier. Follow the detailed instructions as provided in Unit I. of the **SUPPLEMENTARY INFORMATION**. To ensure proper receipt by EPA, it is imperative that you identify docket identification (ID) number OPP-2004-0337 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: Amaris Johnson, Office of Pesticide Programs (7508C), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (703) 305-9542; e-mail address: johnson.amaris@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general. Although, this action may be of particular interest to persons who produce or use pesticides, 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 information in this notice, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

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

1. **Docket.** EPA has established an official public docket for this action under docket ID number OPP-2004-0337. The official public docket consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although, a part of the official docket, the public docket does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The official public docket is the collection of materials that is available for public viewing at the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1801 S. Bell St., Arlington, VA. This docket facility is open from 8:30 a.m. to

4 p.m., Monday through Friday, excluding legal holidays. The docket telephone number is (703) 305-5805.

2. **Electronic access.** You may access this **Federal Register** document electronically through the EPA Internet under the "**Federal Register**" listings at <http://www.epa.gov/fedrgstr/>.

An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at <http://www.epa.gov/edocket/> to submit or view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Although, not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified in Unit I.B.1. Once in the system, select "search," then key in the appropriate docket ID number.

C. How and to Whom Do I Submit Written Withdrawal Requests?

1. **Electronically**—i. E-mail your written withdrawal requests to: Amaris Johnson at johnson.amaris@epa.gov, Attention: Docket ID number OPP-2004-0337.

ii. **Disk or CD ROM.** Written withdrawal requests on disk or CD ROM may be mailed to the address in Unit I.C.2. or delivered by hand or courier to the address in Unit I.C.3., Attention: Docket ID number OPP-2004-0337. These electronic submissions will be accepted in WordPerfect or ASCII file format. Avoid the use of special characters and any form of encryption.

2. **By mail.** Send your written withdrawal requests to: Amaris Johnson, Office of Pesticide Programs (7508C), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001, Attention: Docket ID number OPP-2004-0337.

3. **By hand delivery or courier.** Deliver your written withdrawal requests to: Public Information and Records Integrity Branch (PIRIB), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1801 S. Bell St., Arlington, VA 22202, Attention: Docket ID number OPP-2004-0337. Such deliveries are only accepted during the docket's normal hours of operation as identified in Unit I.B.1.

II. What Action is the Agency Taking?

This notice announces receipt by the Agency of applications from registrants to delete uses in certain pesticide registrations and to cancel certain pesticide registrations. The use

deletions are listed in Table 1 of this unit by registration number, product name/active ingredient, and specific uses deleted. Table 2 of this unit lists the cancellation of pesticide

registrations by EPA registration number, product name, and active ingredient. In addition, the registrants waived the 180-day comment period for these use deletions and product

cancellations. Therefore, this notice opens a 60-day comment period for these ferbam use deletions and product cancellations.

TABLE 1.—REGISTRATIONS WITH REQUESTS FOR AMENDMENTS TO DELETE CERTAIN USES FROM LABEL

EPA Reg. No.	Product name	Active ingredient	Delete from label
45728-7	Carbamate WDG Fungicide	Ferbam	Apples, Cherries, Grapes, Pears, Tobacco (plant beds), Trees, Flowers, and Ornamentals (Pine Seedlings and plant beds, Slash and Long Leaf Pines, Nursery Conifer and Seedling Crops, Spruce, Douglas Fir Christmas Trees, Conifers, Asters, Columbine, Begonias, Golden Glow, Cyclamens, Delphiniums, Iris, Hollyhocks, Laurel, Hydrangeas, Phlox, Morning Glory, Ivy, Geraniums, Verbena, Primrose, Zinnias, Snapdragons, Lilacs, Oriental Poppy, Palm Sweet Pea, Azaleas, Cacti and Succulents, Camelia, Carnations, Chrysanthiumums, Roses, Geraniums, Morning Glory, Marigolds, Snapdragons, Scheffleras, Gardenias, Gladiolus, Juniper, Lilies, Orchids, Ornamental Cuttings, Peonies, Poinsettias, Tulips).

TABLE 2.—REQUEST TO CANCEL CERTAIN PESTICIDE REGISTRATIONS

EPA Reg. No.	Product name	Active ingredient
5481-268	76W Ferbam Fungicide	Ferbam
5481-256	Royal Brand Ferbam Dust	Ferbam
8660-68	Patterson Green-Up Ferbam Fungicide	Ferbam

Table 3 of this unit includes the names and addresses of record for all registrants of the products in Table 1 and 2 of this unit, in sequence by EPA company number.

TABLE 3.—REGISTRANTS REQUESTING AMENDMENTS TO DELETE USES AND CANCEL PRODUCTS IN CERTAIN PESTICIDE REGISTRATIONS

EPA Company No.	Company name and address
5481—Product Cancellations	AMVAC, 4694 MacArthur Court, Suite 1250 Newport Beach, CA 92660
8660—Product Cancellation	SYLORR Plant Corp. P.O. Box 142642 St. Louis, MO 63114

TABLE 3.—REGISTRANTS REQUESTING AMENDMENTS TO DELETE USES AND CANCEL PRODUCTS IN CERTAIN PESTICIDE REGISTRATIONS—Continued

EPA Company No.	Company name and address
45728—Use Deletions	Taminco, Inc., c/o VJP Consulting, Inc. 21320 Sweet Clover Place Ashburn, VA 20147

III. What is the Agency's Authority for Taking this Action?

Section 6(f)(1) of FIFRA provides that a registrant of a pesticide product may at any time request that any of its pesticide registrations be cancelled or amended to terminate one or more uses. The Act further provides that, before acting on the request, EPA must publish a notice of receipt of any such request in the **Federal Register**. Thereafter, following the public comment period, the Administrator may approve such a request.

IV. Procedures for Withdrawal of Request

Registrants who choose to withdraw a request for use deletion must submit the withdrawal in writing to Amaris Johnson using the instructions in Unit I.C. The Agency will consider written withdrawal requests postmarked no later than January 11, 2005.

V. Provisions for Disposition of Existing Stocks

For purposes of this cancellation order, the term "existing stocks" is defined, pursuant to EPA's existing stocks policy (56 FR 29362, June 26, 1991), as those stocks of registered pesticide products which are currently

in the United States and which were packaged, labeled, and released for shipment prior to the effective date of the cancellation action. The Agency has authorized the registrants to sell or distribute product under the previously approved labeling for a period of 12 months after approval of the revision, unless other restrictions have been imposed.

List of Subjects

Environmental protection, Pesticides and pests.

Dated: October 26, 2004.

Debra Edwards,

Director, Special Review and Reregistration Division, Office of Pesticide Program.

[FR Doc. 04-25205 Filed 11-10-04; 8:45 am]

BILLING CODE 6560-50-S

FEDERAL COMMUNICATIONS COMMISSION

Network Reliability and Interoperability Council

AGENCY: Federal Communications Commission.

ACTION: Notice of public meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act (FACA), this notice advises interested persons of the third meeting of the Network Reliability and Interoperability Council (Council) under its charter renewed as of December 29, 2003. The meeting will be held at the Federal Communications Commission in Washington, DC.

DATES: Monday, December 6, 2004 beginning at 10 a.m. and concluding at 1 p.m.

ADDRESSES: Federal Communications Commission, 445 12th St., SW., Room TW-305, Washington, DC.

FOR FURTHER INFORMATION CONTACT:

Jeffery Goldthorp, the Designated Federal Officer (DFO) at (202) 418-1096 or *Jeffery.Goldthorp@fcc.gov*. The TTY number is: (202) 418-2989.

SUPPLEMENTARY INFORMATION: The purpose of the Council is to provide recommendations to the FCC and to the communications industry that, if implemented, shall under all reasonably foreseeable circumstances assure optimal reliability and interoperability of wireless, wireline, satellite, cable, and public data networks. The Council will discuss the progress of working groups that are addressing the topics that are contained in the Council's charter and any additional issues that may come before it. Members of the general public may attend the meeting. The Federal communications Commission will attempt to accommodate as many people as possible. Admittance, however, will be limited to the seating available. The public may submit written comments before the meeting to Jeffery Goldthorp, the Commission's Designated Federal Officer for the Network Reliability and Interoperability Council, by e-mail (*Jeffery.Goldthorp@fcc.gov*) or U.S. Postal Service mail (7-A325, 445 12th St., SW., Washington, DC 20554). Real Audio and streaming video access to the meeting will be available at <http://www.fcc.gov/realaudio/>.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 04-25217 Filed 11-10-04; 8:45 am]

BILLING CODE 6712-01-P

FEDERAL DEPOSIT INSURANCE CORPORATION

Sunshine Act; Notice of Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 4:30 p.m. on Monday, November 15, 2004, the Federal Deposit Insurance Corporation's Board of Directors will meet in closed session, pursuant to section 552b(c)(2), (c)(6), (c)(8), and (c)(9)(A)(ii) of Title 5, United States Code, to consider matters relating to the Corporation's corporate activities.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550-17th Street, NW., Washington, DC.

Requests for further information concerning the meeting may be directed to Mr. Robert E. Feldman, Executive

Secretary of the Corporation, at (202) 898-7043.

Dated: November 8, 2004.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. E4-3145 Filed 11-10-04; 8:45 am]

BILLING CODE 6714-01-P

FEDERAL DEPOSIT INSURANCE CORPORATION

Sunshine Act; Notice of Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance Corporation's Board of Directors will meet in open session at 4 p.m. on Monday, November 15, 2004, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Disposition of minutes of previous

Board of Directors' meetings
Summary reports, status reports, and reports of actions taken pursuant to authority delegated by the Board of Directors

Memorandum and resolution re:
Revised Investment Policy for Liquidation Funds Managed by the FDIC

Discussion Agenda:
Memorandum and resolution re: Final Rule: Part 327—Certified Statements and Revision of Assessment Computations

Memorandum and resolution re: The FDIC Insurance Funds: Outlook and Premium Rate Recommendations for the First Semiannual Assessment Period of 2005

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550-17th Street, NW., Washington, DC.

The FDIC will provide attendees with auxiliary aids (e.g., sign language interpretation) required for this meeting. Those attendees needing such assistance should call (202) 416-2089 (Voice); (202) 416-2007 (TTY), to make necessary arrangements.

Requests for further information concerning the meeting may be directed to Mr. Robert E. Feldman, Executive Secretary of the Corporation, at (202) 898-7043.

Dated: November 8, 2004.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. E4-3161 Filed 11-10-04; 8:45 am]

BILLING CODE 6714-01-P

FEDERAL ELECTION COMMISSION

Sunshine Act Meeting

AGENCY: Federal Election Commission.

PREVIOUSLY ANNOUNCED DATE AND TIME:

Thursday, November 4, 2004, 10 a.m.
Meeting open to the public. This meeting was cancelled.

DATE AND TIME: *Tuesday, November 16, 2004 at 10 a.m.*

PLACE: 999 E Street, NW., Washington, DC.

STATUS: This meeting will be closed to the public.

ITEMS TO BE DISCUSSED: Compliance matters pursuant to 2 U.S.C. 437g.

Audits conducted pursuant to 2 U.S.C.

437g, 438(b), and Title 26, U.S.C.
Matters concerning participation in civil actions or proceedings or arbitration.
Internal personnel rules and procedures or matters affecting a particular employee.

DATE AND TIME: *Thursday, November 18, 2004 at 10 a.m.*

PLACE: 999 E Street, NW., Washington, DC (Ninth Floor).

STATUS: This meeting will be open to the public.

ITEMS TO BE DISCUSSED:

Correction and Approval of Minutes.
Report of the Audit Division on the Conservative Leadership Political Action Committee.

Regulations Priorities.
Routine Administrative Matters.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Biersack, Acting Press Officer, Telephone: (202) 694-1220.

Mary W. Dove,

Secretary of the Commission.

[FR Doc. 04-25325 Filed 11-9-04; 3:08 pm]

BILLING CODE 6715-01-M

FEDERAL MARITIME COMMISSION

Notice of Agreements Filed

The Commission hereby gives notice of the filing of the following agreements under the Shipping Act of 1984.

Interested parties may obtain copies of agreements by contacting the Commission's Office of Agreements at (202) 523-5793 or via e-mail at *tradeanalysis@fmc.gov*. Interested parties may submit comments on an

agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days of the date this notice appears in the **Federal Register**.

Agreement No.: 011453-004.

Title: Southern Africa/Oceania Agreement.

Parties: A.P. Moller-Maersk A/S; Mediterranean Shipping Co., S.A.; and Safmarine Container Lines N.V.

Filing Party: Wayne R. Rohde, Esquire, Sher & Blackwell, 1850 M Street, NW., Suite 900, Washington, DC 20036.

Synopsis: The proposed modification would increase the maximum size of vessels operated under the agreement, cap the monthly payments authorized by the agreement, delete certain extraneous material, and make a number of technical corrections. The modification also updates Maersk's corporate name.

Agreement No.: 011814-004.

Title: HSDG/King Ocean Space Charter Agreement.

Parties: Hamburg-Südamerikanische Dampfschiffahrts-Gesellschaft KG, King Ocean Services Limited, and King Ocean Service de Venezuela, S.A.

Filing Party: Wayne R. Rohde, Esq., Sher & Blackwell, 1850 M Street, NW., Suite 900, Washington, DC 20036.

Synopsis: The amendment revises the parties' slot allocations under the agreement.

Agreement No.: 011821-002.

Title: MSC/CMA CGM Space Charter Agreement.

Parties: CMA CGM, S.A. and Mediterranean Shipping Company, S.A.

Filing Party: Paul M. Keane, Esq., Cichanowicz, Callan, Keane, Vengrow & Textor, LLP, 61 Broadway, Suite 3000, New York, NY 10006-2802.

Synopsis: The amendment revises the minimum periods for which the agreement applies, changes the termination process and deletes outdated language.

Agreement No.: 011847-001.

Title: Pacific Gulf Express Agreement.

Parties: CMA CGM, S.A.; P&O Nedlloyd Limited; and P&O Nedlloyd B.V.

Filing Party: Neal M. Mayer, Esq., Hoppel, Mayer & Coleman, 1000 Connecticut Avenue, NW., Washington, DC 20036.

Synopsis: The amendment provides for specific additional slot sales to P&O Nedlloyd through September 30, 2005.

Agreement No.: 011891.

Title: Hapag-Lloyd/NYK Space Charter Agreement.

Parties: Hapag-Lloyd Container Linie GmbH and Nippon Yusen Kaisha.

Filing Party: David F. Smith, Esquire, Sher & Blackwell LLP, 1850 M Street, NW., Suite 900, Washington, DC 20036.

Synopsis: The proposed agreement would authorize the parties to operate a three-vessel service and share space in the trade between the U.S. East Coast and the East Coast of South America.

By Order of the Federal Maritime Commission.

Dated: November 5, 2004.

Bryant L. VanBrakle,
Secretary.

[FR Doc. 04-25138 Filed 11-10-04; 8:45 am]

BILLING CODE 6730-01-P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License Revocations

The Federal Maritime Commission hereby gives notice that the following Ocean Transportation Intermediary licenses have been revoked pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718) and the regulations of the Commission pertaining to the licensing of Ocean Transportation Intermediaries, effective on the corresponding date shown below:

License Number: 004630NF.

Name: Airborne Express, Inc.

Address: 3101 Western Avenue, P.O. Box 662, Seattle, WA 98111-0662.

Date Revoked: October 19, 2004.

Reason: Surrendered licensed voluntarily.

License Number: 000754F.

Name: Christian Bay Shipping Co. dba Fillette, Green & Co. Of Tampa dba Fillette, Green Freight Forwarding Services dba St. Andrews Bay Co.

Address: 259 East Scenic Drive, Pass Christian, MS 39571.

Date Revoked: October 20, 2004.

Reason: Failed to maintain a valid bond.

License Number: 016415N.

Name: DSR Shipping Co., Inc.

Address: 495 Union Avenue, Middlesex, NJ 08846.

Date Revoked: October 9, 2004.

Reason: Failed to maintain a valid bond.

License Number: 004108F.

Name: DRT International, Incorporated.

Address: 7762 NW 72nd Avenue, Medley, FL 33166.

Date Revoked: October 24, 2004.

Reason: Failed to maintain a valid bond.

License Number: 018415N.

Name: Global Link Logistics, Inc.

Address: 2300 Henderson Mill Road, Suite 208, Atlanta, GA 30345.

Date Revoked: October 23, 2004.

Reason: Failed to maintain a valid bond.

License Number: 015105N.

Name: H & T International

Transportation (USA), Inc.
Address: 320 Pine Avenue, Suite 907, Long Beach, CA 90802.

Date Revoked: October 20, 2004.

Reason: Failed to maintain a valid bond.

License Number: 017940F.

Name: Kristen Brandimarte dba

Emmeli Shipping.

Address: 3200 Sunset Avenue, Suite 209, Ocean, NJ 07712.

Date Revoked: October 21, 2004.

Reason: Failed to maintain a valid bond.

License Number: 016027F.

Name: Lion Exhibition Freight, Inc.

Address: 1153 Willingham Drive, Atlanta, GA 30349.

Date Revoked: October 23, 2004.

Reason: Failed to maintain a valid bond.

License Number: 015640N.

Name: Mediterranean Container Line, Inc.

Address: 45 E. 33rd Street, Suite 206, New York, NY 10016.

Date Revoked: October 24, 2004.

Reason: Failed to maintain a valid bond.

License Number: 013226N.

Name: Mi Hyun Sur dba Important Cargo Express Company.

Address: 1553 West 139th Street, Gardena, CA 90249.

Date Revoked: October 17, 2004.

Reason: Failed to maintain a valid bond.

License Number: 017720NF.

Name: Orion Logistics Inc.

Address: 9688 Fontaine Bleau Blvd., #509, Miami, FL 33172.

Date Revoked: October 21, 2004.

Reason: Failed to maintain valid bonds.

License Number: 014396NF.

Name: Planes Moving & Storage, Inc.

Address: 9823 Cincinnati-Dayton Road, West Chester, PA 45069.

Date Revoked: October 13, 2004.

Reason: Failed to maintain valid bonds.

License Number: 001286N and 001286F.

Name: Ros Forwarding, Inc.

Address: 8420 NW 58th Street, Miami, FL 33166.

Date Revoked: October 7, 2004 and October 3, 2004.

Reason: Failed to maintain valid bonds.

License Number: 003802F.

Name: Shipping International, Inc.

Address: 352 Wood Ibis Avenue,
Tarpon Springs, FL 34689.
Date Revoked: October 21, 2004.
Reason: Failed to maintain a valid
bond.
License Number: 015524N.
Name: Sunflower Van Lines, Inc.
Address: 148 W. 132nd Street, Suite
E, Los Angeles, CA 90061.
Date Revoked: October 28, 2004.
Reason: Failed to maintain a valid
bond.
License Number: 015029N.
Name: Taekwang Logistics
Corporation dba TLC Express Lines dba
Challenger Merchandise Shipping Line.
Address: 222 E. Redondo Beach Blvd.,
Unit F, Gardena, CA 90248.
Date Revoked: October 28, 2004.
Reason: Failed to maintain a valid
bond.

License Number: 014862N.
Name: United Trade Resources, Inc.
Address: 17595 Almahurst Road,
Suite 205, City of Industry, CA 91748.
Date Revoked: October 10, 2004.
Reason: Failed to maintain a valid
bond.
License Number: 004378F.
Name: World 2000 Services, Inc.
Address: 3811 N.W. 2nd Avenue,
Miami, FL 33127.
Date Revoked: October 22, 2004.
Reason: Surrendered license
voluntarily.
Sandra L. Kusumoto,
*Director, Bureau of Certification and
Licensing.*
[FR Doc. 04-25160 Filed 11-10-04; 8:45 am]
BILLING CODE 6730-01-P

FEDERAL MARITIME COMMISSION**Ocean Transportation Intermediary
License Reissuances**

Notice is hereby given that the following Ocean Transportation Intermediary licenses have been reissued by the Federal Maritime Commission pursuant to section 19 of the Shipping Act of 1984, as amended by the Ocean Shipping Reform Act of 1998 (46 U.S.C. app. 1718) and the regulations of the Commission pertaining to the licensing of Ocean Transportation Intermediaries, 46 CFR part 515.

License No.	Name/address	Date reissued
000479F	Barian Shipping Company Inc., 910 Railroad Avenue, Woodmere, NY 11598	September 9, 2004.
004447N	Bestway Shipping, Inc., 269 E. Redondo Beach Blvd., Gardena, CA 90248	October 3, 2004.
004462F	R S Exports, Inc., 11914 Aviation Blvd., #A, Inglewood, CA 90304	August 27, 2004.
003009NF	Super Freight International, Inc., 650 N. Edgewood Avenue, Wood Dale, IL 60191	June 12, 2004.
004395NF	Superior Link International, Inc., 380 S. Lemon Avenue, Suite B1-G, Walnut, CA 91789	September 27, 2004.
016956N	Worldwide Group, Inc., dba World Trans Line, 14928 S. Figueroa Street, Gardena, CA 90248 ..	October 1, 2004.

Sandra L. Kusumoto,
*Director, Bureau of Certification and
Licensing.*
[FR Doc. 04-25159 Filed 11-10-04; 8:45 am]
BILLING CODE 6730-01-P

**GENERAL SERVICES
ADMINISTRATION**

[OMB Control No. 3090-0197]

**General Services Administration
Acquisition Regulation; Information
Collection; GSAR Provision 552.237-
70, Qualifications of Offerors**

AGENCY: Office of the Chief Acquisition
Officer, GSA.

ACTION: Notice of request 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 will be submitting to the
Office of Management and Budget
(OMB) a request to review and approve
a renewal of a currently approved
information collection requirement
regarding the qualifications of offerors.

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:
January 11, 2005.

FOR FURTHER INFORMATION CONTACT: Ms.
Linda Nelson, Procurement Analyst,
Contract Policy Division, at (202) 501-
1900 or via e-mail at
linda.nelson@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 the Regulatory Secretariat (V),
General Services Administration, Room
4035, 1800 F Street, NW., Washington,
DC 20405. Please cite OMB Control No.
3090-0197, GSAR Provision 552.237-
70, Qualifications of Offerors, in all
correspondence.

SUPPLEMENTARY INFORMATION:**A. Purpose**

The General Services Administration
(GSA) has various mission
responsibilities related to the
acquisition and provision of service
contracts. These mission responsibilities
generate requirements that are realized
through the solicitation and award of
contracts for building services.
Individual solicitations and resulting
contracts may impose unique
information collection and reporting
requirements on contractors not
required by regulation, but necessary to

evaluate particular program
accomplishments and measure success
in meeting program objectives.

B. Annual Reporting Burden

Respondents: 6794

Responses Per Respondent: 1

Hours Per Response: 1

Total Burden Hours: 6794

Obtaining Copies of Proposals:

Requesters may obtain a copy of the
information collection documents from
the General Services Administration,
Regulatory Secretariat (V), 1800 F Street,
NW., Room 4035, Washington, DC
20405, telephone (202) 208-7312. Please
cite OMB Control No. 3090-0197, GSAR
Provision 552.237-70, Qualifications of
Offerors, in all correspondence.

Dated: November 4, 2004

Laura Auletta,

Director, Contract Policy Division.

[FR Doc. 04-25177 Filed 11-10-04; 8:45 am]

BILLING CODE 6820-61-S

**GENERAL SERVICES
ADMINISTRATION**

[OMB Control No. 3090-0163]

**General Services Administration;
Information Collection; Information
Specific to a Contract or Contracting
Action (Not Required By Regulation)**

AGENCY: Office of the Chief Acquisition
Officer, GSA.

ACTION: Notice of request 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 will be submitting to the Office of Management and Budget (OMB) a request to review and approve a renewal of a currently approved information collection requirement regarding information specific to a contract or contracting action (not required by regulation).

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: January 11, 2005.

FOR FURTHER INFORMATION CONTACT: Linda Nelson, Procurement Analyst, Contract Policy Division, at telephone (202) 501-1900 or via email at linda.nelson@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 the Regulatory Secretariat (V), General Services Administration, Room 4035, 1800 F Street, NW., Washington, DC 20405. Please cite OMB Control No. 3090-0163, Information Specific to a Contract or Contracting Action (not required by regulation), in all correspondence.

SUPPLEMENTARY INFORMATION:

A. Purpose

The General Services Administration (GSA) has various mission responsibilities related to the acquisition and provision of supplies, transportation, ADP, telecommunications, real property management, and disposal of real and personal property. These mission responsibilities generate requirements that are realized through the solicitation and award of public contracts. Individual solicitations and resulting contracts may impose unique information collection/reporting requirements on contractors, not required by regulation, but necessary to evaluate particular program accomplishments and measure success in meeting special program objectives.

B. Annual Reporting Burden

Respondents: 126,870

Responses Per Respondent: 1.36

Total Responses: 172,500

Hours Per Response: .399

Total Burden Hours: 68,900

Obtaining Copies of Proposals:

Requesters may obtain a copy of the information collection documents from the General Services Administration, Regulatory Secretariat (V), 1800 F Street, NW., Room 4035, Washington, DC 20405, telephone (202) 208-7312. Please cite OMB Control No. 3090-0163, Information Specific to a Contract or Contracting Action (not required by regulation), in all correspondence.

Dated: November 4, 2004.

Laura Auletta,

Director, Contract Policy Division

[FR Doc. 04-25178 Filed 11-10-04; 8:45 am]

BILLING CODE 6820-61-S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

[Document Identifier: OS-0994-]

Notice of Proposed Requirement To Establish Government-Wide Standard Data Elements for Use by All Federal Grant Making Agencies

AGENCY: Office of the Secretary, Grants.gov Program Management Office, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Office of the Secretary (OS), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden. Emergency Clearance for the data set was published in the **Federal Register** on September 3, 2004 [Vol. 69, No. 171]. Public comments from the Emergency Clearance were incorporated into the proposed information collection.

#1 Type of Information Collection Request: Regular, Extension of a currently approved collection.

Title of Information Collection: SF-424 Research & Related (R&R).

Form/OMB No.: OS-0994-.

Use: The SF-424 (R&R) will become the government-wide data set for research grant applications. Federal agencies and grant applicants will use the standard data set and definitions for paper and electronic research grants applications. The standard data set will become the common Federal data set for research grant applications, replacing numerous agency data sets and reducing the administrative burden place on the research grants community. The data set provides information to assist Federal program staff and grants officials in assessing the adequacy of applicant's proposals to accomplish project objectives and determine whether the business aspects of grants applications reflect program needs and grants policies. Federal agencies will not be required to collect all of the information included in the proposed data set. The agency will identify the data that must be provided by applicants through instructions that will accompany the application forms.

Frequency: Recording, Reporting, and on Occasion.

Affected Public: Federal, State, local, or tribal governments, business or other for profit, not for profit institutions.

Annual Number of Respondents: 459,425.

Total Annual Responses: 459,425.

Average Burden per Response: 40 hours.

Total Annual Hours: 19,037,350.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access the HHS Web site address at <http://www.hhs.gov/oirm/infocollect/pending/> or e-mail your request, including your address, phone number, OMB number, and OS document identifier, to naomi.cook@hhs.gov, or call the Reports Clearance Office on (202) 690-6162. Written comments and recommendations for the proposed information collections must be mailed directly to the OS Paperwork Clearance Officer designated at the following address: Department of Health and Human Services, Office of the Secretary, Assistant Secretary for Budget, Technology, and Finance, Office of Information and Resource Management, Attention: Naomi Cook (0994-), Fax number (202) 690-8715, Room 531-H, 200 Independence Avenue, SW., Washington, DC 20201.

Dated: November 2, 2004.

Robert E. Polson,

Office of the Secretary, Paperwork Reduction Act Reports Clearance Officer.

[FR Doc. 04-25127 Filed 11-10-04; 8:45 am]

BILLING CODE 4168-17-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day-05-030DX]

Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call 404-498-1210 or send comments to Seleda Perryman, CDC Assistant Reports Clearance Officer, 1600 Clifton Road, MS-E11, Atlanta, GA 30333 or send an e-mail to omb@cdc.gov.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the

agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Written comments should be received within 60 days of this notice.

Proposed Project

Intimate Partner Violence (IPV) Measurement—New—The National Center for Injury Prevention and Control (NCIPC), Centers for Disease Control and Prevention (CDC).

Intimate Partner Violence (IPV) is considered by many to be a serious problem that cuts across cultures, socioeconomic status and gender. CDC considers IPV to be a "substantial public health problem for Americans that has serious consequences and costs for individuals, families, communities and society." The past twenty years have witnessed an extraordinary growth in research on the prevalence, incidence, causes and effects of IPV. Various disciplines have contributed to the development of research on the subject including psychology, epidemiology, criminology and public health.

Still, there is a lack of reliable information on the extent and prevalence of IPV. Estimates vary widely regarding the magnitude of the problem. This variance is due in large part to the different contexts,

instruments, and methods that are used to measure IPV. Thus, the CDC is engaged in work to improve the quality of data, and hence knowledge about violence against women. Part of this process includes identifying the strengths and limitations of different scales used to measure IPV and determine the appropriateness of each of these scales for use with individuals of different racial/ethnic backgrounds.

The purpose of this project is to administer and test the statistical properties of four scales, via telephone interviews, that measure both victimization from and perpetration of IPV. The scales will be administered to a random sample of women ages 18-50 from five racial/ethnic backgrounds: African-American, American Indian, Asian, White and Hispanic.

The four scales are the (1) Sexual Experiences Survey (SES), (2) Conflict Tactics Scale 2 (CTS2), (3) Index of Spouse Abuse (ISA), and (4) Women's Experience with Battering (WEB) scale. The survey instrument will contain each of these scales and introductory and transitional text developed specifically for this study.

The overall benefit of this project is to increase knowledge about the reliability and validity of these scales, which have been used in previous studies. Ultimately, this knowledge will assist CDC in establishing an on-going data collection system for monitoring IPV. CDC intends to contract with an agency to conduct the survey. The only cost to the respondents is the time involved to complete the survey.

Survey IPV measurement	Type of respondent	Number of respondents	Number of responses per respondent	Avg. burden per response (in hrs.)	Total burden hours
African-American	Female	500	1	30/60	250
Asian	Female	500	1	30/60	250
White	Female	500	1	30/60	250
Hispanic	Female	500	1	30/60	250
Total .....	.....	2,500	.....	.....	1,250

Dated: November 5, 2004.

Alvin Hall,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 04-25173 Filed 11-10-04; 8:45 am]

BILLING CODE 4163-18-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Advisory Committee for Injury Prevention and Control; Notice of Recharter

This gives notice under the Federal Advisory Committee Act (Pub. L. 92-463) of October 6, 1972, that the Advisory Committee for Injury Prevention and Control, National Center

for Injury Prevention and Control, of the Department of Health and Human Services, has been renewed for a 2-year period extending through October 28, 2006.

FOR FURTHER INFORMATION CONTACT:

Louise Galaska, Executive Secretary, ACIPC, CDC, 4770 Buford Hwy, M/S K02, Atlanta, Georgia 30333. Telephone (770) 488-4694, fax (770) 488-4422.

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: November 5, 2004.

Alvin Hall,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 04-25185 Filed 11-10-04; 8:45 am]

BILLING CODE 4163-19-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Announcement of Meeting

Summary: The Centers for Disease Control and Prevention (CDC) is hosting a workshop on respiratory protection for airborne infectious agents.

Times and Dates: 8 a.m.–5:30 p.m., November 30, 2004. 8 a.m.–5:30 p.m., December 1, 2004.

Place: The Westin Buckhead, 3391 Peachtree Road, NE., Atlanta, Georgia 30326, Telephone (404) 365-0065, Fax (404) 365-8787.

Matters to be Discussed: The CDC is hosting a public meeting to exchange information and seek individual input from the participants regarding the following topics:

- The current state of scientific knowledge regarding transmission of certain infectious agents through the air, focusing on the scientific basis for respiratory protection of workers and patients;
- The current state of scientific knowledge regarding respiratory protection as related to droplet nuclei and certain aerosol-transmitted agents;
- Strategies for improving the quality and effectiveness of respiratory protection; and research needs to fill current knowledge gaps.

Agenda items are subject to changes as priorities dictate.

Supplementary Information: Rooms are reserved at the Westin Buckhead under a CDC room block for the evenings of Monday, November 29, 2004; Tuesday, November 30, 2004; and Wednesday, December 1, 2004; at the government rate of \$113 per night. The CDC meeting must be referenced to receive this special rate. Interested parties should make hotel reservations directly with The Westin Buckhead at 1-800-937-8461 or (404) 365-0065 before the cut-off date of November 12, 2004.

Interested parties should confirm their attendance to this meeting by

completing the on-line registration form: <http://www.cdc.gov/niosh/npptl/resources/pressrel/announcements/113004wkshp/> or save the form and forward it by e-mail (npptlevents@cdc.gov) or fax (304) 225-2003 to the NPPTL Events Management Office.

For Further Information Contact: National Personal Protective Technology Laboratory (NPPTL) Events Management, 3604 Collins Ferry Road, Suite 100, Morgantown, West Virginia 26505-2353, Telephone (304) 599-5941 x138, Fax (304) 225-2003, E-mail npptlevents@cdc.gov.

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: November 5, 2004.

Alvin Hall,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 04-25183 Filed 11-10-04; 8:45 am]

BILLING CODE 4163-19-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Breast and Cervical Cancer Early Detection and Control Advisory Committee

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), the Centers for Disease Control and Prevention (CDC) announces the following committee meeting:

Name: Breast and Cervical Cancer Early Detection and Control Advisory Committee (BCCEDCAC).

Times and Dates: 8:30 a.m.–4 p.m., December 9, 2004, 8:30 a.m.–2:30 p.m., December 10, 2004.

Place: Hilton-Atlanta Airport, 1031 Virginia Avenue, Atlanta, Georgia 30354, Phone: (404) 767-9000.

Status: Open to the public, limited only by the space available.

Purpose: The committee is charged with advising the Secretary, Department of Health and Human Services, and the Director, CDC, regarding the early detection and control of breast and cervical cancer. The committee makes recommendations regarding national program goals and objectives; implementation strategies; and program priorities including surveillance, epidemiologic investigations, education and training, information dissemination,

professional interactions and collaborations, and policy.

Matters to be Discussed: The agenda will include discussion and review of the Division of Cancer Prevention and Control National Report; updates regarding integration between breast and cervical and comprehensive cancer control; status report on the Breast and Cervical Cancer expert panels; review of National Breast and Cervical Cancer Early Detection Program Strategic Planning Process. Agenda items are subject to change as priorities dictate.

For Further Information Contact: Debra Younginer, Executive Secretary, BCCEDCAC, Division of Cancer Prevention and Control, National Center for Chronic Disease Prevention and Health Promotion, CDC, 4770 Buford Highway, Mailstop K-57, Chamblee, Georgia 30316, Telephone: (770) 488-1074.

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: November 5, 2004.

Alvin Hall,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 04-25184 Filed 11-10-04; 8:45 am]

BILLING CODE 4163-18-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

National Center for Environmental Health/Agency for Toxic Substances and Disease Registry; Scientific Counselors Board; Notice of Meeting

The Program Peer Review Subcommittee of the Board of Scientific Counselors (BSC), National Center for Environmental Health (NCEH)/Agency for Toxic Substances and Disease Registry (ATSDR): Teleconference.

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), NCEH/ATSDR announces the following subcommittee meeting:

Name: Program Peer Review Subcommittee (PPRS).

Time and Date: 12:30 p.m.–3:30 p.m., November 29, 2004.

Place: The teleconference will originate at the National Center for Environmental Health/Agency for Toxic Substances and Disease Registry in Atlanta, Georgia. Please see **SUPPLEMENTARY INFORMATION** for details on accessing the teleconference.

Status: Open to the public, teleconference access limited only by availability of telephone ports.

Purpose: Under the charge of the Board of Scientific counselors (BSC), NCEH/ATSDR

the Program Peer Review Subcommittee establishes and monitors working groups of technical experts that perform program peer reviews of National Center for Environmental Health and the Agency for Toxic Substances and Disease Registry. The Subcommittee, working with the NCEH/ATSDR, Office of Sciences (OS), will establish schedule and process for program peer reviews, nominate working group members, reviews summary reports and recommendations, and report back to the BSC. The OS will establish agency policy for program peer review and directly support each working group by collating program documents, and organizing the working groups review and site visit. Each NCEH/ATSDR program eligible for review will be reviewed every 5 years according to CDC/ATSDR policy.

Matters to be Discussed: The teleconference agenda will include discussions to develop screening methodology to prioritize program reviews using background information; to establish methodology to perform the NCEH/ATSDR program reviews; to establish workgroups to perform the program reviews; and to establish a schedule for program review.

Supplementary Information: This conference call is scheduled to begin at 12:30 p.m. Eastern Standard Time. To participate in the teleconference, please dial (877) 315-6535 and enter conference code 383520.

For Further Information Contact: Drue Barrett, PhD, Executive Secretary, PRRS, NCEH/ATSDR, M/S E-28, 1600 Clifton Road, NE., Atlanta, Georgia 30333, telephone (404) 498-0003.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Dated: November 5, 2004.

Alvin Hall,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 04-25186 Filed 11-10-04; 8:45 am]

BILLING CODE 4163-70-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Grants and Cooperative Agreements; Notice of Availability

Funding Opportunity Title: State Adolescent Substance Abuse Treatment Coordination (Short Title: Adolescent Treatment Coordination)

Announcement Type: Initial Announcement.

Funding Opportunity Number: TI 05-006.

Catalog of Federal Domestic Assistance (CFDA) Number: 93.243.

Due Date for Applications: January 12, 2005.

[**Note:** Letters from State Single Point of Contact (SPOC) in response to E.O. 12372 are due March 12, 2005.]

Summary: The Substance Abuse and Mental Health Services Administration (SAMHSA), Center for Substance Abuse Treatment (CSAT), announces the availability of FY 2005 funds for State Adolescent Substance Abuse Treatment Coordination. A synopsis of this Notice of Funding Availability (NOFA), as well as many other Federal Government funding opportunities, are also available at the Internet site: <http://www.grants.gov>.

For complete instructions, potential applicants must obtain a copy of SAMHSA's standard Infrastructure Grants Program Announcement (INF-05 PA), and the PHS 5161-1 (Rev. 7/00) application form before preparing and submitting an application. The INF-05 PA describes the general program design and provides instructions for applying for all SAMHSA Infrastructure Grants, including the State Adolescent Substance Abuse Treatment Coordination program. SAMHSA's Infrastructure Grants provide funds to develop or enhance service system infrastructure in order to support effective substance abuse services. Additional instructions and specific requirements for this funding opportunity are described below.

I. Funding Opportunity Description

Authority: Section 509 of the Public Health Service Act, as amended and subject to the availability of funds.

The State Adolescent Substance Abuse Treatment Coordination grant program is one of SAMHSA's Infrastructure Grant programs. The purpose of State Adolescent Substance Abuse Treatment Coordination grants is to build capacity in States to provide effective, accessible, and affordable substance abuse treatment for youth and their families. Grants will provide funding to support a staff position (a State official whose sole responsibility is ensuring the effectiveness of adolescent substance abuse treatment State-wide) and a State process to assess, facilitate, and coordinate ongoing, self-sustaining cross-system planning for effective adolescent substance abuse treatment.

Grantees are required to hire and/or dedicate a full-time employee at the State level vested with the authority to convene and coordinate all of the State agencies that allocate public health resources that may provide funding and other support for adolescents and their

families needing early intervention and treatment services for substance use disorders. The State adolescent substance abuse treatment coordinator shall also form linkages with other service systems that provide mental health, education, health, child welfare, and juvenile justice services for youth and their families and identify opportunities to coordinate funding and treatment resources across these systems to the fullest extent possible. It is incumbent upon the grantee to create a position vested with the authority necessary to accomplish these tasks, and to hire/designate an individual who has the necessary skills and experience appropriate for the position, including an understanding of the correlation of co-occurring mental health and substance use disorders.

Background

Although there has been increased awareness around the need for accessible, effective substance abuse treatment for youth, there are problems within State structures that make providing funding and services for youth extremely difficult. Responsibility for adolescent treatment is located in a number of State agencies, and is frequently not in the office that oversees substance abuse treatment services. Only one State has best practices guidelines for adolescent substance abuse treatment. Only five States' substance abuse counselor licensure requirements include any knowledge of youth addiction, childhood development, or families. None has a specific licensure for clinicians working with youth addiction. Of the six States that have separate certification requirements for adolescent substance abuse treatment, four do not address required staffing levels; none addresses the issue of parental notification; only one addresses the use of discipline/restraint; only three require background checks for staff; and only three require any specialized training for staff. A major contributor to the aforementioned weaknesses in the adolescent substance abuse treatment system is that most States do not have a single locus of responsibility for ensuring an accessible, effective substance abuse treatment system for youth and their families.

Allowable Activities

Grants funds *may* be used to carry out all of the allowable activities listed in Section I-2.1 of the INF-05 PA except that grant funds *may not* be used for data infrastructure/MIS development. In addition, these are Category I—Small Infrastructure Grants; implementation

pilots are not an allowable activity under this mechanism.

Required Activities

Grantees *must* use funds to carry out the following *required* activities:

- Develop a full-time position within a unit of State government to oversee and coordinate the adolescent substance abuse treatment system Statewide.
- Link and coordinate with other service systems to promote comprehensive, integrated services for youth with substance abuse and/or co-occurring problems. Such service systems include mental health, health, juvenile justice, education, child welfare, and Medicaid.
- Coordinate the budget formulation and benefit plans (e.g., Medicaid services for adolescent treatment) of all State agencies that have responsibility for funds that may be used to support adolescent substance abuse treatment services, including screening, assessment, early intervention, treatment, family involvement in treatment, case management, and continuing care/aftercare.
- Identify barriers (fiscal, regulatory, and policy) that impede the adoption and provision of accessible evidence-based treatment across the full continuum of care recommended by the American Society of Addiction Medicine (ASAM)*. Devise and implement strategies, in concert with all other State-agencies that may fund and/or regulate these services, to improve the access to treatment, increase capacity and quality, and expand the available continuum in communities and throughout the State implementing treatment interventions with a scientific evidence base for the population to be served.
- Import tools, coordinate training, and support providers in the adoption of screening and assessment protocols that cross-walk to DSM-IV/ICD 10 criteria for substance abuse/dependence, mental health diagnoses, and ASAM Patient Placement Criteria, Version 2—Revised*.
- Develop/improve State standards for licensure/certification/accreditation of programs that provide substance abuse treatment services for adolescents and their families.
- Develop/improve State standards for licensure/certification/credentialing of adolescent substance abuse treatment counselors.

- Identify and provide linkages across the universe of discretionary federal and foundation-funded adolescent substance abuse treatment grant programs for the purpose of supporting and disseminating learning across the State-wide treatment system and to provide assistance to ensure sustainability and adoption of best/evidence based practices identified in these programs.

- Identify, disseminate, and support training and technical assistance resources that expand the capacity and quality of adolescent substance abuse treatment throughout the State provider system, including cross-training for adolescent mental health and substance abuse treatment providers.

- Participate in and actively share learning across the community created by the States funded in this grant program to leverage training, support, dissemination, intervention adoption, and evaluation/research to improve the treatment system for youth and their families both intra-State and inter-State.
- Promote coordination and collaboration with family support organizations to strengthen services for youth, with or at risk of substance abuse and/or co-occurring problems.

- Facilitate the development of a State-wide provider association for adolescent substance abuse treatment across programs and for counselors engaged in providing these services, regardless of the State or local system within which they work.

- Keep abreast of the research findings related to adolescent substance abuse treatment and disseminate this information State-wide in a form that is easily digested by clinical staff, providing insight on the application of the research to improve clinical practice at the program level.

II. Award Information

1. *Estimated Funding Available/Number of Awards:* It is expected that up to \$7.1 million will be available to fund up to 22 awards in FY 2005. The maximum allowable award is \$400,000 in total costs (direct and indirect) per year for up to 3 years. Proposed budgets cannot exceed the allowable amount in any year of the proposed project. The actual amount available for the awards may vary, depending on unanticipated program requirements and the number and quality of the applications received. Annual continuations will depend on the availability of funds, grantee progress in meeting program goals and objectives, and timely submission of required data and reports.

This program is being announced prior to the annual appropriation for FY 2005 for SAMHSA's programs, with

funding estimates based on the President's budget request for FY 2005. Applications are invited based on the assumption that sufficient funds will be appropriated for FY 2005 to permit funding of a reasonable number of applications hereby solicited. All applicants are reminded, however, that we cannot guarantee that sufficient funds will be appropriated to permit SAMHSA to fund any applications.

2. Funding Instrument: Grant.

III. Eligibility Information

1. *Eligible Applicants:* Funding is limited to States, the District of Columbia, Territories and federally recognized tribal governments. Since this program is designed to facilitate State-level coordination of adolescent substance abuse treatment services, only States, the District of Columbia, Territories and federally recognized tribal governments are eligible to apply. These eligibility criteria supersede the criteria specified in Section III-1 of the INF-05 PA.

2. Cost Sharing or Matching is not required.

3. *Other:* Applicants must also meet certain application formatting and submission requirements or the application will be screened out and will not be reviewed. These requirements are described in Section IV-2 below, as well as in Section IV of the INF-05 PA.

IV. Application and Submission Information

1. *Address to Request Application Package:* Complete application kits may be obtained from the National Clearinghouse for Alcohol and Drug Information (NCADI) at 1-800-729-6686. When requesting an application kit for this program, the applicant must specify the funding opportunity title "Adolescent Treatment Coordination" and the funding opportunity number (TI 05-006). All information necessary to apply, including where to submit applications and application deadline instructions, is included in the application kit. The PHS 5161-1 application form is also available electronically via SAMHSA's World Wide Web Home Page: <http://www.samhsa.gov> (click on 'Grants'). The INF-05 PA is available electronically at <http://www.samhsa.gov/grants/standard/Infrastructure/index.aspx>.

When submitting an application, be sure to type "TI 05-006/Adolescent Treatment Coordination" in Item Number 10 on the face page of the application form. Also, SAMHSA applicants are required to provide a DUNS Number on the face page of the

*Mee-lee D, Shulman GD, Fishman M, Gastfriend DR, and Griffith JH, eds. (2001). ASAM Patient Placement Criteria for the Treatment of Substance-Related Disorders, 2nd Ed-Revised (ASAM PPC-2R). Chevy Chase, MD: American Society of Addiction Medicine, Inc.

application. To obtain a DUNS Number, access the Dun and Bradstreet Web site at <http://www.dunandbradstreet.com> or call 1-866-705-5711.

2. Content and Form of Application Submission: Information, including required documents, required application components, and application formatting requirements, is available in the INF-05 PA in Section IV-2.

Checklist for Application Formatting Requirements

SAMHSA's goal is to review all applications submitted for grant funding. However, this goal must be balanced against SAMHSA's obligation to ensure equitable treatment of applications. For this reason, SAMHSA has established certain formatting requirements for its applications. If you do not adhere to these requirements, your application will be screened out and returned to you without review.

☐ Use the PHS 5161-1 application.

☐ Applications must be received by the application deadline. Applications received after this date must have a proof of mailing date from the carrier dated at least 1 week prior to the due date. Private metered postmarks are not acceptable as proof of timely mailing. Applications not received by the application deadline or not postmarked at least 1 week prior to the application deadline will not be reviewed.

☐ Information provided must be sufficient for review.

☐ Text must be legible. (For Project Narratives submitted electronically in Microsoft Word, see separate requirements below under "Guidance for Electronic Submission of Applications.")

• Type size in the Project Narrative cannot exceed an average of 15 characters per inch, as measured on the physical page. (Type size in charts, tables, graphs, and footnotes will not be considered in determining compliance.)

• Text in the Project Narrative cannot exceed 6 lines per vertical inch.

☐ Paper must be white paper and 8.5 inches by 11.0 inches in size.

☐ To ensure equity among applications, the amount of space allowed for the Project Narrative cannot be exceeded. (For Project Narratives submitted electronically in Microsoft Word, see separate requirements below under "Guidance for Electronic Submission of Applications.")

• Applications would meet this requirement by using all margins (left, right, top, bottom) of at least one inch each, and adhering to the page limit for the Project Narrative stated in the INF-05 PA.

• Should an application not conform to these margin or page limits, SAMHSA will use the following method to determine compliance: The total area of the Project Narrative (excluding margins, but including charts, tables, graphs and footnotes) cannot exceed 58.5 square inches multiplied by the page limit. This number represents the full page less margins, multiplied by the total number of allowed pages.

• Space will be measured on the physical page. Space left blank within the Project Narrative (excluding margins) is considered part of the Project Narrative, in determining compliance.

To facilitate review of your application, follow these additional guidelines. Failure to adhere to the following guidelines will not, in itself, result in your application being screened out and returned without review. However, the information provided in your application must be sufficient for review. Following these guidelines will help ensure your application is complete, and will help reviewers to consider your application.

☐ The 10 application components required for SAMHSA applications should be included. These are:

- Face page (Standard Form 424, which is in PHS 5161-1).
- Abstract.
- Table of contents.
- Budget form (Standard Form 424A, which is in PHS 5161-1).
- Project narrative and supporting documentation.
- Appendices.
- Assurances (Standard Form 424B, which is in PHS 5161-1).
- Certifications (a form in PHS 5161-1).
- Disclosure of lobbying activities (Standard Form LLL, which is in PHS 5161-1).

• Checklist (a form in PHS 5161-1).

☐ Applications should comply with the following requirements:

- Provisions relating to confidentiality, participant protection and the protection of human subjects, as indicated in the INF-05 PA.
- Budgetary limitations as indicated in Sections I, II, and IV-5 of the INF-05 PA.
- Documentation of nonprofit status as required in the PHS 5161-1.

☐ Pages should be typed single-spaced in black ink, with one column per page. Pages should not have printing on both sides.

☐ Please number pages consecutively from beginning to end so that information can be located easily during review of the application. The cover page should be page 1, the abstract page

should be page 2, and the table of contents page should be page 3. Appendices should be labeled and separated from the Project Narrative and budget section, and the pages should be numbered to continue the sequence.

☐ The page limit for Appendices stated in the INF-05 PA should not be exceeded.

☐ Send the original application and two copies to the mailing address in the funding announcement. Please do not use staples, paper clips, and fasteners. Nothing should be attached, stapled, folded, or pasted. Do not use heavy or lightweight paper, or any material that cannot be copied using automatic copying machines. Odd-sized and oversized attachments such as posters will not be copied or sent to reviewers. Do not include videotapes, audiotapes, or CD-ROMs.

3. Submission Dates and Times: Applications must be received by January 12, 2005. You will be notified by postal mail that your application has been received. Additional submission information is available in the INF-05 PA in Section IV-3.

Guidance for Electronic Submission of Applications

SAMHSA is now offering the opportunity for you to submit your application to us either in electronic or paper format. Electronic submission is voluntary. No review points will be added or deducted, regardless of whether you use the electronic or paper format.

To submit an application electronically, you must use the <http://www.Grants.gov> apply site. You will be able to download a copy of the application package from <http://www.Grants.gov>, complete it off-line, and then upload and submit the application via the Grants.gov site. E-mail submissions will not be accepted.

You must search the Grants.gov site for the downloadable application package, by the Catalogue of Federal Domestic Assistance (CFDA) number. You can find the CFDA number on the first page of the funding announcement.

You must follow the instructions in the User Guide available at: <http://www.Grants.gov> apply site, on the Customer Support tab. In addition to the User Guide, you may wish to use the following sources for help:

- By e-mail: support@Grants.gov.
- By phone: 1-800-518-4726 (1-800-518-GRANTS). The Customer Support Center is open from 7 a.m. to 9 p.m. Eastern Time, Monday through Friday.

If this is the first time you have submitted an application through Grants.gov, you must complete four

separate registration processes before you can submit your application. Allow at least two weeks (10 business days) for these registration processes, prior to submitting your application. The processes are: DUNS Number registration, Central Contractor Registry (CCR) registration, Credential Provider registration, and Grants.gov registration.

It is strongly recommended that you submit your grant application using Microsoft Office products (*e.g.*, Microsoft Word, Microsoft Excel, *etc.*). If you do not have access to Microsoft Office products, you may submit a PDF file. Directions for creating PDF files can be found on the Grants.gov Web site. Use of file formats other than Microsoft Office or PDF may result in your file being unreadable by our staff.

The Project Narrative must be a separate document in the electronic submission. Formatting requirements for SAMHSA grant applications are described above, and in Section IV-2.3 and Appendix A of the standard grant announcement. These requirements also apply to applications submitted electronically, with the following exceptions only for Project Narratives submitted electronically in Microsoft Word. These requirements help to ensure the accurate transmission and equitable treatment of applications.

- **Text Legibility:** Use a font of Times New Roman 12, line spacing of single space, and all margins (left, right, top, bottom) of one inch each. Adhering to these standards will help to ensure the accurate transmission of your document. If the type size in the Project Narrative of an electronic submission exceeds 15 characters per inch, or the text exceeds 6 lines per vertical inch, SAMHSA will reformat the document to Times New Roman 12, with line spacing of single space. Please note that this may alter the formatting of your document, especially for charts, tables, graphs, and footnotes.

- **Amount of Space Allowed for Project Narrative:** The Project Narrative for an electronic submission may not exceed 12,875 words. Any part of the Project Narrative in excess of the word limit will not be submitted to review. To determine the number of words in your Project Narrative document in Microsoft Word, select file/properties/statistics.

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announcement. The paper submission must be clearly marked: "Back-up for electronic submission." The paper submission must conform with all requirements for non-electronic submissions. If both electronic and back-up paper submissions are received by the deadline, the electronic version will be considered the official submission.

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The Grants.gov Web site does not accept electronic signatures at this time. Therefore, you must submit a signed paper original of the face page (SF 424), the assurances (SF 424B), and the certifications, and hard copy of any other required documentation that cannot be submitted electronically. You must reference the Grants.gov tracking number for your application, on these documents with original signatures, and send the documents to the following address. The documents must be received at the following address within 5 business days of your electronic submission. Delays in receipt of these documents may impact the score your application receives or the ability of your application to be funded.

For United States Postal Service: Crystal Saunders, Director of Grant Review, Office of Program Services, Substance Abuse and Mental Health Services Administration, Room 3-1044, 1 Choke Cherry Road, Rockville, MD 20857, ATTN: Electronic Applications.

For Other Delivery Service (DHL, Falcon Carrier, Federal Express, United Parcel Service): Crystal Saunders, Director of Grant Review, Office of Program Services, Substance Abuse and Mental Health Services Administration, Room 3-1044, 1 Choke Cherry Road, Rockville, MD 20850, ATTN: Electronic Applications.

If you require a phone number for delivery, you may use (240) 276-1199.

4. Intergovernmental Review: Applicants for this funding opportunity must comply with Executive Order 12372 (E.O. 12372). E.O. 12372, as implemented through Department of Health and Human Services (DHHS) regulation at 45 CFR Part 100, sets up a system for State and local review of applications for Federal financial assistance. Instructions for complying with E.O. 12372 are provided in the INF-05 PA in Section IV-4. A current listing of State Single Points of Contact (SPOCs) is included in the application kit and is available at [http://](http://www.whitehouse.gov/omb/grants/spoc.html)

www.whitehouse.gov/omb/grants/spoc.html.

5. Funding Restrictions: Information concerning funding restrictions is available in the INF-05 PA in Section IV-5.

V. Application Review Information

1. Evaluation Criteria: Applications will be reviewed against the Evaluation Criteria and requirements for the Project Narrative (Sections A-D) specified in Section V-1 in the INF-05 PA. The following information describes exceptions/limitations/special requirements to the Project Narrative (Sections A-D) in the INF-05 PA that Adolescent Treatment Coordination applicants must address. Two bullets in the Evaluation Criteria in INF-05 PA are modified/clarified as follows:

1.1 In Section B: Proposed Approach

The second bullet is modified to read: "Describe the proposed project. In the description of the project, address the **Required Activities** listed in Section I, Funding Opportunity Description of the Adolescent Treatment Coordination NOFA (TI 05-006). Provide evidence that the **Required Activities** (and any other activities you propose) meet your State's infrastructure needs and show how your proposed infrastructure development strategy will meet the goals and objectives of the project (*i.e.*, meet both goals and objectives proposed by the State and those for the Required Activities)."

1.2 In Section D: Evaluation and Data

The first bullet is modified to read: "Describe the process and outcome evaluation for your project. Include specific performance measures and target outcomes related to the goals and objectives identified for the project in Section B of your Project Narrative. These measures and outcomes also must address the **Required Activities** listed in Section I, Funding Opportunity Description of the Adolescent Treatment Coordination NOFA (TI 05-006)."

Performance Measurement: All SAMHSA grantees are required to collect and report certain data so that SAMHSA can meet its obligations under the Government Performance and Results Act (GPRA) and grantees can meet their requirements to provide semi-annual progress reports to SAMHSA as outlined below. All applicants must document their ability to collect and report data using the Knowledge Application Customer Satisfaction GPRA tool. This tool can be found at <http://www.csat-gpra.samhsa.gov> (click on 'Data Collection Tools/Instruments'), along with instructions for completing it.

GPRA data must be collected at the end of each event and thirty days post event. GPRA data must be entered into the GPRA web system within 7 business days of the forms being completed. In addition, 80% of the participants must be followed up on. GPRA data are to be collected and then entered into CSAT's GPRA Data Entry and Reporting System (<http://www.csat-gpra.samhsa.gov>). Training and technical assistance on data collecting, as well as data entry, will be provided by CSAT.

In addition to GPRA, grantees of the Adolescent Treatment Coordination program will be required to report semiannually on their progress in meeting the **Required Activities** in Section I, Funding Opportunity Description of this NOFA. These reports will assess each grantee's progress as compared to both the performance measures and target outcomes established by the grantee for the project and a common set of performance measures, to be established, that will be aligned with the **Required Activities** and program goals in Section I, Funding Opportunity Description of this NOFA.

In Section D of their project narratives, applicants must describe their current ability to collect and report data on their progress in meeting the **Required Activities**. Applicants may also propose performance measures to be considered by SAMHSA for inclusion in the common set of measures. Prior to award, applicants will have the opportunity to attend a policy academy during which participants will work to build consensus around this common set of performance measures. Grantees (including those who do not attend the policy academy) will be required to report in narrative format on the broad themes around their progress in their semi-annual reports. Once SAMHSA has obtained necessary approval from the Office of Management and Budget (OMB), further data requirements will be mandated based on the common set of performance measures developed from the policy academy. At any time, grantees may choose to begin collecting more specific data related to the common measures to assist in building local support for continued sustainability for their activities once the period of federal funding ends. SAMHSA will work with grantees to assist them in building performance measurement systems that will provide needed local policy information.

2. **Review and Selection Process:** Information about the review and selection process is available in the INF-05 PA in Section V-2.

VI. Award Administration Information

Award administration information, including award notices, administrative and national policy requirements, and reporting requirements are available in the INF-05 PA in Section VI. SAMHSA's standard terms and conditions are available at http://www.samhsa.gov/grants/generalinfo/useful_info.aspx.

VII. Agency Contact for Additional Information

For questions concerning program issues contact: Randolph D. Muck, SAMHSA/CSAT/DSI, 1 Choke Cherry Road, Room 5-1083, Rockville, MD 20857; phone 240-276-1576; randy.muck@samhsa.hhs.gov. For questions on grants management issues contact: Kimberly Pendleton, SAMHSA/Division of Grants Management, 1 Choke Cherry Road, Room 7-1097, Rockville, MD 20857; 240-276-1421; E-mail: kimberly.pendleton@samhsa.hhs.gov.

Dated: November 5, 2004.

Daryl Kade,

Director, Office of Policy, Planning and Budget, Substance Abuse and Mental Health Services Administration.

[FR Doc. 04-25187 Filed 11-10-04; 8:45 am]

BILLING CODE 4162-20-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Funding Opportunity Title: Grants To Expand Substance Abuse Treatment Capacity in Targeted Areas of Need (Short Title: Targeted Capacity Expansion (TCE) Grants)

Announcement Type: Initial.

Funding Opportunity Number: TI 05-003.

Catalog of Federal Domestic Assistance (CFDA) Number: 93.243.

Due Date for Applications: January 13, 2005.

[**Note:** Letters from State Single Point of Contact (SPOC) in response to E.O. 12372 are due March 14, 2005.]

Summary: The Substance Abuse and Mental Health Services Administration (SAMHSA), Center for Substance Abuse Treatment (CSAT), announces the availability of FY 2005 funds for Grants to Expand Substance Abuse Treatment Capacity in Targeted Areas of Need [Short Title: Targeted Capacity Expansion (TCE) Grants]. A synopsis of this Notice of Funding Availability (NOFA), as well as many other Federal

Government funding opportunities, is also available at the Internet site: <http://www.grants.gov>.

For complete instructions, potential applicants must obtain a copy of SAMHSA's standard Services Grants Program Announcement, SVC-05 PA, and the PHS 5161-1 (Rev. 7/00) application form before preparing and submitting an application. The SVC-05 PA describes the general program design and provides instructions for applying for SAMHSA's Services Grants including the Targeted Capacity Expansion Grants program. SAMHSA's Services Grants provide funds to expand and strengthen effective, culturally appropriate substance abuse and/or mental health services at the State and local levels. The services implemented through SAMHSA's Services Grants must incorporate the best objective information available regarding effectiveness and acceptability. In general, SAMHSA's Services Grants are appropriate for applicants seeking Federal support to implement substance abuse and/or mental health services that have a strong evidence-base for effectiveness. SAMHSA's Services Grants must be used primarily to support direct service delivery. SAMHSA expects that the services will be sustained beyond the term of the grant. Additional instructions and specific requirements for the Targeted Capacity Expansion Grants are described below.

I. Funding Opportunity Description

Authority: Section 509 of the Public Health Service Act, as amended and subject to the availability of funds.

The purpose of the Targeted Capacity Expansion Grants program is to expand and/or enhance the community's ability to provide a comprehensive, integrated, and community-based response to a targeted, well-documented substance abuse treatment capacity problem and/or improve the quality and intensity of services. For example, a community might seek a Targeted Capacity Expansion Grant to add state-of-the-art treatment approaches or new services to address emerging trends or unmet needs (e.g., intensive case management, referral, and follow-up services to address related HIV, tuberculosis, hepatitis B and C, and other primary health care needs of substance abusing clients). Applicants are encouraged to engage (coordinate with or subcontract) the skills of private, non-profit, and community-based organizations not eligible to apply on their own because they are not a State or local government entity.

To encourage the substance abuse treatment system to become more responsive and bridge the gap between what is needed by individual States, localities, and/or tribal organizations, and what is known about effective treatments to meet those needs, SAMHSA/CSAT intends to fund projects in three categories in FY 2005: (1) Treatment for selected native populations (American Indian/Alaska Native or Asian American/Pacific Islanders). To meet the disproportionate substance abuse treatment needs of certain native communities, this category specifically identifies American Indian/Alaska Natives (AI/AN) and Asian Americans/Pacific Islanders (AA/PI), including Native Hawaiians as native populations to receive expanded and/or enhanced treatment services under this program; (2) treatment focused on methamphetamine and other emerging drugs in adult, rural populations. This category allows funding for expanding and/or enhancing substance abuse treatment for *adults in rural areas* in need of treatment for use of methamphetamine and other emerging drugs, including abuse of prescription drugs such as Oxycodone, Hydrocodone and other opioid analgesics; (3) campus screening and brief intervention (SBI) to both combat underage drinking/substance use and promote innovative screening, brief intervention, and referral to treatment of college and university students with or at high risk of substance use disorders. This category is designed to assist colleges and universities to initiate services or expand existing campus based medical services to include identification and intervention with persons with hazardous drinking and/or substance use disorders within the context of student healthcare.

Background: Information reported by SAMHSA underscores a significant disparity between the availability of treatment services for persons with alcohol and drug use disorders and the demand for such services. It is estimated, based on various studies, that there are 3–5 million individuals who use and abuse alcohol and other drugs who have a significant impact on both the utilization of services and costs within the health care, juvenile justice, welfare, child welfare, and other publicly funded social support systems. However, currently, of these individuals, only 1.8 million can be served through the existing publicly funded treatment system. By providing needed treatment services, this program is intended to reduce the health and

social costs of substance abuse and dependence to the public, and increase the safety of America's citizens by reducing substance abuse related crime and violence.

II. Award Information

1. *Estimated Funding Available/Number of Awards:* It is expected that approximately \$16 million will be available in FY 2005 to fund programs in three categories: (1) Treatment for selected native populations (American Indian/Alaska Native or Asian American/Pacific Islanders); (2) treatment focused on methamphetamine and other emerging drugs in adult, rural populations; and (3) campus screening and brief intervention to both combat underage drinking/substance use and promote innovative screening, brief intervention, and referral to treatment of college and university students with or at high risk of substance use disorders.

SAMHSA expects that approximately \$5.3 million will be available for awards in each category, and that approximately 11 awards will be made in each category. The maximum allowable award is \$500,000 in total costs (direct and indirect) per year for up to 3 years. Proposed budgets cannot exceed the allowable amount in any year of the proposed project. Annual continuations will depend on the availability of funds, grantee progress in meeting program goals and objectives, and timely submission of required data and reports.

This program is being announced prior to the annual appropriation for FY 2005 for SAMHSA's programs, with funding estimates based on the President's budget request for FY 2005. Applications are invited based on the assumption that sufficient funds will be appropriated for FY 2005 to permit funding of a reasonable number of applications hereby solicited. All applicants are reminded, however, that we cannot guarantee that sufficient funds will be appropriated to permit SAMHSA to fund any applications.

2. *Funding Instrument:* Grant.

III. Eligibility Information

1. *Eligible Applicants:* Eligibility in Category 1 (AI/AN or AA/PI) and Category 2 (methamphetamine and other emerging drugs in adult, rural populations) is restricted to States and units of local government (e.g., cities, towns, counties) or Indian tribes and tribal organizations in recognition of their responsibility for, and interest in, providing for the needs of their citizens, and because the success of the program will depend upon their authority and ability to broadly coordinate a variety of

resources. Funding is not designed to meet statewide treatment needs, but to meet the needs of individual communities in cities, towns, counties, and multi-county partnerships. Therefore, States that apply must identify a specific city, town, county or multi-county partnership that will be the targeted geographic area of need.

Eligibility in Category 3 (Campus SBI) is restricted to domestic public and private, non-profit colleges and universities in recognition of their responsibility for, and interest in, providing for the needs of their enrolled students, and because the success of the program will depend upon their authority and ability to approve the planning, implementation, and operation of screening and treatment services that will be utilized by their students. Since the Campus SBI program is restricted to college and university students, it is essential that colleges and universities take the lead in the development of SBI projects that will administer screening, referral to treatment, and treatment and recovery for their students, and maintain partnerships with either college- or university-based providers or community-based organizations that may be providing such services to the college or university.

These eligibility criteria supersede the criteria specified in Section III–1 of the SVC–05 PA.

Applications for SAMHSA Services Grants must include evidence of experience and credentials as described in Section III–3 of the SVC–05 PA. This 2-year experience requirement applies only to specialist substance abuse treatment providers participating in the project.

2. *Cost Sharing or Matching* is not required.

3. *Other:* Applicants must also meet certain application formatting and submission requirements, or the application will be screened out and will not be reviewed. These requirements are described in Section IV–2 below, as well as in the SVC–05 PA.

IV. Application and Submission Information

1. *Address to Request Application Package:* Complete application kits may be obtained from: the National Clearinghouse for Alcohol and Drug Information (NCADI) at 1–800–729–6686. When requesting an application kit for this program, the applicant must specify the funding opportunity title (TCE Grants) and number (TI 05–003) for which detailed information is desired. All information necessary to

apply, including where to submit applications and application deadline instructions, is included in the application kit. Application materials, including the PHS 5161-1 application form, are also available electronically via SAMHSA's World Wide Web home page: http://www.samhsa.gov/Grants/generalinfo/useful_Info.aspx and the SVC-05 PA is available electronically at <http://www.samhsa.gov/grants/standard/Services/index.aspx>.

When submitting an application, applicants must identify *one* category under which they are applying. Therefore, when submitting an application, be sure to type "TI 05-003" and *either*: TCE-AI/AN or AA/PI; TCE-Meth; or TCE-Campus SBI (depending on the funding category under which you are applying) in Item Number 10 on the face page of the application form. Also, SAMHSA applicants are required to provide a DUNS Number on the face page of the application. To obtain a DUNS Number, access the Dun and Bradstreet Web site at <http://www.dunandbradstreet.com> or call 1-866-705-5711. Because grantees in the TCE Grants program may use grant funds to provide direct substance abuse services, applicants are required to complete the Assurance of Compliance with SAMHSA Charitable Choice Statutes and Regulations, Form SMA 170. This form will be posted on SAMHSA's Web site with the NOFA and provided in the application kits available at NCADI.

2. Content and Form of Application Submission: Information including required documents, required application components, and application formatting requirements is available in the SVC-05 PA in Section IV-2.

Checklist for Formatting Requirements and Screenout Criteria for SAMHSA Grant Applications

SAMHSA's goal is to review all applications submitted for grant funding. However, this goal must be balanced against SAMHSA's obligation to ensure equitable treatment of applications. For this reason, SAMHSA has established certain formatting requirements for its applications. If you do not adhere to these requirements, your application will be screened out and returned to you without review.

- Use the PHS 5161-1 application.
- Applications must be received by the application deadline or have proof of timely submission, as detailed in Section IV-3 of the SVC-05 PA.
- Information provided must be sufficient for review.

- Text must be legible. (For Project Narratives submitted electronically in Microsoft Word, *see* separate requirements below under "Guidance for Electronic Submission of Applications.")

- Type size in the Project Narrative cannot exceed an average of 15 characters per inch, as measured on the physical page. (Type size in charts, tables, graphs, and footnotes will not be considered in determining compliance.)

- Text in the Project Narrative cannot exceed 6 lines per vertical inch.

- Paper must be white paper and 8.5 inches by 11.0 inches in size.

- To ensure equity among applications, the amount of space allowed for the Project Narrative cannot be exceeded. (For Project Narratives submitted electronically in Microsoft Word, *see* separate requirements below under "Guidance for Electronic Submission of Applications.")

- Applications would meet this requirement by using all margins (left, right, top, bottom) of at least one inch each, and adhering to the page limit for the Project Narrative stated in the SVC-05 PA.

- Should an application not conform to these margin or page limits, SAMHSA will use the following method to determine compliance: The total area of the Project Narrative (excluding margins, but including charts, tables, graphs and footnotes) cannot exceed 58.5 square inches multiplied by the page limit. This number represents the full page less margins, multiplied by the total number of allowed pages.

- Space will be measured on the physical page. Space left blank within the Project Narrative (excluding margins) is considered part of the Project Narrative, in determining compliance.

To facilitate review of your application, follow these additional guidelines. Failure to adhere to the following guidelines will not, in itself, result in your application being screened out and returned without review. However, the information provided in your application must be sufficient for review. Following these guidelines will help ensure your application is complete, and will help reviewers to consider your application.

- The 10 application components required for SAMHSA applications should be included. These are:

- Face Page (Standard Form 424, which is in PHS 5161-1).
- Abstract.
- Table of Contents.
- Budget Form (Standard Form 424A, which is in PHS 5161-1).

- Project Narrative and Supporting Documentation.

- Appendices.
- Assurances (Standard Form 424B, which is in PHS 5161-1).
- Certifications (a form in PHS 5161-1).

- 1). Disclosure of Lobbying Activities (Standard Form LLL, which is in PHS 5161-1).

- Checklist (a form in PHS 5161-1).

- Applications should comply with the following requirements:

- Provisions relating to confidentiality, participant protection and the protection of human subjects, as indicated in the SVC-05 PA.

- Budgetary limitations as indicated in sections I, II, and IV-5 of the SVC-05 PA.

- Documentation of nonprofit status as required in the PHS 5161-1.

- Pages should be typed single-spaced in black ink, with one column per page. Pages should not have printing on both sides.

- Please number pages consecutively from beginning to end so that information can be located easily during review of the application. The cover page should be page 1, the abstract page should be page 2, and the table of contents page should be page 3. Appendices should be labeled and separated from the Project Narrative and budget section, and the pages should be numbered to continue the sequence.

- The page limits for Appendices stated in the specific funding announcement should not be exceeded.

- Send the original application and two copies to the mailing address in the funding announcement. Please do not use staples, paper clips, and fasteners. Nothing should be attached, stapled, folded, or pasted. Do not use heavy or lightweight paper, or any material that cannot be copied using automatic copying machines. Odd-sized and oversized attachments such as posters will not be copied or sent to reviewers. Do not include videotapes, audiotapes, or CD-ROMs.

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To submit an application electronically, you must use the <http://www.Grants.gov> apply site. You will be able to download a copy of the application package from <http://www.Grants.gov>, complete it off-line, and then upload and submit the application via the Grants.gov site. E-mail submissions will not be accepted.

You must search the Grants.gov site for the downloadable application package, by the Catalogue of Federal Domestic Assistance (CFDA) number. You can find the CFDA number on the first page of the funding announcement.

You must follow the instructions in the User Guide available at: <http://www.Grants.gov> apply site, on the Customer Support tab. In addition to the User Guide, you may wish to use the following sources for help:

- By e-mail: support@Grants.gov.
- By phone: 1-800-518-4726 (1-800-518-GRANTS). The Customer Support Center is open from 7 a.m. to 9 p.m. Eastern Time, Monday through Friday.

If this is the first time you have submitted an application through Grants.gov, you must complete four separate registration processes before you can submit your application. Allow at least two weeks (10 business days) for these registration processes, prior to submitting your application. The processes are: DUNS Number registration, Central Contractor Registry (CCR) registration, Credential Provider registration, and Grants.gov registration.

It is strongly recommended that you submit your grant application using Microsoft Office products (e.g., Microsoft Word, Microsoft Excel, etc.). If you do not have access to Microsoft Office products, you may submit a PDF file. Directions for creating PDF files can be found on the Grants.gov Web site. Use of file formats other than Microsoft Office or PDF may result in your file being unreadable by our staff.

The Project Narrative must be a separate document in the electronic submission. Formatting requirements for SAMHSA grant applications are described above, and in section IV-2.3 and appendix A of the standard grant announcement. These requirements also apply to applications submitted electronically, with the following exceptions only for Project Narratives submitted electronically in Microsoft Word. These requirements help to ensure the accurate transmission and equitable treatment of applications.

- *Text legibility:* Use a font of Times New Roman 12, line spacing of single space, and all margins (left, right, top,

bottom) of one inch each. Adhering to these standards will help to ensure the accurate transmission of your document. If the type size in the Project Narrative of an electronic submission exceeds 15 characters per inch, or the text exceeds 6 lines per vertical inch, SAMHSA will reformat the document to Times New Roman 12, with line spacing of single space. Please note that this may alter the formatting of your document, especially for charts, tables, graphs, and footnotes.

- *Amount of space allowed for project narrative:* The Project Narrative for an electronic submission may not exceed 15,450 words. Any part of the Project Narrative in excess of the word limit will not be submitted to review. To determine the number of words in your Project Narrative document in Microsoft Word, select file/properties/statistics.

Applicants are strongly encouraged to submit their applications to Grants.gov early enough to resolve any unanticipated difficulties prior to the deadline. You may also submit a back-up paper submission of your application. Any such paper submission must be received in accordance with the requirements for timely submission detailed in Section IV-3 of the grant announcement. The paper submission must be clearly marked: "Back-up for electronic submission." The paper submission must conform with all requirements for non-electronic submissions. If both electronic and back-up paper submissions are received by the deadline, the electronic version will be considered the official submission.

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For United States Postal Service: Crystal Saunders, Director of Grant

Review, Office of Program Services, Substance Abuse and Mental Health Services Administration, Room 3-1044, 1 Choke Cherry Road, Rockville, MD 20857, ATTN: Electronic Applications.

For other delivery service (DHL, Falcon Carrier, Federal Express, United Parcel Service): Crystal Saunders, Director of Grant Review, Office of Program Services, Substance Abuse and Mental Health Services Administration, Room 3-1044, 1 Choke Cherry Road, Rockville, MD 20850, ATTN: Electronic Applications.

If you require a phone number for delivery, you may use (240) 276-1199.

4. Intergovernmental Review: Applicants for this funding opportunity must comply with Executive Order 12372 (E.O. 12372). E.O. 12372, as implemented through Department of Health and Human Services (DHHS) regulation at 45 CFR part 100, sets up a system for State and local review of applications for Federal financial assistance. Instructions for complying with E.O. 12372 are provided in the SVC-05 PA in Section IV-4. A current listing of State Single Points of Contact (SPOCs) is included in the application kit and is available at <http://www.whitehouse.gov/omb/grants/spoc.html>.

State and local governments and Indian tribal government applicants are not subject to the Public Health System Reporting Requirements; therefore, only applicants for Category 3—Campus SBI are required to follow the instructions for completing the Public Health System Impact Statement (PHSIS) contained in the SVC-05 PA. In addition, only Category 3—Campus SBI applicants have to include an Appendix 4, Letter to the SSA, as required in the SVC-05 PA.

5. Funding Restrictions: Information concerning funding restrictions is available in the SVC-05 PA in Section IV-5.

V. Application Review Information

1. Evaluation Criteria: Applications will be reviewed against the Evaluation Criteria and requirements for the Project Narrative specified in the SVC-05 PA. The following information describes exceptions or limitations to the SVC-05 PA and provides special requirements that pertain only to Targeted Capacity Expansion Grants. Applicants must adhere to the following requirements in their applications, in addition to the requirements specified in the SVC-05 PA.

1.1 In "Section A, Statement of Need," Category 3 (Campus SBI) applicants do not have to address the 3rd bullet requiring non-tribal

applicants to show that identified needs are consistent with priorities of the State or county that has primary responsibility for the service delivery system. Therefore, Category 3 applicants do not have to include a copy of the State or County Strategic Plan as Appendix 5 of their application.

1.2 In "Section C, Proposed Implementation Approach," Category 3 (Campus SBI) applicants must, in addition to the requirements specified in the SVC-05 PA, address the following requirements that are added as an additional bullet in the Evaluation Criteria section of the SVC-05 PA:

Identify the geographic location of the proposed screening and brief intervention provider in relation to the targeted college/university campus. If the provider is located off campus, address how students will gain access to the service provider. Identify where subsequent services (*i.e.*, treatment) will be provided.

1.3 In "Section E, Evaluation and Data," applicants must, in addition to the requirements specified in the SVC-05 PA, address the following requirements that are added to the end of the 6th bullet in the Evaluation Criteria section of the SVC-05 PA:

Applicants must state whether or not the per-person costs are within the following reasonable ranges by treatment modality. Applicants must also discuss the reasonableness of the per person costs. If proposed costs exceed reasonable ranges, a detailed justification must be provided.

Program costs. The following are considered reasonable ranges by treatment modality:

Residential: \$3,000 to \$10,000.

Outpatient (Non-Methadone): \$1,000 to \$5,000.

Outpatient (Methadone): \$1,500 to \$8,000.

Intensive Outpatient: \$1,000 to \$7,500.

Screen/Brief Intervention/Brief Treatment/Outreach/Pretreatment Services: \$200 to \$1,200.

Drug Court Programs (regardless of client treatment modality): \$3,000 to \$5,000.

SAMHSA/CSAT computes per person costs as follows. The total support requested for the life of the project is multiplied by .8 (.2 will be the allowance for GPRA reporting requirements). The resulting amount is then divided by the number of persons the applicant proposes to serve over the life of the project.

The outreach and pretreatment services cost band only applies to outreach and pretreatment programs that do not also offer treatment services

but operate within a network of substance abuse treatment facilities. Treatment programs that add outreach and pretreatment services to a treatment modality or modalities are expected to fall within the cost band for that treatment modality.

1.4 Performance Measurement: All SAMHSA grantees are required to collect and report certain data, so that SAMHSA can meet its obligations under the Government Performance and Results Act (GPRA). Grantees of the Targeted Capacity Expansion Grants program will be required to report performance in several areas. Applicants must document their ability to collect and report the required data in "Section E: Evaluation and Data" of their applications.

All Targeted Capacity Expansion grant applicants must document their ability to collect and report data using the Targeted Capacity Expansion Client Level GPRA tool that can be found at <http://www.csat-gpra.samhsa.gov> (click on "Data Collection Tools/ Instruments"), along with instructions for completing it. Hard copies are available in the application kits distributed by SAMHSA's National Clearinghouse for Alcohol and Drug Information (NCADI). GPRA data must be collected at baseline (*i.e.*, the client's entry into the project), 6 months after the baseline, and 12 months after the baseline. Projects serving adolescents also must collect 3 month post-baseline data to capture the nuances of change particular to this population. GPRA data must be entered into the GPRA Web system within 7 business days of the forms being completed. In addition, 80% of the participants must be followed up on. GPRA data are to be collected and then entered into CSAT's GPRA Data Entry and Reporting System (<http://www.csat-gpra.samhsa.gov>). Training and technical assistance on data collecting, tracking, and follow-up, as well as data entry, will be provided by CSAT.

2. Review and Selection Process: Information about the review and selection process is available in the SVC-05 PA in Section V-2.

VI. Award Administration Information

Award administration information, including information about award notices, administration requirements and reporting requirements, is included in the SVC-05 PA in Section VI. SAMHSA's standard terms and conditions are available at http://www.samhsa.gov/grants/generalinfo/useful_info.aspx.

You must plan to send a minimum of three persons (Authorized Grantee,

Project Director if different, Evaluator) to at least two joint grantee meetings each year instead of the requirement for two persons to one joint grantee meeting each year as stated in the SVC-05 PA and should budget accordingly.

TCE grantees are required to provide progress reports every six months instead of annual progress reports required by the SVC-05 PA. The last report will be a final, cumulative report.

VII. Contacts for Additional Information

For questions about program issues, contact: Ken Robertson, SAMHSA/CSAT, 1 Choke Cherry Road, Room 5-1001, Rockville, MD 20857; (240) 276-1621; E-mail:

kenneth.robertson@samhsa.hhs.gov.

For questions on grants management issues, contact: Kimberly Pendleton, SAMHSA, Division of Grants

Management, 1 Choke Cherry Road, Room 7-1097, Rockville, MD 20857; (240) 276-1421; E-mail:

kimberly.pendleton@samhsa.hhs.gov.

Dated: November 5, 2004.

Daryl Kade,

Director, Office of Policy, Planning and Budget, Substance Abuse and Mental Health Services Administration.

[FR Doc. 04-25188 Filed 11-10-04; 8:45 am]

BILLING CODE 4162-20-P

DEPARTMENT OF HOMELAND SECURITY

Bureau of Customs and Border Protection

[CBP Decision 04-37]

CBP Decision; Recordation of Trade Name: "Joy Enterprises"

ACTION: Notice of application for recordation of trade name.

SUMMARY: Application has been filed pursuant to section 133.12, Customs Regulations (19 CFR 133.12), for the recordation under section 42 of the Act of July 5, 1946, as amended (15 U.S.C. 1124), of the trade name "Joy Enterprises". The trade name is owned by Shell Stores Corporation d/b/a Joy Enterprises, a Florida corporation.

The application states that the trade name "Joy Enterprises" is used in connection with knives, outdoor and sport supplies, police and security equipment, gift and premium items, swords, daggers, scissors, multitools and key chains, which are manufactured in China, Taiwan, Japan, Spain, USA, Italy and Germany.

Applicant states that the trade name "Joy Enterprises" is customarily used

apart from the complete business name Shell Stores Corporation. The applicant states that there are no foreign persons or business entities authorized or licensed to use the trade name.

Before final action is taken on the application, consideration will be given to any relevant data, views, or arguments, submitted in writing, by any person in opposition to the recordation of this trade name. Notice of the action taken on the application for recordation of this trade name will be published in the **Federal Register**.

DATES: Comments must be received on or before January 11, 2005.

ADDRESSES: Written comments should be addressed to U.S. Customs and Border Protection, Attention: Office of Regulations and Rulings, Intellectual Property Rights Branch, 1300 Pennsylvania Avenue, NW., (Mint Annex), Washington, DC 20229.

FOR FURTHER INFORMATION CONTACT: La Verne Watkins, Paralegal, Intellectual Property Rights Branch at (202) 572-8702.

Dated: November 1, 2004,
George Frederick McCray,
Chief, Intellectual Property Rights Branch.
 [FR Doc. 04-24645 Filed 11-10-04; 8:45 am]
BILLING CODE 4820-02-P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-4909-N-10]

Notice of Proposed Information Collection for Public Comment on How's HUD Doing in 2005? A HUD Partners Survey

AGENCY: Office of Policy Development and Research, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* January 11, 2005.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and should be sent to: Reports Liaison Officer, Office of Policy Development and Research, Department of Housing and Urban Development, 451 7th Street, SW., Room 8226, Washington, DC 20410.

FOR FURTHER INFORMATION CONTACT:

Cheryl A. Levine, Department of Housing and Urban Development, Office of Policy Development and Research, 451 7th Street, SW., Room 8140, Washington, DC 20410; telephone (202) 708-3700, extension 3928 (this is not a toll-free number). Copies of the proposed data collection instruments and other available documents may be obtained from Ms. Levine.

SUPPLEMENTARY INFORMATION: The Department will submit the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended). This Notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated collection techniques or other forms of information technology (e.g., permitting electronic submission of responses).

This Notice also lists the following information:

Title of Proposal: How's HUD Doing in 2005? A HUD Partners Survey.

Description of the need for the information and proposed use: HUD's Annual Performance Plan requires the Department to measure the satisfaction level of its partners. A baseline satisfaction survey was conducted and published in 2001. This proposed effort, a follow-up to the 2001 study, is a survey of the people and organizations HUD works with to implement its programs, in particular: local governments, housing agencies, community development departments, fair housing agencies, multi-family housing entities, and nonprofit housing organizations.

Members of affected public: Members of the following groups will be surveyed: local elected officials, city and county community development department directors, public housing authority directors, owners of HUD-assisted multifamily housing properties, directors of nonprofit organizations, and fair housing agency directors.

Estimation of the total numbers of hours needed to prepare the information

collection including number of respondents, frequency of response, and hours of response: Approximately 2,500 partners will be surveyed on a one-time basis. Consistent with the baseline study, each survey is expected to take 19 minutes. Total burden hours are 792.

Status of the proposed information collection: Pending OMB approval.

Authority: Section 3506 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: November 4, 2004.

Dennis C. Shea,

Assistant Secretary for Policy, Development and Research.

[FR Doc. 04-25157 Filed 11-10-04; 8:45 am]

BILLING CODE 4210-62-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-4907-N-33]

Notice of Proposed Information Collection: Comment Request

AGENCY: Office of the Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* January 11, 2005.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Wayne Eddins, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, SW., L'Enfant Plaza Building, Room 8001, Washington, DC 20410 or Wayne_Eddins@hud.gov.

FOR FURTHER INFORMATION CONTACT:

Michael McCullough, Director, Office of Multifamily Development, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410, telephone (202) 708-1142, (this is not a toll free number), for copies of the proposed forms and other available information.

SUPPLEMENTARY INFORMATION: The Department is submitting the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

This Notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including the use of appropriate automated collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses. This Notice also lists the following information:

Title of Proposal: Mortgagor's Certificate of Actual Cost.

OMB Control Number, if applicable: 2502-0112.

Description of the need for the information and proposed use: Collection of this information will allow the Mortgagor's Certificate of Actual Cost to be submitted by the mortgagor to certify actual costs of development in order to make an informed determination of mortgage insurance acceptability and to prevent windfall profits.

Agency form numbers, if applicable: HUD-92330.

Estimation of the total numbers of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response: The estimated number of respondents is 500, frequency of responses is 1, and the total number of annual burden hours requested is 4000.

Status of the proposed information collection: Currently approved.

Authority: The Paperwork Reduction Act of 1995, 44 U.S.C., Chapter 35, as amended.

Dated: November 4, 2004.

John C. Weicher,

Assistant Secretary for Housing-Federal Housing Commissioner.

[FR Doc. 04-25158 Filed 11-10-04; 8:45 am]

BILLING CODE 4210-08-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-4901-N-46]

Federal Property Suitable as Facilities To Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

EFFECTIVE DATE: November 12, 2004.

FOR FURTHER INFORMATION CONTACT:

Kathy Burruss, Department of Housing and Urban Development, Room 7262, 451 Seventh Street SW., Washington, DC 20410; telephone (202) 708-1234; TTY number for the hearing- and speech-impaired (202) 708-2565 (these telephone numbers are not toll-free), or call the toll-free Title V information line at 1-800-927-7588.

SUPPLEMENTARY INFORMATION: In accordance with the December 12, 1988 court order in *National Coalition for the Homeless v. Veterans Administration*, No. 88-2503-OG (D.D.C.), HUD publishes a Notice, on a weekly basis, identifying unutilized, underutilized, excess and surplus Federal buildings and real property that HUD has reviewed for suitability for use to assist the homeless. Today's Notice is for the purpose of announcing that no additional properties have been determined suitable or unsuitable this week.

Dated: November 4, 2004.

Mark R. Johnston,

Director, Office of Special Needs Assistance Programs.

[FR Doc. 04-24990 Filed 11-10-04; 8:45 am]

BILLING CODE 4210-29-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Notice of Intent To Prepare an Environmental Impact Statement for the Proposed Cowlitz Indian Tribe's Trust Acquisition and Casino Project, Clark County, WA

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: This notice advises the public that the Bureau of Indian Affairs (BIA), as lead agency, with the National Indian

Gaming Commission (NIGC) as cooperating agency, intends to gather information necessary for preparing an Environmental Impact Statement (EIS) for a proposed 151.87± acre trust acquisition and casino project to be located within Clark County, Washington. The purpose of the proposed action is to create a tribal land base which would enable the Cowlitz Indian Tribe (Tribe) to provide governmental services and perform governmental functions, provide jobs and career opportunities for tribal members, improve the tribal economy and tribal housing, and develop programs that would assist tribal members to attain economic self-sufficiency. This notice also announces a public scoping meeting to identify potential issues and content for inclusion in the EIS.

DATES: Written comments on the scope and implementation of this proposal must arrive by December 13, 2004. The public scoping meeting will be held December 1, 2004, from 6 p.m. to 9 p.m., or until the last public comment is received.

ADDRESSES: You may mail or hand carry written comments to Stanley Speaks, Regional Director, Northwest Regional Office, Bureau of Indian Affairs, 911 NE 11th Avenue, Portland, Oregon 97232. The public scoping meeting will be held at Hudson's Bay High School, Commons Area, 1206 East Reserve Street, Vancouver, Washington. The entrance is off of East McLoughlin Boulevard.

FOR FURTHER INFORMATION CONTACT: June Boynton, (503) 231-6749.

SUPPLEMENTARY INFORMATION: The Tribe, which currently is landless, proposes that 151.87± acres of land be taken into trust to help it create a tribal land base for its people. The Tribe wishes to use the property for multiple tribal purposes, including economic development and the provision of governmental services.

More specifically, the Tribe contemplates that the site will be used for the development of gaming and related entertainment facilities, tribal government facilities and tribal housing. The eventual size and scope of these facilities may be altered based on information obtained through the EIS process, but the Tribe's current proposal is for approximately 160,000 square feet of gaming floor, 210,000 square feet of restaurant and retail facilities, 150,000 square feet of convention and entertainment facilities, an approximately 250 room hotel, tribal governmental offices, a tribal cultural center and approximately 10 to 25 housing units. The proposed

development would also include parking facilities for approximately 8,500 vehicles for patrons and employees, and an RV park with approximately 200 RV spaces.

The 151.87± acres encompass nine contiguous tax lots in Clark County, Washington, near Ridgfield and La Center, Washington. The project site is located along NW. 319th Street between NW. 41st Avenue and NW. 31st Avenue, and adjacent to Interstate 5 at the NW. 319th Street interchange.

The proposed action encompasses the various federal approvals which would be required to implement the Tribe's efforts to establish a tribal land base, including approval of the Tribe's fee-to-trust application, approval of the Tribe's gaming management contract and approval of the Tribe's request for a reservation proclamation.

Areas of environmental concern identified so far for analysis in the EIS include land resources, water resources, air quality, living resources, cultural resources, socioeconomic conditions, traffic and transportation, land use, public utilities and services, noise, lighting, hazardous materials, environmental justice, and visual resources/aesthetics. The range of issues and alternatives to be addressed in the EIS may be expanded or reduced, based on comments received in response to this notice and at the public scoping meeting.

Public Comment Availability

Comments, including names and addresses of respondents, will be available for public review at the BIA address shown in the **ADDRESSES** section, during business hours, 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. Individual respondents may request confidentiality. If you wish us to withhold your name and/or address from public review or from disclosure under the Freedom of Information Act, you must state this prominently at the beginning of your written comment. Such requests will be honored to the extent allowed by the law. We will not, however, consider anonymous comments. 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.

Authority

This notice is published in accordance with section 1503.1 of the Council on Environmental Quality Regulations (40 CFR parts 1500 through 1508) implementing the procedural

requirements of the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4371 *et seq.*), and the Department of the Interior Manual (516 DM 1–6), and is in the exercise of authority delegated to the Principal Deputy Assistant Secretary—Indian Affairs by 209 DM 8.1.

Michael D. Olsen,

Acting Principal Deputy Assistant Secretary—Indian Affairs.

[FR Doc. 04–25161 Filed 11–10–04; 8:45 am]

BILLING CODE 4310–W7–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA–660–04–1220]

Emergency Closure and Restriction Order

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Land Management (BLM) is imposing a closure on approximately 440 acres of public land to recreational shooting. The emergency closure will remain in place until December 31, 2004. The use of firearms will continue to be allowed for hunting consistent with California Department of Fish and Game regulations and seasons. Specifically, this closure will apply to BLM managed lands located in Aguanga Valley, California, south of Highway 79 along what is known locally as the High Point Road.

FOR FURTHER INFORMATION CONTACT: Bruce Shaffer, Acting Field Manager, 690 West Garnet Avenue, North Palm Springs, CA 92258, telephone (760) 251–4800 or Janaye Byergo, Resource Management Specialist, (858) 451–1767.

SUPPLEMENTARY INFORMATION: The closure will be in concert with a closure imposed on contiguous U.S. Forest Service (USFS) lands. The High Point area attracts users from three counties in southern California—Riverside, Orange, and San Diego. The BLM and USFS have become aware through public complaints that the recreational shooting at High Point is causing an immediate threat to public safety. A highway, residences, and an RV resort are all within two miles of the shooting area. Cross-shooting is occurring from the different shooting sites, and stray and ricocheting bullets are striking homes and out buildings of the nearby private residents. Shooters are firing a wide variety of calibers: handguns—.50, .44, .38, 9 mm, .357; rifles—7 mm

magnum, .308, 30.06, 7.62, .22. Some rounds are carrying up to two miles and more in distance. The BLM recognizes that recreational target shooting is a valid use of public lands, and seeks to balance this with the need to provide for public safety.

During the emergency closure, BLM will be taking steps to implement a permanent closure of the area to recreational shooting. This closure is in accordance with provisions of the Federal Land Policy and Management Act of 1976 (Pub. L. 94–579, 90 stat. 2743, 43 U.S.C. 1701) and Title 43, Subpart 8364.1 of the U.S. Code of Federal Regulation (CFR). Maximum penalties are \$1000.00 fine and/or 12 months in prison.

This order affects public lands in San Diego County, California, thus described:

San Bernardino Meridian

T. 9 S., R. 1 E.,

Section 2, NW¼NW¼, SW¼NW¼, NW¼SW¼, NE¼SW¼, SE¼SW¼.

T. 9 S., R. 1 E.,

Section 11, NE¼.

T. 9 S., R. 1 E.,

Section 12, W½NW¼.

Bruce Shaffer,

Acting Field Manager.

[FR Doc. 04–25197 Filed 11–10–04; 8:45 am]

BILLING CODE 4310–40–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA–338–03–1610–00]

Notice of Availability of the King Range National Conservation Area Proposed Resource Management Plan and Final Environmental Impact Statement

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability.

SUMMARY: The Bureau of Land Management (BLM) has prepared a Proposed Resource Management Plan (RMP) and associated Final Environmental Impact Statement (EIS) for the King Range National Conservation Area (NCA) located in Humboldt and Mendocino Counties, California. The Proposed RMP and Final EIS have been prepared in accordance with the National Environmental Policy Act of 1969, and under authority of the Federal Land Policy and Management Act of 1976, the King Range Act of 1970 (Pub. L. 91–476), and BLM policies. The Proposed RMP was developed with broad public participation beginning with scoping meetings in November

2002, release of a Draft RMP/Draft EIS with public meetings in February and March 2004, and ongoing dialogue with a variety of publics. The Proposed RMP addresses management on the approximately 64,000-acre King Range NCA and the contiguous 5,000 acres of BLM-managed lands.

DATES: BLM Planning Regulations (43 CFR 1610.5-2) state that any person who participated in the planning process, and has an interest that may be adversely affected, may protest. The protest must be filed within 30 days of the date that the Environmental Protection Agency (EPA) publishes a notice of the Proposed RMP/Final EIS availability in the **Federal Register**. More specific instructions and requirements for protests are contained in the Supplementary Information section of this notice.

ADDRESSES: Copies of the Proposed RMP/Final EIS may be obtained from the following BLM locations: BLM Arcata Field Office, 1695 Heindon Road, Arcata, CA 95521, telephone (707) 825-2300; BLM King Range NCA Project Office, P.O. Drawer 189, Whitethorn, CA 95589, telephone (707) 986-5400; or BLM California State Office, 2800 Cottage Way, Room W-1834, Sacramento, CA 95825, telephone (916) 978-4600; or requested by e-mail at caweb330@ca.blm.gov. The BLM will also announce the availability of the Proposed RMP/Final EIS through local media outlets, the current project mailing list, and on the BLM Arcata Field Office Web site (<http://www.ca.blm.gov/arcata/index.html>).

FOR FURTHER INFORMATION CONTACT: Bob Wick, Bureau of Land Management, (707) 825-2300.

SUPPLEMENTARY INFORMATION: The King Range Act of 1970 (Public Law 91-476) established the King Range NCA. The Federal Land Policy and Management Act of 1976 (Pub. L. 94-579) expanded the area to its present size of approximately 64,000 acres. The King Range Act requires development of "a comprehensive, balanced, and coordinated plan of land use, development, and management of the Area." The act also states "that the plan will be reviewed and reevaluated periodically." An original plan was completed in 1974, and the present planning effort is the first comprehensive update to be undertaken.

The King Range NCA encompasses 35 miles of Pacific coastline and provides for a range of outdoor recreation opportunities. The area contains three federally listed threatened fish species: southern Oregon/northern California

coasts Coho salmon (*Oncorhynchus kisutch*), northern California steelhead (*Oncorhynchus mykiss*), and California coastal Chinook salmon (*Oncorhynchus tshawytscha*), and one federally listed threatened animal: northern spotted owl (*Strix occidentalis caurina*).

The BLM has considered an array of alternatives including specific land use allocations and prescriptions consistent with the legislative intent for the King Range NCA. Recreation and visitor-use management, forest health, fisheries and wildlife management, fire management, travel management, and community involvement in King Range NCA operations are addressed in these alternatives. The Draft RMP/Draft EIS examined four alternatives that respond to these issues. Alternative A is the No Action (current management) Alternative. Alternatives B, C and D present a range of management scenarios with varying amounts of natural resource restoration/use and differing levels of recreation use and developed facilities. The Proposed RMP Alternative is a combination of specific components from Alternatives B, C and D, and provides for a mix of management goals, allowable uses and actions that best address planning issues and conservation of resource values of the area.

The planning process includes an opportunity for administrative review through a plan protest to the BLM Director should a previous commenter on the Draft RMP/Draft EIS believe that the decision has been issued in error. Only those persons or organizations who participated in the planning process may protest. Protests from parties having no previous involvement will be denied without further review. A protesting party may raise only those issues which were submitted for the record during the planning process. New issues raised during the protest period should be directed to the BLM, Arcata Field Manager, 1695 Heindon Road, Arcata, CA 95521 for consideration in plan implementation, as potential plan amendments, or as otherwise appropriate. The period for filing protests begins when the EPA publishes in the **Federal Register** its Notice of Receipt of the Final EIS containing the Proposed RMP.

Protests must be filed in writing to: Director (210), Attention: Brenda Williams, P.O. Box 66538, Washington, DC 20035; or by overnight mail to: Director (210), Attention: Brenda Williams, 1620 L Street, NW., Suite 1075, Washington, DC 20036. In order to be considered complete, the protest must contain, at a minimum, the following information:

1. The name, mailing address, telephone number, and interest of the person filing the protest.

2. A statement of the issue or issues being protested.

3. A statement of the part or parts of the plan being protested. To the extent possible, this should be done by reference to specific pages, paragraphs, sections, tables, maps, etc. included in the Proposed RMP.

4. A copy of all documents addressing the issue or issues which were submitted during the planning process or a reference to the date the issue or issues were discussed by the person participating, for the record.

5. A concise statement explaining why the decision of the BLM California State Director is believed to be incorrect. This is a critical part of the protest. Take care to document all relevant facts. As much as possible, reference or cite the planning documents, environmental analysis documents, and available planning records (*i.e.*, meeting minutes or summaries, correspondence, *etc.*). A protest which merely expresses disagreement with the proposed decision, in the absence of supporting data, will not provide additional basis for the BLM Director's review of the decision.

To be considered "timely", the protest must be postmarked no later than the last day of the 30-day protest period. Also, although not a requirement, it is recommended that the protest be sent by certified mail, return receipt requested. 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, the BLM will consider the e-mail or faxed protest as an advance copy, and it will receive full consideration. If you wish to provide the BLM with such advance notification, please direct faxed protests to the attention of the BLM Protests Coordinator at (202) 452-5112, and e-mails to

Brenda_Hudgens_Williams@blm.gov. Please direct the follow-up letter to the appropriate address provided above.

Please note that comments, including names and street addresses of respondents, are available for public review and/or release under the Freedom of Information Act (FOIA). Individual respondents may request confidentiality. Respondents who wish to withhold their name and/or street address from public review or from disclosure under FOIA, must state this prominently at the beginning of their written 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.

The Director will promptly render a decision on the protest. The decision will be in writing and will be sent to the protesting party by certified mail, return receipt requested. The decision of the Director will be the final decision of the Department of the Interior.

Dated: July 20, 2004.

Lynda J. Roush,

Arcata Field Manager.

[FR Doc. 04-24903 Filed 11-10-04; 8:45 am]

BILLING CODE 4310-40-P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CO-154-1610-DQ-GGCA]

Notice of Availability of Record of Decision for the Gunnison Gorge National Conservation Area Resource Management Plan (RMP)/Environmental Impact Statement (EIS)

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability of Record of Decision (ROD).

SUMMARY: In accordance with the National Environmental Policy Act (NEPA), the Federal Land Policy and Management Act (FLPMA), and the Bureau of Land Management (BLM) management policies, the Black Canyon of the Gunnison National Park and Gunnison Gorge National Conservation Area Act of 1999 and the Black Canyon of the Gunnison Boundary Revision Act of 2003, the BLM announces the availability of the RMP/ROD for the Gunnison Gorge National Conservation Area (NCA) located in Montrose and Delta Counties, Colorado. The Colorado State Director will sign the RMP/ROD, which becomes effective immediately.

ADDRESSES: Copies of the NCA RMP/ROD are available upon request from the Field Manager, Uncompahgre Field Office, Bureau of Land Management, 2505 S. Townsend Avenue, Montrose, Colorado or via the Internet at <http://www.gunnison-gorge-eis.com>. Copies may also be obtained by calling Bill Bottomly, Gunnison Gorge NCA (970) 240-5337. Copies have also been sent to the following local libraries.

Montrose Public Library, 320 South 2nd Street, Montrose, CO 81401.

Delta Public Library, 211 West 6th Street, Delta, CO 81416.

Crawford Public Library, 425 Highway 92, Crawford, CO 81415.

Hotchkiss Public Library, 1st and Main Street, Hotchkiss, CO 81419.

FOR FURTHER INFORMATION CONTACT:

Karen Tucker, Manager, Gunnison Gorge NCA, 2465 S. Townsend Avenue, Montrose, CO (970) 240-5309, karen_tucker@co.blm.gov, or Bill Bottomly, Land Use Planner, Gunnison Gorge NCA, 2465 S. Townsend Avenue, Montrose, CO (970) 240-5337, bill_bottomly@co.blm.gov.

SUPPLEMENTARY INFORMATION: The Gunnison Gorge NCA RMP/ROD was developed with broad public participation through a two-year collaborative planning process. This RMP/ROD addresses management on approximately 95,780 acres of public land in the planning area. The Gunnison Gorge NCA RMP/ROD is designed to achieve or maintain desired future conditions developed through the planning process. It includes a series of management actions to meet the desired resource conditions for upland and riparian vegetation, wildlife habitats, cultural and visual resources, livestock grazing, recreation, wilderness management, and special status species and habitat.

The approved Gunnison Gorge NCA RMP is essentially the same as the Proposed Gunnison Gorge NCA RMP/Final Environmental Impact Statement (PRMP/FEIS), published on January 23, 2004. BLM received 32 protests to the PRMP/FEIS. No inconsistencies with State or local plans, policies, or programs were identified during the Governor's consistency review of the PRMP/FEIS. As a result, only minor editorial modifications were made in preparing the RMP/ROD. These modifications corrected errors that were noted during review of the PRMP/FEIS and provide further clarification for some of the decisions. An errata sheet is included with the RMP/ROD that identifies the location of the corrections in the PRMP/FEIS.

Dated: April 28, 2004.

Doug Koza,

Associate State Director.

Editorial Note: This document was received at the Office of the Federal Register on November 4, 2004.

[FR Doc. 04-24904 Filed 11-10-04; 8:45 am]

BILLING CODE 4310-JB-P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV-055-5853-EU]

Notice of Realty Action: Competitive Sale of Public Lands in Clark, Lander, and Elko Counties, NV

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of realty action.

SUMMARY: The Bureau of Land Management (BLM) proposes to sell 74 parcels of federal land in Clark County, Nevada, aggregating approximately 4,320.82 acres. The BLM also proposes to offer for sale two parcels of federal land in Lander County and one parcel in Elko County, aggregating approximately 359.16 acres. The sale will be conducted in Las Vegas, Nevada, on February 2, 2005, in accordance with competitive bidding procedures.

DATES: Comments regarding the proposed sale must be received by BLM on or before December 27, 2004.

Sealed bids must be received by BLM not later than 4:30 p.m., P.s.t., January 26, 2005.

All parcels of land proposed for sale are to be put up for purchase and sale, at public auction, beginning at 10 a.m., P.s.t., February 2, 2005. Registration for oral bidding for those who have not pre-registered will begin at 8 a.m., P.s.t., February 2, 2005 and will end at 10 a.m., P.s.t.

Other deadline dates for the receipt of payments, and arranging for certain payments to be made by electronic transfer, are specified in the proposed terms and conditions of sale, as stated herein.

ADDRESSES: Comments regarding the proposed sale, as well as sealed bids to be submitted to BLM, should be addressed to: Field Manager, Las Vegas Field Office, Bureau of Land Management, 4701 N. Torrey Pines Drive, Las Vegas, Nevada 89130.

More detailed information regarding the proposed sale and the lands involved may be reviewed during normal business hours (7:30 a.m. to 4:30 p.m.) at the BLM Las Vegas Field Office (LVFO).

The address for oral bidding registration, and the location of the public auction, is: Cashman Center, 850 Las Vegas Boulevard North, Las Vegas, NV 89101.

The auction will take place in the Cashman Theater located southwest of the Cashman Center Stadium with entrance to the Theater between Parking Lots "B" and "C". Registration will take place in the Theater Lobby.

Directions to the Cashman Center from Boulder City, Henderson, or the Southeast Area of Las Vegas: Take U.S. 95 North. Exit on Las Vegas Blvd. North. Turn right on Washington Ave. Turn right on Washington to Cashman Center (850 Las Vegas Blvd. North).

Directions to the Cashman Center from Reno or the Northwest Area of Las Vegas: Take U.S. 95 South. Exit Las Vegas Blvd. North (Las Vegas Blvd/ Cashman Center). Turn left to Cashman Center (850 Las Vegas Blvd. North). Cashman Center charges a \$3 per vehicle parking fee. Parking Passes are provided for your convenience in the Sale Packet. Present the Pass to the attendant when you enter the parking area. If you don't have a Pass you will be required to pay the fee. There will be no exceptions.

FOR FURTHER INFORMATION CONTACT: You may contact Judy Fry, Program Lead, SALES at (702) 515-5081 or by e-mail at jfry@nv.blm.gov. You may also call (702) 515-5000 and ask to have your call directed to a member of the Sales Team.

SUPPLEMENTARY INFORMATION: The following lands in Clark County, Nevada, are proposed for sale and have been authorized and designated for disposal under the Southern Nevada Public Land Management Act of 1998 (112 Stat. 2343), as amended by the Clark County Conservation of Public Land and Natural Resources Act of 2002 (116 Stat. 1994), (hereinafter "SNPLMA"). These lands include seven (7) parcels in Clark County that were identified for sale at previous auctions, but did not sell because they did not receive any bids, or the sales were cancelled due to default. The seven (7) parcels identified as N-65894, N-65897, N-65956, N-66702, N-74826, N-74836 and N-77340 contain 20.00 acres, more or less. These parcels will be auctioned under the terms and conditions of this Notice of Realty Action.

Mount Diablo Meridian, Nevada

T. 19 S., R. 59 E.,

Sec. 1, Lots 37 and 38;
NE¹/₄NW¹/₄SW¹/₄NE¹/₄,
SE¹/₄NW¹/₄SW¹/₄NE¹/₄,
SW¹/₄NE¹/₄SE¹/₄NE¹/₄,
NE¹/₄NW¹/₄SE¹/₄NE¹/₄,
SW¹/₄SW¹/₄SE¹/₄NE¹/₄,
SE¹/₄SW¹/₄SE¹/₄NE¹/₄,
SE¹/₄NW¹/₄SE¹/₄NE¹/₄,
NE¹/₄SW¹/₄SE¹/₄NE¹/₄,
NW¹/₄SW¹/₄SE¹/₄NE¹/₄,
NE¹/₄NE¹/₄NW¹/₄SW¹/₄,
SW¹/₄NE¹/₄NW¹/₄SW¹/₄,
SE¹/₄NE¹/₄NW¹/₄SW¹/₄,
NW¹/₄NE¹/₄NW¹/₄SW¹/₄,
NW¹/₄NW¹/₄NE¹/₄SE¹/₄,
SW¹/₄NW¹/₄NE¹/₄SE¹/₄,
NE¹/₄NW¹/₄NE¹/₄SE¹/₄,
SE¹/₄NW¹/₄NE¹/₄SE¹/₄;

Sec. 2, NW¹/₄SW¹/₄SW¹/₄NE¹/₄,
SW¹/₄SW¹/₄SW¹/₄NE¹/₄,
NE¹/₄SE¹/₄SW¹/₄NW¹/₄,
SE¹/₄SE¹/₄SW¹/₄NW¹/₄,
NE¹/₄SW¹/₄SE¹/₄NW¹/₄,
SE¹/₄SW¹/₄SE¹/₄NW¹/₄,
NW¹/₄NE¹/₄NE¹/₄SW¹/₄,
SW¹/₄NE¹/₄NE¹/₄SW¹/₄,
NW¹/₄NW¹/₄NE¹/₄SW¹/₄,
SW¹/₄NW¹/₄NE¹/₄SW¹/₄,
NE¹/₄NE¹/₄SW¹/₄SW¹/₄,
N¹/₂SE¹/₄NE¹/₄SW¹/₄SW¹/₄;

Sec. 3, NW¹/₄SE¹/₄SW¹/₄SE¹/₄,
SW¹/₄SE¹/₄SW¹/₄SE¹/₄,
SE¹/₄SE¹/₄SW¹/₄SE¹/₄SE¹/₄,
S¹/₂SW¹/₄SE¹/₄SE¹/₄SE¹/₄,
SE¹/₄SE¹/₄SE¹/₄SE¹/₄;

Sec. 10, NE¹/₄NW¹/₄NE¹/₄NE¹/₄,
SE¹/₄NW¹/₄NE¹/₄NE¹/₄;

Sec. 12, Lots 1-16.

T. 19 S., R. 60 E.,

Sec. 6, Lots 12-30;

Sec. 7, Lots 6, 8, 9, 10, 11, 12, 14, 16, 18,
19, 20, 21;

Sec. 29, NW¹/₄SW¹/₄NW¹/₄NW¹/₄,
SW¹/₄SW¹/₄NW¹/₄NW¹/₄,
NW¹/₄NW¹/₄SW¹/₄NW¹/₄,
SW¹/₄NW¹/₄SW¹/₄NW¹/₄.

T. 19 S., R. 61 E.

Sec. 14, Lots 1-16;

Sec. 15, Lots 1-10, 12-18;

Sec. 16, Lots 1-6, 8-12, 14-22;

Sec. 21, Lots 1, 2, 3, 6, 7, 8;

Sec. 23, Lots 1-4, 6-10.

T. 20 S., R. 60 E.,

Sec. 28, W¹/₂NE¹/₄SW¹/₄SW¹/₄.

T. 21 S., R. 60 E.,

Sec. 18, NE¹/₄SW¹/₄SW¹/₄SE¹/₄.

T. 22 S., R. 60 E.,

Sec. 12, E¹/₂SW¹/₄SE¹/₄NE¹/₄,
SW¹/₄SE¹/₄SE¹/₄NE¹/₄,
SW¹/₄NE¹/₄NE¹/₄SW¹/₄,
N¹/₂NW¹/₄NE¹/₄SW¹/₄;

T. 22 S., R. 60 E.,

Sec. 14, NW¹/₄SW¹/₄NW¹/₄SW¹/₄;

Sec. 19, S¹/₂SW¹/₄NE¹/₄SW¹/₄NE¹/₄,
NW¹/₄SW¹/₄SW¹/₄NE¹/₄,
NW¹/₄SE¹/₄SW¹/₄NE¹/₄,
SW¹/₄NE¹/₄SE¹/₄NE¹/₄,
N¹/₂SE¹/₄SE¹/₄NE¹/₄,
SW¹/₄NW¹/₄SW¹/₄NE¹/₄,
NE¹/₄NW¹/₄SE¹/₄NW¹/₄,
NW¹/₄SW¹/₄SE¹/₄SW¹/₄,
SW¹/₄SW¹/₄SE¹/₄SW¹/₄,
SW¹/₄SE¹/₄SE¹/₄SW¹/₄,
SE¹/₄SW¹/₄SE¹/₄SW¹/₄;

Sec. 21, SE¹/₄NE¹/₄SW¹/₄NE¹/₄,
NW¹/₄SW¹/₄SW¹/₄NE¹/₄,
NE¹/₄SW¹/₄SW¹/₄NE¹/₄,
NW¹/₄SE¹/₄SW¹/₄NE¹/₄,
NE¹/₄SE¹/₄SW¹/₄NE¹/₄,
NE¹/₄SW¹/₄SE¹/₄NE¹/₄,
NW¹/₄SW¹/₄SE¹/₄NE¹/₄,
NE¹/₄SE¹/₄SE¹/₄NE¹/₄,
NW¹/₄SE¹/₄SE¹/₄NE¹/₄,
NE¹/₄SE¹/₄SE¹/₄NW¹/₄,
NW¹/₄SE¹/₄SE¹/₄NW¹/₄,
SE¹/₄NE¹/₄SE¹/₄NW¹/₄;

Sec. 22, E¹/₂NE¹/₄SE¹/₄SW¹/₄SW¹/₄;

Sec. 24, W¹/₂SE¹/₄NE¹/₄NW¹/₄NE¹/₄,
N¹/₂SW¹/₄NW¹/₄SE¹/₄NE¹/₄,
SE¹/₄SE¹/₄NE¹/₄NW¹/₄;

Sec. 35, NW¹/₄NE¹/₄NE¹/₄,
W¹/₂NE¹/₄NE¹/₄NE¹/₄;

T. 22 S., R. 61 E.,

Sec. 10, Lot 15;

Sec. 14, W¹/₂NW¹/₄SE¹/₄SE¹/₄NE¹/₄;

Sec. 28, Lot 102;

Sec. 29, NE¹/₄SW¹/₄SW¹/₄NE¹/₄.

Consisting of 74 parcels containing
4,320.99 acres, more or less.

The following lands in Lander and Elko Counties, Nevada are proposed for sale. They have been identified for disposal in the Elko Resource Management Plan, approved in March, 1987, and, therefore, meet the disposal qualification of section 205 of the Federal Land Transaction Facilitation Act of July 25, 2000 (43 U.S.C. 2301, 2304, hereinafter "LTFA"). The purpose of the proposed sale is to dispose of lands that are difficult and uneconomic to manage as part of the public lands; and it has been determined that the public interest will be served by putting up these lands for purchase and sale at public auction. These lands were previously identified for sale at an auction in Elko, Nevada on September 15, 2004, but did not receive any bids. They consist of three (3) parcels identified as N-77171, N-77176 and N-77177 and contain a total of 359.16 acres, more or less. The three (3) parcels will be auctioned under the terms and conditions of this Notice of Realty Action.

Mount Diablo Meridian, Nevada

T. 32 N., R. 44 E.,

Sec. 2, Lots 3 and 4, SE¹/₄NW¹/₄;

T. 34 N., R. 44 E.,

Sec. 36, NE¹/₄;

T. 34 N., R. 55 E.,

Sec. 24, W¹/₂NE¹/₄.

Consisting of 3 parcels containing 359.16 acres, more or less.

All of the above described lands, in Clark, Lander and Elko Counties, are proposed to be put up for purchase and sale at a competitive oral auction on February 2, 2005, in accordance with the applicable provisions of Section 203 and Section 209 of the Federal Land Policy and Management Act of 1976 (FLPMA) (43 U.S.C. 1713 and 1719), respectively, and its implementing regulations, 43 C.F.R. Part 2710 and Part 2720, at not less than the fair market value (FMV) of each parcel, as determined by the authorized officer after an appraisal. The proceeds from the sale of the parcels in Clark County will be deposited into the SNPLMA Special Account. The proceeds from the sale of the parcels in Lander and Elko Counties will be deposited into the Federal Land Disposal Account, pursuant to FLTFA.

If a parcel of land in Clark County is sold, the locatable mineral interests therein will be sold simultaneously as part of the sale. The lands identified for

sale in Clark County have no known locatable mineral value with the exception of parcel N-78214. An offer to purchase all other parcels in Clark County will constitute an application for conveyance of the locatable mineral interests. In conjunction with the final payment, the applicant will be required to pay a \$50.00 non-refundable filing fee for processing the conveyance of the locatable mineral interests. In the case of parcel N-78214, locatable minerals will be reserved along with leasable and saleable minerals and the \$50.00 filing fee will not be collected.

Terms and Conditions of Sale

The terms and conditions applicable to this sale are as follows:

1. All discretionary leaseable and saleable mineral deposits are reserved to the United States on the lands in Clark County; but, permittees, licensees, and lessees retain the right to prospect for, mine, and remove such minerals owned by the United States under applicable law and any regulations that the Secretary of the Interior may prescribe, including all necessary access and exit rights. All minerals are reserved to the United States on the lands in Lander and Elko Counties and parcel N-78214 in Clark County; but, permittees, licensees, and lessees retain the right to prospect for, mine, and remove such minerals owned by the United States under applicable law and any regulations that the Secretary of the Interior may prescribe, including all necessary access and exit rights.

2. A right-of-way is reserved for ditches and canals constructed by authority of the United States under the Act of August 30, 1890 (43 U.S.C. 945).

3. All parcels are subject to valid existing rights. Parcels may also be subject to applications received prior to publication of this Notice if processing the application would have no adverse effect on the marketability of the federally approved Fair Market Value (FMV) of a parcel. Encumbrances of record, appearing in the BLM public files for the parcels proposed for sale, are available for review during business hours, 7:30 a.m. p.s.t. to 4:30 p.m. p.s.t., Monday through Friday, at the BLM LVFO.

4. All parcels are subject to reservations for roads, public utilities and flood control purposes, both existing and proposed, in accordance with the local governing entities' Transportation Plans.

5. No warranty of any kind, express or implied, is given by the United States as to the title, physical condition or potential uses of the parcels of land proposed for sale; and the conveyance

of any such parcel will not be on a contingency basis. However, to the extent required by law, all such parcels are subject to the requirements of section 120(h) of the Comprehensive Environmental Response Compensation and Liability Act, as amended (CERCLA) (42 U.S.C. 9620(h)).

6. All purchasers/patentees, by accepting a patent, covenant and agree to indemnify, defend, and hold the United States harmless from any costs, damages, claims, causes of action, penalties, fines, liabilities, and judgments of any kind or nature arising from the past, present, and future acts or omissions of the patentees or their employees, agents, contractors, or lessees, or any third-party, arising out of or in connection with the patentees' use, occupancy, or operations on the patented real property. This indemnification and hold harmless agreement includes, but is not limited to, acts and omissions of the patentees and their employees, agents, contractors, or lessees, or any third party, arising out of or in connection with the use and/or occupancy of the patented real property which has already resulted or does hereafter result in: (1) Violations of federal, state, and local laws and regulations that are now or may in the future become, applicable to the real property; (2) Judgments, claims or demands of any kind assessed against the United States; (3) Costs, expenses, or damages of any kind incurred by the United States; (4) Releases or threatened releases of solid or hazardous waste(s) and/or hazardous substances(s), as defined by federal or state environmental laws, off, on, into or under land, property and other interests of the United States; (5) Activities by which solids or hazardous substances or wastes, as defined by federal and state environmental laws are generated, released, stored, used or otherwise disposed of on the patented real property, and any cleanup response, remedial action or other actions related in any manner to said solid or hazardous substances or wastes; or (6) Natural resource damages as defined by federal and state law. This covenant shall be construed as running with the parcels of land patented or otherwise conveyed by the United States, and may be enforced by the United States in a court of competent jurisdiction.

7. Maps delineating the individual proposed sale parcels are available for public review at the BLM LVFO. Large aerial photos showing the locations of all the sale parcels are available for purchase at the BLM LVFO. Current appraisals for each parcel are available for public review at the LVFO.

8. (a) Parcels N-78216 and N-78217 will only be put up for purchase and sale at the oral auction. Sealed bids for these parcels will not be accepted. If these parcels are not sold at the oral auction, they will *not* be offered later on an online Internet auction.

8. (b) Sealed bids may be presented for all other parcels. Sealed bids must be received at the BLM LVFO, no later than 4:30 p.m., p.s.t., January 26, 2005. Sealed bid envelopes must be marked on the lower front left corner with the BLM Serial Number for the parcel and the sale date. Bids must be for not less than the federally approved FMV and a separate bid must be submitted for each parcel.

8. (c) Each sealed bid shall be accompanied by a certified check, money order, bank draft, or cashier's check made payable in U.S. dollars to the order of the Bureau of Land Management, for not less than 10 percent or more than 30 percent of the amount bid. The highest qualified sealed bid for each parcel will become the starting bid at the oral auction. If no sealed bids are received, oral bidding will begin at the FMV, as determined by the authorized officer.

9. All parcels will be offered for competitive sale by oral auction beginning at 10 a.m., p.s.t., February 2, 2005, at Cashman Theater inside Cashman Center, located at 850 Las Vegas Boulevard North, Las Vegas, NV. Interested parties who will not be bidding are not required to register and may proceed directly to the Cashman Theater. If you are at the auction to conduct business with the high bidders or are there to observe the process, should seating become limited, you may be asked to relinquish your seat in order to provide seating for all bidders before the auction begins. We will try to provide an audio/visual transmission outside the theater for your convenience.

10. All oral bidders are required to register. Registration for oral bidding will begin at 8 a.m. p.s.t. on the day of the sale and will end at 10 a.m. p.s.t. You are encouraged to pre-register by mail or fax by completing the form located in the Sale Packet. The form is also available at the BLM LVFO and on the Internet at <http://www.nv.blm.gov/SNPLMA>.

11. Prior to receiving a bidder number on the day of the sale, all registered bidders must submit a certified check, bank draft, or cashier's check in the amount of \$10,000. The check must be made payable to the order of the Bureau of Land Management. On the day of the sale, pre-registered bidders may go to the Express Registration Desk, present

their Photo Identification Card, the required \$10,000 check, and receive a bidder number. All other bidders must go to the standard Registration Line where additional information will be requested along with your Photo Identification Card and the required \$10,000 check. Upon completion of registration you will be given a bidder number. If you are a successful bidder, the \$10,000 will be applied to your required 20 percent deposit. For parcels N-78216 and N-78217, arrangements may be made for Electronic Fund Transfer (EFT) of the 20 percent deposit by notifying BLM no later than January 14, 2005 of your intent to use EFT.

12. If you purchase one or more parcels and default on any single parcel, the default will be against all of your parcels. BLM will retain your \$10,000 and the sale of *all* parcels to you will be cancelled. Following the auction, checks will be returned to the unsuccessful bidders upon presentation of their Photo Identification at the designated area.

13. The highest qualifying bid for any parcel, whether sealed or oral, will be declared the high bid. The apparent high bidder, if an oral bidder, must submit a deposit of not less than 20 percent of the successful bid by 4:30 p.m. p.s.t. on the day of the sale in the form of cash, personal check, bank draft, cashier's check, money order or any combination thereof, made payable in U.S. dollars to the Bureau of Land Management. If not paid by close of the auction, funds must be delivered no later than 4:30 p.m. p.s.t. the day of the sale to the BLM Collection Officers at the Cashman Theater.

14. Oral bids will be considered only if received at the place of sale and made at least for the FMV as determined by the BLM authorized officer. For parcels designated Serial Numbers N-78216 and N-78217 specifically, each prospective bidder will be required to present a certified check, postal money order, bank draft or cashier's check made payable in U.S. dollars to the Bureau of Land Management for an amount of money which shall be no less than 20 percent of the federally approved FMV of the designated parcels, in order to be eligible to bid on each respective parcel. In order to bid on both designated parcels listed, a separate certified check, postal money order, bank draft or cashier's check for an amount of money which shall be no less than 20 percent of the federally approved FMV for each designated parcel will be required. Both check(s) must be made payable in U.S. dollars to the order of the Bureau of Land Management.

15. The remainder of the full bid price for each parcel, whether sealed or oral bid, must be paid within 180 calendar days of the competitive sale date in the form of a certified check, money order, bank draft, or cashier's check made payable in U.S. dollars to the Bureau of Land Management. *Personal checks will not be accepted.* Arrangements for Electronic Fund Transfer (EFT) to BLM for the balance which is due on or before August 2, 2005, should be made a minimum of two weeks prior to the date you wish to make payment. Failure to pay the full price within the 180 days will disqualify the apparent high bidder and cause the entire bid deposit to be forfeited to the BLM.

16. The BLM may accept or reject any or all offers, or withdraw any parcel of land or interest therein from sale, if, in the opinion of the BLM authorized officer, consummation of the sale would not be fully consistent with FLPMA or other applicable laws or are determined to not be in the public interest.

Additional Information

If not sold, any parcel described above in this Notice may be identified for sale at a later date without further legal notice. Unsold parcels, with the exception of parcels N-78216 and N-78217, may be offered for sale in a future online auction on the Internet. Internet auction procedures will be available at <http://www.auctionrp.com>. If unsold on the Internet, parcels may be put up for sale at future auctions without additional legal notice. Upon publication of this Notice and until the completion of the sale, the BLM is no longer accepting land use applications affecting any parcel identified for sale, including parcels that have been published in a previous Notice of Realty Action. However, land use applications may be considered after completion of the sale for parcels that are not sold through sealed, oral, or online Internet auction procedures provided the authorization will not adversely affect the marketability or value of the parcel.

Federal law requires bidders to be U.S. citizens 18 years of age or older; a corporation subject to the laws of any State or of the United States; a State, State instrumentality, or political subdivision authorized to hold property, or an entity legally capable of conveying lands or interests therein under the laws of the State of Nevada. Certification of qualification, including citizenship or corporation or partnership, must accompany the bid deposit.

In order to determine the value, through appraisal, of the parcels of land proposed to be sold, certain extraordinary assumptions may have

been made of the attributes and limitations of the lands and potential effects of local regulations and policies on potential future land uses. Through publication of this Notice, the Bureau of Land Management gives notice that these assumptions may not be endorsed or approved by units of local government. It is the buyer's responsibility to be aware of all applicable local government policies, laws, and regulations that would affect the subject lands, including any required dedication of lands for public uses. It is also the buyer's responsibility to be aware of existing or projected use of nearby properties. When conveyed out of federal ownership, the lands will be subject to any applicable reviews and approvals by the respective unit of local government for proposed future uses, and any such reviews and approvals will be the responsibility of the buyer. Any land lacking access from a public road or highway will be conveyed as such, and future access acquisition will be the responsibility of the buyer.

Detailed information concerning the sale, including the reservations, sale procedures and conditions, CERCLA and other environmental documents will be available for review at the BLM LVFO, or by calling (702) 515-5114.

This information also will be available on the Internet at: (1) <http://propertydisposal.gsa.gov>. Click on NV for Nevada and (2) <http://www.nv.blm.gov>. Click on Southern Nevada Public Land Management Act and go to Land Sales.

The land offered in this sale in Clark County, along with all other available public land in the Las Vegas Valley is being analyzed in an Environmental Impact Statement (EIS), titled Las Vegas Land Disposal EIS. The document is located on the Internet at <http://www.nv.blm.gov/lvdiseis>. The Notice of Availability (NOA) of the draft EIS was published on September 10, 2004, commencing a 60 day comment period which ends November 9, 2004.

Currently, it is expected that the NOA for the final EIS will be published in early December, 2004. Following publication of the NOA for the final EIS, there will be a 30 day availability period prior to any Record of Decision being signed by BLM. Comments submitted during the 45 day comment period for this NORA pertaining to the sufficiency of the draft EIS will not be considered unless submitted by November 9, 2004, the closing of the comment period for the draft EIS. The Environmental Analysis (EA) and Decision Record for the lands offered in this sale in Lander and Elko Counties was signed on

November 5, 2003, and is available for review in the BLM LVFO.

Public Comments: The general public and interested parties may submit comments regarding the proposed sale to the Field Manager, BLM LVFO, up to 45 days after publication of this Notice in the **Federal Register**. However, all comments regarding the sufficiency of the draft EIS must be submitted within the comment period for the draft which closes on November 9, 2004. Any adverse comments regarding the proposed sale will be reviewed by the Nevada BLM State Director or other authorized official of the Department, who may sustain, vacate, or modify this realty action in whole or in part. Any comments received during this process, as well as the name and address of the commentor, will be available to the public in the administrative record and/or pursuant to a Freedom of Information Act request. You may indicate for the record that you do not wish to have your name and/or address made available to the public. Any determination by the Bureau of Land Management to release or withhold the names and/or addresses of those who comment will be made on a case-by-case basis. A request from a commentor to have their name and/or address withheld from public release will be honored to the extent permissible by law.

Dated: October 1, 2004.

Mark R. Chatterton,
Acting Field Manager.

[FR Doc. 04-25235 Filed 11-10-04; 8:45 am]

BILLING CODE 4310-HC-P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR-957-00-1420-BJ: GP05-0015]

Filing of Plats of Survey: Oregon/ Washington

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The plat of survey of the following described lands is scheduled to be officially filed in the Oregon State Office, Portland, Oregon, thirty (30) calendar days from the date of this publication.

Willamette Meridian

Oregon

T. 1 S., R. 8 W., Accepted November 2, 2004

A copy of the plat may be obtained from the Public Room at the Oregon State Office, Bureau of Land

Management, 333 S.W. 1st Avenue, Portland, Oregon 97204, upon required payment. A person or party who wishes to protest against a survey must file a notice that they wish to protest (at the above address) with the State Director, Bureau of Land Management, Portland, Oregon.

FOR FURTHER INFORMATION CONTACT:

Chief, Branch of Geographic Sciences, Bureau of Land Management, (333 S.W. 1st Avenue) P.O. Box 2965, Portland, Oregon 97208.

Dated: November 2, 2004.

Robert D. DeViney, Jr.,

Branch of Realty and Records Services.

[FR Doc. 04-25128 Filed 11-10-04; 8:45 am]

BILLING CODE 4310-33-P

INTERNATIONAL TRADE COMMISSION

[Investigation No. AA1921-162 (Second Review)]

Melamine From Japan

AGENCY: United States International Trade Commission.

ACTION: Termination of five-year review.

SUMMARY: The subject five-year review was initiated in August 2004 to determine whether revocation of the antidumping finding on melamine from Japan would be likely to lead to continuation or recurrence of dumping and of material injury to a domestic industry. On October 21, 2004, the Department of Commerce published notice that it was revoking the finding effective September 1, 2004 because "no domestic party responded to the sunset review notice of initiation by the applicable deadline" (69 FR 61794). Accordingly, pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)), the subject review is terminated.

EFFECTIVE DATE: September 1, 2004.

FOR FURTHER INFORMATION CONTACT:

Mary Messer (202) 205-3193, Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at (202) 205-2000. General information concerning the Commission may also be obtained by accessing its internet server (<http://www.usitc.gov>).

Authority: This review is being terminated under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to § 207.69 of the Commission's rules (19 CFR 207.69).

By order of the Commission.

Issued: November 5, 2004.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 04-25199 Filed 11-10-04; 8:45 am]

BILLING CODE 7020-02-P

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to Comprehensive Environmental Response, Compensation, and Liability Act

Notice is hereby given that on October 19, 2004, a proposed Consent Decree in *United States v. Cabot Corporation, et al*, Civil Action No. 03-CV-1991, was lodged with the United States District Court for the District of New Jersey.

The proposed Consent Decree will settle the United States' claims against Cabot Corporation; Carpenter Technology Corporation; International Flavors and Fragrances, Inc.; Johnson Matthey Inc.; Kem Manufacturing Corporation; Metuchen Holdings, Inc.; Rutgers Organics Corporation; Waste Management of New Jersey, Inc.; CWM Chemical Services, LLC; and Spiral Metal Company, Inc. ("Settling Defendants") pursuant to Section 107 of CERCLA, 42 U.S.C. 9607, with respect to the Site. The proposed Consent Decree will also settle potential claims against certain additional entities, Ford Motor Company, Spectraserv, and A & S Transportation, which are included in the group of Settling Defendants. Pursuant to the Consent Decree, the Settling Defendants will pay to the United States a total of \$720,000 in reimbursement of response costs incurred or to be incurred by EPA or the Department of Justice at or in connection with the Site.

In addition, the Settling Defendants possess potential contribution claims under Section 113(f) of CERCLA, 42 U.S.C. 9613(f), against the Department of Defense, including the Department of the Navy, the Defense Logistics Agency, and the National Imaging and Mapping Agency (collectively, "Settling Federal Agencies"), each of which is also potentially liable with respect to the Site. Pursuant to the Consent Decree, the United States, on behalf of the Settling Federal Agencies, will pay \$270,000 to the Superfund.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments

relating to the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States v. Cabot Corporation, et al.*, Civil Action No. 03-CV-1991, D.J. Ref. 90-11-3-07162.

The proposed Consent Decree may be examined at the Office of the United States Attorney, District of New Jersey, Peter Rodino Federal Building, 970 Broad Street, Newark, New Jersey 07102, and at the United States Environmental Protection Agency, Region II, 290 Broadway, New York, New York 10007-1866. During the public comment period, the proposed Consent Decree may also be examined on the following Department of Justice Web site, <http://www.usdoj.gov/enrd/open.html>. A copy of the proposed Consent Decree may be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044-7611 or by faxing or e-mailing a request to Tonia Fleetwood (tonia.fleetwood@usdoj.gov), fax no. (202) 514-0097, phone confirmation number (202) 514-1547. If requesting a copy of the proposed Consent Judgment, please so note and enclose a check in the amount of \$9.50 (25 cent per page reproduction cost) payable to the U.S. Treasury.

Ronald Gluck,

Assistant Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 04-25140 Filed 11-10-04; 8:45 am]

BILLING CODE 4410-15-M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Agency Information Collection Activities: Proposed Collection; Comments Requested

ACTION: 60-Day Notice of Information Collection Under Review: Reports of Suspicious Orders or Theft/Loss of Listed Chemicals/Machines.

The Department of Justice (DOJ), Drug Enforcement Administration (DEA), 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 January 11, 2005.

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 Patricia M. Good, Chief, Liaison and Policy Section, Office of Diversion Control, Drug Enforcement Administration, Washington, DC 20537.

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:* Report of Suspicious Orders or Theft/Loss of Listed Chemicals/Machines.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form Number: None. Office of Diversion Control, Drug Enforcement Administration, Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Business or other for-profit. Other: None. Abstract: Persons handling listed chemicals and tableting and encapsulating machines are required to report thefts, losses and suspicious orders pertaining to these items. These reports provide DEA with information regarding possible diversion to illicit drug manufacture.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to*

respond: DEA estimates that 1,500 persons respond as needed to this collection. Responses take 15 minutes.

(6) *An estimate of the total public burden (in hours) associated with the collection:* DEA estimates that this collection takes 375 annual burden hours.

If additional information is required contact: Brenda E. Dyer, 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: November 5, 2004.

Brenda E. Dyer,

Department Clearance Officer, Department of Justice.

[FR Doc. 04-25171 Filed 11-10-04; 8:45 am]

BILLING CODE 4410-09-P

DEPARTMENT OF JUSTICE

Federal Bureau of Investigation

Agency Information Collection Activities: Proposed Collection; Comments Requested

ACTION: 60-Day Emergency Notice of Information Collection Under Review Voluntary Appeal File (VAF) Brochure.

The Department of Justice (DOJ), Federal Bureau of Investigation (FBI) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with emergency review procedures of the Paperwork Reduction Act of 1995. OMB approval has been requested by November 19, 2004. The proposed information collection is published to obtain comments from the public and affected agencies. If granted, the emergency approval is only valid for 180 days. Comments should be directed to the OMB, Office of Information and Regulatory Affairs, Attn: Department of Justice Desk Officer, (202) 395-5806, Washington, DC 20530.

During the first 60 days of this same review period, a regular review of this information collection is also being undertaken. All comments and suggestions, or questions regarding additional information, to include obtaining a copy of the proposed information collection instrument with instructions, should be directed to Natalie Goff-Haggerty, Program Analyst, Federal Bureau of Investigation, Criminal Justice Information Services (CJIS) Division, Module A-3, 1000 Custer Hollow Road, Clarksburg, West

Virginia 26306, or facsimile at (304) 625-2356.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information. 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 function 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 the 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 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:

(1) *Type of Information Collection:* New data collection.

(2) *Title of the Form:* Voluntary Appeal File (VAF) Brochure.

(3) *Agency Form Number, if any, and the applicable component of the department sponsoring the collection:* Form Number: None. Sponsor: Criminal Justice Information Services (CJIS) Division of Federal Bureau of Investigation (FBI), Department of Justice (DOJ).

(4) *Affected Public who will be asked or be required to respond, as well as a brief abstract:* Primary: Any individual requesting entry into the Federal Bureau of Investigation (FBI) National Instant Criminal Background Check System (NICS) Voluntary Appeal File (VAF) brochure. Under the FBI NICS final rule, 28 CFR Part 25.9(b)(1), (2), (3), the FBI NICS Section must destroy all identifying information on allowed transactions before the start of the next FBI NICS operational day. If a potential purchaser is delayed or denied a firearm, then successfully appeals the decision, the FBI NICS Section would not be able to retain the record of the appeal. The purchaser would be denied continually if the record can not be updated, and would be required to appeal the decision and resubmit documentation/information to overturn the appeal on subsequent purchases. The proposed change in the regulation would permit lawful purchasers to request that the FBI NICS Section

maintain documentation/information on them in a VAF. The VAF will be maintained by the FBI NICS for the purpose of preventing the future lengthy delays or denials of a firearm transfer.

The application contained on the VAF brochure will be the means for an individual to request entry into the VAF. This form will be made available to the public through Federal Firearm Licensees (FFLs), state points of contact for firearm checks, and on the FBI NICS Web site at the internet.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* The number of persons requesting entry into the VAF is estimated to be 12,500 individuals. It takes an average of five minutes to read and complete all areas of the application, an estimated two hours for the process of fingerprinting including travel, and 25 minutes to mail the form for a total of two and a half hours estimated burden to the respondent.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The time it takes each individual to complete the process is 2.5 hours. The total public burden hours is 31,250 total burden hours.

For Further Information Contact: Ms. Brenda Dyer, Department Clearance Officer, Information Management and Security Staff, Justice Management Division, United States Department of Justice, Patrick Henry Building, Suite 1600, 601 D Street, NW., Washington, DC 20530.

Dated: November 5, 2004.

Brenda Dyer,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 04-25172 Filed 11-10-04; 8:45 am]

BILLING CODE 4410-02-P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA-W-51,247 and TA-W-51,247B]

Agilent Technologies, Electronic Products and Solutions Group, Rohnert Park, California; Agilent Technologies, Electronic Products and Solutions Group, Andover, Massachusetts; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273), as amended, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment

Assistance on May 5, 2003, applicable to workers of Agilent Technologies, Electronic Products and Solutions Group located in Rohnert Park, California. The notice was published in the **Federal Register** on May 19, 2003 (68 FR 27107).

At the request of petitioners, the Department reviewed the certification for workers of the subject firm. New information shows that worker separations have occurred involving employees of Agilent Technologies, Electronic Products and Solutions Group, Rohnert Park, California working in Andover, Massachusetts. These employees provide support services for the production of test and measurement equipment and subassemblies produced by the firm.

It is the Department's intent to cover all workers of the firm impacted by the shift in production from Agilent Technologies, Electronic Products and Solutions Group, Rohnert Park, California to Malaysia. Accordingly, the Department is amending the certification to extend coverage to employees of Agilent Technologies, Electronic Products and Solutions Group, Rohnert Park, California, working in Andover, Massachusetts.

The amended notice applicable to TA-W-51,247 is hereby issued as follows:

All workers of Agilent Technologies, Electronic Products and Solutions Group, Rohnert Park, California (TA-W-51,247), and Agilent Technologies, Electronic Products and Solutions Group, Andover, Massachusetts (TA-W-51,247B), who became totally or partially separated from employment on or after March 13, 2002, through May 5, 2005, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed in Washington, DC, this 26th day of October, 2004.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E4-3147 Filed 11-10-04; 8:45 am]

BILLING CODE 4510-30-P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA-W-55,601]

California Cedar Products Company, Stockton, CA; Notice of Affirmative Determination Regarding Application for Reconsideration

By application of October 13, 2004, a worker requested administrative reconsideration of the Department of

Labor's Notice of Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance, applicable to workers of the subject firm. The denial was issued on October 4, 2004. The Notice of determination was published in the **Federal Register** on October 26, 2004 (69 FR 62460). The petition was denied because production ceased at the subject facility more than a year prior to the petition date (August 31, 2004).

The Department carefully reviewed the petitioner's request and has determined that further investigation will be conducted based on new information provided by the company.

Conclusion

After careful review of the application, I conclude that the claim is of sufficient weight to justify reconsideration of the Department of Labor's prior decision. The application is, therefore, granted.

Signed at Washington, DC, this 28th day of October 2004.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E4-3134 Filed 11-10-04; 8:45 am]

BILLING CODE 4510-30-P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA-W-52,427]

Dan River, Inc., Danville, VA; Notice of Determination of Alternative Trade Adjustment Assistance

The Department adopted a new interpretation regarding the Alternative Trade Adjustment Assistance (ATAA) program in order to provide equitable access to ATAA for worker groups whose petitions were still in process at the time of implementation of the ATAA program on August 6, 2003. Under this new interpretation, worker groups covered by the certification of a petition that was in process on August 6, 2003 may request ATAA consideration for the certified worker group. The request must be made to the Department and may be made by anyone who was entitled to file the original petition under section 221(a)(1) of the Act.

By letter dated October 15, 2004, a company official of Dan River, Inc. requested ATAA consideration for the workers at its facility in Danville, Virginia. The original petition date was July 14, 2003, and the certification for Trade Adjustment Assistance (TAA)

was signed on August 20, 2003. The Notice of the Department's determination was published in the **Federal Register** on September 17, 2003 (68 FR 54497-01).

The initial investigation did not address ATAA eligibility for the workers of the subject company.

In the request for consideration, a company official provided information that supports ATAA certification.

The investigation revealed that the subject worker group possesses skills that are not easily transferable in the local area, and that at least five percent of the workforce at the subject firm is at least fifty years of age.

Industry data show that competitive conditions within the textile industry are adverse.

Conclusion

After careful review of the facts obtained on investigation, I conclude that the requirements of Section 246(a)(3)(A) of the Trade Act of 1974, as amended, have been met for workers at the subject firm.

In accordance with the provisions of the Act, I make the following certification:

All workers of at Dan River, Inc., Danville, Virginia, who became totally or partially separated from employment on or after July 14, 2002 through August 20, 2005, are eligible to apply for alternative trade adjustment assistance under section 246 of the Trade Act of 1974.

Signed in Washington, DC, this 29th day of October 2004.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E4-3146 Filed 11-10-04; 8:45 am]

BILLING CODE 4510-30-P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA-W-55,395B]

Dana Undies, Colquitt, GA; Dismissal of Application for Reconsideration

Pursuant to 29 CFR 90.18(C) an application for administrative reconsideration was filed with the Director of the Division of Trade Adjustment Assistance for workers at Dana Undies, Colquitt, Georgia. The application contained no new substantial information which would bear importantly on the Department's determination. Therefore, dismissal of the application was issued.

TA-W-55,395B; Dana Undies, Colquitt, Georgia (October 28, 2004).

Signed at Washington, DC, this 4th day of November 2004.

Timothy Sullivan,

Director, Division of Trade Adjustment Assistance.

[FR Doc. E4-3135 Filed 11-10-04; 8:45 am]

BILLING CODE 4510-30-P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA-W-55,382]

Eclipsys Corporation Santa Rosa, CA; Notice of Negative Determination on Reconsideration

On October 20, 2004, the Department issued an Affirmative Determination Regarding Application for Reconsideration for the workers and former workers of the subject firm. The notice was published in the **Federal Register** on October 29, 2004 (69 FR 63182).

The petition for the workers of Eclipsys Corporation, Santa Rosa, California engaged in technical writing for software development was denied because the petitioning workers did not produce an article within the meaning of Section 222 of the Act.

The petitioner contends that the Department erred in its interpretation of work performed at the subject facility as a service and further conveys that software and software documentation should be considered a product and workers compiling PDF files should be considered workers engaged in production.

A company official was contacted for clarification in regard to the nature of the work performed at the subject facility. The official stated that petitioning group of workers at the subject firm develops, and writes, technical documentation, which includes online files and manuals, such as user guides, configuration, database dictionaries, system administration, and installation books. The official further clarified that the documentations created by the subject company are electronically sent to Eclipsys Corporation facility in San Jose, California, where they are merged with the software codes and compiled on CD-ROMs for mass production and distribution to clients.

The sophistication of the work involved is not an issue in ascertaining whether the petitioning workers are eligible for trade adjustment assistance, but rather only whether they produced an article within the meaning of section 222 of the Trade Act of 1974.

Technical writing of PDF files is not considered production of an article within the meaning of Section 222 of the Trade Act. Petitioning workers do not produce an "article" within the meaning of the Trade Act of 1974. Information electronic databases, technical documentation and codes, are not tangible commodities, and they are not listed on the Harmonized Tariff Schedule of the United States (HTS), as classified by the United States International Trade Commission (USITC), Office of Tariff Affairs and Trade Agreements, which describes articles imported to the United States.

To be listed in the HTS, an article would be subject to a duty on the tariff schedule and have a value that makes it marketable, fungible and interchangeable for commercial purposes. Although a wide variety of tangible products are described as articles and characterized as dutiable in the HTS, informational products that could historically be sent in letter form and that can currently be electronically transmitted are not listed in the HTS. Such products are not the type of products that customs officials inspect and that the TAA program was generally designed to address.

The investigation on reconsideration supported the findings of the primary investigation that the petitioning group of workers does not produce an article. However, it was revealed that electronic documentation created by the subject company is integrated with software and recorded on media devices (CD-ROMs) for further mass-production and distribution at an affiliated facility. Thus, it was determined that the petitioning group of service workers support production of CD-ROMs containing software at an affiliated facility in San Jose, California.

The Department conducted an additional investigation to determine whether workers can be considered eligible for TAA as directly-impacted workers in support of production of CD-ROMs containing software at an affiliated facility, Eclipsys Corporation, San Jose, California.

The group eligibility requirements for directly-impacted (primary) workers under Section 222(a) the Trade Act of 1974, as amended, can be satisfied in either of two ways:

I. Section (a)(2)(A) all of the following must be satisfied:

A. A significant number or proportion of the workers in such workers' firm, or an appropriate subdivision of the firm, have become totally or partially separated, or are threatened to become totally or partially separated;

B. The sales or production, or both, of such firm or subdivision have decreased absolutely; and

C. Increased imports of articles like or directly competitive with articles produced by such firm or subdivision have contributed importantly to such workers' separation or threat of separation and to the decline in sales or production of such firm or subdivision; or

II. Section (a)(2)(B) both of the following must be satisfied:

A. A significant number or proportion of the workers in such workers' firm, or an appropriate subdivision of the firm, have become totally or partially separated, or are threatened to become totally or partially separated;

B. There has been a shift in production by such workers' firm or subdivision to a foreign country of articles like or directly competitive with articles which are produced by such firm or subdivision; and

C. One of the following must be satisfied:

1. The country to which the workers' firm has shifted production of the articles is a party to a free trade agreement with the United States;

2. The country to which the workers' firm has shifted production of the articles is a beneficiary country under the Andean Trade Preference Act, African Growth and Opportunity Act, or the Caribbean Basin Economic Recovery Act; or

3. There has been or is likely to be an increase in imports of articles that are like or directly competitive with articles which are or were produced by such firm or subdivision.

The investigation of Eclipsys Corporation, San Jose, California revealed that criteria (I.B) and (II.B) were not met. According to the information provided by the company official, sales and production of CD-ROMs containing software at Eclipsys Corporation, San Jose, California did not decline during the relevant time period. Moreover, the subject firm did not shift production abroad, nor did it increase company imports of CD-ROMs containing software, during the relevant period.

The petitioner further alleges that because workers lost their jobs due to a transfer of job functions, such as technical writing, to Canada, petitioning workers should be considered import impacted.

The company official stated that one position of a Technical Writer was transferred to Canada, while the rest of the positions eliminated at the subject firm were primarily moved to Boston, Massachusetts and Malvern, Pennsylvania.

Technical writing of informational documentation that is electronically transmitted is not considered production within the context of TAA eligibility requirements, so there are no

imports of products in this instance. Further, as the PDF files and technical documentation do not become products until they are recorded on media device, there was no shift in production of an "article" abroad within the meaning of the Trade Act of 1974.

Conclusion

After reconsideration, I affirm the original notice of negative determination of eligibility to apply for worker adjustment assistance for workers and former workers of Eclipsys Corporation, Santa Rosa, California.

Signed at Washington, DC, this 2nd day of November, 2004.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E4-3138 Filed 11-10-04; 8:45 am]

BILLING CODE 4510-30-P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA-W-55,700]

Emerson Tool Company Including Leased Workers of Securitas, Inc. Manpower and Nicolet Staffing Menominee, MI; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance on October 7, 2004, applicable to workers of Emerson Tool Company, Menominee, Michigan. The notice will be published soon in the **Federal Register**.

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. New information shows that leased workers of Securitas, Inc., Manpower and Nicolet Staffing were employed at the Menominee, Michigan location of Emerson Tool Company.

Based on these findings, the Department is amending this certification to include leased workers of Securitas, Inc., Manpower and Nicolet Staffing working at Emerson Tool Company, Menominee, Michigan.

The intent of the Department's certification is to include all workers employed at Emerson Tool Company who were adversely affected by increased imports.

The amended notice applicable to TA-W-55,700 is hereby issued as follows:

All workers of Emerson Tool Company, Menominee, Michigan, including leased workers of Securitas, Inc., Manpower and Nicolet Staffing working at Emerson Tool Company, Menominee, Michigan, who became totally or partially separated from employment on or after July 6, 2004, through October 7, 2006, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974, and are also eligible to apply for alternative trade adjustment assistance under Section 246 of the Trade Act of 1974.

Signed at Washington, DC, this 29th day of October, 2004.

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E4-3132 Filed 11-10-04; 8:45 am]

BILLING CODE 4510-30-P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA-W-55,647]

Freudenberg Nonwovens, Madison, TN; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on September 21, 2004 in response to a petition filed by a company official on behalf of workers at Freudenberg Nonwovens, Madison, Tennessee (TA-W-55,647).

The petitioner has requested that the petition be withdrawn. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC, this 25th day of October 2004.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E4-3139 Filed 11-10-04; 8:45 am]

BILLING CODE 4510-30-P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA-W-54,737]

General Electric Electromaterials, Coshocton, OH; Including Employees of General Electric Electromaterials, Coshocton, OH, Working in the States of: TA-W-54,737A Minnesota, TA-W-54,737B Washington; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Certification of Eligibility To Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance on May 17, 2004, applicable to workers of General Electric Electromaterials, Coshocton, Ohio. The notice was published in the **Federal Register** on June 17, 2004 (69 FR 33942).

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. New information shows that worker separations have occurred involving employees of General Electric Electromaterials, Coshocton, Ohio, working in Minnesota and Washington. These employees provide support function services for the production of bare printed circuit boards (PCBs) and rolls of mica paper produced at the Coshocton, Ohio, location of the subject firm.

Based on these findings, the Department is amending this certification to include employees of General Electric Electromaterials, Coshocton, Ohio, working in Minnesota and Washington.

The intent of the Department's certification is to include all workers of General Electric Electromaterials who were adversely affected by increased imports.

The amended notice applicable to TA-W-54,737 is hereby issued as follows:

All workers of General Electric Electromaterials, Coshocton, Ohio (TA-W-54,737), including employees of General Electric Electromaterials, Coshocton, Ohio, working in Minnesota (TA-W-54,737A) and Washington (TA-W-54,737B), who became totally or partially separated from employment on or after March 31, 2003, through May 17, 2006, are eligible to apply for adjustment assistance under section 223 of the Trade Act of 1974, and are also eligible to apply for alternative trade adjustment assistance under Section 246 of the Trade Act of 1974.

Signed at Washington, DC, this 26th day of October 2004.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E4-3141 Filed 11-10-04; 8:45 am]

BILLING CODE 4510-30-P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA-W-55,423]

Granville Hosiery, Inc. Oxford, NC; Notice of Revised Determination on Reconsideration

By letter dated September 24, 2004 a company official requested administrative reconsideration regarding the Department's Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance, applicable to the workers of the subject firm.

The initial investigation resulted in a negative determination signed on August 26, 2004 was based on the finding that imports of men's, women's, and children's socks did not contribute importantly to worker separations at the subject plant and no shift of production to a foreign source occurred. The denial notice was published in the **Federal Register** on September 23, 2004 (69 FR 57093).

To support the request for reconsideration, the company official supplied additional information. Upon further review of the initial investigation and contact with subject firm's largest customers, it was revealed that subject firm customers significantly increased their import purchases of socks while decreasing its purchases from the subject firm during the relevant period.

It was further revealed that U.S. aggregate imports of socks increased significantly, while aggregate domestic production of socks decreased during the relevant period.

In accordance with Section 246 the Trade Act of 1974 (26 U.S.C. 2813), as amended, the Department of Labor herein presents the results of its investigation regarding certification of eligibility to apply for alternative trade adjustment assistance (ATAA) for older workers.

In order for the Department to issue a certification of eligibility to apply for ATAA, the group eligibility requirements of Section 246 of the Trade Act must be met. The Department has determined in this case that the

requirements of Section 246 have been met.

A significant number of workers at the firm are age 50 or over and possess skills that are not easily transferable. Competitive conditions within the industry are adverse.

Conclusion

After careful review of the additional facts obtained on reconsideration, I conclude that increased imports of articles like or directly competitive with those produced at Granville Hosiery, Inc., Oxford, North Carolina, contributed importantly to the declines in sales or production and to the total or partial separation of workers at the subject firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Granville Hosiery, Inc., Oxford, North Carolina, who became totally or partially separated from employment on or after August 5, 2003 through two years from the date of this certification, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974, and are eligible to apply for alternative trade adjustment assistance under Section 246 of the Trade Act of 1974.

Signed in Washington, DC, this 28th day of October 2004.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E4-3136 Filed 11-10-04; 8:45 am]

BILLING CODE 4510-30-P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA-W-54,674, TA-W-54,674A, TA-W-54,674B, TA-W-54,674C, and TA-W-54,674D]

Major League, Inc., Mount Airy, NC; Major League, Inc., Jasper, GA; Major League, Inc., McAllen, TX; Major League, Inc., San Antonio, TX; Major League, Inc., Martinsville, VA; Notice of Revised Determination on Reconsideration

On September 9, 2004, the Department issued an Affirmative Determination Regarding Application on Reconsideration applicable to workers and former workers of the subject firm. The Notice of the determination was published in the **Federal Register** on September 22, 2004 (69 FR 56788).

The request for reconsideration, filed on August 3, 2004, supplemented a previous request for administrative reconsideration which was dismissed

on July 21, 2004 (69 FR 47182) on the ground that the original application did not contain any new substantial information that would bear importantly on the Department's determination denying certification because Major League did not have a "significant number or proportion" of workers at its Mount Airy location who were separated or threatened with separation to meet the requirement of section 222(a)(1) of the Trade Act of 1974, as amended. Significantly, the reconsideration request dated August 3, 2004 contended that the petition was filed by Major League on behalf of all of its workers of "Major League/Activewear's apparel division," and was not limited to the sole worker for Major League who was located in Mount Airy, North Carolina.

The investigation of the August 3, 2004 request for reconsideration revealed that the company official who filed the initial petition, intended the filing of the petition to be on behalf of all workers of Major League, Inc., including those working from other locations that reported to him at Major League's corporate headquarters in Jasper, Georgia. The company official identified two workers, located in McAllen, Texas and San Antonio, Texas, respectively, who were separated from employment with Major League between January and April 2004 along with the Major League employee located in Mount Airy, North Carolina.

Additional information was also obtained in the reconsideration investigation regarding the relationship between workers employed by Major League and the manufacture of apparel at a trade affected affiliated facility: Active Wear, Inc., Martinsville, Virginia (TA-W-54,339, certified on March 31, 2004). Major League workers were engaged in activities relating to the coordination of textile purchases and the shipping of textiles from Active Wear to Major League. Therefore, the workers were in support of the manufacture by Active Wear (scheduling and inventory control related to the textile purchases from Active Wear). Major League and Active Wear are affiliated by common ownership and are vertically integrated with regard to the production that took place at the Active Wear facility in Martinsville, Virginia. Two of the three shareholders of Major League owned 50% of the stock of Active Wear.

Section 222(a) of the Trade Act provides, in relevant part, for the certification of a group of workers when "a significant number or proportion of the worker in such workers' firm, or an appropriate subdivision of the firm,

have become totally or partially separated, or are threatened to become totally or partially separated" and increased imports have contributed importantly to such separations. The Department's regulations at 29 C.F.R. 90.2 define the terms "firm," "appropriate subdivision," "group," and "significant number or proportion of the workers." While the Department usually identifies at least three workers at each facility location of a small firm before certifying a group of workers at that appropriate subdivision location, where three workers in the firm report to a single location of that firm, such as the firm's headquarters, the "group" may be found to consist of at least a total of three workers regardless of the work location. For example, a worker who travels between two or more locations of the firm or engages in telecommuting for all or part of the work week will not be excluded from consideration as part of a group of workers at an auxiliary facility merely because he or she does not report to work each day to the same facility and his or her paycheck is sent to a different location. Under these circumstances, it would not serve the purpose of the "significant number of separations" requirement to deny certification of a worker group when there are at least three separated workers at different locations who all report to headquarters even though there were not at least three separated workers at each of those locations.

Although workers employed by Major League are located in Mount Airy, North Carolina; McAllen, Texas; San Antonio, Texas; and Martinsville, Virginia, all of their activities are coordinated, and the workers are issued directives, from the company headquarters. Thus, the subject worker group of this petition consists of workers of the subject firm at these four locations as well as at the Jasper, Georgia company headquarters.

Information obtained in the investigation subsequent to the initial negative determination reveals that a significant number or proportion of workers of the subject worker group described above have been separated under section 222(a)(1) of the Trade Act of 1974, as amended, and the applicable regulations, as discussed above. In addition to the worker at Mount Airy, North Carolina, there were at least a total of two other workers at the McAllen, Texas and San Antonio, Texas locations who were totally or partially separated from employment by Major League between January and April 2004.

Increased imports of articles like or directly competitive with those produced at Active Wear, Inc.,

Martinsville, Virginia, a firm affiliated with and substantially beneficially owned by the same persons who own the subject firm, contributed importantly to the declines in sales or production and to the total or partial separation of workers at that firm, as determined by the Department in TA-W-54,339. Because the subject firm may be considered to be a single firm with Active Wear under the Department's definition of "firm," and the subject group of Major League workers are an appropriate subdivision of that firm for trade adjustment assistance certification requirements because it operated in conjunction with Active Wear's Martinsville facility, increased imports also are found to have contributed importantly to the firm's sales or production and worker separations (and threatened separations) at the subject worker group.

On September 23, 2004, the petitioner filed an appeal with the U.S. Court of International Trade. By order dated October 29, 2004, the court has granted the Department leave to file this determination.

Conclusion

After careful review of the additional facts obtained on reconsideration and the entire record, I conclude that increased imports of like or directly competitive articles contributed importantly to the Major League/Active Wear firm and the total or partial separation of workers in the subject group. In accordance with the provisions of the Act, I make the following certification:

All workers of Major League, Inc., Mount Airy, North Carolina (TA-W-54,674), Major League, Inc., Jasper, Georgia (TA-W-54,674A), Major League, Inc., McAllen, Texas (TA-W-54,674B), Major League, Inc., San Antonio, Texas (TA-W-54,674C), and Major League, Inc., Martinsville, Virginia (TA-W-54,674D) who became totally or partially separated from employment on or after March 24, 2003 through two years of this certification, are eligible to apply for trade adjustment assistance under Section 223 of the Trade Act of 1974.

Signed in Washington, DC this 3rd day of November 2004.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E4-3143 Filed 11-10-04; 8:45 am]

BILLING CODE 4510-30-P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA-W-55,590]

New DHC, Southwest Harbor, ME; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, as amended, an investigation was initiated on September 13, 2004 in response to a worker petition filed by a company official on behalf of workers of New DHC, Southwest Harbor, Maine.

The petition regarding the investigation has been deemed invalid. The petitioner is not an official of New DHC. Consequently, further investigation would serve no purpose, and the investigation has been terminated.

Signed at Washington, DC, this 21st day of October 2004.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E4-3137 Filed 11-10-04; 8:45 am]

BILLING CODE 4510-30-P

DEPARTMENT OF LABOR

Employment and Training Administration

Notice of Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended, (19 U.S.C. 2273), the Department of Labor herein presents summaries of determinations regarding eligibility to apply for trade adjustment assistance for workers (TA-W) number and alternative trade adjustment assistance (ATAA) by (TA-W) number issued during the periods of October 2004.

In order for an affirmative determination to be made and a certification of eligibility to apply for directly-impacted (primary) worker adjustment assistance to be issued, each of the group eligibility requirements of Section 222(a) of the Act must be met.

I. Section (a)(2)(A) all of the following must be satisfied:

A. A significant number or proportion of the workers in such workers' firm, or an appropriate subdivision of the firm, have become totally or partially separated, or are threatened to become totally or partially separated;

B. The sales or production, or both, of such firm or subdivision have decreased absolutely; and

C. Increased imports of articles like or directly competitive with articles produced by such firm or subdivision have contributed importantly to such workers' separation or threat of separation and to the decline in sales or production of such firm or subdivision; or

II. Section (a)(2)(B) both of the following must be satisfied:

A. A significant number or proportion of the workers in such workers' firm, or an appropriate subdivision of the firm, have become totally or partially separated, or are threatened to become totally or partially separated;

B. There has been a shift in production by such workers' firm or subdivision to a foreign country of articles like or directly competitive with articles which are produced by such firm or subdivision; and

C. One of the following must be satisfied:

1. The country to which the workers' firm has shifted production of the articles is a party to a free trade agreement with the United States;

2. The country to which the workers' firm has shifted production of the articles to a beneficiary country under the Andean Trade Preference Act, African Growth and Opportunity Act, or the Caribbean Basin Economic Recovery Act; or

3. There has been or is likely to be an increase in imports of articles that are like or directly competitive with articles which are or were produced by such firm or subdivision.

Also, in order for an affirmative determination to be made and a certification of eligibility to apply for worker adjustment assistance as an adversely affected secondary group to be issued, each of the group eligibility requirements of section 222(b) of the Act must be met.

(1) Significant number or proportion of the workers in the workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) The workers' firm (or subdivision) is a supplier or downstream producer to a firm (or subdivision) that employed a group of workers who received a certification of eligibility to apply for trade adjustment assistance benefits and such supply or production is related to the article that was the basis for such certification; and

(3) Either—

(A) The workers' firm is a supplier and the component parts it supplied for the firm (or subdivision) described in paragraph (2) accounted for at least 20

percent of the production or sales of the workers' firm; or

(B) A loss or business by the workers' firm with the firm (or subdivision) described in paragraph (2) contributed importantly to the workers' separation or threat of separation.

Negative Determinations for Worker Adjustment Assistance

In the following cases, the investigation revealed that the criteria for eligibility have not been met for the reasons specified.

The investigation revealed that criteria (a)(2)(A)(I.C.) (increased imports) and (a)(2)(B)(II.B) (No shift in production to a foreign country) have not been met.

TA-W-55,605; RMC Mid-Atlantic, LLC, Metromont Materials, Morganton, NC
 TA-W-55,580; Lear Corp., Seating Systems Div., New Castle, DE
 TA-W-55,607; Creo Americas, Inc., U.S. Headquarters, a subsidiary of Creo, Inc., Billerica, MA
 TA-W-55,695; Ridgefield Forest Products LLC, Ridgefield, WA
 TA-W-55,716; Hi Rise Recycling Companies, Inc., Devivo Industries Div., Waterbury, CT
 TA-W-55,473; Beaird Industries, Inc., Shreveport, LA
 TA-W-55,546; Georgia Pacific West Corp., a subsidiary of Georgia Pacific Corp., Bellingham, WA
 TA-W-55,583; Android Industries, Vienna, OH
 TA-W-55,769; Blue Ridge Paper Products, Inc., Dairypak Div., Fort Worth, TX
 TA-W-55,629; Alcoa, Inc., Badin Works Div., Badin, NC
 TA-W-55,648; Kimberly Clark Corp., Infant Care, New Milford, CT
 TA-W-55,677; Columbia Products, Inc., Dallastown, PA
 TA-W-55,691; Royal Home Fashions, Plant #6, Henderson, NC
 TA-W-55,319; Danaher Linear Motion Systems, a div. of The Danaher Motion Group, formerly known as Thomason Bay Company, Bay City, MI: workers engaged in the production of ball screws are denied eligibility to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

The workers firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA-W-55,837; Highland Clinic, APMC, Shreveport, LA
 TA-W-55,669; Clientlogic Operating Corp., Asheville, NC
 TA-W-55,630; Micro X, d/b/a BZ Boyz, Signal Hill, CA

TA-W-55,600; Xerox Corp., Workgroup Color Support Center, El Segundo, CA

TA-W-55,787; Bea Systems, Inc., Liberty Corner, NJ
 TA-W-55,653; Providian Financial, a subsidiary of Providian Bancorp Services, Arlington, TX
 TA-W-55,578; Celestica, Repair Subdivision, Little Rock, AR
 TA-W-55,712; Universal Record Distributing Corp., Philadelphia, PA
 TA-W-55,736; Helmuth Tool & Die T/A, Helmuth Industries, Linden, NJ
 TA-W-55,719; Lanier Clothes, a division of Oxford Industries, Inc., Greenville, GA

The investigation revealed that criterion (a)(2)(A)(I.A) and (a)(2)(B)(II.A) (no employment decline) has not been met.

TA-W-55,682; Mercury Marine, Fond du Lac, WI
 TA-W-55,812; Circuit Images, Inc., Boulder, CO

The investigation revealed that criterion (a)(2)(A)(I.B) (Sales or production, or both, did not decline) and (a)(2)(B)(II.B) (has shifted production to a country not under the free trade agreement with the U.S.) have not been met.

TA-W-55,598; Stillman Seal, Carlsbad, CA
 Kinston, NC

The investigation revealed that criteria (a)(2)(A) (I.C) increased imports and (II.C) (has shifted production to a foreign country) have not been met.

TA-W-55,706; SECO/WARWICK Corp., Meadville, PA
 TA-W-55,727; Quality Printing Co., Inc., Neenah, WI

The investigation revealed that criteria (2) has not been met. The workers firm (or subdivision) is not a supplier or downstream producer to trade-affected companies.

TA-W-55,461; Airey-Thompson Company, Inc., Los Angeles, CA

The investigation revealed that criteria (3)(A) has not been met. The workers firm (or subdivision) is not a supplier and the component parts it supplied to trade-affected companies did not account for at least 20 percent of the production or sales of the workers' firm.

TA-W-55,666; Smurfit-Stone, Protective Packaging, East Longmeadow, MA

Affirmative Determinations for Worker Adjustment Assistance

The following certifications have been issued; the date following the company name and location of each determination references the impact

date for all workers of such determination.

The following certifications have been issued. The requirements of (a)(2)(A) (increased imports) of Section 222 have been met.

TA-W-55,809; R.A.G.S., Inc., Rockwell, NC: October 14, 2003.
 TA-W-55,319; Danaher Linear Motion Systems, a Div. of The Danaher Motion Group, formerly known as Thomson Bay Company, Bay City, MI: "All workers engaged in the production of carriage and profiled rails who became totally or partially separated from employment on or after July 19, 2003 through two years from the date of certification are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974."
 TA-W-55,619; Carolina Candle Lites, Thurmond, NC: September 7, 2003.
 TA-W-55,758; Hooker Furniture Corp., Plywood Plant, Martinsville, VA: December 28, 2003.
 TA-W-55,733; Maidenform, Inc., Jacksonville Cutting Plant, Jacksonville, FL: September 28, 2003.
 TA-W-55,460; The Top-Flite Golf Company, a wholly owned subsidiary of Callaway Golf Co., Spalding Sports Worldwide, Chicopee, MA: August 11, 2003.
 TA-W-55,750; Pressman Toy Corp., New Brunswick, NJ: October 6, 2003.
 TA-W-55,738; Eiser, Inc., a subsidiary of Eiser Trika AB, Portland, OR: September 13, 2003.
 TA-W-55,726; United States Can Company, Olive Plant, Custom and Specialty Div., including leased workers of QPS Staffing Services, Elgin, IL: September 20, 2003.
 TA-W-55,655; Leggett and Platt, Inc., Workers at Advantage Technologies, Plymouth, MI: June 23, 2003.
 TA-W-55,646; Dallco Industries, Inc., Everett, PA: September 17, 2003.
 TA-W-55,570; Queen Manufacturing, a subsidiary of S M Company, Inc., Asheville, NC: September 7, 2003.
 TA-W-55,626; CPS Color, Inc., Philadelphia, PA: September 3, 2003.
 TA-W-55,668; Wentworth Mold, Inc., Central Div. USA, Grain Valley, MO: September 20, 2003.
 TA-W-55,542; McGarry Machine, Inc., Portland, OR: August 31, 2003.
 TA-W-55,611; KM Company, San Francisco, CA: September 1, 2003.
 TA-W-55,569; S M Company, Inc., Asheville, NC: September 7, 2003.
 TA-W-55,523; Meadwestvaco Corp., Garland, TX: August 30, 2003.

TA-W-55,700; Emerson Tool Co., Menominee, MI: July 6, 2004.

TA-W-55,671; Henredon Furniture Industries, Inc., Spruce Pine, NC: September 22, 2003.

TA-W-55,657; Crescent Enterprises, Inc., Division of Crescent Manufacturing Co., Gallatin, TN: September 16, 2003.

TA-W-55,581; West Point Foundry and Machine Co., West Point, GA: August 26, 2003.

TA-W-55,642; Hamby Textile Research Laboratory, Inc., Garner, NC: September 14, 2003.

TA-W-55,565; Wing Tai Company, San Francisco, CA: September 3, 2003.

TA-W-55,734; OWT Industries, Inc., Power Tool Div., including leased workers of Staffmasters USA, Inc., Pickens, SC: May 9, 2004.

TA-W-55,603; United States Can Co., Custom and Specialty Div., including leased workers from Ryan Staffing Services, Labor Ready Staffing Services, Callos Personnel and Manpower Staffing Services, New Castle, PA: September 13, 2003.

The following certifications have been issued. The requirements of (a)(2)(B) (shift in production) of Section 222 have been met.

TA-W-55,616; Wilmington Product USA, d/b/a The Northwest Company, Textile, Inc., Div., Ronda, NC: August 17, 2003.

TA-W-55,781; Walker Systems, Inc., div. of The Wiremold Company, including leased workers of Manpower, Williamstown, WV: October 12, 2003.

TA-W-55,756; Inmed Corp., d/b/a Rusch, including leased workers of Axiom and Partners in Staffing, Duluth, GA: October 7, 2003.

TA-W-55,747; Child Craft Industries, Inc., including leased workers of TBS Staffing Solutions and Employment Plus, Salem IN: September 23, 2003.

TA-W-55,701; Strattec Security Corp., Assembly Department, Milwaukee, WI: September 23, 2003.

TA-W-55,698; Ultra Wheel Co., Buena Park, CA: September 23, 2003.

TA-W-55,694; Don'l. Inc., a subsidiary of Alleson Athletic, Clayton, GA: September 22, 2003.

TA-W-55,661; Tyco Electronics, Fiber Optics Div., Somerville, NJ: September 15, 2003.

TA-W-55,641; Reeves Rubber, Albertville, AL: September 7, 2003.

TA-W-55,620; Holt Sublimation Printing and Products, Inc., including on-site leased workers from Accustaff Temporary Agency, Burlington, NC: September 9, 2003.

TA-W-55,618 and TA-W-55,618B; Skip's Cutting, Inc., Warehouse, including leased workers from Performance Personnel, Olsten, Mack and Labor Ready, New Holland, PA, Skip's Cutting, Inc., New Street Office Building, including leased workers from Performance Personnel, Olsten, Mack, Labor Ready, Accountemps and Spherion, Ephrata, PA: September 14, 2004.

TA-W-55,618A; Skips Cutting, Inc., American Dyeing and Finishing Div., including leased workers from Performance Personnel, Olsten, Mack and Labor Ready, Ephrata, PA: May 15, 2004.

TA-W-55,595; Towne Square 2000, Inc., Hillsboro, TX: September 7, 2003.

TA-W-55,571; Westling Manufacturing Co., including leased Workers of ASAP Employment Services, Princeton, MN: September 2, 2003.

TA-W-55,651; Cooper Tools, Div. of Cooper Industries, Inc., Dayton, OH: September 13, 2003.

TA-W-55,778; Acorn Engineering Co., including leased workers of Olympic Staffing, City of Industry, CA: October 7, 2003.

TA-W-55,674; Winchester Electronics, a subsidiary of Northrop Grumman, including leased workers of Hamilton and Agentry, Wallingford, CT: September 22, 2003.

TA-W-55,681; Jennifer Kay, Inc., d/b/a California Waves, Endless Sun, Sizzle Beach, Pink Sands and Native Waves Div., Los Angeles, CA: September 20, 2003.

TA-W-55,702; Onsite International, including leased workers of 21st Century, El Paso, TX: September 16, 2003.

TA-W-55,589; Island Aquaculture, Inc., a subsidiary of Atlantic Salmon of Maine, formerly known as "Fjord Seafoods USA", including leased workers of Combined Management, Southwest Harbor, ME: September 8, 2003.

TA-W-55,591; Oquossoc Hatchery, a div. of Atlantic Salmon of Maine, formerly known as "Fjord Seafoods USA", including leased workers of Combined Management, Oquossoc, ME: September 8, 2003.

TA-W-55,636; Fleetguard Corp., subsidiary of Cummins Corp., Cookeville, TN: September 15, 2003.

TA-W-55,696; Ametek Aerospace and Power Instruments, a division of Ametek Aerospace and Defense, a div. of Ametek, Wilmington, MA: September 24, 2003.

TA-W-55,827; Sanmina-SCI, Enclosures Div., Plant 468, including leased

workers of On Point Staffing, Carrollton, TX: September 23, 2003.

TA-W-55,638; DB Textiles, Madison, NC: September 15, 2003.

TA-W-55,685; Sodelta USA, Inc., Fountain Inn, SC: September 14, 2003.

TA-W-55,722; Andrew Corp., Connector & Cable Assembly Business Unit, Orland Park, IL: September 17, 2003.

TA-W-55,779; Clayson Knitting Co., Inc., Star, NC: October 5, 2003.

TA-W-55,786; Federal-Mogul Corp., Powertrain Div., including leased workers of New Ventures, Inc. and Express Personnel, LaGrange, GA: October 7, 2003.

TA-W-55,800; Ohaus Corp., including on-site leased workers from Baker Temps and Spectrum Staffing Services, Pine Brook, NJ: October 12, 2003.

TA-W-55,765 & A; Ferrania USA, Inc., Weatherford, OK and Woodbury, MN: October 7, 2003.

TA-W-55,771; Schumacher Electric Corp., Hoopeston Facility, Sheet Metal Department, Hoopeston, IL: September 14, 2003.

TA-W-55,783; Precision Wood Products, North Carolina Div., a Div. of MJB Wood Group, Fletcher, NC: October 12, 2003.

Negative Determinations for Alternative Trade Adjustment Assistance

In order for the Division of Trade Adjustment Assistance to issue a certification of eligibility to apply for Alternative Trade Adjustment Assistance (ATAA) for older workers, the group eligibility requirements of Section 246(a)(3)(A)(ii) of the Trade Act must be met.

In the following cases, it has been determined that the requirements of Section 246(a)(3)(ii) have not been met for the reasons specified.

The Department has determined that criterion (2) of Section 246 has not been met. Workers at the firm possess skills that are easily transferable.

TA-W-55,696; Ametek Aerospace and Power Instruments, a Div. of Ametek Aerospace and Defense, a Div. of Ametek, Wilmington, MA

TA-W-55,636; Fleetguard Corp., Subsidiary of Cummins Corp., Cookeville, TN

TA-W-55,681; Jennifer Kay, Inc., d/b/a California Waves, Endless Sun, Sizzle Beach, Pink Sands and Native Waves Div., Los Angeles, CA

TA-W-55,674; Winchester Electronics, a subsidiary of Northrop Grumman, including leased workers of Hamilton and Agentry, Wallingford, CT

TA-W-55,641; Reeves Rubber, Albertville, AL
 TA-W-55,698; Ultra Wheel Co., Buena Park, CA
 TA-W-55,756; Inmed Corp., d/b/a Rusch, including leased workers of Axiom and Partners in Staffing, Duluth, GA
 TA-W-55,655; Leggett and Platt, Inc., workers at Advantage Technologies, Plymouth, MI
 TA-W-55,570; Queen Manufacturing, a subsidiary of S M Company, Inc., Asheville, NC
 TA-W-55,542; McGarry Machine, Inc., Portland, OR
 TA-W-55,569; S M Company, Inc., Asheville, NC
 TA-W-55,532; Meadwestvaco Corp., Garland, TX

The Department has determined that criterion (1) of Section 246 has not been met. Workers at the firm are 50 years of age or older.

TA-W-55,589; Island Aquaculture, Inc., a subsidiary of Atlantic Salmon of Maine, formerly known as "Fjord Seafoods USA", including leased workers of Combined Management, Southwest Harbor, ME
 TA-W-55,591; Oquossoc Hatchery, a div. of Atlantic Salmon of Maine, formerly known as "Fjord Seafoods USA", including leased workers of Combined Management, Oquossoc, ME

Since the workers are denied eligibility to apply for TAA, the workers cannot be certified eligible for ATAA.

TA-W-55,605; RMC Mid-Atlantic, LLC, Metromont Materials, Morganton, NC
 TA-W-55,580; Lear Corp., Seating Systems Div., New Castle, DE
 TA-W-55,607; Creo Americas, Inc., U.S. Headquarters, a subsidiary of Creo, Inc., Billerica, MA
 TA-W-55,716; Hi Rise Recycling Companies, Inc., Devivo Industries Div., Waterbury, CT
 TA-W-55,473; Beard Industries, Inc., Shreveport, LA
 TA-W-55,546; Georgia Pacific West Corp., a subsidiary of Georgia Pacific Corp., Bellingham, WA
 TA-W-55,583; Android Industries, Vienna, OH
 TA-W-55,769; Blue Ridge Paper Products, Inc., Dairy Pak Div., Fort Worth, TX
 TA-W-55,629; Alcoa, Inc., Badin Works Div., Badin, NC
 TA-W-55,648; Kimberly Clark Corp., Infant Care, New Milford, CT
 TA-W-55,677; Columbia Products, Inc., Dallastown, PA
 TA-W-55,691; Royal Home Fashions, Plant #6, Henderson, NC

TA-W-55,600; Xerox Corp., Workgroup Color Support Center, El Segundo, CA
 TA-W-55,787; Bea Systems, Inc., Liberty Corner, NJ
 TA-W-55,653; Providian Financial, a subsidiary of Providian Bancorp Services, Arlington, TX
 TA-W-55,578; Celestica, Repair subdivision, Little Rock, AR
 TA-W-55,712; Universal Record Distributing Corp., Philadelphia, PA
 TA-W-55,812; Circuit Images, Inc., Boulder, CO
 TA-W-55,736; Helmuth Tool and Die T/A, Helmuth Industries, Linden, NJ
 TA-W-55,706; SECO/WARWICK Corp., Meadville, PA
 TA-W-55,727; Quality Printing Co., Inc., Neenah, WI
 TA-W-55,719; Lanier Clothes, a div. of Oxford Industries, Inc., Greenville, GA
 TA-W-55,461; Airey-Thompson Company, Inc., Los Angeles, CA
 TA-W-55,666; Smurfit-Stone, Protective Packaging, East Longmeadow, MA

Affirmative Determinations for Alternative Trade Adjustment Assistance

In order for the Division of Trade Adjustment Assistance to issue a certification of eligibility to apply for Alternative Trade Adjustment Assistance (ATAA) for older workers, the group eligibility requirements of Section 246(a)(3)(A)(ii) of the Trade Act must be met.

The following certifications have been issued; the date following the company name and location of each determination references the impact date for all workers of such determinations.

In the following cases, it has been determined that the requirements of Section 246(a)(3)(ii) have been met.

I. Whether a significant number of workers in the workers' firm are 50 years of age or older.

II. Whether the workers in the workers' firm possess skills that are not easily transferable.

III. The competitive conditions within the workers' industry (i.e., conditions within the industry are adverse).

TA-W-55,809; R.A.G.S., Inc., Rockwell, NC: October 14, 2003.
 TA-W-55,758; Hooker Furniture Corp., Plywood Plant, Martinsville, VA: December 28, 2003.
 TA-W-55,733; Maidenform, Inc., Jacksonville Cutting Plant, Jacksonville, FL: September 28, 2003.
 TA-W-55,460; The Top-Flite Golf Co., a wholly owned subsidiary of Callaway Golf Co., Spalding Sports

Worldwide, Chicopee, MA: August 11, 2003.
 TA-W-55,738; Eiser, Inc., a subsidiary of Eiser Trika AB, Portland, OR: September 13, 2003.
 TA-W-55,726; United States Can Company, Olive Plant, Custom and Specialty Div., including leased workers of QPS Staffing Services, Elgin, IL: September 20, 2003.
 TA-W-55,646; Dallco Industries, Inc., Everett, PA: September 17, 2003.
 TA-W-55,626; CPS Color, Inc., Philadelphia, PA: September 3, 2003.
 TA-W-55,668; Wentworth Mold, Inc., Central Div., USA, Grain Valley, MO: September 20, 2003.
 TA-W-55,611; KM Company, San Francisco, CA: September 1, 2003.
 TA-W-55,700; Emerson Tool Co., Menominee, MI: July 6, 2004.
 TA-W-55,671; Henredon Furniture Industries, Inc., Spruce Pine, NC: September 22, 2003.
 TA-W-55,657; Crescent Enterprises, Inc., Div. of Crescent Manufacturing Co., Gallatin, TN: September 16, 2003.
 TA-W-55,581; West Point Foundry and Machine Co., West Point, GA: August 26, 2003.
 TA-W-55,642; Hamby Textile Research Laboratory, Inc., Garner, NC: September 14, 2003.
 TA-W-55,565; Wing Tai Company, San Francisco, CA: September 3, 2003.
 TA-W-55,734; OWT Industries, Inc., Power Tool Div., including leased workers of Staffmasters USA, Inc., Pickens, SC: May 9, 2004.
 TA-W-55,781; Walker Systems, Inc., div. of The Wiremold Company, including leased workers of Manpower, Williamstown, WV: October 12, 2003.
 TA-W-55,603; United States Can Co., Custom and Specialty Div., including leased workers from Ryan Staffing Services, Labor Ready Staffing Services, Callos Personnel and Manpower Staffing Services, New Castle, PA: September 13, 2003.
 TA-W-55,747; Child Craft Industries, Inc., including leased workers of TBS Staffing Solutions and Employment Plus, Salem, IN: September 23, 2003.
 TA-W-55,701; Strattec Security Corp., Assembly Department, Milwaukee, WI: September 23, 2003.
 TA-W-55,661; Tyco Electronics, Fiber Optics Div., Somerville, NJ: September 15, 2003.
 TA-W-55,595; Towne Square 2000, Inc., Hillsboro, TX: September 7, 2003.
 TA-W-55,571; Westland Manufacturing Co., including leased workers of ASAP Employment Services, Princeton, MN: September 2, 2003.

TA-W-55,651; *Cooper Tools, Div. of Cooper Industries, Inc., Dayton, OH: September 13, 2003.*

TA-W-55,778; *Acorn Engineering Co., including leased workers of Olympic Staffing, City of Industry, CA: October 7, 2003.*

TA-W-55,702; *Onsite International, including leased workers of 21st Century, El Paso, TX: September 16, 2003.*

TA-W-55,827; *Sanmina-SCI, Enclosures Div., Plant 468, including leased workers of On Point Staffing, Carrollton, TX: September 23, 2003.*

TA-W-55,638; *DB Textiles, Madison, NC: September 15, 2003.*

TA-W-55,685; *Sodetal USA, Inc., Fountain Inn, SC: September 14, 2003.*

TA-W-55,722; *Andrew Corp., Connector and Cable Assembly Business Unit, Orland Park, IL: September 17, 2003.*

TA-W-55,779; *Clayson Knitting Company, Inc., Star, NC: October 5, 2003.*

TA-W-55,786; *Federal-Mogul Corp., Powertrain Div., including leased workers of New Ventures, Inc. and Express Personnel, LaGrange, GA: October 7, 2003.*

TA-W-55,800; *Ohaus Corp., including on-site leased workers from Baker Temps and Spectrum Staffing Services, Pine Brook, NJ: October 12, 2003.*

TA-W-55,765; *Ferrania USA, Inc., Weatherford, OK and Woodbury, MN: October 7, 2003.*

TA-W-55,771; *Schumacher Electric Corp., Hoopeston Facility, Sheet Metal Department, Hoopeston, IL: September 14, 2003.*

TA-W-55,783; *Precision Wood Products, North Carolina Div., a Div. MJB Wood Group, Fletcher, NC: October 12, 2003.*

I hereby certify that the aforementioned determinations were issued during the month of October 2004. Copies of these determinations are available for inspection in Room C-5311, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210 during normal business hours or will be mailed to persons who write to the above address.

Dated: November 4, 2004.

Timothy Sullivan,
Director, Division of Trade Adjustment Assistance.

[FR Doc. E4-3142 Filed 11-10-04; 8:45 am]

BILLING CODE 4510-30-P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA-W-55,798 and TA-W-55,798A]

The Sewing Source, Inc., Spring Hope, NC; and The Sewing Source, Inc., Louisburg, NC; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, as amended, an investigation was initiated on October 14, 2004 in response to a petition filed by a company official on behalf of workers at The Sewing Source, Inc., Spring Hope, North Carolina (TA-W-55,798), and The Sewing Source, Inc., Louisburg, North Carolina (TA-W-55,798A).

The petitioner has requested that the petition be withdrawn. Consequently, the investigation has been terminated.

Signed at Washington, DC, this 3rd day of November, 2004.

Richard Church,
Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E4-3140 Filed 11-10-04; 8:45 am]

BILLING CODE 4510-30-P

DEPARTMENT OF LABOR

Employment and Training Administration

Workforce Investment Act: Native American Employment and Training Council

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice of meeting.

SUMMARY: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (FACA) (Pub. L. 92-463), as amended, and section 166(h)(4) of the Workforce Investment Act (WIA) [29 U.S.C. 2911(h)(4)], notice is hereby given of the next meeting of the Native American Employment and Training Council as constituted under WIA.

TIME AND DATE: The meeting will begin at 9 a.m. e.s.t. (eastern standard time) on Tuesday, November 30, 2004, and continue until 5 p.m. e.s.t. that day. The meeting will reconvene at 9 a.m. e.s.t. on Wednesday, December 1, 2004, and continue until approximately 5 p.m. e.s.t. on that day. The period from 3 p.m. to 5 p.m. e.s.t. on November 30, 2004 will be reserved for participation and presentation by members of the public. The meeting will adjourn at approximately 5 p.m. on Wednesday, December 1, 2004.

PLACE: All sessions will be held in Room C-5515 (1A), FPB, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210.

STATUS: The meeting will be open to the public. Persons who need special accommodations should contact Ms. Brown on (202) 693-3737 by November 5, 2004.

MATTERS TO BE CONSIDERED: The formal agenda will include, but not be limited to, the following topics: (1) A further discussion of the common measures; (2) the EMILE reporting system; (3) reporting work group recommendations; (4) future training needs of section 166 grantees; and (5) youth forums.

FOR FURTHER INFORMATION CONTACT: Ms. Athena Brown, Chief, Division of Indian and Native American Programs, Office of National Programs, Employment and Training Administration, U.S. Department of Labor, Room S-4203, 200 Constitution Avenue, NW., Washington, DC 20210.

TELEPHONE: (202) 693-3737 (voice) (this is not a toll-free number) or 1-800-877-8339 (TTY) or speech-to-speech at 1-877-877-8982 (these are toll-free numbers).

Signed at Washington, DC, this 5th day of November, 2004.

Thomas M. Dowd,
Deputy Assistant Secretary, Employment and Training Administration.

[FR Doc. 04-25174 Filed 11-10-04; 8:45 am]

BILLING CODE 4510-30-P

DEPARTMENT OF LABOR

Employment Standards Administration; Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR part 1, by authority of the Secretary of Labor pursuant to the provisions of

the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR part 1, appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedes decisions thereto, contain no expiration dates and are effective from their date of notice in the **Federal Register**, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under the Davis-Bacon and Related Acts," shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department.

Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration,

Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue, NW., Room S-3014, Washington, DC 20210.

Modification to General Wage Determination Decisions

The number of the decisions listed to the Government Printing Office document entitled "General Wage Determinations Issued Under the Davis-Bacon and related Acts" being modified are listed by Volume and State. Dates of publication in the **Federal Register** are in parentheses following the decisions being modified.

Volume I

Massachusetts

MA030001 (Jun. 13, 2003)
MA030002 (Jun. 13, 2003)
MA030003 (Jun. 13, 2003)
MA030004 (Jun. 13, 2003)
MA030007 (Jun. 13, 2003)
MA030009 (Jun. 13, 2003)
MA030010 (Jun. 13, 2003)
MA030017 (Jun. 13, 2003)
MA030018 (Jun. 13, 2003)
MA030019 (Jun. 13, 2003)
MA030020 (Jun. 13, 2003)

New York

NY030015 (Jun. 13, 2003)
NY030016 (Jun. 13, 2003)
NY030043 (Jun. 13, 2003)
NY030045 (Jun. 13, 2003)

Rhode Island

RI030001 (Jun. 13, 2003)

Volume II

District of Columbia

DC030001 (Jun. 13, 2003)
DC030003 (Jun. 13, 2003)

Maryland

MD030001 (Jun. 13, 2003)
MD030008 (Jun. 13, 2003)
MD030034 (Jun. 13, 2003)
MD030035 (Jun. 13, 2003)
MD030036 (Jun. 13, 2003)
MD030046 (Jun. 13, 2003)
MD030047 (Jun. 13, 2003)
MD030048 (Jun. 13, 2003)
MD030056 (Jun. 13, 2003)
MD030057 (Jun. 13, 2003)

Pennsylvania

PA030001 (Jun. 13, 2003)
PA030002 (Jun. 13, 2003)
PA030003 (Jun. 13, 2003)
PA030004 (Jun. 13, 2003)
PA030008 (Jun. 13, 2003)
PA030010 (Jun. 13, 2003)
PA030012 (Jun. 13, 2003)
PA030016 (Jun. 13, 2003)
PA030017 (Jun. 13, 2003)
PA030018 (Jun. 13, 2003)
PA030019 (Jun. 13, 2003)
PA030020 (Jun. 13, 2003)
PA030021 (Jun. 13, 2003)
PA030023 (Jun. 13, 2003)
PA030025 (Jun. 13, 2003)
PA030026 (Jun. 13, 2003)
PA030027 (Jun. 13, 2003)
PA030028 (Jun. 13, 2003)
PA030030 (Jun. 13, 2003)
PA030040 (Jun. 13, 2003)
PA030042 (Jun. 13, 2003)

PA030065 (Jun. 13, 2003)

Virginia

VA030020 (Jun. 13, 2003)
VA030022 (Jun. 13, 2003)
VA030025 (Jun. 13, 2003)
VA030039 (Jun. 13, 2003)
VA030048 (Jun. 13, 2003)
VA030052 (Jun. 13, 2003)
VA030058 (Jun. 13, 2003)
VA030063 (Jun. 13, 2003)
VA030078 (Jun. 13, 2003)
VA030079 (Jun. 13, 2003)
VA030092 (Jun. 13, 2003)
VA030099 (Jun. 13, 2003)

Volume III

Kentucky

KY030004 (Jun. 13, 2003)
KY030027 (Jun. 13, 2003)
KY030028 (Jun. 13, 2003)
KY030029 (Jun. 13, 2003)

Tennessee

TN030016 (Jun. 13, 2003)
TN030023 (Jun. 13, 2003)

Volume IV

Illinois

IL030019 (Jun. 13, 2003)

Minnesota

MN030007 (Jun. 13, 2003)

Ohio

OH030002 (Jun. 13, 2003)
OH030004 (Jun. 13, 2003)
OH030008 (Jun. 13, 2003)
OH030009 (Jun. 13, 2003)
OH030028 (Jun. 13, 2003)
OH030029 (Jun. 13, 2003)

Volume V

Missouri

MO030001 (Jun. 13, 2003)
MO030002 (Jun. 13, 2003)
MO030011 (Jun. 13, 2003)
MO030050 (Jun. 13, 2003)

Nebraska

NE030003 (Jun. 13, 2003)
NE030007 (Jun. 13, 2003)
NE030010 (Jun. 13, 2003)
NE030011 (Jun. 13, 2003)
NE030015 (Jun. 13, 2003)
NE030019 (Jun. 13, 2003)

Texas

TX030009 (Jun. 13, 2003)

Volume VI

Colorado

CO030003 (Jun. 13, 2003)
CO030004 (Jun. 13, 2003)
CO030006 (Jun. 13, 2003)
CO030011 (Jun. 13, 2003)

Idaho

ID030019 (Jun. 13, 2003)

North Dakota

ND030001 (Jun. 13, 2003)
ND030002 (Jun. 13, 2003)
ND030004 (Jun. 13, 2003)
ND030008 (Jun. 13, 2003)
ND030015 (Jun. 13, 2003)

Washington

WA030025 (Jun. 13, 2003)

Volume VII

None.

General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under the Davis-Bacon And Related Acts." This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the country.

General wage determinations issued under the Davis-Bacon and related Acts are available electronically at no cost on the Government Printing Office site at <http://www.access.gpo.gov/davisbacon>. They are also available electronically by subscription to the Davis-Bacon Online Service (<http://davisbacon.fedworld.gov>) of the National Technical Information Service (NTIS) of the U.S. Department of Commerce at 1-800-363-2068. This subscription offers value-added features such as electronic delivery of modified wage decisions directly to the user's desktop, the ability to access prior wage decisions issued during the year, extensive Help Desk Support, etc.

Hard-copy subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, (202) 512-1800.

When ordering hard-copy subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the six separate Volumes, arranged by State. Subscriptions include an annual edition (issued in January or February) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates will be distributed to subscribers.

Signed at Washington, DC, this 4th day of November, 2004.

John Frank,

Acting Chief, Branch of Construction Wage Determinations.

[FR Doc. 04-24987 Filed 11-10-04; 8:45 am]

BILLING CODE 4510-27-M

MEDICARE PAYMENT ADVISORY COMMISSION

Commission Meeting

AGENCY: Medicare Payment Advisory Commission.

ACTION: Notice of meeting.

SUMMARY: The Commission will hold its next public meeting on Tuesday,

November 16, 2004, and Wednesday, November 17, 2004, at the Ronald Reagan Building, International Trade Center, 1300 Pennsylvania Avenue, NW., Washington, DC. The meeting is tentatively scheduled to begin at 10 a.m. on November 16, and at 9 a.m. on November 17.

Topics for discussion include findings on congressionally mandated studies including: Specialty hospitals; certified registered nurse first assistants; physicians volume; cardiothoracic surgeons, and eliminating physician referrals to physical therapy. Additional presentations will include physician quality, findings from a study on employer-sponsored health benefits, and home health payment.

Agendas will be e-mailed approximately one week prior to the meeting. The final agenda will be available on the Commission's Web site (<http://www.MedPAC.gov>).

ADDRESSES: MedPAC's address is: 601 New Jersey Avenue, NW., Suite 9000, Washington, DC 20001. The telephone number is (202) 220-3700.

FOR FURTHER INFORMATION CONTACT: Diane Ellison, Office Manager, (202) 220-3700.

Sarah S. Thomas,

Deputy Director.

[FR Doc. 04-25176 Filed 11-10-04; 8:45 am]

BILLING CODE 6820-BW-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 04-124]

Notice of Prospective Patent License

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of prospective patent license.

SUMMARY: NASA hereby gives notice that First Technology PLC acting through its subsidiary Control Devices Inc., of Standish, Maine, has applied for an exclusive license to practice the invention described and claimed in U.S. Patent No. 6,239,601 entitled "Thickness Measurement Device for Ice, or Ice Mixed with Water or Other Liquid", which is assigned to the United States of America as represented by the Administrator of the National Aeronautics and Space Administration. Written objections to the prospective grant of a license should be sent to NASA Langley Research Center. NASA has not yet made a determination to grant the requested license and may deny the requested license even if no

objections are submitted within the comment period.

DATES: Responses to this notice must be received by November 29, 2004.

FOR FURTHER INFORMATION CONTACT:

Helen Galus, Patent Attorney, Mail Stop 212, NASA Langley Research Center, Hampton, VA 23681-2199, (757) 864-3227; Fax 757-864-9190.

Dated: October 22, 2004.

Keith T. Sefton,

Deputy General Counsel (Administration and Management).

[FR Doc. 04-25124 Filed 11-10-04; 8:45 am]

BILLING CODE 7510-13-P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 04-125]

Notice of Prospective Patent License

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of prospective patent license.

SUMMARY: NASA hereby gives notice that JMAR Technologies, Inc., of Carlsbad, California, has applied for a partially exclusive license to practice the invention described and claimed in U.S. Patent No. 6,313,908, entitled "Apparatus and method using a holographic optical element for converting a spectral distribution to image points," which is assigned to the United States of America as represented by the Administrator of the National Aeronautics and Space Administration. Written objections to the prospective grant of a license should be sent to NASA Goddard Space Flight Center. NASA has not yet made a determination to grant the requested license and may deny the requested license even if no objections are submitted within the comment period.

DATES: Responses to this notice must be received by November 29, 2004.

FOR FURTHER INFORMATION CONTACT:

Keith Dixon, NASA Goddard Space Flight Center, Code 503, Greenbelt, MD 20771, (301) 286-9279.

Dated: October 22, 2004.

Keith T. Sefton,

Deputy General Counsel (Administration and Management).

[FR Doc. 04-25125 Filed 11-10-04; 8:45 am]

BILLING CODE 7510-13-P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 04-122]

Notice of Prospective Patent License

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of prospective patent license.

SUMMARY: NASA hereby gives notice that Kid Saver, Incorporated, of Fort Lauderdale, Florida, has applied for an exclusive license to practice the invention described and claimed in U.S. Patent No. 6,714,132 entitled "Self-Activating System and Method for Alerting When an Object or a Person is Left Unattended," and NASA Case No. LAR 16324-2 entitled "Self-Activating System and Method for Alerting When an Object or a Person is Left Unattended," both of which are assigned to the United States of America as represented by the Administrator of the National Aeronautics and Space Administration. Written objections to the prospective grant of a license should be sent to NASA Langley Research Center. NASA has not yet made a determination to grant the requested license and may deny the requested license even if no objections are submitted within the comment period.

DATES: Responses to this notice must be received by November 29, 2004.

FOR FURTHER INFORMATION CONTACT: Helen Galus, Patent Attorney, Mail Stop 212, NASA Langley Research Center, Hampton, VA 23681-2199, (757) 864-3227; Fax 757-864-9190.

Dated: November 2, 2004.

Keith T. Sefton,

Deputy General Counsel (Administration and Management).

[FR Doc. 04-25121 Filed 11-10-04; 8:45 am]

BILLING CODE 7510-13-P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 04-123]

Notice of Prospective Patent Application License

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of prospective patent license.

SUMMARY: NASA hereby gives notice that Molecular NanoSystems Inc., of Palo Alto, CA, has applied for a co-exclusive license to practice the invention disclosed in NASA Case No. ARC-15173-1, entitled

"Nanoengineered Thermal Materials Using Carbon Nanotube Array Composites," for which a U.S. Patent Application was filed and assigned to the United States of America as represented by the Administrator of the National Aeronautics and Space Administration. Written objections to the prospective grant of a license should be sent to Ames Research Center.

DATES: Responses to this notice must be received by December 13, 2004.

FOR FURTHER INFORMATION CONTACT: Robert Padilla, Chief Patent Counsel, NASA Ames Research Center, M/S 202A-4, Moffett Field, CA 94035-1000, (650) 604-5104.

Dated: November 2, 2004.

Keith T. Sefton,

Deputy General Counsel, Administration and Management.

[FR Doc. 04-25123 Filed 11-10-04; 8:45 am]

BILLING CODE 7510-13-P

NUCLEAR REGULATORY COMMISSION

[Docket No. 70-7005]

In the Matter of Waste Control Specialists, LLC, Order Modifying Exemption From 10 CFR Part 70

AGENCY: Nuclear Regulatory Commission.

ACTION: Issuance of order to modify Waste Control Specialists, LLC's exemption from requirements of 10 CFR part 70.

FOR FURTHER INFORMATION CONTACT: James Park, Environmental and Performance Assessment Directorate, Division of Waste Management and Environmental Protection, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001. Telephone: (301) 415-5835, fax number: (301) 415-5397; e-mail: JRP@nrc.gov.

SUPPLEMENTARY INFORMATION:

I. Introduction

Pursuant to 10 CFR 2.106, the Nuclear Regulatory Commission (NRC) is providing notice in the Matter of Waste Control Specialists, LLC (WCS) of the issuance of an order to modify WCS's exemption from the requirements of 10 CFR part 70.

II. Further Information

I

In letters dated August 6, 2003, and March 15, 2004, WCS requested a modification to its exemption from certain NRC regulations relative to the

possession of special nuclear material (SNM). A license pursuant to 10 CFR part 70 issued by NRC is required for quantities of SNM in excess of the limits in 10 CFR 150.11. WCS is requesting a modification to its exemption from licensing under part 70 for possession of greater than the part 150 SNM limits. The NRC issued the initial exemption to WCS in November 2001.

WCS operates a low-level waste (LLW) and mixed waste (MW) storage and treatment facility in Andrews County, Texas. The facility also disposes of hazardous waste. Texas is an Agreement State. This facility is licensed by the State of Texas Department of Health (TDH) under a 10 CFR part 30 equivalent radioactive materials license (RML). The facility is also licensed by the Texas Commission on Environmental Quality (TCEQ) to treat and dispose of hazardous waste. In 1997, WCS began accepting Resource Conservation and Recovery Act (RCRA) and Toxic Substance Control Act (TSCA) wastes for treatment, storage, and disposal. Later that year, WCS received a license from TDH for treatment and storage of MW and LLW. The MW and LLW streams may contain quantities of SNM.

II

Section 70.3 of 10 CFR part 70 requires persons who own, acquire, deliver, receive, possess, use, or transfer SNM to obtain a license pursuant to the requirements in 10 CFR part 70. The licensing requirements in 10 CFR part 70 apply to persons in Agreement States possessing greater than critical mass quantities as defined in 10 CFR 150.11.

Pursuant to 10 CFR 70.17(a), "the Commission may * * * grant such exemptions from the requirements of the regulations in this part as it determines are authorized by law and will not endanger life or property or the common defense and security and are otherwise in the public interest."

On November 21, 2001, the NRC transmitted an Order to WCS. The Order was published in the **Federal Register** on November 15, 2001 (66 FR 57489). The Order exempted WCS from certain NRC regulations and permitted WCS, under specified conditions, to possess waste containing SNM in greater quantities than specified in 10 CFR part 150, at WCS's storage and treatment facility in Andrews County, Texas, without obtaining an NRC license pursuant to 10 CFR part 70. The methodology used to establish these limits is discussed in the 2001 Safety Evaluation Report (SER) that supported the 2001 Order.

- III**
- The NRC staff considers that the appropriate action is to modify WCS's exemption. Currently, WCS is exempted from the requirements of 10 CFR part 70, including the requirements for an NRC license in 10 CFR 70.3, for SNM within the restricted area at WCS's site.
- This modification specifically would allow WCS to use such chemical reagents as it deems necessary for treatment and stabilization of mixed waste containing SNM provided that the SNM mass does not exceed specified concentration limits. The WCS would continue to be restricted from using
- magnesium oxide in stabilization, per Condition 2 of the Order. Therefore, WCS's exemption is modified as follows:
1. Concentrations of SNM in individual waste containers and/or during processing must not exceed the following values:

SNM isotope	Operational limit (gram SNM/gram waste)	Measurement uncertainty (gram SNM/gram waste)
U-233	4.7E-04	7.1E-05
U-235 (10 percent enriched)	9.9E-04	1.5E-04
U-235 (100 percent enriched)	6.2E-04	9.3E-05
Pu-239	2.8E-04	4.2E-05
Pu-241	2.2E-04	3.2E-05

When mixtures of these SNM isotopes are present in the waste, the sum-of-the-fractions rule, as illustrated below, should be used.

$$\frac{\text{U-233 conc}}{\text{U-233 limit}} + \frac{100\text{wt}\%\text{U-235 conc}}{100\text{wt}\%\text{U-235 limit}} + \frac{10\text{wt}\%\text{U-235 conc}}{10\text{wt}\%\text{U-235 limit}} + \frac{\text{Pu-239 conc}}{\text{Pu-239 limit}} + \frac{\text{Pu-241 conc}}{\text{Pu-241 limit}} \leq 1$$

The measurement uncertainty values in column 3 above represent the maximum one-sigma uncertainty associated with the measurement of the concentration of the particular radionuclide.

The SNM must be homogeneously distributed throughout the waste. If the SNM is not homogeneously distributed, then the limiting concentrations must not be exceeded on average in any contiguous mass of 600 kilograms.

2. Waste must not contain "pure forms" of chemicals containing carbon, fluorine, magnesium, or bismuth in bulk quantities (e.g., a pallet of drums, a B-25 box). By "pure forms," it is meant that mixtures of the above elements such as magnesium oxide, magnesium carbonate, magnesium fluoride, bismuth oxide, etc. do not contain other elements. The presence of the above materials will be determined and documented by the generator, based on process knowledge, or testing.

3. Waste accepted must not contain total quantities of beryllium, hydrogenous material enriched in deuterium, or graphite above one tenth of one percent of the total weight of the waste. The presence of the above materials will be determined and documented by the generator, based on process knowledge, or testing.

4. Waste packages must not contain highly water soluble forms of SNM greater than 350 grams of U-235 or 200 grams of U-233 or 200 grams of Pu. The sum of the fractions rule will apply for mixtures of U-233, U-235, and Pu.

When multiple containers are processed in a larger container, the total quantity of soluble SNM shall not exceed these mass limits. Highly soluble forms of SNM include, but are not limited to: uranium sulfate, uranyl acetate, uranyl chloride, uranyl formate, uranyl fluoride, uranyl nitrate, uranyl potassium carbonate, uranyl sulfate, plutonium chloride, plutonium fluoride, and plutonium nitrate. The presence of the above materials will be determined and documented by the generator, based on process knowledge or testing.

5. Processing of mixed waste containing SNM will be limited to chemical stabilization (i.e., mixing waste with reagents). For batches with more than 600 kilograms of waste, the total mass of SNM shall not exceed the concentration limits in Condition 1 times 600 kilograms of waste.

6. Prior to shipment of waste, WCS shall require generators to provide a written certification containing the following information for each waste stream:

a. Waste Description. The description must detail how the waste was generated, list the physical forms in the waste, and identify uranium chemical composition.

b. Waste Characterization Summary. The data must include a general description of how the waste was characterized (including the volumetric extent of the waste, and the number, location, type, and results of any analytical testing), the range of SNM concentrations, and the analytical

results with error values used to develop the concentration ranges.

c. Uniformity Description. A description of the process by which the waste was generated showing that the spatial distribution of SNM must be uniform, or other information supporting spatial distribution.

d. Manifest Concentration. The generator must describe the methods to be used to determine the concentrations on the manifests. These methods could include direct measurement and the use of scaling factors. The generator must describe the uncertainty associated with sampling and testing used to obtain the manifest concentrations.

WCS shall review the above information and, if adequate, approve in writing this pre-shipment waste characterization and assurance plan before permitting the shipment of a waste stream. This will include statements that WCS has a written copy of all the information required above, that the characterization information is adequate and consistent with the waste description, and that the information is sufficient to demonstrate compliance with Conditions 1 through 4. Where generator process knowledge is used to demonstrate compliance with Conditions 1, 2, 3, or 4, WCS shall review this information and determine when testing is required to provide additional information in assuring compliance with the Conditions. WCS shall retain this information as required by the State of Texas to permit independent review.

At the time waste is received, WCS shall require generators of SNM waste to provide a written certification with each waste manifest that states that the SNM concentrations reported on the manifest do not exceed the limits in Condition 1, that the measurement uncertainty does not exceed the uncertainty value in Condition 1, and that the waste meets Conditions 2 through 4.

WCS shall require generators to sample and determine the SNM concentration for each waste stream at the following frequency: (a) If the concentrations are above one tenth the SNM limits (Condition 1), once per 600 kg, (b) if the concentrations are below one tenth and greater than one hundredth of the SNM limits, once per 6,000 kg, and (c) if the concentrations are below one hundredth of the SNM limits, once per 60,000 kg.

If the waste is determined to be not homogeneous (*i.e.*, maximum, which cannot exceed the limits in Condition 1, and minimum testing values performed by the generator are greater than five times the average value), the generator shall sample and determine the SNM concentration once per 600 kg thereafter, regardless of SNM concentration. In this case, samples shall be a composite consisting of four uniformly sampled aliquots.

The certifications required under these conditions shall be made in writing and include the statement that the signer of the certification understands that this information is required to meet the requirements of the NRC and must be complete and accurate in all material respects.

7. WCS shall sample and determine the SNM concentration for each waste stream at the following frequency: (a) If the concentrations are above one tenth the SNM limits (Condition 1), once per 1,500 kg for the first shipment and every 6,000 kg thereafter, (b) if the concentrations are below one tenth and greater than one hundredth of the SNM limits, once per 20,000 kg for the first shipment and every 60,000 kg thereafter, and (c) if the concentrations are below one hundredth of the SNM limits, once per 600,000 kg. This confirmatory testing is not required for waste to be disposed of at DOE's WIPP facility.

If the waste is determined to be not homogeneous (*i.e.*, maximum and minimum testing values performed by the generator are greater than five times the average value), WCS shall sample and determine the SNM concentration once per 1,500 kg for the first shipment and every 6,000 kg thereafter, regardless of SNM concentration. In this case,

samples shall be a composite consisting of four uniformly sampled aliquots.

8. WCS shall notify the NRC, Region IV office within 24 hours if any of the above Conditions are violated. A written notification of the event must be provided within 7 days.

9. WCS shall obtain NRC approval prior to changing any activities associated with the above Conditions.

IV

Based on the staff's evaluation, the Commission has determined, pursuant to 10 CFR 70.17(a), that the exemption as described above at the WCS facility is authorized by law, will not endanger life or property or the common defense and security and is otherwise in the public interest. Accordingly, by this Order, the Commission hereby grants this exemption subject to the above conditions. The exemption will become effective after the State of Texas has incorporated the above conditions into WCS's RML.

Pursuant to the requirements in 10 CFR part 51, the Commission has published an Environmental Assessment (EA) for the proposed action wherein it has determined that the granting of this exemption will have no significant impacts on the quality of the human environment. This finding was noticed in the **Federal Register** on October 20, 2004 (69 FR 61697).

V

As of October 25, 2004, the NRC initiated an additional security review of publicly available documents to ensure that potentially sensitive information is removed from the ADAMS database accessible through the NRC's Web site. Interested members of the public should check the NRC's web pages for updates on the availability of documents through the ADAMS system.¹

Dated at Rockville, Maryland this 5th day of November 2004.

For the Nuclear Regulatory Commission.

Jack R. Strosnider,

Director, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 04-25169 Filed 11-10-04; 8:45 am]

BILLING CODE 7590-01-P

¹ The requests for modifying the Order will be available for inspection at NRC's Public Electronic Reading Room at <http://www.nrc.gov/reading-rm/adams.html> using the ADAMS Accession Nos. ML032590937 and ML041350224. The NRC staff's request for additional information, its EA, and its SER for this action will be available at the above Web site using the ADAMS Accession Nos. ML032731010, ML042250451, and ML042250362, respectively.

NUCLEAR REGULATORY COMMISSION

[EA-04-190 and EA-04-191]

In the Matter of All Licensees Who Possess Radioactive Material in Quantities of Concern and All Other Persons Who Obtain Safeguards Information Described Herein; Order Issued Imposing Requirements for the Protection of Certain Safeguards Information (Effective Immediately)

The licensees identified in Attachment 1¹ to this Order hold licenses issued in accordance with the Atomic Energy Act of 1954, by the U.S. Nuclear Regulatory Commission (NRC or Commission), or an Agreement State authorizing them to possess and transfer items containing radioactive material quantities of concern. The NRC intends to issue security Orders to these licensees in the near future. Orders will be issued to both NRC and Agreement State materials licensees who may transport radioactive material quantities of concern. The Orders will require compliance with specific Additional Security Measures to enhance the security for transport of certain radioactive material quantities of concern. The NRC will issue Orders to both NRC and Agreement State licensees under its authority to protect the common defense and security, which has not been relinquished to the Agreement States. Before issuing Orders for Additional Security Measures, the Commission seeks comments from affected licensees on the draft Additional Security Measures, and Regulatory Issue Summary Table, "Threat Conditions and Specific Actions for Licensees who Transport Radioactive Material Quantities of Concern." However, the Commission has determined that these draft documents contain Safeguards Information, will not be released to the public, and must be protected from unauthorized disclosure. Therefore, the Commission is imposing the requirements, as set forth in Attachment 2 of this Order, so that affected licensees can receive these draft documents for review and comment. This Order also imposes requirements for the protection of Safeguards Information in the hands of any person,² whether or not a

¹ Attachment 1 has been redacted to remove the list of material licensees that is considered OFFICIAL USE ONLY sensitive information and will not be released to the public.

² Person means (1) any individual, corporation, partnership, firm, association, trust, estate, public or private institution, group, government agency other than the Commission or the Department, except that the Department shall be considered a

licensee of the Commission, who produces, receives, or acquires Safeguards Information.

II

The Commission has broad statutory authority to protect and prohibit the unauthorized disclosure of Safeguards Information. Section 147 of the Atomic Energy Act of 1954, as amended, grants the Commission explicit authority to "issue such orders, as necessary to prohibit the unauthorized disclosure of Safeguards Information * * *" This authority extends to information concerning transfer of special nuclear material, source material, and byproduct material. Licensees and all persons who produce, receive, or acquire Safeguards Information must ensure proper handling and protection of Safeguards Information to avoid unauthorized disclosure in accordance with the specific requirements for the protection of Safeguards Information contained in Attachment 2. The Commission hereby provides notice that it intends to treat all violations of the requirements contained in Attachment 2 applicable to the handling and unauthorized disclosure of Safeguards Information as serious breaches of adequate protection of the public health and safety and the common defense and security of the United States. Access to Safeguards Information is limited to those persons who have established the need to know the information, and are considered to be trustworthy and reliable. A need to know means a determination by a person having responsibility for protecting Safeguards Information that a proposed recipient's access to Safeguards Information is necessary in the performance of official, contractual, or licensee duties of employment. Licensees and all other persons who obtain Safeguards Information must ensure that they develop, maintain and implement strict policies and procedures for the proper handling of Safeguards Information to prevent unauthorized disclosure, in accordance with the requirements in Attachment 2. All licensees must ensure that all contractors whose employees may have access to Safeguards Information either adhere to the licensee's policies and procedures on Safeguards Information or develop, maintain and implement

person with respect to those facilities of the Department specified in section 202 of the Energy Reorganization Act of 1974 (88 Stat. 1244), any State or any political subdivision of, or any political entity within a State, any foreign government or nation or any political subdivision of any such government or nation, or other entity; and (2) any legal successor, representative, agent, or agency of the foregoing.

their own acceptable policies and procedures. The licensees remain responsible for the conduct of their contractors. The policies and procedures necessary to ensure compliance with applicable requirements contained in Attachment 2 must address, at a minimum, the following: the general performance requirement that each person who produces, receives, or acquires Safeguards Information shall ensure that Safeguards Information is protected against unauthorized disclosure; protection of Safeguards Information at fixed sites, in use and in storage, and while in transit; correspondence containing Safeguards Information; access to Safeguards Information; preparation, marking, reproduction and destruction of documents; external transmission of documents; use of automatic data processing systems; and removal of the Safeguards Information category.

In order to provide assurance that the licensees are implementing prudent measures to achieve a consistent level of protection, to prohibit the unauthorized disclosure of Safeguards Information, all licensees who hold licenses issued by the U.S. Nuclear Regulatory Commission or an Agreement State, authorizing them to possess and reasonably expected to transport radioactive material in quantities of concern, shall implement the requirements identified in Attachment 2 to this Order. The Commission recognizes that licensees may have already initiated many of the measures set forth in Attachment 2 to this Order for handling of Safeguards Information in conjunction with current NRC license requirements or previous NRC Order. Additional measures set forth in Attachment 2 should be handled and controlled in accordance with the licensee's current program for Safeguards Information. In addition, pursuant to 10 CFR 2.202, I find that in light of the common defense and security matters identified above, which warrant the issuance of this Order, the public health, safety and interest require that this Order be effective immediately.

III

Accordingly, pursuant to Sections 81, 161b, 161i, 161o, 182 and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202, 10 CFR Part 30, 10 CFR Part 32, 10 CFR Part 35, 10 CFR Part 50, and 10 CFR Part 70, *it is hereby ordered, effective immediately*, that all licensees identified in attachment 1 to this Order, and all other persons who produce, receive, or acquire the additional

security measures identified above (whether draft or final), or any related safeguards information, shall comply with the requirements of attachment 2.

IV

The Director, Office of Nuclear Materials Safety and Safeguards, and the Director, Office of Nuclear Reactor Regulation, may in writing, relax or rescind any of the above conditions upon demonstration by the licensee. In accordance with 10 CFR 2.202, the licensee must, and any other person adversely affected by this Order may, submit an answer to this Order, and may request a hearing on this Order, within twenty (20) days of the date of this Order. Where good cause is shown, consideration will be given to extending the time to request a hearing. A request for extension of time in which to submit an answer or request a hearing must be made in writing to the Director, Office of Nuclear Reactor Regulation or Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555, as applicable, and include a statement of good cause for the extension. The answer may consent to this Order. Unless the answer consents to this Order, the answer shall, in writing and under oath or affirmation, specifically set forth the matters of fact and law on which the licensee or other person adversely affected relies and the reasons as to why the Order should not have been issued. Any answer or request for a hearing shall be submitted to the Secretary, Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, ATTN: Rulemakings and Adjudications Staff, Washington, DC 20555. Copies also shall be sent to the Director, Office of Nuclear Reactor Regulation or Office of Nuclear Material Safety and Safeguards, as applicable, U.S. Nuclear Regulatory Commission, Washington, DC 20555, to the Assistant General Counsel for Materials Litigation and Enforcement at the same address, to the Regional Administrator for NRC Region I, II, III, or IV, as appropriate for the specific plant, and to the licensee if the answer or hearing request is by a person other than the licensee. Because of possible disruptions in delivery of mail to United States Government offices, it is requested that answers and requests for hearing be transmitted to the Secretary of the Commission either by means of facsimile transmission to 301-415-1101 or by e-mail to hearingdocket@nrc.gov and also to the Office of the General Counsel either by means of facsimile transmission to 301-415-3725 or by e-mail to OGCMailCenter@nrc.gov. If a person

other than the licensee requests a hearing, that person shall set forth with particularity the manner in which his interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR 2.714(d).

If a hearing is requested by the licensee or a person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this Order should be sustained.

Pursuant to 10 CFR 2.202(c)(2)(I), the licensee may, in addition to demanding a hearing, at the time the answer is filed or sooner, move the presiding officer to set aside the immediate effectiveness of the Order on the ground that the Order, including the need for immediate effectiveness, is not based on adequate evidence but on mere suspicion, unfounded allegations, or error. In the absence of any request for hearing, or written approval of an extension of time in which to request a hearing, the provisions specified in Section III above, shall be final twenty (20) days from the date of this Order without further order or proceedings. If an extension of time for requesting a hearing has been approved, the provisions specified in Section III shall be final when the extension expires if a hearing request has not been received. An answer or a request for hearing shall not stay the immediate effectiveness of this Order.

Dated this 5th day of November 2004.

For the Nuclear Regulatory Commission.

J.E. Dyer,

Director, Office of Nuclear Reactor Regulation.

Jack R. Strosnider,

Director, Office of Nuclear Material Safety and Safeguards.

Attachment 1: Service List of Licensees

Power Plants—Senior Executive Contacts

Mr. A. Christopher Bakken, III, President and Chief Nuclear Officer, PSEG Nuclear LLC—X04, Salem Nuclear Generating Station, Units 1 and 2, Hope Creek Generating Station, Unit 1, Docket Nos. 50-272, 50-278, & 50-354, License Nos. DPR-70, DPR-75, & NPF-57, End of Buttonwood Road, Hancocks Bridge, NJ 08038.

Mr. Michael Kansler, President, Entergy Nuclear Operations, Inc., Pilgrim Nuclear Power Station, Unit 1, Vermont Yankee Nuclear Power Station, James A FitzPatrick Nuclear Power Plant, Indian Point Nuclear

Generating Station, Units 2 and 3, Docket Nos. 50-293, 50-271, 50-333, 50-247, & 50-286, License Nos. DPR-35, DPR-28, DPR-59, DPR-26, & DPR-64, 440 Hamilton Avenue, White Plains, NY 10601.

Mr. Mark E. Warner, Site Vice President, FPL Energy, Seabrook Station, Unit 1, Docket No. 50-443, License No. NPF-86, Central Receiving, Lafayette Road, Seabrook, NH 03874.

Mr. L. William Pearce, Vice President, FirstEnergy Nuclear Operating Company, Beaver Valley Power Station, Units 1 and 2, Docket Nos. 50-334 & 50-412, License Nos. DPR-66 & NPF-73, Route 168, Shippingport, PA 15077.

Mr. George Vanderheyden, Vice President, Calvert Cliffs Nuclear Power Plant, Inc., Calvert Cliffs Nuclear Power Plant, Units 1 and 2, Docket Nos. 50-317 & 50-318, License Nos. DPR-53 & DPR-69, 1650 Calvert Cliffs Parkway, Lusby, MD 20657-4702.

Mrs. Mary G. Korsnick, Vice President, Nuclear Operations, R. E. Ginna Nuclear Power Plant, Docket No. 50-244, License No. DPR-18, 1503 Lake Road, Ontario, NY 14519.

Mr. James A. Spina, Vice President Nine Mile Point, Nine Mile Point Nuclear Station, LLC, Nine Mile Point Nuclear Station, Units 1 and 2, Docket Nos. 50-22- & 50-410, License Nos. DPR-63 & NPF-69, 348 Lake Road, Oswego, NY 13126.

Mr. Britt T. McKinney, Vice President, Nuclear Site Operations, PPL Susquehanna, LLC, Susquehanna Steam Electric Station, Units 1 and 2, Docket Nos. 50-387 & 50-388, License Nos. NPF-14 & NPF-22, 769 Salem Boulevard, NUCSB3, Berwick, PA 18603-0467.

Mr. David A. Christian, Sr. Vice President and Chief Nuclear Officer, Dominion Nuclear Connecticut, Inc., Virginia Electric and Power Company, Millstone Power Station, Units 2 and 3, North Anna Power Station, Units 1 and 2, Surry Power Station, Units 1 and 2, Docket Nos. 50-336, 50-423, 50-338, 50-339, & 50-280, & 50-281, License Nos. DPR-65, NPF-49, NPF-4, NPF-7, DPR-32, & DPR-37, Innsbrook Technical Center, 5000 Dominion Boulevard, Glen Allen, VA 23060.

D.M. Jamil, Vice President, Duke Energy Corporation, Catawba Nuclear Station, Units 1 and 2, Docket Nos. 50-413 & 50-414, License Nos. NPF-35 & NPF-52, 4800 Concord Road, York, South Carolina 29745.

Mr. L.M. Stinson, Vice President—Farley Project, Southern Nuclear Operating Company, Inc., Joseph M.

Farley Nuclear Plant, Units 1 and 2, Docket Nos. 50-348 & 50-364, License Nos. NPF-2 & NPF-8, 40 Inverness Center Parkway, Birmingham, Alabama 35242.

Mr. H.L. Sumner, Jr., Vice President—Nuclear, Hatch Project, Southern Nuclear Operating Company, Inc., Edwin I. Hatch Nuclear Plant, Units 1 and 2, Docket Nos. 50-321 & 50-366, License Nos. DPR-57 & NPF-5, 40 Inverness Center Parkway, Birmingham, Alabama 35242.

Mr. G.R. Peterson, Vice President, Duke Energy Corporation, William B. McGuire Nuclear Station, Units 1 and 2, Docket Nos. 50-369 & 50-370, License Nos. NPF-9 & NPF-17, 12700 Hagers Ferry Road, Huntersville, NC 28078.

Mr. Ronald A. Jones, Vice President, Oconee Site, Duke Energy Corporation, Oconee Nuclear Station, Units 1, 2 and 3, Docket Nos. 50-269, 50-270, & 50-287, License Nos. DPR-38, DPR-47, & DPR-55, 7800 Rochester Highway, Seneca, SC 29672.

Mr. Don E. Grissette, Vice President, Southern Nuclear Operating Company, Inc., Vogtle Electric Generating Plant, Units 1 and 2, Docket Nos. 50-424 & 50-425, License Nos. NPF-68 & NPF-81, 40 Inverness Center Parkway, Birmingham, Alabama 35242.

Mr. C.J. Gannon, Vice President, Carolina Power & Light Company, Progress Energy, Inc., Brunswick Steam Electric Plant, Units 1 and 2, Docket Nos. 50-325 & 50-324, License Nos. DPR-71 & DPR-62, Hwy 87, 2.5 Miles North, Southport, North Carolina 28461.

Mr. James Scarola, Vice President, Carolina Power & Light Company, Shearon Harris Nuclear Power Plant, Unit 1, Docket No. 50-400, License No. NPF-63, 5413 Shearon Harris Road, New Hill, North Carolina 27562-0165.

Mr. Dale E. Young, Vice President, ATTN: Supervisor, Licensing and Regulatory Programs, Florida Power Corporation, Crystal River Nuclear Generating Plant, Unit 3, Docket No. 050-302, License No. DPR-72, 15760 W. Power Line Street, Crystal River, Florida 34428-6708.

Mr. J.W. Moyer, Vice President Carolina Power & Light Company, Progress Energy, H. B. Robinson Steam Electric Plant, Unit 2, Docket No. 50-261, License No. DPR-23, 3581 West Entrance Road, Hartsville, South Carolina 29550.

Karl W. Singer, Chief Nuclear Officer and Executive Vice President, Tennessee Valley Authority, Browns

- Ferry Nuclear Plant, Units 1, 2 and 3, Watts Bar Nuclear Plant, Unit 1, Sequoyah Nuclear Plant, Units 1 and 2 (Ops5n), Docket Nos. 50-259, 50-260, 50-296, 50-390, 50-327, & 50-328, License Nos. DPR-33, DPR-52, DPR-68, NPF-90, DPR-77, & DPR-79, 6A Lookout Place, 1101 Market Street, Chattanooga, Tennessee 37402-2801.
- Mr. J.A. Stall, Senior Vice President, Nuclear and Chief Nuclear Officer, Florida Power and Light Company, St. Lucie, Units 1 and 2, Turkey Point Nuclear Generating Station, Units 3 and 4, Docket Nos. 50-335, 50-389, 50-250, & 50-251, License Nos. DPR-67, NPF-16, DPR-31, & DPR-41, 700 Universe Boulevard, Juno Beach, Florida 33408-0420.
- Mr. Mano K. Nazar, Senior Vice President and Chief Nuclear Officer, Indiana Michigan Power Company, Donald C. Cook Nuclear Plant, Units 1 and 2, Docket Nos. 50-315 & 50-316, License Nos. DPR-58 & DPR-74, Nuclear Generation Group, 500 Circle Drive, Buchanan, MI 49107.
- Mr. Mark A. Peifer, Site Vice President, Nuclear Management Company, LLC, Duane Arnold Energy Center, Docket No. 50-331, License No. DPR-49, 3277 DAEC Road, Palo, IA 52324-9785.
- Mr. William T. O'Connor, Jr., Vice President-Nuclear Generation, Detroit Edison Company, Fermi, Unit 2, Docket No. 50-341, License No. NPF-43, 6400 North Dixie Highway, Newport, MI 48166.
- Mr. Thomas Coutu, Site Vice President, Nuclear Management Company, LLC, Kewaunee Nuclear Power Plant, Docket No. 50-305, License No. DPR-43, N490 Highway 42, Kewaunee, WI 54216-9511.
- Mr. Thomas J. Palmisano, Site Vice President, Nuclear Management Company, LLC, Monticello Nuclear Generating Plant, Docket No. 50-263, License No. DPR-22, 2807 West County Road 75, Monticello, MN 55362-9637.
- Mr. Daniel J. Malone, Site Vice President, Nuclear Management Company, LLC, Palisades Nuclear Plant, Docket No. 50-255, License No. DPR 20, 27780 Blue Star Memorial Highway, Covert, MI 49043-9530.
- Mr. Dennis L. Kochl, Site Vice President, Nuclear Management Company, LLC, Point Beach Nuclear Plant, Units 1 and 2, Docket Nos. 50-266 & 50-301, License Nos. DPR-24 & DPR-27, 6590 Nuclear Road, Two Rivers, WI 54241-9516.
- Mr. Joseph M. Solymossy, Site Vice President, Nuclear Management Company, LLC, Prairie Island Nuclear Generating Plant, Units 1 and 2, Docket Nos. 50-282 & 50-306, License Nos. DPR-42 & DPR-60, 1717 Wakonade Drive East, Welch, MN 55089.
- Mr. Christopher M. Crane, President and Chief Nuclear Officer, Exelon Generation Company, LLC, AmerGen Energy Company, LLC, Braidwood Station, Units 1 and 2, Byron Station, Units 1 and 2, Dresden Nuclear Power Station, Units 2 and 3, LaSalle County Station, Units 1 and 2, Quad Cities Nuclear Power Station, Units 1 and 2, Limerick Generating Station, Units 1 and 2, Peach Bottom Atomic Power Station, Units 2 and 3, Oyster Creek Nuclear Generating Station, Clinton Power Station, Three Mile Island Nuclear Station, Unit 1, Docket Nos. 50-456, 50-457, 50-454, 50-455, 50-237, 50-249, 50-373, 50-374, 50-254, 50-265, 50-352, 50-353, 50-277, 50-278, 50-219, 50-461, & 50-289, License Nos. NPF-72, NPF-77, NPF-37, NPF-66, DPR-19, DPR-25, NPF-11, NPF-18, DPR-29, DPR-30, NPF-39, NPF-85, DPR-44, DPR-56, DPR-16, NPF-62, & PR-50, 4300 Winfield Road, Warrenville, IL 60555.
- Mr. Mark Bezilla, Vice President, Davis-Besse, FirstEnergy Nuclear Operating Company, Davis-Besse Nuclear Power Station, Docket No. 50-346, License No. NPF-3, 5501 North State Route 2, Oak Harbor, OH 43449-9760.
- Mr. Lew W. Myers, Chief Operating Officer, FirstEnergy Nuclear Operating Company, Perry Nuclear Power Plant, Unit 1, Docket No. 50-440, License No. NPF-58, 10 North Center Street, Perry, OH 44081.
- Mr. Jeffrey S. Forbes, Site Vice President, Entergy Operations, Inc., Arkansas Nuclear One, Units 1 and 2, Docket Nos. 50-313 & 50-368, License Nos. DPR-51 & NPF-6 1448 S. R. 333, Russellville, AR 72802.
- M.R. Blevins, Senior Vice President and Principal Nuclear Officer, TXU Generation Company, LP, Comanche Peak Steam Electric Station, Units 1 and 2, Docket Nos. 50-445 & 50-446, License Nos. NPF-87 & NPF-89, 5 Miles North of Glen Rose, Glen Rose, TX 76043.
- Mr. Randall K. Edington, Vice President-Nuclear and CNO, Nebraska Public Power District, Cooper Nuclear Station, Docket No. 50-298, License No. Dpr-46, 1200 Prospect Road, Brownville, NE 68321.
- Mr. George A. Williams, Site Vice President, Entergy Operations, Inc., Grand Gulf Nuclear Station, Unit 1, Docket No. 50-416, License No. NPF-29, Waterloo Road, Port Gibson, MS 39150.
- Mr. Paul D. Hinnenkamp, Vice President—Operations, Entergy Operations, Inc., River Bend Station, Unit 1, Docket No. 50-458, License No. NPF-47, 5485 U.S. Highway 61N, St. Francisville, LA 70775.
- Mr. James J. Sheppard, President and Chief Executive Officer, South Texas Project Nuclear Operating Company, Docket Nos. 50-498 & 50-499, License Nos. NPF-76 & NPF-80, South Texas Project Electric Generating Company, Units 1 and 2, 8 Miles West of Wadsworth, on FM 521, Wadsworth, TX 77483.
- Joseph E. Venable, Vice President Operations, Entergy Operations, Inc., Waterford Steam Electric Generating Station, Unit 3, Docket No. 50-382, License No. NPF-38, 17265 River Road, Killona, LA 70057-2065.
- Mr. Garry L. Randolph, Vice President and Chief Nuclear Officer, Union Electric Company, Callaway Plant, Unit 1, Docket No. 50-483, License No. NPF-30, Junction Hwy CC & Hwy O: 5 Miles North of Hwy 94, Portland, MO 65067.
- Mr. Gregory M. Rueger, Senior Vice President, Generation and Chief Nuclear Officer, Pacific Gas and Electric Company, Diablo Canyon Nuclear Power Plant, Units 1 and 2, Docket Nos. 50-275 & 50-323, License Nos. DPR-80 & DPR-82, 9 Miles Northwest of Avila Beach, Avila Beach, CA 93424.
- Mr. R.T. Ridenoure, Vice President—Chief Nuclear Officer, Omaha Public Power District, Fort Calhoun Station, Unit 1, Docket No. 50-285, License No. DPR-40, Fort Calhoun Station FC-2-4 Adm., 444 South 16th Street Mall, Omaha, NE 68102-2247.
- Mr. Gregg R. Overbeck, Senior Vice President, Nuclear, Arizona Public Service Company, Palo Verde Nuclear Generating Station, Units 1, 2 and 3, Docket Nos. 50-528, 50-529, & 50-530, License Nos. NPF-41, NPF-51, & NPF-74, 5801 S. Wintersburg Road, Tonopah, AZ 85354-7529.
- Harold B. Ray, Executive Vice President, Southern California Edison Company, San Onofre Nuclear Station, Units 2 and 3, Docket Nos. 50-361 & 50-362, License Nos. NPF-10 & NPF-15, 5000 Pacific Coast Highway, San Clemente, CA 92674.
- Mr. J.V. Parrish, Chief Executive Officer, Energy Northwest, Columbia Generating Station, Docket No. 50-397, License No. NPF-21, Snake River Warehouse, North Power Plant Loop, Richland, WA 99352.
- Mr. Rick A. Muench, President and Chief Executive Officer, Wolf Creek Nuclear Operating Corporation, Wolf Creek Generating Station, Unit 1, Docket No. 50-482, License No. NPF-

- 42, 1550 Oxen Lane, NE., Burlington, KS 66839.
- Mr. Jeffrey B. Archie, Senior Vice President, Nuclear Operations, South Carolina Electric and Gas Company, Virgil C. Summer Nuclear Station, Docket No. 50-395, License No. NPF-12, Hwy 215N at O.S. Bradham Boulevard, Jenkinsville, South Carolina 29065.
- Research and Test Reactor Licensees*
- Mr. Ray Tsukimura, President, Aerotest Operations Inc., 3455 Fostoria Way, San Ramon, CA 94583.
- Mr. Stephen I. Miller, Reactor Facility Director, Armed Forces Radiobiology Research Institute, Naval Medical Center, 8901 Wisconsin Ave., Bethesda, MD 20889-5603.
- Howard C. Aderhold, Director, Ward Center for Nuclear Sciences, Cornell University, 112 Ward Laboratory, Ithaca, NY 14853.
- Mr. Ward L. Rigot, Facility Director and Reactor Supervisor, Dow Chemical Company, 1602 Building, Midland, MI 48674.
- Dr. Keith E. Asmussen, General Atomics, 3550 General Atomics Court, San Diego, CA 92121-1122.
- David Turner, Vallecitos Nuclear Center, General Electric Company, 6705 Vallecitos Road, Sunol, CA 94586.
- Dr. John S. Bennion, Reactor Manager/Supervisor, Idaho State University, P.O. Box 8060, Pocatello, ID 83209.
- Mr. Michael Whaley, Manager, KSU Nuclear Reactor Facility, 112 Ward Hall, Kansas State University, Manhattan, KS 66506-5204.
- Dr. Robert E. Berlin, Manhattan College, 35 Sterling Pines Road, Tuxedo, NY 10987.
- Dr. John Bernard, Director of Reactor Operations, Nuclear Reactor Laboratory, Massachusetts Institute of Technology, 138 Albany Street, Mail Stop NW. 12-208, Cambridge, MA 02139.
- Andrew Cook, Nuclear Reactor Program, North Carolina State University, 2500 Stinson Drive, Raleigh, NC 27695.
- Seymour H. Weiss, NIST Center for Neutron Research, National Institute of Standards and Technology, U.S. Department of Commerce, 100 Bureau Drive, Stop 8561, Gaithersburg, MD 20899-8561.
- Gerald D. Wicks, Nuclear Reactor Program, North Carolina State University, 2500 Stinson Drive, Raleigh, NC 27695.
- Andrew C. Kauffman, The Ohio State University, Nuclear Reactor Laboratory, 1298 Kinnear Road, Columbus OH, 43212-1154.
- Andy Klein, 100 Radiation Center, Oregon State University, Corvallis, OR 97331.
- Fred Sears, Breazeale Nuclear Reactor, Penn State University, University Park, PA 16802.
- Edward Merritt, Purdue University, Nuclear Engineering Bldg., 400 Central Dr., West Lafayette, IN 47907-2017.
- Mr. Stephen G. Frantz, Director, Reed Reactor Facility, Reed College, 3203 SE Woodstock Blvd., Portland, OR 97202.
- Mr. Glenn C. Winters, Director, Rensselaer Polytechnic Institute, 110 8th Street, Nuclear Engineering and Science Building, Troy, NY 12180-3590.
- Terence Tehan, Rhode Island Atomic Energy Commission, Rhode Island Nuclear Science Center, 16 Reactor Road, Narragansett, RI 02882-1165.
- Mr. G.A. Kuehn, Jr., Vice President SNEC and Program Director, SNEC Facility, GPU Nuclear, Inc., Route 441 South, P.O. Box 480, Middletown, PA 17057.
- David Vasbinder, Occupational and Environmental Safety, University at Buffalo, 220 Winspear Avenue, Buffalo, NY 14214-1034.
- Robert O. Berry, Department of Nuclear Engineering, Texas A&M University, Mail Stop 3133, College Station, Texas 77843-3133.
- Jim Remlinger, Nuclear Science Center, Texas Engineering Experiment Station, 1095 Nuclear Science Road, College Station, Texas 77843.
- Tim DeBey, U.S. Geological Survey, 6th and Kipling, Denver Federal Center, Building 15, MS 974, Denver, Colorado 80225.
- John G. Williams, Nuclear Reactor Laboratory, University of Arizona, Old Engineering Building, Room 114, Tucson, AZ 85721-0020.
- Dr. David M. Slaughter, Director, UC Davis McClellan Nuclear Research Center, 5335 Price Avenue, McClellan, CA 95652.
- George Miller, Department of Chemistry, UC Irvine, 326 Rowland Hall, Irvine, CA 92697-2025.
- Dr. William Vernetson, PhD, Director of Nuclear Facilities, University of Florida, 202 Nuclear Science Building, Gainesville, FL 32611-8300.
- Rich Holm, 214 NEL, University of Illinois, 103 South Goodwin Avenue, Urbana, Illinois 61801.
- Vincent Adams, University of Maryland, Department of Materials & Nuclear Engineering, Bldg. 090 Room 2308, College Park, MD 20742-2115.
- Leo Bobek, Nuclear Radiation Laboratory, University of Massachusetts Lowell, One University Avenue, Pinanski Energy Center, Lowell, MA 01854.
- Chris Becker, Phoenix Memorial Laboratory, Ford Nuclear Reactor, University of Michigan, 2301 Bonisteel Boulevard, Ann Arbor, MI 48109-2100.
- Ralph Butler, MU Research Reactor, 1513 Research Park, Columbia, Missouri 65211.
- Akira T. Tokuhito, Nuclear Reactor Facility, 1870 Miner Circle, Rolla, MO 65409-0630.
- Dr. Robert D. Busch, Chief Reactor Supervisor, Chemical and Nuclear Engineering Department, University of New Mexico, 209 Farris Engineering Department, Albuquerque, NM 87131-1341.
- David S. O'Kelly, Nuclear Engineering Teaching Lab, University of Texas, 10100 Burnet Road, Austin, TX 78758.
- Paul E. Benneche, Acting Director, UVA Nuclear Reactor Facility, P.O. Box 400322, Charlottesville, VA 22904-4322.
- Melinda Krahenbuhl, 122 S. Central Campus Drive, Room 104, University of Utah, Salt Lake City, UT 84112.
- Robert J. Agasie, Reactor Director, Nuclear Reactor Laboratory, 1513 University Avenue, Room 141ME, University of Wisconsin, Madison, WI 53706-1687.
- Gerald E. Tripart, Nuclear Radiation Center, Roundtop Drive, Washington State University, Pullman, WA 99164-1300.
- Mr. Stephen J. LaFlamme, Director, Nuclear Reactor Facility, Worcester Polytechnic Institute, 100 Institute Road, Worcester, MA 01609-2280.
- Stanley Addison, RSO, Radiation Safety Office, 201 Hall Health Center, University of Washington, Seattle, WA 98195-4400.
- Erhard W. Koehler, Manager Direct Programs, U.S. Maritime Administration, 400 7th Street, Washington, DC 20590.
- Dr. Lynell W. Klassen, Associate Chief of Staff Research and Development 151, Reactor Manager, Veterans Affairs Medical Center, 4101 Woolworth Avenue, Omaha, NE 68105.
- Mr. Richard K. Smith, Viacom, Gateway Center, 11 Stanwix Street, Pittsburgh, PA 15222.

The service list of Materials Licensees receiving this Order has been redacted.

Attachment 2: Modified Handling Requirements for the Protection of Certain Safeguards Information (SGI-M)

General Requirement

Information and material that the U.S. Nuclear Regulatory Commission (NRC) determines are Safeguards Information must be protected from unauthorized disclosure. In order to distinguish information needing modified protection requirements from the Safeguards Information for reactors and fuel cycle facilities that require a higher level of protection, the term "Safeguards Information Modified Handling" (SGI-M) is being used as the distinguishing marking for certain materials licensees. Each person who produces, receives, or acquires SGI-M shall ensure that it is protected against unauthorized disclosure. To meet this requirement, licensees and persons shall establish and maintain an information protection system that includes the measures specified below. Information protection procedures employed by state and local police forces are deemed to meet these requirements.

Persons Subject to These Requirements

Any person, whether or not a licensee of the NRC, who produces, receives, or acquires SGI-M is subject to the requirements (and sanctions) of this document. Firms and their employees that supply services or equipment to materials licensees would fall under this requirement, if they possess facility SGI-M. A licensee must inform contractors and suppliers of the existence of these requirements and the need for proper protection (See more under Conditions for Access).

State or local police units who have access to SGI-M are also subject to these requirements. However, these organizations are deemed to have adequate information protection systems. The conditions for transfer of information to a third party, (*i.e.*, need-to-know) would still apply to the police organization, as would sanctions for unlawful disclosure. Again, it would be prudent for licensees who have arrangements with local police to advise them of the existence of these requirements.

Criminal and Civil Sanctions

The Atomic Energy Act of 1954, as amended, explicitly provides that any person, "whether or not a licensee of the Commission, who violates any regulations adopted under this section shall be subject to the civil monetary penalties of section 234 of this Act." Furthermore, willful violation of any

regulation or order governing Safeguards Information is a felony subject to criminal penalties in the form of fines or imprisonment, or both. See sections 147b. and 223 of the Act.

Conditions for Access

Access to SGI-M beyond the initial recipients of the order will be governed by the background check requirements imposed by the order. Access to SGI-M by licensee employees, agents, or contractors must include both an appropriate need-to-know determination by the licensee, as well as a determination concerning the trustworthiness of individuals having access to the information. Employees of an organization affiliated with the licensee's company, *e.g.*, a parent company, may be considered as employees of the licensee for access purposes.

Need-To-Know

Need-to-know is defined as a determination by a person having responsibility for protecting SGI-M that a proposed recipient's access to SGI-M is necessary in the performance of official, contractual, or licensee duties of employment. The recipient should be made aware that the information is SGI-M and those having access to it are subject to these requirements as well as criminal and civil sanctions for mishandling the information.

Occupational Groups

Dissemination of SGI-M is limited to individuals who have an established need-to-know and who are members of certain occupational groups. These occupational groups are:

- I. An employee, agent, or contractor of an applicant, a licensee, the Commission, or the United States Government;
- II. A member of a duly authorized committee of the Congress;
- III. The Governor of a State or his designated representative;
- IV. A representative of the International Atomic Energy Agency (IAEA) engaged in activities associated with the U.S./IAEA Safeguards Agreement who has been certified by the NRC;
- V. A member of a state or local law enforcement authority that is responsible for responding to requests for assistance during safeguards emergencies;
- VI. A person to whom disclosure is ordered pursuant to Section 2.744(e) of Part 2 of Part 10 of the Code of Federal Regulations; or

VII. State Radiation Control Program Directors (and State Homeland Security Directors) or their designees.

In a generic sense, the individuals described above in (II) through (VII) are considered to be trustworthy by virtue of their employment status. For non-governmental individuals in group (I) above, a determination of reliability and trustworthiness is required. Discretion must be exercised in granting access to these individuals. If there is any indication that the recipient would be unwilling or unable to provide proper protection for the SGI-M, they are not authorized to receive SGI-M.

Information Considered for Safeguards Information Designation

Information deemed SGI-M is information the disclosure of which could reasonably be expected to have a significant adverse effect on the health and safety of the public or the common defense and security by significantly increasing the likelihood of theft, diversion, or sabotage of materials or facilities subject to NRC jurisdiction.

SGI-M identifies Safeguards Information which is subject to these requirements. These requirements are necessary in order to protect quantities of nuclear material significant to the health and safety of the public or common defense and security.

The overall measure for consideration of SGI-M is the usefulness of the information (security or otherwise) to an adversary in planning or attempting a malevolent act. The specificity of the information increases the likelihood that it will be useful to an adversary.

Protection While in Use

While in use, SGI-M shall be under the control of an authorized individual. This requirement is satisfied if the SGI-M is attended by an authorized individual even though the information is in fact not constantly being used. SGI-M, therefore, within alarm stations, continuously manned guard posts or ready rooms need not be locked in file drawers or storage containers.

Under certain conditions the general control exercised over security zones or areas would be considered to meet this requirement. The primary consideration is limiting access to those who have a need-to-know. Some examples would be:

Alarm stations, guard posts and guard ready rooms;

Engineering or drafting areas if visitors are escorted and information is not clearly visible;

Plant maintenance areas if access is restricted and information is not clearly visible;

Administrative offices (e.g., central records or purchasing) if visitors are escorted and information is not clearly visible;

Protection While in Storage

While unattended, SGI-M shall be stored in a locked file drawer or container. Knowledge of lock combinations or access to keys protecting SGI-M shall be limited to a minimum number of personnel for operating purposes who have a "need-to-know" and are otherwise authorized access to SGI-M in accordance with these requirements. Access to lock combinations or keys shall be strictly controlled so as to prevent disclosure to an unauthorized individual.

Transportation of Documents and Other Matter

Documents containing SGI-M when transmitted outside an authorized place of use or storage shall be enclosed in two sealed envelopes or wrappers. The inner envelope or wrapper shall contain the name and address of the intended recipient, and be marked both sides, top and bottom with the words "Safeguards Information—Modified Handling." The outer envelope or wrapper must be addressed to the intended recipient, must contain the address of the sender, and must not bear any markings or indication that the document contains SGI-M.

SGI-M may be transported by any commercial delivery company that provides nation-wide overnight service with computer tracking features, U.S. first class, registered, express, or certified mail, or by any individual authorized access pursuant to these requirements. Within a facility, SGI-M may be transmitted using a single opaque envelope. It may also be transmitted within a facility without single or double wrapping, provided adequate measures are taken to protect the material against unauthorized disclosure. Individuals transporting SGI-M should retain the documents in their personal possession at all times or ensure that the information is appropriately wrapped and also secured to preclude compromise by an unauthorized individual.

Preparation and Marking of Documents

While the NRC is the sole authority for determining what specific information may be designated as "SGI-M," originators of documents are responsible for determining whether those documents contain such information. Each document or other matter that contains SGI-M shall be marked "Safeguards Information—

Modified Handling" in a conspicuous manner on the top and bottom of the first page to indicate the presence of protected information. The first page of the document must also contain (i) the name, title, and organization of the individual authorized to make a SGI-M determination, and who has determined that the document contains SGI-M, (ii) the date the document was originated or the determination made, (iii) an indication that the document contains SGI-M, and (iv) an indication that unauthorized disclosure would be subject to civil and criminal sanctions. Each additional page shall be marked in a conspicuous fashion at the top and bottom with letters denoting "Safeguards Information—Modified Handling."

In addition to the "Safeguards Information—Modified Handling" markings at the top and bottom of page, transmittal letters or memoranda which do not in themselves contain SGI-M shall be marked to indicate that attachments or enclosures contain SGI-M but that the transmittal does not (e.g., "When separated from SGI-M enclosure(s), this document is decontrolled").

In addition to the information required on the face of the document, each item of correspondence that contains SGI-M shall, by marking or other means, clearly indicate which portions (e.g., paragraphs, pages, or appendices) contain SGI-M and which do not. Portion marking is not required for physical security and safeguards contingency plans.

All documents or other matter containing SGI-M in use or storage shall be marked in accordance with these requirements. A specific exception is provided for documents in the possession of contractors and agents of licensees that were produced more than one year prior to the effective date of the order. Such documents need not be marked unless they are removed from file drawers or containers. The same exception applies to old documents stored away from the facility in central files or corporation headquarters.

Since information protection procedures employed by state and local police forces are deemed to meet NRC requirements, documents in the possession of these agencies need not be marked as set forth in this document.

Removal From SGI-M Category

Documents containing SGI-M shall be removed from the SGI-M category (decontrolled) only after the NRC determines that the information no longer meets the criteria of SGI-M. Licensees have the authority to make

determinations that specific documents *which they created* no longer contain SGI-M information and may be decontrolled. Consideration must be exercised to ensure that any document decontrolled shall not disclose SGI-M in some other form or be combined with other unprotected information to disclose SGI-M.

The authority to determine that a document may be decontrolled may be exercised only by, or with the permission of, the individual (or office) who made the original determination. The document shall indicate the name and organization of the individual removing the document from the SGI-M category and the date of the removal. Other persons who have the document in their possession should be notified of the decontrolling of the document.

Reproduction of Matter Containing SGI-M

SGI-M may be reproduced to the minimum extent necessary consistent with need without permission of the originator. Newer digital copiers which scan and retain images of documents represent a potential security concern. If the copier is retaining SGI-M information in memory, the copier cannot be connected to a network. It should also be placed in a location that is cleared and controlled for the authorized processing of SGI-M information. Different copiers have different capabilities, including some which come with features that allow the memory to be erased. Each copier would have to be examined from a physical security perspective.

Use of Automatic Data Processing (ADP) Systems

SGI-M may be processed or produced on an ADP system provided that the system is assigned to the licensee's or contractor's facility and requires the use of an entry code/password for access to stored information. Licensees are encouraged to process this information in a computing environment that has adequate computer security controls in place to prevent unauthorized access to the information. An ADP system is defined here as a data processing system having the capability of long term storage of SGI-M. Word processors such as typewriters are not subject to the requirements as long as they do not transmit information off-site. (**Note:** If SGI-M is produced on a typewriter, the ribbon must be removed and stored in the same manner as other SGI-M information or media.) The basic objective of these restrictions is to prevent access and retrieval of stored SGI-M by unauthorized individuals,

particularly from remote terminals. Specific files containing SGI-M will be password protected to preclude access by an unauthorized individual. The National Institute of Standards and Technology (NIST) maintains a listing of all validated encryption systems at <http://csrc.nist.gov/cryptval/140-1/1401val.htm>. SGI-M files may be transmitted over a network if the file is encrypted. In such cases, the licensee will select a commercially available encryption system that NIST has validated as conforming to Federal Information Processing Standards (FIPS). SGI-M files shall be properly labeled as "Safeguards Information—Modified Handling" and saved to removable media and stored in a locked file drawer or cabinet.

Telecommunications

SGI-M may not be transmitted by unprotected telecommunications circuits except under emergency or extraordinary conditions. For the purpose of this requirement, emergency or extraordinary conditions are defined as any circumstances that require immediate communications in order to report, summon assistance for, or respond to a security event (or an event that has potential security significance).

This restriction applies to telephone, telegraph, teletype, facsimile circuits, and to radio. Routine telephone or radio transmission between site security personnel, or between the site and local police, should be limited to message formats or codes that do not disclose facility security features or response procedures. Similarly, call-ins during transport should not disclose information useful to a potential adversary. Infrequent or non-repetitive telephone conversations regarding a physical security plan or program are permitted provided that the discussion is general in nature.

Individuals should use care when discussing SGI-M at meetings or in the presence of others to insure that the conversation is not overheard by persons not authorized access.

Transcripts, tapes or minutes of meetings or hearings that contain SGI-M shall be marked and protected in accordance with these requirements.

Destruction

Documents containing SGI-M should be destroyed when no longer needed. They may be destroyed by tearing into small pieces, burning, shredding or any other method that precludes reconstruction by means available to the public at large. Piece sizes one half inch or smaller composed of several pages or documents and thoroughly mixed

would be considered completely destroyed.

[FR Doc. 04-25170 Filed 11-10-04; 8:45 am]

BILLING CODE 7590-01-P

POSTAL RATE COMMISSION

Sunshine Act Meetings

NAME OF AGENCY: Postal Rate Commission.

TIME AND DATE: Tuesday, November 16, 2004, at 2:30 p.m.

PLACE: Commission conference room, 1333 H Street, NW., Suite 300, Washington, DC 20268-0001.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

Consideration of Docket No. MC2004-3, Rate and Service Changes to Implement Functionally Equivalent Negotiated Service Agreement with Bank One Corporation.

CONTACT PERSON FOR MORE INFORMATION:

Stephen L. Sharfman, General Counsel, Postal Rate Commission, Suite 300, 1333 H Street, NW., Washington, DC 20268-0001, 202-789-6820.

Dated: November 8, 2004.

Steven W. Williams,
Secretary.

[FR Doc. 04-25297 Filed 11-9-04; 12:57 pm]

BILLING CODE 7710-FW-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. IA-2321/803-178]

The Charles Talbot Fund; Notice of Application

November 5, 2004.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for Exemption under the Investment Advisers Act of 1940 ("Advisers Act" or "Act").

APPLICANT: The Charles Talbot Fund (the "Fund" or "Applicant").

RELEVANT ADVISERS ACT SECTIONS: Exemption requested under section 205(e) of the Advisers Act from section 205(a)(1) of that Act.

SUMMARY OF APPLICATION: Applicant requests an order under section 205(e) of the Advisers Act to permit registered investment advisers to charge it performance-based advisory fees notwithstanding the prohibition set forth in section 205(a)(1) of the Act.

FILING DATES: The application was filed on October 28, 2003, and amended on

March 12, 2004, and amended further on May 7, 2004.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving the Applicant with a copy of the request, either personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m., on November 30, 2004, and should be accompanied by proof of service on Applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: *Secretary:* SEC, 450 Fifth Street, NW., Washington, DC 20549. *Applicant:* The Charles Talbot Fund, 46775 Ann Arbor Trail, Plymouth, Michigan, 48170.

FOR FURTHER INFORMATION CONTACT: Marilyn Barker, Senior Counsel, or Jennifer L. Sawin, Assistant Director, Division of Investment Management, Office of Investment Adviser Regulation, at (202) 942-0719.

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant is a Michigan limited partnership formed in 1978 for general investment purposes so as to facilitate and simplify the investment of assets owned by the Talbot family. Applicant represents that the Fund is the Talbot family's principal investment vehicle, and is exempt from registration as an investment company under section 3(c)(1) of the Investment Company Act of 1940 (the "Investment Company Act").¹

2. Charles F. Talbot, Jr., is the Fund's general partner. Mr. Talbot is compensated for services as general partner by pro rata participation in the gain or loss of the partnership. He is reimbursed for actual hours spent in the partnership business such as accounting. The Fund has no other executives or employees.

¹ Section 3(c)(1) generally excepts from the definition of investment company under the Investment Company Act any issuer whose outstanding securities are beneficially owned by not more than 100 persons and which is not making, and does not presently propose to make, a public offering of its securities.

3. Applicant represents that Mr. Talbot is solely responsible for making the investment decisions for the Fund. At present, Mr. Talbot owns more than 90 percent of the Fund's capital.

4. The Fund's limited partners currently consist of Mr. Talbot's wife, three of Mr. Talbot's adult children and one of their spouses, eight of Mr. Talbot's grandchildren, and a small partnership ("BIF") whose partners currently consist of Mr. Talbot and one of his adult children.² Mr. Talbot's children acquired their interests in the Fund with assets received as gifts from Mr. Talbot's parents; Mr. Talbot's grandchildren acquired their interests as gifts from Mr. Talbot or from him and his former spouse. Mr. Talbot's daughter acquired her interest in the BIF partnership as a gift from Mr. Talbot.

5. Applicant represents that the partners of the Fund will be limited to Mr. Talbot, his siblings, spouse, direct lineal descendants by birth or adoption, spouses of such persons, estates of such persons, and trusts established by or for the benefit of such persons (collectively, "Family Members"), as well as partnerships whose partners consist only of Family Members.

6. Applicant states that it wants to participate in investment opportunities managed by registered investment advisers that seek to charge it a performance-based advisory fee pursuant to rule 205-3 under the Advisers Act. Applicant represents further that neither it nor any of its partners has any relationship (other than a present investment relationship) with, or is an affiliate or an interested person of, any registered investment adviser that would seek to charge it a performance fee pursuant to rule 205-3.

7. Applicant represents that the Fund is a "qualified purchaser" as defined in section 2(a)(51)(A)(ii) of the Investment Company Act³ and satisfies the net worth requirement for a "qualified client" as set forth in rule 205-3(d)(1) under the Advisers Act.⁴ Applicant

represents further that Mr. Talbot is a "qualified client" as defined in rule 205-3(d)(1) under the Advisers Act.

8. Applicant states that, of Mr. Talbot's children and grandchildren, only one is a "qualified client."

Applicant's Legal Analysis

1. Section 205(a)(1) of the Advisers Act generally prohibits a registered investment adviser, unless exempt from registration pursuant to section 203(b) of the Act, from entering into, extending, renewing, or performing under any investment advisory contract that provides for compensation based upon "a share of capital gains upon or capital appreciation of the funds or any portion of the funds of the client," commonly referred to as performance-based compensation or a performance fee.

2. Rule 205-3(a) under the Act provides an exemption from the prohibition in section 205(a)(1) provided each client entering into an investment advisory contract that provides for performance-based compensation is a "qualified client." Under rule 205-3(b), each equity owner of a "private investment company" is considered a client for purposes of rule 205-3(a).⁵ Applicant asserts that the Fund is a private investment company.

3. Because a number of the Fund's limited partners are not qualified clients, the Fund may not be treated as meeting the requirements of rule 205-3(a).

4. Applicant requests an order under section 205(e) of the Advisers Act granting an exemption from section 205(a)(1) of the Act so as to permit registered investment advisers to charge the Fund performance fees. Applicant asks that the relief requested be applicable to any Family Members that are not qualified clients and that are now or may later be admitted as partners in the Fund or the BIF partnership.

5. Section 205(e) of the Advisers Act provides that the Commission, by order upon application, may exempt any person, or any class or classes of persons, from section 205(a)(1) of the Act, if and to the extent that the exemption relates to an investment advisory contract with any person that the Commission determines does not need the protection of section 205(a)(1), on the basis of such factors as financial sophistication, net worth, knowledge of and experience in financial matters, and

such other factors as the Commission determines are consistent with section 205.

6. Applicant asserts that exemptive relief to permit the Fund to be charged performance fees is appropriate and consistent with the purposes of 205(a)(1) of the Advisers Act. Applicant asserts that the request for relief complies with the factors specified in section 205(e) of the Act. Applicant states that Mr. Talbot, the sole investment decision-maker for the Fund, is a qualified client meeting the net worth requirement of rule 205-3(d)(1)(ii)(A) under the Act. Applicant asserts that Mr. Talbot is financially sophisticated, has substantial knowledge of and experience in financial matters, and is fully able to assess the potential risks of performance fees. Applicant further asserts that Mr. Talbot has a father's or grandfather's love for his family and may be reasonably presumed to act in the best interests of the Family Members.

7. Applicant further asserts that Mr. Talbot's children have substantial experience and are financially sophisticated, which provides an extra layer of protection for their interests as well as those of their children.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. E4-3148 Filed 11-10-04; 8:45 am]

BILLING CODE 8010-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-50637; File No. SR-Amex-2004-86]

Self-Regulatory Organizations; American Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to the Trading of Exchange Traded Fund Shares Pursuant to Unlisted Trading Privileges

November 5, 2004.

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 October 26, 2004, the American Stock Exchange LLC ("Amex" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

² Applicant represents that Mr. Talbot is the general partner of, and is solely responsible for the investment decisions for, the BIF partnership.

³ Applicant asserts that limiting partnership in the Fund to Family Members will assure that the Fund will continue to be a qualified purchaser under section 2(a)(51)(A)(ii).

⁴ Rule 205-3(d)(1) includes, as "qualified clients," a natural person who or a company that immediately after entering into the contract has at least \$750,000 under the management of the investment adviser; a natural person who or a company that the investment adviser reasonably believes, immediately prior to entering into the contract, to have a net worth exceeding \$1.5 million or to be a "qualified purchaser" as defined in section 2(a)(51)(A) of the Investment Company Act at the time the contract is entered into; and certain personnel of the investment adviser.

⁵ Under rule 205-3(d)(3), a private investment company is a company that would be defined as an investment company under section 3(a) of the Investment Company Act of 1940 but for the exception provided from that definition by section 3(c)(1) of such Act.

The Exchange filed the proposal pursuant to Section 19(b)(3)(A) of the Act,³ and Rule 19b-4(f)(6) thereunder,⁴ which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Amex Rules 1, 118, 131 and 205 to accommodate the trading of Exchange Traded Fund Shares pursuant to the Nasdaq UTP Plan. Proposed new language is in *italics*; proposed deletions are in [brackets].

* * *

Rule 1. Hours of Business

No change.

* * * Commentary

.01 through .04 No change.

.05 The hours of business for a security traded on the Exchange pursuant to unlisted trading privileges shall *generally* be the same as the hours during which the security is traded in the primary market for such security. *Notwithstanding the foregoing, in accordance with Rules 1000 and 1000A, Portfolio Depositary Receipts and Index Fund Shares trading on the Exchange pursuant to unlisted trading privileges may trade until 4:00 p.m. or 4:15 p.m. as specified by the Exchange.*

* * *

Rule 118. Trading in Nasdaq National Market Securities

(a) through (i) No change.

(j) Odd-Lot Orders—Odd lot orders in Nasdaq National Market securities, *except for Portfolio Depositary Receipts or Index Fund Shares (collectively known as Exchange Traded Funds)*, shall be executed in the following manner:

(i) through (vi) No change.

(k) through (l) No change.

(m) Market-on-Close and Limit-on-Close Orders—The following procedures apply to market-on-close (MOC) and limit-on-close (LOC) orders in Nasdaq National Market securities. *Notwithstanding the foregoing, the following procedures will not apply to any Nasdaq National Market security the pricing of which is based on another security or an index (e.g., Exchange Traded Funds).*

(i) through (vi) No change.

(n) through (q) No change.

* * * Commentary

.01 The following rules refer to trading in Nasdaq National Market securities and should be consulted by members and member organizations trading Nasdaq National Market securities on the Floor: Rule 1 (Commentary .05); Rule 3; Rule 7 (Commentary .02); Rule 24 (b); Rule 109 (Commentary .02); Rule 115 (Commentary .01); Rule 131 (Commentary .02 and .03); Rule 156 (Commentary .01); Rule 170 (Commentary .11); Rule 175; Rule 190 (Commentary .06); and Rule 205 (Commentary .05).

* * *

Rule 131. Types of Orders

(a) through (t) No change.

* * * Commentary

.01 through .02 No change.

.03 Paragraph (a) "Market at 4:00 p.m." orders. An order in Portfolio Depositary Receipts or Index Fund Shares that trade on the Exchange until 4:15 p.m. (*including those Portfolio Depositary Receipts and Index Fund Shares trading pursuant to unlisted trading privileges*) may be designated as "market at 4:00 p.m." to denote that it is a market order which is to be executed at or as close as practicable to the close of the regular equity trading session on the exchange (normally 4:00p.m. Eastern Time).

(b) through (c) No change.

* * *

Rule 205. Manner of Executing Odd-Lot Orders

As used in this rule, except where otherwise provided or where the context otherwise requires, the term "effective transaction" refers to the round lot transaction on which the execution of the odd-lot order is to be based. Unless otherwise provided, references to round lot transactions are to transactions regular way.

No differential may be charged on any odd-lot order transactions, for either market or limit orders, except as otherwise specified in Section C(2) below.

Odd-lot orders shall be executed in the following manner:

A. through C. No change.

* * * Commentary

.01 through .04 No change.

.05 Odd-lot orders in Nasdaq National Market securities shall be executed in accordance with Rule 118(j). *Notwithstanding the foregoing, odd-lot orders in Nasdaq National Market securities that are Portfolio Depositary Receipts or Index Fund Shares shall be executed in accordance*

with the foregoing rule and commentary and not in accordance with Rule 118(j).

* * *

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

On August 2, 2002, the Exchange received Commission approval for the adoption of Rule 118 and the amendment of various other rules to provide for the trading of Nasdaq Stock Market, Inc ("Nasdaq") National Market ("NNM") securities pursuant to unlisted trading privileges ("UTP").⁵ The Exchange has been trading NNM securities since August 2002 in accordance with these rules and with provisions of the Joint Self-Regulatory Organization Plan Governing the Collection, Consolidation and Dissemination of Quotation and Transaction Information for Nasdaq-listed Securities Traded on Exchanges on an Unlisted Trading Privileges basis (the "Nasdaq UTP Plan"). Recently, the Exchange has considered trading pursuant to the UTP Plan certain Portfolio Depositary Receipts and Index Fund Shares (collectively known as "Exchange Traded Fund Shares" or "ETFs") that are or will be listed as Nasdaq NNM securities. In order to accommodate trading of such ETFs, the Exchange proposes to amend the following rules. It should be noted however that the substance of these rules would not be changed. The rule amendments would only clarify whether or not specific rules apply to ETFs trading on the Amex pursuant to the Nasdaq UTP Plan.

Rule 1. Hours of Business

Commentary .05 to Rule 1 provides that the hours of business for securities

³ 15 U.S.C. 78s(b)(3)(A).

⁴ 17 CFR 240.19b-4(f)(6).

⁵ See Securities Exchange Act Release No. 46305 (August 2, 2002), 67 FR 51609 (August 8, 2002) (SR-Amex-01-106).

traded on the Exchange pursuant to UTP shall be the same as the hours during which the security is traded in its primary market. Exchange Rules 1000 and 1000A currently provide that ETFs may trade until 4:15 p.m. each trading day, which may not coincide with the hours of trading in their primary market. Thus, the Exchange proposes to amend Commentary .05 to provide that ETFs traded pursuant to UTP may also have hours of trading that extend to 4:15 p.m. If the Exchange were to determine to trade an ETF listed on Nasdaq past the 4 p.m. closing hour, the Exchange is aware of and would make an accommodation for the requirement set forth in Section 11(B)(i) of the Nasdaq UTP Plan. Section 11(B)(i) requires the use of “.T” to designate trades in eligible securities occurring after normal market hours.

Rule 118 (j) Odd-Lot Orders

Currently, the procedures for handling odd-lot orders⁶ are different for NNM securities traded pursuant to UTP. Odd-lot procedures for equities and ETFs traded on the Exchange are more automated given the use of the Odd-lot Holding Tank (“OLHT”) for those products. The OLHT allows non-executable limit, stop, and stop limit orders to be routed to a “holding tank” for accumulation until such time as they can be automatically executed. According to the Exchange, use of the OLHT has cut down considerably on the number of orders being printed at the specialist’s post and handled manually. However, the OLHT is not currently available for NNM securities trading pursuant to UTP and Rule 118(j) sets forth different procedures for handling odd-lot orders in such securities. The Exchange expects to expand the use of the OLHT to NNM securities as soon as necessary systems changes are complete. The Exchange had a proposal pending with the Commission to amend Rule 118(j) once those changes were implemented;⁷ that proposal was withdrawn, but the Exchange will re-file it once a firm date for completion is established for the necessary systems changes. In the meantime, however, the Exchange proposes to amend Rule 118(j) to provide that NNM ETFs traded pursuant to UTP would use the OLHT and operate under the current rules and procedures for trading odd-lot orders in equities and ETFs.⁸ The Exchange believes this would be appropriate in

order to give consistency to the handling of odd-lot orders in ETFs and to provide automated handling of odd-lot orders given the large number of orders the Exchange expects to receive for these ETFs. In addition, Rule 205, Commentary .05 is proposed to be amended to reflect the application of Rule 205 to the trading of NNM ETFs.

Rule 118 (m) Market-on-Close and Limit-on-Close Orders

The Exchange’s policy and procedures with respect to market-on-close and limit-on-close orders is set forth in Rule 131A for securities listed on the Exchange and in Rule 118(m) for NNM securities traded pursuant to UTP. Rule 131A specifies that its procedures do not apply to any security whose price is based on another security or an index, which would include ETFs. Thus, the Exchange proposes to amend Rule 118(m) to specify that its market-on-close and limit-on-close procedures for NNM securities in the UTP program would not apply to ETFs or other securities whose price is based upon another security or an index.

Rule 131, Commentary .03 Types of Orders

Rule 131, Commentary .03 currently provides that an order in an ETF trading on the Exchange to 4:15 p.m. may be designated as a “market at 4 p.m.” to denote that it is a market order which is to be executed at or as close as practicable to the close of the regular equity trading session on the Exchange (normally 4 p.m. New York Time). The Exchange proposes to amend this provision to reflect that it would include ETFs traded pursuant to UTP. Rule 118, Commentary .01 would also be amended to reference Commentary .03 to Rule 131.

The Exchange believes these minor changes to its rules would be useful in clarifying the various procedures for trading ETFs pursuant to the Nasdaq UTP program. Although Rule 118(b) already applies the Exchange’s Constitution and Rules to the trading of NNM securities, unless the context otherwise requires, the Exchange believes it is important for members and the investing public to understand specifically where the context requires the use of other exchange rules and procedures for the trading of ETFs pursuant to the Nasdaq UTP Plan.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act⁹ in general, and

further the objectives of Section 6(b)(5)¹⁰ in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, 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, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

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.

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

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 if consistent with the protection of investors and the public interest, it has become effective pursuant to Section 19(b)(3)(A) of the Act,¹¹ and Rule 19b-4(f)(6) thereunder.¹² 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.

The Exchange has requested that the Commission waive the 30-day operative delay. The Commission believes that waiving the 30-day operative delay is consistent with the protection of

¹⁰ 15 U.S.C. 78f(b)(5).

¹¹ 15 U.S.C. 78s(b)(3)(A).

¹² 17 CFR 240.19b-4(f)(6). The Commission notes that the Exchange provided written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change at least five business days prior to the date of filing of the proposed rule change.

⁶ Odd-lot Orders are orders for less than the normal trading unit known as a round lot or 100 shares.

⁷ See, SR-Amex 2004-01, filed January 6, 2004.

⁸ See, Exchange Rule 205.

⁹ 15 U.S.C. 78f(b).

investors and the public interest because it will allow the Exchange to make clarifying changes to existing rules to cover the trading of ETFs pursuant to the Nasdaq UTP Plan and to ensure that those changes are effective upon implementation of trading of ETFs pursuant to the Nasdaq UTP Plan.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, as amended, is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-Amex-2004-86 on the subject line.

Paper Comments

Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549-0609.

All submissions should refer to File Number SR-Amex-2004-86. 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 the filing also will be available for inspection and copying at the principal office of the Amex. 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-Amex-2004-86 and should be submitted on or before December 3, 2004.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁴

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. E4-3149 Filed 11-10-04; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-50641; File No. SR-ISE-2004-29]

Self-Regulatory Organizations; Notice of Filing of a Proposed Rule Change by International Securities Exchange, Inc., Relating to Proposed Amendments to Its Certificate of Incorporation and Constitution

November 5, 2004.

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 October 22, 2004, the International Securities Exchange, Inc. ("Exchange" or "ISE") 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 the Exchange. 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

The Exchange is proposing to amend its Certificate of Incorporation and Constitution (also serving as the "Exchange's bylaws") in connection with its initial public offering ("IPO"). The proposed amendments, if approved, will become effective concurrently with the closing of the IPO. The proposed rule changes, including the proposed Amended and Restated Certificate of Incorporation ("Amended Certificate") and the proposed Amended and Restated Constitution ("Amended Constitution"), collectively referred to herein as the "proposed rule change," are available for viewing on the Commission's Web site, <http://www.sec.gov/rules/sro.shtml>, and at ISE and the Commission.

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 Exchange proposes to amend its Certificate of Incorporation and Constitution in connection with its contemplated IPO of the Class A common stock, par value \$.01 per share (the "Class A Common Stock"), of the Exchange.³ The proposed amendments, if approved, will become effective concurrently with the IPO.⁴

Following the IPO, the Exchange will continue to operate as a registered "national securities exchange" under Section 6 of the Act,⁵ and will maintain its current regulatory authority over its members. All persons using the Exchange will continue to be subject to the Exchange's rules. The Exchange will continue to interpret its rules to require that any revenues it receives from regulatory fees or regulatory penalties will be segregated and applied to fund the legal, regulatory and surveillance operations of the Exchange and will not be used to pay dividends to the holders of Class A Common Stock.⁶ Many of the proposed changes to the Certificate of Incorporation and Constitution are intended to ensure that the IPO of the Exchange will not unduly interfere with or restrict the ability of the Exchange or

³ Separately, the Exchange is also contemplating a reorganization into a holding company structure, the completion of which is contingent upon receipt of a favorable tax ruling from the Internal Revenue Service and Commission approval. The Exchange will separately file a rule change seeking approval of that reorganization. The Exchange currently anticipates that the reorganization will occur sometime following the IPO.

⁴ In connection with the proposed IPO, the Exchange filed a registration statement on Form S-1 with the Commission on July 2, 2004 (File No. 333-117145) (as amended from time to time, the "Registration Statement").

⁵ 15 U.S.C. 78f.

⁶ The Exchange adopted this interpretation in connection with its demutualization in 2002. See *infra*, note 8.

¹³ For purposes only of waiving the 30-day operative delay of the proposed rule change, the Commission considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

¹⁴ 17 CFR 200.30-3(a)(12).

¹⁵ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

the Commission to effectively carry out their respective regulatory oversight responsibilities under the Act and generally to enable the Exchange to operate in a manner that complies with the federal securities laws, including furthering the objectives of Section 6(b)(5) of the Act.⁷ However, some of the proposed changes to the Certificate of Incorporation and Constitution are intended to facilitate the IPO or otherwise relate to the Exchange's status as a public company following its IPO.

Current Capital Stock and Board Structure⁸

The Exchange currently has two classes of common stock, Class A Common Stock and Class B common stock, par value \$.01 per share ("Class B Common Stock").⁹ The Class A Common Stock has the traditional features of common stock, including voting, dividend and liquidation rights.¹⁰ Subject to certain limitations, holders of Class A Common Stock are entitled to vote on all matters submitted to stockholders for a vote.¹¹

The Exchange has three series of Class B Common Stock, each series representing certain trading rights and privileges and limited voting rights. Ownership of the Class B Common Stock, Series B-1 ("Series B-1 Common Stock"), is a predicate to obtaining the trading rights and privileges associated with a Primary Market Maker.¹²

Ownership of the Class B Common Stock, Series B-2 ("Series B-2 Common Stock"), is a predicate to obtaining the trading rights and privileges associated with a Competitive Market Maker.¹³ Ownership of the Class B Common Stock, Series B-3 (the "Series B-3 Common Stock"), is a predicate to obtaining the trading rights and privileges associated with an Electronic Access Member.¹⁴

The holders of the Class B Common Stock are not entitled to receive dividends; rather, the holders of such stock are only entitled to receive an amount equal to the par value of each share of Class B Common Stock (*i.e.*, \$.01) held upon the liquidation, dissolution or winding up of the Exchange.¹⁵ Also, such holders are entitled to vote on the election of directors representing the applicable series of Class B Common Stock, with each series of Class B Common Stock being entitled to elect two directors to the Board.

The owners of Series B-1 Common Stock and Series B-2 Common Stock are also entitled to vote on any change in, or amendment or modification to, the "Core Rights"¹⁶ or the definition of Core Rights. In such a case, the Exchange must obtain the approval of a majority of both the of Series B-1 Common Stock and the Series B-2 Common Stock, each voting as a separate class with respect to such action.¹⁷

executed. See Chapter 8 of the Exchange Rules and the Registration Statement, "Business," for a discussion of the role of Primary Market Makers on the Exchange.

¹³ "Competitive Market Makers" are market makers that add depth and liquidity to the market and are required to provide continuous quotations in at least 60% of the options classes in their assigned group. See Chapter 8 of the Exchange Rules and the Registration Statement, "Business," for a discussion of the role of Competitive Market Makers on the Exchange.

¹⁴ "Electronic Access Members" are broker/dealers that represent agency and proprietary orders on the Exchange, and cannot enter quotations or otherwise engage in market making activities on the Exchange. See Chapter 8 of the Exchange Rules and the Registration Statement, "Business," for a discussion of the role of Electronic Access Members on the Exchange.

¹⁵ The Amended Certificate will clarify that, as is currently the case, such amount will be paid before any proceeds from the liquidation, dissolution or winding up of the Exchange are paid to the holders of Class A Common Stock.

¹⁶ "Core Rights" as defined in Article Fourth, Subdivision II(a)(i) of the Certificate of Incorporation means any "increase in the number of authorized shares of the Series B-1 Stock or the Series B-2 Stock."

¹⁷ For the provisions relating to the Class B Common Stock, see Certificate of Incorporation, Article Fourth, Subdivision II(b). The Amended Certificate proposes to make certain technical amendments to clarify that, as is currently the case, neither the holders of Class A Common Stock nor

The Board consists of 15 members, eight of whom are elected by the holders of the Class A Common Stock (the "Non-Industry Directors"),¹⁸ six of whom are elected by the holders of the Class B Common Stock (the "Industry Directors")¹⁹ and the Chief Executive Officer of the Exchange. In accordance with the current Certificate of Incorporation and Constitution of the Exchange, each director, other than the Chief Executive Officer, holds office for a term of two years.²⁰ The Chief Executive Officer holds office for a term

the holders of Series B-3 Common Stock are entitled to vote on the Core Rights. Additionally, the vote required with respect to the Core Rights would be increased from a majority of the votes cast by each of the Series B-1 Stock and Series B-2 Stock to a majority of the then outstanding shares of each of the Series B-1 Stock and Series B-2 Stock. See Amended Certificate, Article Fourth, Subdivision II(a) and (b). Any increase or decrease in the overall number of authorized shares of Class B Common Stock would require approval of the holders of a majority of the outstanding shares of Class A Common Stock, voting as a separate class, and Series B-1 Stock and Series B-2 Stock, voting together as a separate class, any decrease in the number of authorized shares of Series B-1 Stock or Series B-2 Stock would require approval of the holders of a majority of the outstanding shares of Class A Common Stock, and any increase or decrease in the number of authorized shares of Series B-3 Stock would require approval of the holders of a majority of the outstanding shares of Class A Common Stock. The Exchange also may issue preferred stock in the future, the terms of which would be determined by the Board, subject to Commission approval. See Certificate of Incorporation, Article Fourth, Subdivision I.

As agreed with ISE, the Commission staff made grammatical corrections and conformed the language in this footnote to the proposed rule text. Telephone conversation between Janet M. Kissane, Milbank, Tweed, Hadley & McCloy LLP, Counsel to ISE, and Jennifer C. Dodd, Attorney, Division of Market Regulation ("Division"), Commission on November 3, 2004.

¹⁸ Nominees for election to the Board to serve as Non-Industry Directors are currently made by the Exchange's Corporate Governance Committee, on which all of the Non-Industry Directors serve. Stockholders may also nominate Non-Industry Director candidates for election to the Board by petition. See Section 3.10 of the Constitution.

¹⁹ Nominees for election to the Board to serve as Industry Directors are currently made by the Exchange's Nominating Committee, which is not a committee of the Board, and is comprised of representatives of the holders of each series of Class B Common Stock. Stockholders may also nominate Industry Director candidates for election to the Board by petition. See Section 3.10 of the Constitution.

²⁰ The Amended Certificate would clarify that the Board is authorized to fill any vacancies on the Board. See Article Fourth, Subdivision II(a)(i) and (b)(v)(A). The Amended Certificate would also provide that directors may only be removed for cause by the stockholders to the extent permitted under applicable law, and not by a vote of two-thirds of the directors as is currently the case. See Article Fifth, paragraph (b).

As agreed with ISE, the Commission staff revised this footnote to differentiate between ISE's current and proposed rules. Telephone conversation between Janet M. Kissane, Milbank, Tweed, Hadley & McCloy LLP, Counsel to ISE, and Jennifer C. Dodd, Attorney, Division, Commission, on November 3, 2004.

⁷ 15 U.S.C. 78f(b)(5).

⁸ For a discussion of the Exchange's current capital and board structure, see Securities Exchange Act Release No. 45803 (April 23, 2002), 67 FR 21306 (April 30, 2002) (approving the restructuring of the Exchange from a limited liability company to a corporation and the demutualization of the Exchange's equity and trading interests and rights).

⁹ Some owners of shares of Class A Common Stock also own shares of Class B Common Stock. For a list of principal stockholders and their ownership of Class A and Class B Common Stock, see the Registration Statement, "Principal and Selling Stockholders."

¹⁰ The Amended Certificate will clarify that, as is currently the case, holders of shares of Class A Common Stock are entitled to all residual interests in the event of a liquidation, winding up or dissolution of the Exchange after payment of or provision for the obligations of the Exchange, any preferential amounts payable to holders of shares of preferred stock and amounts payable to the holders of any outstanding shares of Class B Common Stock.

¹¹ For the provisions relating to the Class A Common Stock, see Certificate of Incorporation, Article Fourth, Subdivision II(a). The holders of shares of Class A Common Stock are not entitled to vote with respect to the Core Rights (as defined in note 13, *infra*), the definition of "Core Rights", or the election of Industry Directors (as defined herein).

¹² "Primary Market Makers" are market makers with significant responsibilities, including overseeing the opening of trading in their assigned options classes, providing continuous quotations in all of their assigned options classes, and handling customer orders that are not automatically

of one year, or such earlier time as such person no longer serves as Chief Executive Officer. The directors, other than the Chief Executive Officer, are divided into two classes, designated as Class I and Class II directors.²¹ At each annual meeting of stockholders, the successors of the class of directors whose term expires at that meeting will be elected to hold office for a term expiring at the annual meeting of stockholders held in the second year following the year of their election, and until their successors are elected and qualified. Directors, other than the Chief Executive Officer, may not hold office for more than three consecutive terms.²²

In addition, the Exchange currently has a Finance & Audit Committee, a Corporate Governance Committee and a Compensation Committee, all of which are governed by charters.²³

Proposed Amendments to Certificate of Incorporation and Constitution

The Exchange proposes to amend its current Certificate of Incorporation and Constitution to:

- Increase the number of authorized shares of Class A Common Stock from 5,000,000 to 150,000,000;
- Remove the term limits of the Non-Industry Directors;
- Adopt certain limitations on the ownership and voting of shares of Class A Common Stock and of Class B Common Stock;
- Require the Board to consider applicable requirements of the Act in managing the business and affairs of the Exchange;
- Clarify that the Exchange has a Corporate Governance Committee and Compensation Committee, and that these committees, as well as the Finance & Audit Committee of the Exchange, are governed by charters;
- Adopt certain antitakeover provisions, including with respect to the nomination of Non-Industry Directors by the holders of Class A Common Stock; and
- Reduce the vote of the holders of Class A Common Stock required to

amend certain provisions of the Amended Constitution from two-thirds of the outstanding shares of Class A Common Stock to a majority of such shares.²⁴

(1) Increase in Number of Authorized Shares of Class A Common Stock

The Exchange proposes that the number of authorized shares of Class A Common Stock be increased from 5,000,000 to 150,000,000.²⁵ This increase will provide the Board with the flexibility to declare a stock dividend that, in the opinion of the underwriters of the IPO, will be sufficient to result in an appropriate market price per share of the Class A Common Stock. The increase in the number of authorized shares of Class A Common Stock will also provide shares: (1) To be offered in the IPO, as well as additional shares that can be used for future acquisitions that may be approved by the Board (and by Class A stockholders to the extent required by the rules of the marketplace for the shares of Class A Common Stock); and (2) to be used for stock options, stock purchase and other equity compensation plans that are approved by the Board (and by Class A stockholders to the extent required by the rules of the marketplace for the shares of Class A Common Stock).

(2) Change in the Term Limits of the Board

In order to maintain continuity with respect to the Non-Industry Directors during the transition of the Exchange to a public company, the Exchange proposes that the three-term limit (a total of six years of service) currently in the Certificate of Incorporation and Constitution with respect to all directors, other than the Chief Executive Officer, be amended to apply only to Industry Directors.²⁶ Currently, all Non-Industry Directors face term limits that would result in a total turn-over of such directors over a two-year period. The Exchange believes that removing term

limits for Non-Industry Directors will allow the Board to continue to function with experienced Non-Industry Directors, thereby facilitating a smooth transition to a public company structure. Once it becomes a public company, the Exchange will address term limits for Non-Industry Directors through amendments to its Corporate Governance Principles.²⁷

(3) Ownership and Voting Limitations with Respect to the Exchange's Capital Stock²⁸

(a) Ownership Limitations

Under the proposed Amended Certificate, no "Person"²⁹ either alone

²⁷ Because the Exchange's Board believes it is important that following the Exchange's IPO there be a smooth transition from its original Non-Industry Directors to their successors, the Exchange's Board has adopted Corporate Governance Principles providing that it may be appropriate for up to four of the eight original Non-Industry Directors to serve one additional term. This would result in a transition to new Non-Industry Directors over a four-year period, rather than a two-year period. The Corporate Governance Committee will determine whether, and how, to provide for this phased transition.

²⁸ The ISE noted that there was a typographical error appearing in Article Fourth, Subdivision III(c)(vii) of the Amended Certificate of Incorporation. The word "prices" should replace the word "process" in the definition of the term "Market Price" in the second paragraph of Article Fourth, Subdivision III(c)(vii) of the Amended Certificate. ISE agrees to correct this error in an amendment to the rule filing to be filed after ISE's stockholders have approved the proposed Amended Certificate. Telephone conversation between Janet M. Kissane, Milbank, Tweed, Hadley & McCloy LLP, Counsel to ISE, and Jennifer C. Dodd, Attorney, Division, Commission, on November 1, 2004.

Currently, with the exception of certain exemptions for Founders (as defined in the Constitution), no holder of Class A Common Stock, together with any affiliate (as defined in the Constitution), shall vote or give any proxy in relation to a vote with respect to any shares owned in excess of 20 percent of the Class A Common Stock, and no holder of Class B Common Stock, together with any affiliate (as defined in the Constitution) may own more than 20 percent of Series B-1 Stock or Series B-2 Stock and no Member (as defined in the Constitution), together with any affiliate (as defined in the Constitution), may be approved to exercise trading rights associated with more than 20 percent of Series B-1 Stock or Series B-2 Stock. Certificate of Incorporation, Article Fourth, Subdivision II(a)(iv) and Constitution, Article XIV. *See supra*, note 8.

As agreed with ISE, the Commission staff revised this footnote to clarify ISE's current ownership and voting limitations. Telephone conversation between Janet M. Kissane, Milbank, Tweed, Hadley & McCloy LLP, Counsel to ISE, and Jennifer C. Dodd, Attorney, Division, Commission, on November 3, 2004.

²⁹ "Person" as defined in Article Fourth, Subdivision III of the Amended Certificate means any "individual, partnership (general or limited), joint stock company, corporation, limited liability company, trust or unincorporated organization or any governmental entity or agency or political subdivision thereof."

²¹ For a list of the Exchange's current directors and their respective classes, *see* Registration Statement, "Management." As currently and prospectively constructed, each class will be composed of half of the Non-Industry Directors and half of each of the Series B-1, Series B-2 and Series B-3 directors.

²² For the provisions relating to the Board, *see* Certificate of Incorporation, Article Fifth and Constitution, Section 3.2.

²³ For a discussion of these committees and their responsibilities, *see* Registration Statement, "Management." The Board designated these committees pursuant to its authority under Section 5.1 of the Constitution, though the Corporate Governance and Compensation Committees are not specifically designated in the current Constitution itself.

²⁴ The Exchange is also proposing to correct certain typographical and grammatical errors, eliminate outdated or irrelevant references and make certain immaterial changes to the Certificate of Incorporation and Constitution. Such changes include, among others, the flexibility to provide notice of Board meetings by several alternate means (*see* Section 3.6 of the Amended Constitution); the empowerment of the Board (instead of the Chief Executive Officer) to appoint and remove officers (*see* Sections 4.2 and 4.3 of the Amended Constitution); the consolidation of the positions of Chief Executive Officer and President (*see* Section 4.1 of the Amended Constitution); and the prohibition on ownership of shares of Class B Common Stock by officers of the Exchange (*see* Section 4.5 of the Amended Constitution).

²⁵ *See* Amended Certificate, Article Fourth.

²⁶ *See* Amended Certificate, Article Fifth, and Amended Constitution, Section 3.2.

or together with its "Related Persons"³⁰ would be permitted to own, directly or indirectly, of record or beneficially,³¹ shares of capital stock (whether common or preferred stock) of the Exchange (1) constituting more than 40 percent of the then outstanding shares of any class or series of capital stock (the "40 percent ownership limitation"); or (2) constituting more than 20 percent of the then-outstanding shares of any class or series of capital stock if such holder is also a member of the Exchange (that is, a Primary Market Maker, Competitive Market Maker or Electronic Access Member) (the "20 percent member ownership limitation").³²

Furthermore, any Person, alone or together with its Related Persons, who owns more than five percent of the then outstanding shares of any class or series of the Exchange's capital stock will be required to provide certain information to the Board and will have an ongoing obligation to update such information.³³

³⁰ "Related Person" as defined in Article Fourth, Subdivision III of the Amended Certificate means "(1) with respect to any Person, all 'affiliates' and 'associates' of such Person (as such terms are defined in Rule 12b-2 under the Act); (2) with respect to any Person constituting a Member, any broker or dealer with which such Member is associated; and (3) any two or more Persons that have any agreement, arrangement or understanding (whether or not in writing) to act together for the purpose of acquiring, voting, holding or disposing of shares of the capital stock of the [Exchange]."

³¹ Beneficial ownership (and derivative or similar words) as defined in Article Fourth, Subdivision III of the Amended Certificate has the meaning set forth in Regulation 13D-G under the Act. The Exchange believes that use of this existing Commission definition will aid it in verifying the ownership of its capital stock by monitoring filings on Schedules 13D and 13G by its stockholders.

³² See Amended Certificate, Article Fourth, Subdivisions III(a)(i) and (a)(ii).

³³ Article Fourth, Subdivision III(a)(iii) of the Amended Certificate requires that any Person, either alone or together with its Related Persons, that at any time owns five percent or more of the then outstanding shares of any class or series of capital stock of the Corporation, that has the right by its terms to vote in the election of members of the Board, must, immediately upon so owning five percent or more, give the Board written notice of such ownership stating: (1) Such Person's full legal name; (2) such Person's title or status and the date on which such title or status was acquired; (3) such Person's approximate ownership interest in the Exchange; and (4) whether such Person has the power, directly or indirectly, to direct the management or policies of the Exchange, whether through ownership of securities, by contract or otherwise. Each such Person must notify the Board of any changes in ownership except when such change is an increase or decrease of less than one percent in the ownership percentage so reported (such increase or decrease to be measured cumulatively from the amount shown on the last such report) unless any increase or decrease of less than 1 percent results in such Person so owning more or less than 20 percent or more than 40 percent of the shares of any class or series of capital stock then outstanding (at a time when such Person so owned less than such percentages), as the case may be. The Exchange will also consider, among other things, any filings made with the Commission

The Exchange believes these provisions will enable it to obtain information necessary to determine whether there has been a violation of the voting or ownership limitations described herein.

If any Person, alone or together with its Related Persons, purports to sell, transfer, assign or pledge any shares of capital stock in the Exchange in violation of the ownership limits, the Exchange would apply standard corrective procedures used by public companies with similar ownership limits. Specifically, any such sale, transfer, assignment or pledge would be void, and that number of shares in excess of the ownership limitation would be deemed to have been transferred to the Exchange, as special trustee of a charitable trust, for the exclusive benefit of a charitable beneficiary to be determined by the Exchange.³⁴ These corrective procedures would also apply if there is any other event causing any holder of capital stock to exceed the ownership limits, such as a repurchase of shares by the Exchange.³⁵ The automatic transfer would be deemed to be effective as of the close of business on the business day prior to the date of the violative transfer or other event.³⁶

The special trustee of the trust would be required to sell the excess shares to a person whose ownership of shares is not expected to violate the ownership limitations. The net proceeds of the sale would be distributed first, to the original prohibited transferee or holder, who would receive the lesser of (1) the price per share received by the Exchange from the transfer of the excess shares (2) the price per share the prohibited transferee or holder paid for the shares in the violative transfer, or (3) if the prohibited transferee or holder did

under Section 13(d) and Section 13(g) of the Act by such Person and its Related Persons and will aggregate all shares owned or voted by such Person and its Related Persons deemed to be beneficially owned by them. For information on ISE's current principal stockholders, see also the Registration Statement, "Principal and Selling Stockholders."

³⁴ See Article Fourth, Subdivision III(c) of the Amended Certificate. The Exchange may also determine to appoint as special trustee an entity unaffiliated with the Exchange and any Person or its Related Persons owning excess shares. See Article Fourth, Subdivision III(c)(ii) of the Amended Certificate.

³⁵ Any holders owning excess shares as a result of any event other than a sale, transfer, assignment or pledge would cease to have rights in such shares.

³⁶ As agreed with ISE, the Commission staff revised this sentence to clarify that the effective date in the case of an "other event" would also be as of the close of business on the business day prior to the date of the event. Telephone conversation between Janet M. Kissane, Milbank, Tweed, Hadley & McCloy LLP, Counsel to ISE, and Jennifer C. Dodd, Attorney, Division, Commission, on November 3, 2004.

not give value for such excess shares, a price per share equal to the market price for the excess shares on the date of the purported transfer or other event that resulted in the excess shares, except that in the case of a prohibited holder holding excess shares solely as the result of an action or event by the Exchange (such as an action resulting in a reduction in the number of outstanding shares), such prohibited holder would receive the greater of (1) or (3) above for the excess shares. After such distribution, any proceeds in excess of the amount payable to the prohibited transferee or holder would be payable to the charitable beneficiary. Prior to the sale, the special trustee would be entitled to receive, in trust for the beneficiary, all dividends and other distributions paid by the Exchange with respect to the excess shares, and also would be entitled to exercise all voting rights with respect to the excess shares.³⁷

In addition, excess shares (including any shares deemed to be excess shares by reason of a reduction in outstanding shares caused by a purchase of excess shares by the Exchange) would be deemed to have been offered for sale to the Exchange.³⁸ The Exchange shall have the right to accept such offer until the special trustee has sold the shares held in the charitable trust.³⁹ If the Exchange accepts such offer, it would determine the additional number of shares (if any) that become excess shares by reason of the reduction in outstanding shares caused by the Exchange's purchase of excess shares (whether any Person, either alone or together with its Related Persons, holds such excess shares in connection with a purported transfer or is deemed to hold such excess shares as a result of the Exchange's purchase of excess shares) and take all action reasonably necessary to ensure that such additional excess shares are added to the initial number

³⁷ Any excess shares held by the special trustee would be entitled to vote and deemed outstanding for purposes of determining a quorum or minimum vote required for the transaction of any business at any stockholders' meeting. Telephone conversation between Janet M. Kissane, Milbank, Tweed, Hadley & McCloy LLP, Counsel to ISE, and Jennifer C. Dodd, Attorney, Division, Commission, on November 4, 2004.

³⁸ The excess shares would be deemed to be offered to the Exchange at a price per share equal to the lesser of (1) the price per share the purported transferee or holder paid for the shares in the purported transfer or other event that resulted in excess shares (or in the case of an event not involving any payment, the market price at the time of the transfer or other event) and (2) the market price of the shares on the date the Exchange accepts such offer. The Exchange may accept the offer in whole or in part.

³⁹ See Article Fourth, Subdivision III(c)(vi) of the Amended Certificate.

of excess shares subject to the Exchange's corrective procedures.⁴⁰

As applied to the current outstanding capital stock of the Exchange, the 40 percent ownership limitation would apply to any holder of Class A Common Stock, other than an Exchange member. The 20 percent member ownership limitation would apply to any such member, and would limit to that amount such holder's ownership of each of the Class A Common Stock and each Series of Class B Common Stock. The Exchange represents that currently no Person, either alone or together with its Related Persons, owns more than 40 percent of the outstanding shares of Class A Common Stock, and no member, either alone or together with its Related Persons, owns more than 20 percent of the outstanding shares of Class A Common Stock or any series of Class B Common Stock.⁴¹

(b) Voting Limitations

The proposed rule change also would prohibit any Person, either alone or together with its Related Persons, from voting, or causing the voting of, shares of capital stock of the Exchange (or giving a consent or proxy with respect to shares) representing more than 20 percent of the voting power of any class or series of capital stock (the "20 percent voting limitation").⁴² In the

event that a stockholder purports to vote, grant any proxy or enter into any other agreement for the voting of shares that would violate the 20 percent voting limitation, such vote, proxy or agreement would not be honored by the Exchange to the extent that the 20 percent voting limitation provision would be violated. The 20 percent voting limitation will not apply to any solicitation of any revocable proxy from any stockholder of the Exchange by the Exchange or by any stockholder of the Exchange pursuant to Regulation 14A under the Act.⁴³

(c) Board Notice Regarding Certain Limitations

The proposed rule change will impose certain requirements on Persons to give notice of events regarding ownership that would exceed the proposed ownership or voting threshold. Specifically, any Person intending to exceed these ownership or voting limitations must provide the Board with written notice of the fact at least 45 days (or such shorter period to which the Board expressly consents) prior to either the proposed acquisition of shares of the proposed exercise of voting rights, as the case may be.⁴⁴

(d) Board Waiver of Certain Limitations

The Board may adopt a resolution specifying that it has determined that the 40 percent ownership limitation or the 20 percent voting limitation or both should be waived if it finds that such waiver (1) will not impair the ability of the Exchange to carry out its functions and responsibilities as an "exchange" under the Act; (2) is otherwise in the best interests of the Exchange and its stockholders; (3) will not impair the ability of the Commission to enforce the

or series of capital stock that are subject to such agreement, plan or arrangement not being voted on any matter or matters where the effect of such agreement, plan or other arrangement would be to enable any Person to vote, possess the right to vote or cause the voting of shares of any class or series of capital stock that would, as a result thereof, represent more than 20 percent of any class or series of capital stock available to be voted. The Amended Certificate and the Amended Constitution clarify that only those shares entitled to vote would be counted for purposes of determining a quorum or a minimum vote required for the transaction of any business at any stockholders' meeting, including, without limitation, when specified business is to be voted on by a class or a series voting as a class. See Article Fourth, Subdivision III(b)(iii) of the Amended Certificate and Section 2.4 of the Amended Constitution. Telephone conversation between Janet M. Kissane, Milbank, Tweed, Hadley & McCloy LLP, Counsel to ISE, and Jennifer C. Dodd, Attorney, Division, Commission on November 4, 2004.

⁴³ See Amended Certificate, Article Fourth, Subdivision III(b).

⁴⁴ See Amended Certificate, Article Fourth, Subdivisions III(a)(i)(B) and (b)(i).

Act; and (4) will apply to a Person and its Related Persons who are not subject to any applicable "statutory disqualification" (within the meaning of Section 3(a)(39) of the Act). In the event of such a finding, the waiver would take the form of an amendment to the Constitution, which would not be effective until approved by the Commission. The Board may not waive the 20 percent member ownership limitation.⁴⁵

(e) Elimination of Founders Exemption

The Amended Certificate also eliminates the "founders exemption" that permitted the original founders of the Exchange to own shares of Class A Common Stock and Class B Common Stock in excess of the stated limits for a certain period of time.⁴⁶ Because all of the founders have fallen below the ownership thresholds in place, the exemption is no longer necessary.

(f) Effects of Ownership and Voting Limits

The Exchange believes that these ownership and voting limitations, taken together, will serve to prevent any stockholder, or group of stockholders acting together, from exercising undue control over the operation of the Exchange. The Exchange believes that these limitations will prohibit any Person, either alone or with its Related Persons, from having the power to control a substantial number of outstanding votes without Commission review. This should limit the ability of any such Persons from taking actions that may be adverse to the Exchange's or the Commission's regulatory oversight responsibilities. The Exchange also believes that these provisions serve to protect the integrity of the Exchange's and the Commission's regulatory oversight responsibilities and allow the Commission to review, subject to public notice and comment, the acquisition of substantial voting power by any stockholder or group of stockholders.

(4) Exchange Act Obligations

The Exchange proposes that the Amended Certificate provide that the Board shall, in managing the affairs and business of the Exchange, consider requirements applicable to its registration and operation as a national securities exchange under the Act,

⁴⁵ See Amended Certificate, Article Fourth, Subdivisions III(a)(i)(B) and (b)(i).

⁴⁶ The founders exemption, which applied to persons or entities that purchased LLC memberships directly from the Exchange on or prior to August 1, 1998 and extended to May 26, 2010, was approved by the Commission in connection with the Exchange's demutualization in 2002. See *supra*, note 8.

⁴⁰ The Exchange believes that this mechanism will prevent repeated violations (*i.e.*, an endless loop) of the ownership provisions in connection with repurchases by the Exchange (both generally and with respect to excess shares). In practice, the Exchange would structure repurchases, if any, in a manner designed not to trigger any new violations of the ownership restrictions set forth in Article Fourth, Subdivision III, or if triggered, to include such new violations in its repurchase. For example, if there were 100 shares of Class A Common Stock outstanding and two members of the Exchange (Member A and Member B) each currently owned 20% of the outstanding shares of Class A Common Stock, and Member A purchased 5 shares of Class A Common Stock (increasing his ownership to 25%), the Exchange could either (a) repurchase the 5 shares from Member A and permit the special trustee to sell one share from Member A and one share from Member B to third parties or (b) repurchase 9 shares of Class A Common Stock from Member A and 3 shares of Class A Common Stock from Member B, all of which would be deemed excess shares pursuant to the mechanism described above.

⁴¹ As agreed with ISE, the Commission staff revised this sentence to clarify that currently, no Person or member exceeds the proposed ownership limitations, including when such Person's or member's interest is aggregated with the interests of their Related Persons. Telephone conversation between Janet M. Kissane, Milbank, Tweed, Hadley & McCloy LLP, Counsel to ISE, and Jennifer C. Dodd, Attorney, Division, Commission, on November 3, 2004.

⁴² The 20 percent voting limitation also would prohibit any Person, either alone or together with its Related Persons, from entering into any agreement, plan or other arrangement with another Person that would result in the shares of any class

including without limitation, the requirements that (a) the rules of the Exchange be designed to protect investors and the public interest, and (b) the Exchange be so organized and have the capacity to carry out the purposes of the Act and (subject to such exceptions as are set forth in the Act or the rules and regulations thereunder) to enforce compliance by its members and persons associated with its members with the provisions of the Act, the rules and regulations thereunder, and the rules of the Exchange. These provisions in the Amended Certificate shall not be construed to create the basis for any cause of action against any director, and no director shall be liable, by virtue of these provisions, for such director's consideration or failure to consider the matters referred to therein.⁴⁷

(5) Board Committees

The Exchange proposes that the Amended Constitution include provisions relating to specific Board committees in connection with the contemplated listing of the Exchange on a national securities exchange or national securities association following the IPO. In particular, the Exchange proposes to add the Corporate Governance Committee and the Compensation Committee to its list of specifically designated Board committees in the Amended Constitution, and to require that each of the Finance & Audit, Corporate Governance and Compensation Committees be governed by charters.⁴⁸

(6) Certain Antitakeover Provisions

The Exchange proposes that the Amended Certificate, along with the Amended Constitution, include certain antitakeover provisions for protection against certain types of coercive corporate takeover practices and inadequate takeover bids. The proposed provisions relate to special meetings of stockholders and the required stockholder vote with respect to certain actions. In view of the limitations on ownership and voting described above, the provisions proposed do not include a "poison pill" arrangement. The Board does, however, maintain the authority under its current organizational documents to adopt such an arrangement with Commission approval.

(a) Elimination of a Stockholder's Right To Call a Special Meeting

The Amended Certificate and Amended Constitution deny the Exchange's stockholders the right to call a special meeting of stockholders, and provide that only the Chairman of the Board or a majority of the Board may call a special meeting of the stockholders.⁴⁹

(b) Advance Notice Requirement for Stockholder Proposals

The Amended Constitution establishes advance notice procedures with regard to stockholder proposals relating to the nomination of candidates for election as Non-Industry Directors or new business to be brought before meetings of stockholders. The Exchange's advance notice requirement does not apply to nominations of Industry Director nominees for election to the Board who are nominated by the Exchange's Nominating Committee (which is not a committee of the Board) or stockholders pursuant to Sections 3.10(a) and 5.3(c) of the Constitution. Following the IPO, pursuant to the Exchange's Corporate Governance Committee charter and Section 3.10(b) of the Constitution, the Corporate Governance Committee would nominate for election to the Board a slate of Non-Industry Directors pursuant to Section 2.7(a) and (b). These procedures provide that notice of stockholder proposals must be given in writing to the Secretary of the Exchange prior to the meeting at which the action is to be taken.⁵⁰ Generally, such notice would have to be received at the principal executive offices of the Exchange not fewer than 60 days nor more than 90 days prior to the meeting. Any such notice must comply with certain additional informational and descriptive requirements set out in the Amended Constitution.⁵¹ Additionally,

⁴⁹ See Amended Certificate, Article Eighth and Amended Constitution, Section 2.2.

⁵⁰ With the institution of Section 2.7 of the Amended Constitution, Non-Industry Director nominations by Class A stockholders will likely be required to be made in advance of the selection or announcement of a slate of Non-Industry Director candidates by the Corporate Governance Committee. Currently, Non-Industry Director nominations by Class A stockholders must be made in advance of the stockholders' meeting, but generally after the Corporate Governance Committee announces its slate.

⁵¹ In particular, the notice must set forth (1) as to each person whom the stockholder proposes to nominate for election or reelection as a director all information relating to such person that is required to be disclosed in solicitations of proxies for election of directors, or is otherwise required, in each case pursuant to Regulation 14A under the Act, including such person's written consent to being named in the proxy statement as a nominee

stockholders shall comply with all applicable requirements of the Act and the rules and regulations thereunder with respect to any proposals submitted pursuant to the advance notice procedures.⁵²

The Exchange's advance notice requirement will not apply to nominations of Industry Director nominees for election to the Board who are nominated by the Exchange's Nominating Committee (which is not a committee of the Board) or stockholders pursuant to Sections 3.10(a) and 5.3(c) of the Constitution. Following the IPO, the Non-Industry Directors would be nominated by the Corporate Governance Committee or Class A stockholders pursuant to Sections 2.7(a) and (b) and 3.10(b) of the Constitution.

(c) Increase in Required Vote for Certain Stockholder Actions

In addition to other currently required items, the Amended Certificate would require a two-thirds vote of stockholders to amend, repeal or adopt any provisions inconsistent with (1) the limitations on ownership and voting of capital stock contained in the Amended Certificate, as described above in Section 3 ("Ownership and Voting Limitations With Respect to the Exchange's Capital Stock"), (2) the provision in the Amended Certificate providing the Board with the authority to create and issue rights under a rights plan, and (3) the advance notice provision contained in the proposed Amended Constitution.⁵³

(7) Reduction in Votes Required To Approve Amendments to the Amended Constitution

The Exchange proposes that the current two-thirds vote of all of the outstanding shares of Class A Common

and to serving as a director if elected and a statement that such nominee complies with the requirements set forth in the Amended Certificate; (2) as to any other business that the stockholder proposes to bring before the meeting, a brief description of the business desired to be brought before the meeting, the reasons for conducting such business at the meeting and any material interest in such business of such stockholder and the beneficial owner, if any, on whose behalf the proposal is made; and (3) as to the stockholder giving the notice and the beneficial owner, if any, on whose behalf the nomination or proposal is made (i) the name and address of such stockholder, as they appear on the Corporation's books, and of such beneficial owner and (ii) the class and number of shares of the Corporation which are owned beneficially and of record by such stockholder and such beneficial owner. See Amended Constitution, Section 2.7.

⁵² See Amended Constitution, Section 2.7. Previously, Section 2.7 of the Constitution addressed stockholder record dates; that matter is now proposed to be addressed in Section 7.4 of the Amended Constitution.

⁵³ See Amended Certificate, Article Seventh.

⁴⁷ See Amended Certificate, Article Twelfth.

⁴⁸ See Amended Constitution, Sections 5.4, 5.5 and 5.6. The Exchange currently has a Corporate Governance and Compensation Committee, designated by the Board pursuant to its authority under Section 5.1 of the Constitution; the Amended Constitution will specifically provide for these committees.

Stock be reduced to a majority vote of such shares in order to amend certain provisions of the Amended Constitution that are not subject to a required two-thirds vote under the Amended Certificate. Such amendments to the current Constitution may be accomplished by a two-thirds vote of the stockholders or by action of the Board. The two-thirds vote requirement for an amendment to the current Constitution was deemed appropriate for a private securities exchange owned primarily by its members, in order to assure substantial agreement as to changes in significant aspects of corporate governance. However, the Exchange believes that the continuation of such a high vote requirement, in the context of a publicly traded company with a widely diverse stockholder base and the likelihood of lower voting participation, makes it unduly difficult to effect any necessary changes by stockholder vote to these corporate governance provisions in the future.⁵⁴

(8) Confidential Information and Books and Records

Pursuant to the Amended Certificate, all confidential information pertaining to the self-regulatory function of the Exchange (including but not limited to disciplinary matters, trading data, trading practices and audit information) contained in the books and records of the Exchange shall: (1) Not be made available to any Persons other than to those officers, directors, employees and agents of the Exchange that have a reasonable need to know the contents thereof and to the Commission; and (2) be retained in confidence by the Exchange and the officers, directors, employees and agents of the Exchange; and (3) not be used for any commercial purposes.⁵⁵

In addition, the ISE's books and records shall be maintained within the United States.⁵⁶

2. Statutory Basis

The basis under the Act for this proposed rule change is the requirement under Section 6(b)(1) of the Act⁵⁷ that an exchange be so organized and have the capacity to be able to carry out the purposes of the Act and to comply, and (subject to any rule or order of the Commission pursuant to Section 17(d) or 19(g)(2) of the Act⁵⁸) to enforce compliance by its members and persons associated with its members, with the

provisions of the Act, the rules and regulations thereunder, and the rules of the exchange, and the requirement under Section 6(b)(5) of the Act⁵⁹ that an exchange have rules that, among other things, are designed to remove impediments to and perfect the mechanism for a free and open market and a national market system, and, in general, to protect investors and the public interest.

A. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

B. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any unsolicited written comments from members, participants or others.

II. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will:

(A) By order approve such proposed rule change; or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

Certain aspects of this proposed rule change have been approved by the Board on July 22, 2004, and by the Exchange's stockholders on August 16, 2004. The remaining aspects of this proposed rule change are scheduled to be approved by the Board and stockholders as soon as practicable. To the extent necessary, the Exchange hereby consents to an extension of the time period specified in Section 19(b)(2) of the Act until at least thirty-five (35) days after the Exchange has filed an appropriate amendment setting forth the completion of all such action under the Certificate of Incorporation and Constitution of the Exchange with respect to this proposed rule change.

III. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an E-mail to rule-comments@sec.gov. Please include File No. SR-ISE-2004-29 on the subject line.

Paper Comments

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549-0609.

All submissions should refer to File Number SR-ISE-2004-29. 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 ISE. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-ISE-2004-29 and should be submitted by December 3, 2004.

⁵⁴ See Amended Certificate, Article Seventh and Amended Constitution, Section 11.1.

⁵⁵ See Amended Certificate, Article Thirteenth.

⁵⁶ See Amended Constitution, Section 1.3.

⁵⁷ 15 U.S.C. 78f(b)(1).

⁵⁸ 15 U.S.C. 78q and 15 U.S.C. 78s.

⁵⁹ 15 U.S.C. 78f(b)(5).

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁶⁰

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. E4-3152 Filed 11-10-04; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-50639; File No. SR-NYSE-2004-53]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change and Amendment Nos. 1 and 2 by New York Stock Exchange, Inc. Relating to a Fee for the NYSE Alerts Datafeed

November 5, 2004.

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 September 17, 2004, the New York Stock Exchange ("NYSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the NYSE. On October 15, 2004, the NYSE filed Amendment No. 1 to the proposed rule change.³ On October 28, 2004, the NYSE filed Amendment No. 2 to the proposed rule change.⁴ 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

The NYSE proposes to establish a fee of \$500 per month for a customer's receipt of the NYSE Alerts datafeed.

Below is the text of the proposed rule change, as amended.⁵ Proposed new language is *italicized*.

* * * * *

NYSE MARKET INFORMATION PRICE LIST

Market Information

Schedule of Monthly Charges (Excluding Applicable Taxes)

* * * * *

Report Service

* * * * *

NYSE Broker Volume (Annual Charges)

NYSE Broker Volume Data-base access fee	\$3,000.00
NYSE Broker Volume Device fee—per terminal from NYSE	3,600.00
NYSE Broker Volume Device fee—per terminal from a vendor	1,200.00
(Maximum monthly device fee per subscriber)	2,500.00
NYSE Alerts SM ***	
Access Fee	500.00
*** No Display fees apply.	

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the NYSE included statements concerning the purpose of and basis for the proposed rule change 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 NYSE 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 NYSE will make available to vendors and investors its NYSE Alerts datafeed. NYSE Alerts is a real-time datafeed service that NYSE will make available through NYSE's Common Access Point (CAP) network. The NYSE Alerts datafeed will include the following categories of information:

- *MOC Market Imbalances.* MOC Market Imbalances occur when the number of shares of a stock that market

participants offer to buy (sell) at the closing price significantly exceed the number of shares of the stock that other market participants are willing to sell (buy) at the close price. NYSE Rule 123C requires the publication of MOC Market Imbalances at certain times during the trading session. MOC Market Imbalances may also be published—regardless of the size of the imbalance or the time of publication—if the imbalance is determined to be significant.

- *Delayed Openings/Trading Halts.*

Delayed openings and trading halts facilitate the maintenance of orderly markets. NYSE Rule 123D requires the dissemination of information related to delayed openings and trading halts.

- *ITS Pre-Opening Indications/Trading Range Indications.* Pre-Opening Indications and Trading Range Indications are non-firm quotes that convey approximations of what a stock's opening price or trading range will be after a delayed opening or following a trading halt. Exchange policy requires the dissemination of Pre-Opening Indications prior to the opening of a stock following a trading halt or opening delay or when there is a significant opening price disparity from the prior close.

- *Trading Collar Messages.* Trading collars are restrictions on index arbitrage trading. Trading collar restrictions are triggered when the Dow Jones Industrial Average advances or declines by a prescribed amount, as determined on a quarter-by-quarter basis. When a change in the Dow Jones Industrial Average triggers a trading collar, the Exchange will disseminate a formatted message indicating which types of Index Arbitrage orders may be entered and which types of Index Arbitrage orders must be cancelled.

- *Circuit Breaker Messages.* Circuit breakers control extreme market volatility by halting all NYSE trading for a period as determined by the percentage decline of the Dow Jones Industrial Average.

(More information regarding the content contained in the NYSE Alerts datafeed can be found on the NYSE Web site at <http://www.nysedata.com/alerts>.)

Pursuant to this proposed rule change, the NYSE proposes to establish a \$500 per-month fee for receipt of access to NYSE Alerts. The NYSE believes that this access fee would reflect an equitable allocation of its overall costs to users of its facilities. The NYSE believes that the fee would enable the users of the NYSE Alerts service to make an appropriate contribution to the recovery of the overall costs of the

⁶⁰ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See letter from Mary Yeager, Assistant Secretary, NYSE, to Nancy Sanow, Assistant Director, Division of Market Regulation ("Division"), Commission, dated October 14, 2004 ("Amendment No. 1"). In Amendment No. 1, the NYSE clarified that the information that would be included in the NYSE Alerts datafeed would continue to be available to the public through the Consolidated Tape Association network and through various news services.

⁴ See letter from Mary Yeager, Assistant Secretary, NYSE, to Nancy Sanow, Assistant Director, Division, Commission, dated October 27, 2004 ("Amendment No. 2"). In Amendment No. 2, the NYSE submitted the amended NYSE fee schedule incorporating the proposed \$500 NYSE Alerts datafeed fee.

⁵ Upon the Exchange's request, the Commission made technical corrections to the proposed rule text. Telephone conversation between Ronald Jordan, Vice President, NYSE, and Sapna C. Patel, Special Counsel, Division, Commission, on November 1, 2004.

NYSE's operations and is reasonably related to the value that the NYSE Alerts service provides to those who use it. The NYSE plans to impose no fee for the display of NYSE Alerts information.

2. Statutory Basis

The NYSE believes that the basis under the Act for the proposed rule change is the requirement under Section 6(b)(4)⁶ that an exchange have rules that provide for the equitable allocation of reasonable dues, fees and other charges among its members and other persons using its facilities.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes that the proposed fee change will not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has not solicited, and does not intend to solicit, comments regarding the proposed rule change. The Exchange has not received any unsolicited written comments from members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change, as amended, is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to rule-comments@sec.gov. Please include File

Number SR-NYSE-2004-53 on the subject line.

Paper Comments

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549-0609.

All submissions should refer to File Number SR-NYSE-2004-53. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal office of the NYSE. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-NYSE-2004-53 and should be submitted on or before December 3, 2004.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁷

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. E4-3151 Filed 11-10-04; 8:45 am]

BILLING CODE 8010-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-50635; File No. SR-PCX-2004-103]

Self-Regulatory Organizations; Pacific Exchange, Inc. Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Changes to PCX's Schedule of Fees and Charges for Exchange Services

November 4, 2004.

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 October 20, 2004, the Pacific Exchange, Inc. ("PCX" or "Exchange") filed with the Securities and Exchange Commission ("Commission" or "SEC") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the Exchange. The Exchange has filed this proposed rule change pursuant to Section 19(b)(3)(A) and Rule 19b-4(f)(6) thereunder,³ which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange, through its wholly owned subsidiary PCX Equities, Inc. ("PCXE" or "Corporation"), proposes to make a change to the Schedule of Fees and Charges for Exchange Services ("Schedule") with respect to the fingerprinting fee and investigation fee for PCXE. The text of the proposed rule change is attached below. Proposed new language is *italicized*; proposed deletions are in [brackets].

* * * * *

Schedule of Fees and Charges for Exchange Services

Archipelago Exchange: ETP Fees and Charges

* * * * *

Investigation Fee: \$125 [\$100] fee per applicant for registration as ETP Holder (includes any control person listed on Schedule A of Form BD) or Market Maker Authorized Trader. Fee is also applicable to each Authorized Trader and its designated supervisor associated with an ETP Holder for which PCX is DEA.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 17 CFR 240.19b-4(f)(6).

⁶ 15 U.S.C. 78f(b)(4).

⁷ 17 CFR 200.30-3(a)(12).

Fingerprinting Fee: \$35 [\$30] fee per applicant for registration as ETP Holder (includes any control person listed on Schedule A of Form BD) or Market Maker Authorized Trader. Fee is also applicable to each Authorized Trader and its designated supervisor associated with an ETP Holder for which PCX is DEA.

* * * * *

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 proposal. The text of these statements may be examined at the places specified in Item IV below. The PCX 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 Exchange proposes to make a change to the Schedule with respect to the fingerprinting fee and the investigation fee for PCXE.

In September 2003, the Exchange modified the PCX membership fees relating to the options orientation fee.⁴ Previously, the orientation and testing fee (\$1,000) was comprised of different components including orientation and examination administration, background investigations and fingerprinting. Due to the launch of PCX Plus, the Exchange reconfigured a development and delivery process for the Exchange's orientation and testing program and proposed to revise the options orientation and test fee to allow separate charges for the options orientation fee (\$1,000), the background investigations (\$125), and the fingerprinting fee (\$35).

In establishing these new options fees, the Exchange inadvertently failed to modify the existing PCXE fingerprinting fee and investigation fee⁵ to match the proposed fee changes for PCX options. At that time, the PCXE fingerprinting fee was \$100 and the investigation fee was

\$30. Therefore, the Exchange proposes to modify the PCXE fingerprinting fee and investigation fee in order to make the fees identical to the PCX options fingerprinting fee and investigation fee.

2. Statutory Basis

The Exchange believes that the proposal is consistent with Section 6(b) of the Act, in general, and Section 6(b)(4) of the Act, in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among its ETP Holders, issuers and other persons using the facilities.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments on the proposed rule change were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii)⁶ of the Act and subparagraph (f)(2) of Rule 19b-4 thereunder because it establishes or changes a due, fee, or other charged imposed by the Exchange. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to rule-comments@sec.gov. Please include SR-PCX-2004-103 on the subject line.

⁶ 15 U.S.C. 78s(b)(3)(A)(ii).

Paper Comments

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549-0609.

All submissions should refer to SR-PCX-2004-103. 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 PCX. 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 SR-PCX-2004-103 and should be submitted on or before December 3, 2004.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁷

Margaret H. McFarland,
Deputy Secretary.

[FR Doc. E4-3150 Filed 11-10-04; 8:45 am]

BILLING CODE 8010-01-P

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3639; Amendment #2]

State of Minnesota

In accordance with a notice received from the Department of Homeland Security—Federal Emergency Management Agency—effective November 3, 2004, the above declaration is hereby amended to include Martin and Olmsted Counties as disaster areas due to damages caused by severe storms and flooding occurring on September 14, 2004, and continuing through September 27, 2004.

⁷ 17 CFR 200.30-3(a)(12).

⁴ See Securities Exchange Act Release No. 48597 (October 7, 2003), 68 FR 59439 (October 15, 2003) (SR-PCX-2003-57).

⁵ See Securities Exchange Act Release No. 45680 (April 2, 2002), 67 FR 17094 (April 9, 2002) (SR-PCX-2002-16).

In addition, applications for economic injury loans from small businesses located in the contiguous counties of Cottonwood, Jackson, Wabasha, Watonwan, and Winona in the State of Minnesota; and Emmet County in the State of Iowa may be filed until the specified date at the previously designated location. All other counties contiguous to the above primary counties have previously been declared.

All other information remains the same, *i.e.*, the deadline for filing applications for physical damage is December 6, 2004, and for economic injury the deadline is July 7, 2005.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: November 4, 2004.

Cheri L. Cannon,

Acting Associate Administrator for Disaster Assistance.

[FR Doc. 04-25224 Filed 11-10-04; 8:45 am]

BILLING CODE 8025-01-P

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster No. 3643]

State of Tennessee

Dyer and Wayne Counties and the contiguous counties of Crockett, Decatur, Gibson, Hardin, Lake, Lauderdale, Lawrence, Lewis, Obion, and Perry in the State of Tennessee; Pemiscot County in the State of Missouri; Mississippi County in the State of Arkansas; and Lauderdale County in the State of Alabama constitute a disaster area as a result of tornadoes and heavy rains on October 18-19, 2004. Applications for loans for physical damage as a result of this disaster may be filed until the close of business on January 3, 2005, and for economic injury until the close of business on August 3, 2005, at the address listed below or other locally announced locations: U.S. Small Business Administration, Disaster Area 2 Office, One Baltimore Place, Suite 300, Atlanta, GA 30308.

The interest rates are:

	Percent
For Physical Damage:	
Homeowners with Credit Available Elsewhere	6.375
Homeowners Without Credit Available Elsewhere	3.187
Businesses with Credit Available Elsewhere	5.800
Businesses and Non-Profit Organizations Without Credit Available Elsewhere	2.900
Others (Including Non-Profit Organizations) with Credit Available Elsewhere	4.875

	Percent
For Economic Injury:	
Businesses and Small Agricultural Cooperatives Without Credit Available Elsewhere ...	2.900

The number assigned to this disaster for physical damage is 364312 for Tennessee, 364412 for Missouri, 364512 for Arkansas, and 364612 for Alabama. The number assigned to this disaster for economic injury damage is 9AI700 for Tennessee, 9AI800 for Missouri, 9AI900 for Arkansas, and 9AJ100 for Alabama.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: November 3, 2004.

Hector V. Barreto,

Administrator.

[FR Doc. 04-25225 Filed 11-10-04; 8:45 am]

BILLING CODE 8025-01-P

DEPARTMENT OF STATE

[Public Notice 4890]

Culturally Significant Objects Imported for Exhibition Determinations: "Saint John the Baptist" and "Saint Onuphrius"

AGENCY: Department of State.

ACTION: Notice.

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.*; 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236 of October 19, 1999, as amended, and Delegation of Authority No. 257 of April 15, 2003 (68 FR 19875), I hereby determine that the objects, "Saint John the Baptist" and "Saint Onuphrius," imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to a loan agreement with the foreign owner. I also determine that the exhibition or display of the exhibit objects as part of the Metropolitan Museum of Art, New York, NY, from on or about November 15, 2004, to on or about April 6, 2005, and at possible additional venues yet to be determined, is in the national interest. Public notice of these Determinations is ordered to be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, including a list of

the exhibit objects, contact Julianne Simpson, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State, (telephone: 202/619-6529). The address is U.S. Department of State, SA-44, 301 4th Street, SW., Room 700, Washington, DC 20547-0001.

Dated: November 8, 2004.

C. Miller Crouch,

Principal Deputy Assistant Secretary for Educational and Cultural Affairs, Department of State.

[FR Doc. 04-25296 Filed 11-10-04; 8:45 am]

BILLING CODE 4710-08-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE-2004-84]

Petitions for Exemption; Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption part 11 of Title 14, Code of Federal Regulations (14 CFR), this notice contains a summary of certain dispositions of certain petitions previously received. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities.

FOR FURTHER INFORMATION CONTACT: Tim Adams (202) 267-8033, or Sandy Buchanan-Sumter (202) 267-7271, Office of Rulemaking (ARM-1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591.

This notice is published pursuant to 14 CFR 11.85 and 11.91.

Anthony F. Fazio,

Director, Office of Rulemaking.

Dispositions of Petitions

Docket No.: FAA-2004-18501.

Petitioner: Inter Island Airways, Inc.
Section of 14 CFR Affected: 14 CFR 135.152.

Description of Relief Sought/Disposition: To permit Inter Island Airways, Inc., to the extent necessary to operate its Dornier 228-212 airplane, Registration N228ST, subject to certain conditions and limitations. *Grant, 10/14/2004, Exemption No. 8424.*

Docket No.: FAA-2004-19159.

Petitioner: Monterey Bay Chapter of the International Organization of the Ninety-Nines, Inc.

Section of 14 CFR Affected: 14 CFR 135.251, 135.255, and 135.353, and appendices I and J to part 121.

Description of Relief Sought/Disposition: To permit Monterey Bay Chapter of the International Organization of the Ninety-Nines, Inc., to conduct local sightseeing flights at the Watsonville Municipal Airport, Watsonville, California, on or about October 30, 2004, for compensation or hire, without complying with certain anti-drug and alcohol misuse prevention requirements of part 135, subject to certain conditions and limitations. *Grant, 10/15/2004, Exemption No. 8423.*

Docket No.: FAA-2000-8147.
Petitioner: Flight Line Aviation, Inc.
Section of 14 CFR Affected: 14 CFR 135.143(c)(2).

Description of Relief Sought/Disposition: To permit Flight Line Aviation, Inc., to operate certain aircraft under part 135 without a TSO-C112 (Mode S) transponder installed on those aircraft. *Grant, 10/18/2004, Exemption No. 6874C.*

Docket No.: FAA-2004-19282.
Petitioner: Pacific Wings, LLC.
Section of 14 CFR Affected: 14 CFR 135.143(c)(2).

Description of Relief Sought/Disposition: To permit Pacific Wings, LLC, to operate four Cessna Caravan 208B aircraft under part 135 without a TSO-C112 (Mode S) transponder installed on those aircraft. *Grant, 10/13/2004, Exemption No. 8419.*

Docket No.: FAA-2001-8685.
Petitioner: Advantage Air Charter, LLC.
Section of 14 CFR Affected: 14 CFR 135.143(c)(2).

Description of Relief Sought/Disposition: To permit Advantage Air Charter, LLC, to operate certain aircraft under part 135 without a TSO-C112 (Mode S) transponder installed on those aircraft. *Grant, 10/13/2004, Exemption No. 7441B.*

Docket No.: FAA-2004-19305.
Petitioner: Columbia Flyers, LLC.
Section of 14 CFR Affected: 14 CFR 135.143(c)(2).

Description of Relief Sought/Disposition: To permit Columbia Flyers, LLC, to operate its Bell Helicopter (Serial No. 2867) under part 135 without a TSO-C112 (Mode S) transponder installed on those aircraft. *Grant, 10/13/2004, Exemption No. 8420.*

Docket No.: FAA-2004-19339.
Petitioner: Aurora Aviation, LLC.
Section of 14 CFR Affected: 14 CFR 135.143(c)(2).

Description of Relief Sought/Disposition: To permit Aurora Aviation, LLC, to operate certain aircraft under

part 135 without a TSO-C112 (Mode S) transponder installed on those aircraft. *Grant, 10/13/2004, Exemption No. 8421.*

Docket No.: FAA-2004-19338.
Petitioner: Wright Air Service.
Section of 14 CFR Affected: 14 CFR 135.143(c)(2).

Description of Relief Sought/Disposition: To permit Wright Air Service to operate certain aircraft under part 135 without a TSO-C112 (Mode S) transponder installed on those aircraft. *Grant, 10/13/2004, Exemption No. 8422.*

Docket No.: FAA-2000-8140.
Petitioner: Alaska Island Air, Inc.
Section of 14 CFR Affected: 14 CFR 135.143(c)(2).

Description of Relief Sought/Disposition: To permit Alaska Island Air, Inc., to operate certain aircraft under part 135 without a TSO-C112 (Mode S) transponder installed on those aircraft. *Grant, 10/13/2004, Exemption No. 7936A.*

Docket No.: FAA-2000-8428.
Petitioner: Delta Air Lines, Inc.
Section of 14 CFR Affected: 14 CFR 25.791(a) and 121.317(a).

Description of Relief Sought/Disposition: To permit Delta Air Lines, Inc. (Delta), to operate its McDonnell Douglas MD-90 aircraft with "No Smoking" signs that are always illuminated provided Delta operates those aircraft in a manner that continues to prohibit smoking on board the affected aircraft at all times. *Grant, 10/12/2004, Exemption No. 6034E.*

Docket No.: FAA-2004-19314.
Petitioner: Western North Carolina Pilots Association.

Section of 14 CFR Affected: 14 CFR 135.251, 135.255, and 135.353, and appendices I and J to part 121.

Description of Relief Sought/Disposition: To permit Western North Carolina Pilots Association to conduct local sightseeing flights at the Asheville Regional Airport, Asheville, North Carolina, on or about October 23 and 24, 2004, for compensation or hire, without complying with certain anti-drug and alcohol misuse prevention requirements of part 135, subject to certain conditions and limitations. *Grant, 10/21/2004, Exemption No. 8426.*

[FR Doc. 04-25214 Filed 11-10-04; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

RTCA Special Committee 193/ EUROCAE Working Group 44: Terrain and Airport Databases

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of RTCA Special Committee 193/EUROCAE Working Group 44 meeting.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of RTCA Special Committee 193/EUROCAE Working Group 44: Terrain and Airport Databases.

DATES: The meeting will be held December 6-10, 2004 from 9 a.m.-5 p.m.

ADDRESSES: The meeting will be held at Jeppesen, 225 West Santa Clara Street, 16th Floor, San Jose, CA 95119-1743.

FOR FURTHER INFORMATION CONTACT: RTCA Secretariat, 1828 L Street, NW., Suite 805, Washington, DC 20036; telephone (202) 833-9339; fax (202) 833-9434; Web site <http://www.rtca.org>. (2) Beth Miller; telephone (408) 961-2825.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463, 5 U.S.C., Appendix 2), notice is hereby given for a Special Committee 193/EUROCAE Working Group 44 meeting. The agenda will include:

- December 6:
 - Opening plenary session (welcome and introductory remarks, review/approval of meeting agenda, review summary of previous meeting).
 - Discussion.
 - Presentations.
 - Andre Bourdais—proposed ARNIC airport database encoding format.
 - Sam Van der Stricht—AMXS (Airport Mapping Exchange Schema).
 - David Toland (FAA)—Systems and Design Segment Specifications Documents.
 - Subgroup 5 (Update to SC-193/WG-44 Documents).
 - Prepare RTCA and EUROCAE Documents for Versions "A".
 - DO-272A/ED-99A.
 - Numerical Requirements.
 - Connectivity.
 - New Appendix with reference to changes to DO-272/ED-99.
 - Add words for guidance.
 - DO-276A/ED-98A.
 - Section 3.3.23 Geometry.
 - New Appendix with reference to changes to 276.

- FRAC Process, including the establishment of key dates for DO-272A/ED99A and DO-276A/ED-98A.
- December 7:
 - Continue Subgroup 5:
 - Update to SC-193/WG-44.
- December 8:
 - Continue in Subgroup 5:
 - Update to SC-193/WG-44.
- December 9:
 - Joint meeting with ARINC SAI Committee for discussions on proposed ARINC standard for airborne mapping database formats. Chair of ARINC SAI committee is Paul Prizansnuk.
 - Update to SC-193/WG-44 Documents.
- December 10:
 - Closing plenary session (summary of subgroup 5, assign tasks, other business, date and place of next meeting, adjourn).

Attendance is open to the interested public but limited to space availability. With the approval of the chairmen, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on November 3, 2004.

Natalie Olgetree,

FAA General Engineer, RTCA Advisory Committee.

[FR Doc. 04-25134 Filed 11-10-04; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

RTCA Special Committee 147: Minimum Operational Performance Standards for Traffic Alert and Collision Avoidance Systems Airborne Equipment

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of RTCA Special Committee 147 meeting.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of RTCA Special Committee 147: Minimum Operational Performance Standards for Traffic Alert and Collision Avoidance Systems Airborne Equipment.

DATES: The meeting will be held December 7-9, 2004 starting at 9 a.m.

ADDRESSES: The meeting will be held at Embassy Suites, 2577 West Greenway Road, Phoenix, AZ 85023.

FOR FURTHER INFORMATION CONTACT: RTCA Secretariat, 1828 L St., NW., Washington, DC 20036; telephone (202) 833-9339; fax (202) 833-9434; Web site <http://www.rtca.org>.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463, 5 U.S.C., Appendix 2), notice is hereby given for a Special Committee 147 meeting. The agenda will include:

- December 7:
 - Operations, Requirements and Surveillance Working Group Meetings
- December 8:
 - Operations, Requirements and Surveillance Working Group Meetings continued
- December 9:
 - Opening Session (Welcome and Introductory Remarks, Review/Approve Summary of Previous Meeting, Review of Open Action Items)
 - SC-147 Activity Reports
 - Operations Working Group
 - Requirement Working Group
 - Surveillance Working Group
 - Closing Session (Date and Place of Next Meeting, Other Business, Review Action Items/Work Program, Adjourn).

Attendance is open to the interested public but limited to space availability. With the approval of the chairmen, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on November 3, 2004.

Natalie Olgetree,

FAA General Engineer, RTCA Advisory Committee.

[FR Doc. 04-25212 Filed 11-10-04; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No. FAA-2004-19612]

Use of Non-Original Equipment Manufacturer's Components in Certified Aviation Obstruction/Antenna Lighting Systems

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

ACTION: Notice of policy; request for comments.

SUMMARY: On June 17, 2004, the FAA published a notice of policy in the **Federal Register** pertaining to the use of replacement components to repair certified lighting systems on antenna structures. The notice dealt with the issue of certified lighting systems manufactured by original equipment manufacturers (OEMs) that have been repaired with replacement components manufactured by other manufacturers (non-OEMs). Since the publication of that notice, the FAA has received information from manufacturers of certified lighting systems and of replacement components. After reviewing this information, as well as the information that led the agency to publish the notice of policy, the FAA has determined that further public input and further study by the agency are necessary to assess (1) the adequacy of existing guidance in FAA advisory circulars pertaining to obstruction lighting, and (2) the need for any changes in such guidance. Accordingly, the agency is withdrawing its June 17, 2004, notice of policy. In addition, the FAA is announcing an immediate interim expansion of the Airport Lighting Equipment Certification Program (the certification program), provided for in Advisory Circular (AC) 150/5345-53B. Manufacturers of obstruction lighting systems may show compliance with FAA specifications through the certification program. Under the certification program, manufacturers of obstruction lighting systems have their products tested by third party certification bodies to determine whether those systems meet the FAA specifications set forth in another advisory circular, AC 150/5345-43E. The certification program, however, does not provide a method for certifying replacement components. The interim procedure announced here will provide a mechanism for certification of airport lighting equipment that contains replacement parts not produced by the original equipment manufacturer while the agency reviews its policy in this area.

DATES: Comments must be received by January 11, 2005. Comments that are received after that date will be considered only to the extent possible.

ADDRESSES: This notice is available for public review in the Dockets Office, U.S. Department of Transportation, Room Plaza Level (PL) 401, 400 Seventh Street, SW., Washington, DC 20590-0001. The documents have been filed under Docket No. FAA-200__-XXXXX.

The Dockets Office is open between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Dockets Office is on the plaza level of the Nassif Building at the Department of Transportation at the above address.

Also, you may review public dockets on the Internet at <http://dms.dot.gov>. Comments on the proposed policy must be delivered or mailed, in duplicate, to: the Docket Management System, U.S. Department of Transportation, Room Plaza Level 401, 400 Seventh Street, SW., Washington, DC 20590-0001. You must identify the docket number "FAA Docket No. FAA-200__-XXXXX" at the beginning of your comments.

Commenters wishing the FAA to acknowledge receipt of their comments must include a preaddressed, stamped postcard on which the following statement is made: "Comments to FAA Docket No. FAA-200__-XXXXX." The postcard will be date-stamped and mailed to the commenter. You may also submit comments through the Internet to <http://dms.gov>.

FOR FURTHER INFORMATION CONTACT: Rick Marinelli, Manager, Airport Engineering Division, AAS-100, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, telephone (202) 267-7669.

SUPPLEMENTARY INFORMATION: On June 17, 2004, the FAA published a notice in the **Federal Register** advising that if certain non-OEM replacement components were installed in certified lighting systems, those systems could not longer be considered certified under FAA standards. The agency wrote further that a tower owner who used a non-OEM replacement part in a certified lighting system could be liable for possible violations of a regulation promulgated by the Federal Communications Commission, 47 CFR 1723, requiring that FCC-licensed broadcast towers use lighting systems that comply with FAA specifications. That FCC regulation makes it mandatory for FCC-licensed broadcast towers to meet the specifications, standards, and general requirements stated in FAA AC 70/7460-1J, Obstruction Marking and Lighting, (which has been replaced by AC 70/7460-1K) and FAA AC 150/5345-43E, Specification for Obstruction Lighting Equipment.

AC 150/5345-53B, Airport Lighting Equipment Certification Program, establishes a certification program that applies to numerous types of airport lighting equipment, including obstruction lighting systems. The certification program is designed to ensure a high level of aviation safety. Under the certification program, third

party certification bodies (listed in Appendix 1 of AC 150/5345-53B) test lighting equipment to determine whether it complies with the FAA's substantive standards prescribed in AC 150/5345-43E for all obstruction lighting systems. Lighting equipment that is certified by third party certification bodies is listed in Appendix 3 of AC 150/5345-53B.

In its current form, AC 150/5345-53B provides for certification only of entire lighting systems, and makes no provision for certification of such systems' individual components. Thus, AC 150/5345-53B does not provide a mechanism for ensuring that a certified lighting system in which non-OEM replacement components have been installed continues to meet the safety standards of AC 150/5345-43E. A non-OEM replacement part might perform as well as the original components in the system, but there is no current way under the current certification program for the FAA, the FCC, and/or the tower operator/owner to know that. Knowing the performance of safety equipment is the core purpose of certification, and the use of non-OEM replacement components in certified equipment at least has the potential for undermining the safety purpose and benefits of the certification program.

The FAA is considering developing a permanent procedure that would be available for the certification of all qualified equipment that will meet FAA safety standards. As explained below, we are soliciting public comment regarding the possible expansion of the certified equipment list and specifications to include equipment with non-OEM replacement parts.

Request for Comments on Certification of Replacement Parts

The FAA is requesting comment on the general scope and procedures for the certification of obstruction lighting equipment systems containing non-OEM components. Based on the comments received, the FAA will consider whether to publish specific guidance implementing such a change, in the form of changes to AC 150/5345-43E, AC 150/5345-53B and AC 70/7460-1K. We will publish that specific guidance for further comment before issuing a final version.

At this time, the FAA is requesting comment on the following general questions and issues:

1. What certification procedure should apply to a replacement part that is only part of a unit listed in Appendix 3 of AC 150/5345-53B?
2. What safety issues should be considered in the certification of

replacement parts (both OEM and non-OEM)?

3. Should special testing procedures apply to replacement parts (such as lamp burn in and photometric testing)?

4. How can replacement parts be listed in Appendix 3 of AC 150/5345-53B in a manner that makes clear that their use is limited to particular units or systems?

5. What terminology should apply to replacement parts to distinguish them from the original units now listed in Appendix 3 of AC 150/5345-53B?

6. What provision should be made for out-of-production equipment for which OEM replacement components are unavailable, and for which a new unit may not be available for use in certifying replacement parts?

7. What provision should be made for stock parts which currently may be subject to more stringent requirements by the manufacturers of original light systems than the specifications of the stock parts manufacturers?

Interim Procedure for Recertification of Certified Lighting Equipment With Non-OEM Components

Review of public comments responding to this notice and development of a change to the airport lighting equipment certification program to include testing and certification of equipment with non-OEM replacement components could require a number of months. Because the FAA believes that the certification program promotes air safety, we have decided to provide an interim procedure for certification of lighting systems that incorporate replacement parts produced by non-OEMs. The FAA does not intend to establish permanent, specific criteria for certification of equipment with non-OEM replacement lighting components without first issuing such criteria in proposed form and requesting public comment.

While the agency considers a permanent change, the FAA will allow the following procedure—effective immediately—to determine whether particular parts can be installed in existing certified fixtures and be certified. Under the interim process, the FAA will consider the substitution of a non-OEM parts as equivalent to an equipment modification by an original equipment manufacturer for the purposes of testing for recertification. Equipment modification by original equipment manufacturers is dealt with in paragraph 7, Modifications to Equipment, of Appendix 2 of AC 150/5345-53B. Under that paragraph, recertification of the entire lighting system is required when an original

equipment manufacturer modifies the system. Applying that paragraph to non-OEM replacement parts, the non-OEM supplier may obtain certified equipment, substitute its own replacement part(s), and submit the modified device to a third party certification body for testing. Non-OEMs seeking interim certification of their replacement parts in OEM lighting equipment will be required to follow the same procedures as OEMs of lighting equipment as provided in paragraph 2a of AC 150/5345-53B. Also, these non-OEMs will be required to pay for the costs of testing their products in OEM lighting equipment, just as OEMs, under paragraph 2b of that advisory circular bear, the costs of testing their equipment. The addendum to AC 150/5345/53B will be modified to include equipment certified in this manner with specific substitute part(s). Separate tests will be required for each combination of substitute parts (e.g., a supplier selling both a flash tube and a timing circuit must have a device certified with each part substituted independently, and then together).

As part of this interim procedure, non-OEM components will be subject to Appendix 2 of AC 150/5345-53B with the following exception. Paragraph 7 of Appendix 2 of that AC notes that "substitution of stock electrical items such as resistors, capacitors, transistors, etc., which are identical in form, fit, and function and which are equal to or better in quality and rating is permissible." This exemption is not extended automatically to non-OEM suppliers, as OEM specifications for stock items may be more stringent than those applied by the manufacturers of those items. However, this exemption may be granted at the third party certification body's judgment. The requirements of Appendix 5, Lamp Life Test Procedure, in AC 150-5345-53B, will apply to replacement lamps. Upon the issuance of any permanent change to the certification program, the FAA will decide if substitute parts certified under this interim program will require further testing to retain certified status.

Issued in Washington DC, on November 4, 2004.

J.R. White,

Director of Airport Safety and Standards.

[FR Doc. 04-25209 Filed 11-10-04; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement: San Bernardino County, CA

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is republishing this notice to advise the public that an Environmental Impact Statement (EIS) is being prepared for the proposed highway project along State Route 18 in San Bernardino County, California. It is being republished due to the length of time since the original Notice of Intent (NOI) was published, which was August 30, 1990 (*Federal Register*, vol. 55, no. 169) and project changes.

FOR FURTHER INFORMATION CONTACT: Mr. César E. Pérez, Team Leader—South Region, Federal Highway Administration, 650 Capitol Mall, Suite 4-100, Sacramento, California 95814, Telephone: (916) 498-5065.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the California Department of Transportation, is preparing an EIS for the proposed Big Bear Lake Dam Bridge Replacement Project on State Route 18 in San Bernardino County, California. The proposed project will facilitate completion of the Big Bear Dam spillway project, move vehicular traffic off the dam structure, and improve the geometrics of the approach roadways. Existing State Route 18, within the project limits (kilo-post miles 71.1/71.9 [post miles 44.2/44.7]) has curves where the posted speed limit is less than 25 miles per hour. These curves will be realigned and the overall roadway brought up to current design standards within the project limits. This includes a wider bridge with three lanes to accommodate existing and future travel demands within the Big Bear Lake area, as well as 10-foot shoulders to accommodate nonmotorized travel and better facilitate winter snow removal. The original NOI proposed four lanes.

The U.S. Forest Service is a cooperating agency. Consultation with the U.S. Forest Services has been, and will continue to be, undertaken to minimize impacts to the surrounding San Bernardino National Forest associated with the construction of the proposed project.

Alternatives currently under consideration are the result of the 1990 public and agency scoping meetings, as well as comments received from multiple public information meetings/open houses held in the Big Bear area.

These alternatives include: Alternative 1—No Action; Alternative 4—construct new bridge upstream of the existing bridge crossing over Big Bear Lake; and alternative 5—construct new bridge crossing over Bear Creek Canyon downstream of the existing bridge. Alternatives 2 and 3 were eliminated after initial scoping due to a higher level of anticipated impacts to properties eligible for listing on the National Register of Historic Places and a larger impact area and subsequent adverse impacts to biological and visual resources. In addition, Alternative 2 would have replaced the roadway on the existing bridge. Seismic concerns and conflicts with operation of the dam also supported the decision to eliminate replacing the roadway on the existing bridge as was identified as an alternative in the 1990 NOI.

Letters describing the proposed action and soliciting comments were previously sent to appropriate Federal, State, and local agencies, and to private organizations and citizens who have expressed, or are known to have, an interest in this proposal. A formal agency scoping meeting was held June 5, 1990, in the City of Big Bear Lake, California. A public scoping meeting was held July 9, 1990, also in the City of Big Bear Lake, California. At the request of the Big Bear Kiwanis and Big Bear Lions Clubs, the proposed project was presented to the clubs in the City of Big Bear Lake, California, on May 15, 1990, and August 16, 1990, respectively. On August 8, 1997, in the City of Big Bear Lake, California, a public participation meeting was held in accordance with the Advisory Council on Historic Preservation Regulations regarding section 106 of the National Historic Preservation Act to discuss/comment on the draft Finding of Effect. Public information meetings/open houses were held in the City of Big Bear Lake, California, on September 30, 1997, and May 3, 2001, to keep the public up to date and continue with the public information program. Finally, public agency coordination and update meetings were also held on May 2, 2002, and August 20, 2003. The public information program will continue throughout the environmental process.

To ensure that the full range of issues related to this proposed action are addressed, and all significant issues are identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA at the address previously provided in this notice. The Draft EIS will be available for public and agency review and comment prior

to the public hearing for the proposed action. It is anticipated that the Draft EIS will be available for review in early 2005.

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

Issued on: November 5, 2004.

Mr. John E. Dewar,

Acting Chief Operating Officer, Sacramento, California.

[FR Doc. 04-25194 Filed 11-10-04; 8:45 am]

BILLING CODE 4910-22-M

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Request for Comments

AGENCY: Federal Railroad Administration, DOT.

ACTION: Notice and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Requirement (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected burden. The **Federal Register** notice with a 60-day comment period soliciting comments on the following collection of information was published on September 2, 2004 (69 FR 53765).

DATES: Comments must be submitted on or before December 13, 2004.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Brogan, Office of Safety, Planning and Evaluation Division, RRS-21, Federal Railroad Administration, 1120 Vermont Ave., NW., Mail Stop 25, Washington, DC 20590 (telephone: (202) 493-6292), or Ms. Debra Steward, Office of Information Technology and Productivity Improvement, RAD-20, Federal Railroad Administration, 1120 Vermont Ave., NW., Mail Stop 35, Washington, DC 20590 (telephone: (202) 493-6139). (These telephone numbers are not toll-free.)

SUPPLEMENTARY INFORMATION: The Paperwork Reduction Act of 1995 (PRA), Pub. L. No. 104-13, Section 2, 109 Stat. 163 (1995) (codified as revised at 44 U.S.C. 3501-3520), and its implementing regulations, 5 CFR part 1320, require Federal agencies to issue two notices seeking public comment on

information collection activities before OMB may approve paperwork packages. 44 U.S.C. 3506, 3507; 5 CFR 1320.5, 1320.8(d)(1), 1320.12. On September 2, 2004, FRA published a 60-day notice in the **Federal Register** soliciting comment on ICRs that the agency was seeking OMB approval. 69 FR 53765. FRA received no comments in response to this notice.

Before OMB decides whether to approve these proposed collections of information, it must provide 30 days for public comment. 44 U.S.C. 3507(b); 5 CFR 1320.12(d). Federal law requires OMB to approve or disapprove paperwork packages between 30 and 60 days after the 30 day notice is published. 44 U.S.C. 3507 (b)-(c); 5 CFR 1320.12(d); *see also* 60 FR 44978, 44983, Aug. 29, 1995. OMB believes that the 30 day notice informs the regulated community to file relevant comments and affords the agency adequate time to digest public comments before it renders a decision. 60 FR 44983, Aug. 29, 1995. Therefore, respondents should submit their respective comments to OMB within 30 days of publication to best ensure having their full effect. 5 CFR 1320.12(c); *see also* 60 FR 44983, Aug. 29, 1995.

The summary below describes the nature of the information collection requirement (ICR) and the expected burden, and is being submitted for clearance by OMB as required by the PRA.

Title: Safety Appliance Concern Recommendation Report; Safety Appliance Standards Guidance Checklist Forms.

OMB Control Number: 2130-NEW.

Type of Request: New collection.

Affected Public: Businesses.

Abstract: In an ongoing effort to conduct more thorough and more effective inspections of railroad freight equipment and to further enhance safe rail operations, FRA has developed a safety concern recommendation report form, and a group of guidance checklist forms that will facilitate railroad, rail car owner, and rail equipment manufacturer compliance with agency Railroad Safety Appliance Standards regulations. In lieu of completing an official inspection form (FRA F 6180.96), which takes subject railroad equipment out of service and disrupts rail operations, proposed new Form FRA F 6180.4a will enable Federal and State safety inspectors to report to agency headquarters systemic or other safety concerns. FRA headquarters safety specialists can then contact railroads, car owners, and equipment manufacturers to address the reported issue(s) in a timely fashion without

unnecessarily having to take affected rail equipment out of service, unless deemed defective. Proposed forms FRA F 6180.4(b)-(m) will be used in conjunction with the Special Inspection of Safety Appliance Equipment form (Form FRA F 6180.4) to assist Motive, Power, and Equipment (MP&E) field inspectors in ensuring that critical sections of 49 CFR part 231 (Railroad Safety Appliance Standards), pertaining to various types of freight equipment, are complied with through the use of a check-off list. By simplifying their demanding work, check-off lists for 12 essential sections of part 231 will ensure that FRA MP&E field personnel completely and thoroughly inspect each type of freight car for compliance with its corresponding section in part 231. The proposed Guidance Checklist forms may later be used by state field inspectors as well. FRA believes that the proposed collection of information will result in improved construction of newly designed freight cars and improved field inspections of all freight cars currently in use. This, in turn, will serve to reduce the number of accidents/incidents and corresponding injuries and fatalities that occur every year due to unsafe or defective equipment that was not promptly repaired/replaced.

Annual Estimated Burden Hours: 240 hours.

Addressee: Send comments regarding this information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 Seventeenth Street, NW., Washington, DC, 20503, Attention: FRA Desk Officer.

Comments Are Invited on the Following: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

A comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication of this notice in the **Federal Register**.

Authority: 44 U.S.C. 3501-3520.

Issued in Washington, DC, on November 3, 2004.

Kathy A. Weiner,

Director, Office of Information Technology and Support Systems, Federal Railroad Administration.

[FR Doc. 04-25135 Filed 11-10-04; 8:45 am]

BILLING CODE 4910-06-P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Notice of Application for Approval of Discontinuance or Modification of a Railroad Signal System or Relief From Requirements

Pursuant to Title 49 Code of Federal Regulations (CFR) Part 235 and 49 U.S.C. 20502(a), the following railroad has petitioned the Federal Railroad Administration (FRA) seeking approval for the discontinuance or modification of the signal system or relief from the requirements of 49 CFR Part 236 as detailed below.

Docket Number FRA-2004-19336

Applicant: Burlington Northern and Santa Fe Railway Company, Mr. William G. Peterson, Director Signal Engineering, 4515 Kansas Avenue, Kansas City, Kansas 66106.

The Burlington Northern and Santa Fe Railway Company (BNSF) seeks relief from the requirements of the Rules, Standards and Instructions, 49 CFR, Part 236, Section 236.110, to the extent that each test record, need not be signed by the person making the inspection or test. In lieu of the signature, the BNSF proposes to implement an electronic system for recording and maintaining signal inspection records, that uniquely identify the person as the author of the record with a PIN number or password. Once a record is entered and verified, it cannot be modified. In conjunction with this relief, the BNSF also requests the utilization of an electronic system for recording and maintaining applicable inspection and test records as defined in 49 CFR, Part 234, subject to approval by the Associate Administrator for Safety, as required by Section 234.273. A pilot program is planned for approximately 100 signal employees located in Washington, Idaho, Montana, Texas, and Louisiana.

Applicant's justification for relief: The BNSF believes that the electronic system will serve the best interest of the BNSF and the Federal and State Inspection authorities that are required to inspect records. The BNSF also anticipates this system will provide many benefits, including: improved availability of test records, improved

management reporting of compliance, improved consistency for filing records, and a reduction in the need for paper documentation.

Any interested party desiring to protest the granting of an application shall set forth specifically the grounds upon which the protest is made, and include a concise statement of the interest of the party in the proceeding. Additionally, one copy of the protest shall be furnished to the applicant at the address listed above.

All communications concerning this proceeding should be identified by the docket number and must be submitted to the Docket Clerk, DOT Central Docket Management Facility, Room PI-401, 400 7th Street, SW., Washington, DC 20590-0001. Communications received within 45 days of the date of this notice will be considered by the FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9 a.m.-5 p.m.) at the above facility. All documents in the public docket are also available for inspection and copying on the internet at the docket facility's Web site at <http://dms.dot.gov>.

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

FRA expects to be able to determine these matters without an oral hearing. However, if a specific request for an oral hearing is accompanied by a showing that the party is unable to adequately present his or her position by written statements, an application may be set for public hearing.

Issued in Washington, DC, on November 1, 2004.

Grady C. Cothen, Jr.,

Acting Associate Administrator for Safety.

[FR Doc. 04-25136 Filed 11-10-04; 8:45 am]

BILLING CODE 4910-06-P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Reports, Forms and Record Keeping Requirements; Agency Information Collection Activity Under OMB Review

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collections and their expected burden. The **Federal Register** Notice with a 60-day comment period was published on July 23, 2004 (69 FR 44077).

DATES: Comments must be submitted on or before December 13, 2004.

ADDRESSES: Comments should be directed to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW., Washington, DC 20503, Attention NHTSA Desk Officer.

FOR FURTHER INFORMATION CONTACT: Michael Kido, National Highway Traffic Safety Administration, Office of the Chief Counsel (NCC-111), (202) 366-5263, 400 Seventh Street, SW., Room 5219, Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

National Highway Traffic Safety Administration

Title: Confidential Business Information.

Type of Request: Extension of a currently approved collection.

Form Number: This collection of information uses no standard forms.

OMB Control Number: 2127-0025.

Frequency: Submission of information pursuant to this regulation will depend on the frequency with which a given entity, such as a manufacturer of motor vehicles or motor vehicle equipment, submits information that the entity wishes the agency to withhold as confidential, generally pursuant to Exemption 4 of the Freedom of Information Act (FOIA), 5 U.S.C. 552.

Affected Public: This collection of information would apply to any person who seeks to have the agency treat as confidential information submitted to the agency either voluntarily or pursuant to a mandatory information request issued by the agency. Thus, the collection of information could apply to

any of the entities over which the agency exercises regulatory authority. Recent trends lead the agency to estimate that NHTSA will receive approximately 450 requests for confidential treatment in 2004 and subsequent years. Large manufacturers make the vast majority of requests for confidential treatment.

Abstract: NHTSA's Confidential Business Information (CBI) rule, coupled with case law, has governed the submission of requests for confidential treatment of information for over 20 years. Recently, NHTSA amended the regulation to simplify and update it to reflect developments in the law and to address the application of the rule to the early warning reporting requirements. See 68 FR 44209 (July 28, 2003) and 69 FR 21409 (April 21, 2004).

Estimated Annual Burden: Using the above estimate of approximately 450 requests for confidentiality per year, with an estimated eight hours of preparation to collect and provide the information, at an assumed rate of \$25 an hour, the annual estimated cost of collecting and preparing the information necessary for 450 complete requests for confidential treatment is about \$90,000 (8 hours of preparation $\times$ 450 requests $\times$ \$25). Adding in a postage cost of \$1732.50 (450 requests at a cost of \$3.85 for postage), we estimate that it will cost \$91,732.50 a year for persons to prepare and submit the information necessary to satisfy the confidential business information provisions of 49 CFR part 512.

Requesters are not required to keep copies of any records or reports submitted to us. As a result, the cost imposed to keep records would be zero hours and zero costs.

Number of Respondents: We estimate that there will be approximately 450 requests per year.

Summary of the Collection of Information: Any entity seeking confidential treatment for information submitted to the agency will be required to request confidential treatment from the agency and to justify that request. To obtain confidential treatment of submitted information, the submitting entity must comply with the requirements in NHTSA's CBI regulation and satisfy the requirements for one of the exemptions provided under the FOIA, 5 U.S.C. 552(b).

ADDRESSES: Send comments, within 30 days, to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW., Washington, DC 20503, Attention NHTSA Desk Officer.

Comments Are Invited on: Whether the proposed collection of information

is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimate of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology. A Comment to OMB is most effective if OMB receives it within 30 days of publication.

Issued on November 5, 2004.

Jacqueline Glassman,
Chief Counsel.

[FR Doc. 04-25137 Filed 11-10-04; 8:45 am]

BILLING CODE 4910-59-P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Reports, Forms and Record Keeping Requirements; Agency Information Collection Activity Under OMB Review

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collections and their expected burden. The **Federal Register** Notice with a 60-day comment period was published on August 10, 2004 (69 FR 48562-48563).

DATES: Comments must be submitted on or before December 13, 2004.

FOR FURTHER INFORMATION CONTACT: Debbie Parker, NHTSA, NVS-220, Washington, DC 20590, phone 202-366-1768.

SUPPLEMENTARY INFORMATION:

National Highway Traffic Safety Administration

Title: 49 CFR 556, Exemption for Inconsequential Defect or Noncompliance.

OMB Number: 2127-0045.

Type of Request: Reinstatement, without change, of a previously approved collection which has expired.

Abstract: The National Highway Traffic Safety Administration's statute at 49 U.S.C. 30118, Notification of defects

and noncompliance, and 49 U.S.C. 30120, Remedies for defects and noncompliance, generally requires manufacturers of motor vehicles and items of replacement equipment to conduct a notification and remedy campaign (recall) when their products are determined to contain a safety-related defect or a noncompliance with a Federal motor vehicle safety standard (FMVSS). Those sections require a manufacturer of motor vehicles or motor vehicle equipment to notify distributors, dealers, and purchasers if any of the manufacturer's products are determined to either contain a safety-related defect or fail to comply with an applicable FMVSS. The manufacturer is under a concomitant obligation to remedy such defect or noncompliance. Pursuant to 49 U.S.C. 30118(d) and 30120(h), Exemptions, a manufacturer may seek an exemption from these notification and remedy requirements on the basis that the defect or noncompliance is inconsequential as it relates to motor vehicle safety. NHTSA exercised this statutory authority to excuse inconsequential defects or noncompliances when it promulgated 49 CFR Part 566, Exemption for Inconsequential Defect or Noncompliance. This regulation establishes the procedures for manufacturers to submit exemption petitions to the agency and the procedures the agency will use in evaluating those petitions. Part 556 allows the agency to ensure that inconsequentiality petitions are both properly substantiated and efficiently processed.

Affected Public: Businesses or other for-profit entities.

Estimated Total Annual Burden: 200.

ADDRESSES: Send comments, within 30 days, to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725-17th Street, NW., Washington, DC 20503, Attention NHTSA Desk Officer.

Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimate of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology. A comment to OMB is most effective if

OMB receives it within 30 days of publication.

Issued on: November 8, 2004.

Kenneth N. Weinstein,

Associate Administrator for Enforcement.

[FR Doc. 04-25208 Filed 11-10-04; 8:45 am]

BILLING CODE 4910-59-P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA-2004-19529; Notice 1]

Toyota Motor North America, Inc., Receipt of Petition for Decision of Inconsequential Noncompliance

Toyota Motor Corporation has determined that the daytime running lamps (DRLs) on certain vehicles it manufactured in 1998-2005 do not comply with S5.5.11(a) of 49 CFR 571.108, Federal Motor Vehicle Safety Standard (FMVSS) No. 108, "Lamps, reflective devices, and associated equipment." Toyota Motor North America, Inc. (Toyota), on behalf of Toyota Motor Corporation, has filed an appropriate report pursuant to 49 CFR part 573, "Defect and Noncompliance Reports."

Pursuant to 49 U.S.C. 30118(d) and 30120(h) and on behalf of Toyota Motor Corporation, Toyota has petitioned for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential to motor vehicle safety.

This notice of receipt of Toyota's petition is published under 49 U.S.C. 30118 and 30120 and does not represent any agency decision or other exercise of judgment concerning the merits of the petition.

A total of approximately 75,355 model year 1998-2005 Lexus LX470 vehicles are affected. S5.5.11(a) of FMVSS No. 108 requires that

* * * each such lamp: (1) Has a luminous intensity not less than 500 candela at test point H-V, nor more than 3,000 candela at any location in the beam, when tested in accordance with Section S11 of this standard, unless it is: * * * (ii) An upper beam headlamp intended to operate as a DRL, whose luminous intensity at test point H-V is not more than 7,000 candela, and which is mounted not higher than 864 mm above the road surface as measured from the center of the lamp with the vehicle at curb weight.

The DRLs on the LX470s are provided by the upper beam headlamps operating at a lower intensity, with each lamp having a maximum luminous intensity of roughly 4,720 candela at the maximum point in the beam. However,

the specification of the height above the road surface as measured from the center of the lamps with the vehicles at curb weight is 895 mm, and therefore the DRLs exceed the maximum luminous intensity specified in S5.5.11(a)(1)(ii) of FMVSS No. 108.

Toyota believes that the noncompliance is inconsequential to motor vehicle safety and that no corrective action is warranted. Toyota states the following in its petition.

Toyota conducted subjective evaluations of the glare from the DRLs using 19 contractors for the subject vehicles under various conditions, and confirmed that glare from the subject vehicles is the same or better than vehicles that were modified to meet the maximum DRL luminous intensity permitted by the standard at the height limit of 864 mm. Toyota evaluated the glare from the subject vehicles' DRLs by observing them through the rearview mirror of a small passenger car as well as directly, as from an oncoming vehicle. According to Toyota's evaluation, the subject vehicles received overall ratings above 5 ("lamps are just acceptable"). Accordingly, in the scale, higher numbers indicate less glare.

Toyota indicates in its petition that a rating of 1 indicates "The headlamps are unbearable," while the highest rating of 9 indicates "The headlamps are just noticeable."

Toyota further states,

Toyota calculated the luminous intensity of light from the DRLs striking the rearview mirror of the preceding vehicle mounted 1,120 mm (44 inches) above the ground and 6.1 m (20 feet) in front of the DRL. We also indicated the allowable range of the regulation. * * * The assessment mirror height of 44 inches and distance of 20 feet are the same used in NHTSA's own evaluation as described in the final rule published in the Monday, January 11, 1993 **Federal Register** (58 FR 3500). * * * [W]e can confirm that luminous intensity from the subject vehicle DRL (4,720 candela, 895 mm high) is below the maximum luminous intensity of allowable range up to 864 mm high.

Toyota says in its petition that the subject vehicles meet all requirements of the Canadian motor vehicle standards, and that it has received no customer complaints or reports that allege a crash, injury or fatality due to problems arising from DRL glare by these vehicles.

Interested persons are invited to submit written data, views, and arguments on the petition described above. Comments must refer to the docket and notice number cited at the beginning of this notice and be submitted by any of the following methods. Mail: Docket Management Facility, U.S. Department of Transportation, Nassif Building, Room

PL-401, 400 Seventh Street, SW., Washington, DC, 20590-0001. Hand Delivery: Room PL-401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC. It is requested, but not required, that two copies of the comments be provided. The Docket Section is open on weekdays from 10 a.m. to 5 p.m. except Federal Holidays. Comments may be submitted electronically by logging onto the Docket Management System Web site at <http://dms.dot.gov>. Click on "Help" to obtain instructions for filing the document electronically. Comments may be faxed to 1-202-493-2251, or may be submitted to the Federal eRulemaking Portal: go to <http://www.regulations.gov>. Follow the online instructions for submitting comments.

The petition, supporting materials, and all comments received before the close of business on the closing date indicated below will be filed and will be considered. All comments and supporting materials received after the closing date will also be filed and will be considered to the extent possible. When the petition is granted or denied, notice of the decision will be published in the **Federal Register** pursuant to the authority indicated below.

Comment closing date: December 13, 2004.

(Authority: 49 U.S.C. 30118, 30120; delegations of authority at CFR 1.50 and 501.8)

Issued on: November 5, 2004.

Kenneth N. Weinstein,

Associate Administrator for Enforcement.

[FR Doc. 04-25215 Filed 11-10-04; 8:45 am]

BILLING CODE 4910-59-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34600]

Progressive Rail, Incorporated—Lease and Operation Exemption—Rail Lines of Wisconsin Central, Ltd.

Progressive Rail, Incorporated (PGR), a Class III rail carrier, has filed a verified notice of exemption under 49 CFR 1150.41 to lease from Wisconsin Central, Ltd. and operate 23.97 miles of rail line consisting of (1) the Almena-Cameron Branch that extends between milepost 80.88 at or near Almena and milepost 97.80 at or near Cameron, a distance of 16.92 miles in Barron County, WI, and (2) the Rice Lake-Cameron Branch that extends between milepost 49.0 at or near Cameron and milepost 56.05 at or near Rice Lake, a

distance of 7.05 miles in Barron County.¹

PGR certifies that its projected revenues as a result of this transaction will not result in the creation of a Class II or Class I rail carrier. The transaction was scheduled to be consummated no sooner than October 27, 2004, the effective date of the exemption (7 days after the exemption was filed).

If the verified notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34600, must be filed with the Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423-0001. In addition, a copy of each pleading must be served on: Thomas F. McFarland, P.C., 208 South LaSalle St., Suite 1890, Chicago, IL 60604-1112.

Board decisions and notices are available on our Web site at <http://www.stb.dot.gov>.

Decided: November 3, 2004.

By the Board, David M. Konschnik,
Director, Office of Proceedings.

Vernon A. Williams,
Secretary.

[FR Doc. 04-25054 Filed 11-10-04; 8:45 am]

BILLING CODE 4915-01-P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[REG-104924-98]

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and

other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104-13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning an existing notice of proposed rulemaking, REG-104924-98, Mark-to-Market Accounting for Dealers in Commodities and Traders in Securities or Commodities (§§ 1.475(e)-1 and 1.475(f)-2).

DATES: Written comments should be received on or before January 11, 2005 to be assured of consideration.

ADDRESSES: Direct all written comments to R. Joseph Durbala, Internal Revenue Service, room 6516, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the regulations should be directed to Carol Savage at Internal Revenue Service, room 6516, 1111 Constitution Avenue NW., Washington, DC 20224, or at (202) 622-3945, or through the Internet at CAROL.A.SAVAGE@irs.gov.

SUPPLEMENTARY INFORMATION:

Title: Mark-to-Market Accounting for Dealers in Commodities and Traders in Securities or Commodities.

OMB Number: 1545-1640.

Regulation Project Number: REG-104924-98.

Abstract: The collection of information in this proposed regulation is required by the Internal Revenue Service to determine whether an exemption from mark-to-market treatment is properly claimed. This information will be used to make that determination upon audit of taxpayers' books and records.

Current Actions: There is no change to this existing proposed regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organization and Individuals.

Estimated Number of Recordkeepers: 1,000.

Estimated Time Per Recordkeeper: 1 hour.

Estimated Total Annual Burden Recordkeeping Hours: 1,000.

The following paragraph applies to all of the collections of information covered by this notice:

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

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: November 3, 2004.

Carol Savage,

Management and Program Analyst.

[FR Doc. 04-25126 Filed 11-10-04; 8:45 am]

BILLING CODE 4830-01-P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[INTL-9-95]

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104-13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning an existing final regulation, INTL-9-95 (TD 8702), Certain Transfers of Domestic Stock or Securities by U.S. Persons to Foreign Corporations (§ 1.367(a)-3).

DATES: Written comments should be received on or before January 11, 2005 to be assured of consideration.

¹ The rail line in the instant transaction was the subject of a notice of exemption originally filed by Wisconsin Northern Railroad Company, LLC (WNRC), a subsidiary of PGR, and voluntarily withdrawn by WNRC. See *Wisconsin Northern Railroad Company, LLC—Lease and Operation Exemption—Rail Lines of Wisconsin Central Ltd.* STB Finance Docket No. 34596 (STB served Oct. 22, 2004). The rail line in the instant transaction also connects in Barron County, WI, to another PGR rail line recently acquired in *Progressive Rail, Incorporated—Lease and Operation Exemption—Rail Line of Union Pacific Railroad Company*, STB Finance Docket No. 34597 (STB served Oct. 29, 2004).

ADDRESSES: Direct all written comments to Joseph Durbala, Internal Revenue Service, room 6516, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the regulations should be directed to Larnice Mack at Internal Revenue Service, room 6512, 1111 Constitution Avenue NW., Washington, DC 20224, or at (202) 622-3179, or through the Internet at Larnice.Mack@irs.gov.

SUPPLEMENTARY INFORMATION:

Title: Certain Transfers of Domestic Stock or Securities by U.S. Persons to Foreign Corporations.

OMB Number: 1545-1478.

Regulation Project Number: INTL-9-95.

Abstract: This regulation relates to certain transfers of stock or securities of domestic corporations pursuant to the corporate organization, reorganization, or liquidation provisions of the internal Revenue Code. Transfers of stock or securities by U.S. persons in tax-free transactions are treated as taxable transactions when the acquirer is a foreign corporation, unless an exception applies under Code section 367(a). This regulation provides that no U.S. person will qualify for an exception unless the U.S. target company complies with certain reporting requirements.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Responses: 100.

Estimated Time Per Response: 10 hours.

Estimated Total Annual Burden Hours: 1,000.

The following paragraph applies to all the collections of information covered by this notice.

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

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are

invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: November 3, 2004.

R. Joseph Durbala,

IRS Reports Clearance Officer.

[FR Doc. 04-25238 Filed 11-10-04; 8:45 am]

BILLING CODE 4830-01-P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900-0500]

Agency Information Collection Activities Under OMB Review

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501-21), this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden and includes the actual data collection instrument.

DATES: Comments must be submitted on or before December 13, 2004.

FOR FURTHER INFORMATION CONTACT:

Denise McLamb, Records Management Service (005E3), Department of Veterans Affairs, 810 Vermont Avenue, NW., or e-mail denise.mclamb@mail.va.gov.

Please refer to "OMB Control No. 2900-0500." Send comments and recommendations concerning any aspect of the information collection to VA's OMB Desk Officer, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503, (202) 395-7316. Please refer to "OMB Control No. 2900-0500" in any correspondence.

SUPPLEMENTARY INFORMATION:

Title: Status of Dependents

Questionnaire, VA Form 21-0538.

OMB Control Number: 2900-0500.

Type of Review: Revision of a currently approved collection.

Abstract: Veterans receiving compensation for service-connected disability which includes an additional amount for their spouse and/or child(ren) must report any changes in the number of dependents. VA Form 21-0538 is used to request certification of the status of dependents for whom additional compensation is being paid.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on August 10, 2004 at pages 48565-48566.

Affected Public: Individuals or households.

Estimated Annual Burden: 14,083 hours.

Estimated Average Burden Per Respondent: 10 minutes.

Frequency of Response: Once in eight years.

Estimated Number of Respondents: 84,500.

Dated: October 26, 2004.

By direction of the Secretary.

Loise Russell,

Director, Records Management Service.

[FR Doc. 04-25144 Filed 11-10-04; 8:45 am]

BILLING CODE 8320-01-P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900-0036]

Agency Information Collection Activities Under OMB Review

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501-3521), this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before December 13, 2004.

FOR FURTHER INFORMATION CONTACT:

Denise McLamb, Records Management Service (005E3), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 273-8030, FAX (202) 273-5981 or e-mail denise.mclamb@mail.va.gov. Please refer to "OMB Control No. 2900-0036." Send comments and recommendations concerning any aspect of the information collection to VA's OMB Desk Officer, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395-7316. Please refer to "OMB Control No. 2900-0036" in any correspondence.

SUPPLEMENTARY INFORMATION:

Title: Statement of Disappearance, VA Form 21-1775.

OMB Control Number: 2900-0036.

Type of Review: Extension of a currently approved collection.

Abstract: VA Form 21-1775 is used to gather the necessary information to determine if a decision of presumptive death can be made for benefit payment purposes. A formal presumption of death is required when a veteran has been missing for over seven years.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on June 15, 2004 at pages 33466-33467.

Affected Public: Individuals or households.

Estimated Annual Burden: 28 hours.

Estimated Average Burden Per

Respondent: 2 hours 45 minutes.

Frequency of Response: One-time.

Estimated Number of Respondents: 10.

Dated: October 28, 2004.

By direction of the Secretary.

Loise Russell,

Director, Records Management Service.

[FR Doc. 04-25145 Filed 11-10-04; 8:45 am]

BILLING CODE 8320-01-P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900-0089]

Agency Information Collection Activities Under OMB Review

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995

(44 U.S.C. 3501-21), this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden and includes the actual data collection instrument.

DATES: Comments must be submitted on or before December 13, 2004.

FOR FURTHER INFORMATION CONTACT:

Denise McLamb, Records Management Service (005E3), Department of Veterans Affairs, 810 Vermont Avenue, NW., or e-mail denise.mclamb@mail.va.gov. Please refer to "OMB Control No. 2900-0089." Send comments and recommendations concerning any aspect of the information collection to VA's OMB Desk Officer, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503, (202) 395-7316. Please refer to "OMB Control No. 2900-0089" in any correspondence.

SUPPLEMENTARY INFORMATION:

Title: Statement of Dependency of Parent(s), VA Form 21-509.

OMB Control Number: 2900-0089.

Type of Review: Extension of a currently approved collection.

Abstract: VA Form 21-509 is used to gather income and dependency information from claimants who are seeking payment of benefits as or for a dependent parent. The form is completed by veterans seeking to establish his/her parent(s) as dependents as well as by a surviving parent seeking death compensation.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on June 15, 2004 at page 33467.

Affected Public: Individuals or households.

Estimated Annual Burden: 4,000 hours.

Estimated Average Burden Per Respondent: 30 minutes.

Frequency of Response: One-time.

Estimated Number of Respondents: 8,000.

Dated: October 26, 2004.

By direction of the Secretary.

Loise Russell,

Director, Records Management Service.

[FR Doc. 04-25146 Filed 11-10-04; 8:45 am]

BILLING CODE 8320-01-P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900-0149]

Proposed Information Collection Activity: Proposed Collection; Comment Request

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection, and allow 60 days for public comment in response to this notice. This notice solicits comments for information needed to convert to a permanent plan of insurance.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before January 11, 2005.

ADDRESSES: Submit written comments on the collection of information to Nancy J. Kessinger, Veterans Benefits Administration (20M35), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 or e-mail irmnkess@vba.va.gov. Please refer to "OMB Control No. 2900-0149" in any correspondence.

FOR FURTHER INFORMATION CONTACT:

Nancy J. Kessinger at (202) 273-7079 or FAX (202) 275-5947.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Pub. L. 104-13; 44 U.S.C. 3501-3521), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed 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, including through the use of automated collection techniques or the use of other forms of information technology.

Title: Application for Conversion (Government Life Insurance), VA Form 29-0152.

OMB Control Number: 2900-0149.

Type of Review: Extension of a currently approved collection.

Abstract: VA Form 29-0152 is completed by insured veterans to convert to a permanent plan of insurance. VA uses the information to initiate the processing of the insured's request to convert his/her term insurance.

Affected Public: Individuals or households.

Estimated Annual Burden: 1,125 hours.

Estimated Average Burden Per Respondent: 15 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 4,500.

Dated: October 26, 2004.

By direction of the Secretary.

Loise Russell,

Director, Records Management Service.

[FR Doc. 04-25147 Filed 11-10-04; 8:45 am]

BILLING CODE 8320-01-P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900-0159]

Proposed Information Collection Activity: Proposed Collection; Comment Request

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection, and allow 60 days for public comment in response to this notice. This notice solicits comments on information needed to determine the disposition of proceeds of a matured endowment policy.

DATES: Written comments and recommendations on the proposed

collection of information should be received on or before January 11, 2005.

ADDRESSES: Submit written comments on the collection of information to Nancy J. Kessinger, Veterans Benefits Administration (20M35), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 or e-mail irmnkess@vba.va.gov. Please refer to "OMB Control No. 2900-0159" in any correspondence.

FOR FURTHER INFORMATION CONTACT:

Nancy J. Kessinger at (202) 273-7079 or FAX (202) 275-5947.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Pub. L. 104-13; 44 U.S.C. 3501-3521), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed 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, including through the use of automated collection techniques or the use of other forms of information technology.

Title: Matured Endowment Notification, VA Form 29-5767.

OMB Control Number: 2900-0159.

Type of Review: Extension of a currently approved collection.

Abstract: VA Form 29-5767 is used to notify the insured that his/her endowment policy has matured and to elicit their desired disposition of the proceeds of the policy. The information is used by VA to process the insured's request.

Affected Public: Individuals or households.

Estimated Annual Burden: 2,867 hours.

Estimated Average Burden Per Respondent: 20 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 8,600.

Dated: November 1, 2004.

By direction of the Secretary.

Loise Russell,

Director, Records Management Service.

[FR Doc. 04-25149 Filed 11-10-04; 8:45 am]

BILLING CODE 8320-01-P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900-0166]

Proposed Information Collection Activity: Proposed Collection; Comment Request

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each extension of a currently approved collection, and allow 60 days for public comment in response to the notice. This notice solicits comments on forms needed to determine eligibility for replacement insurance.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before January 11, 2005.

ADDRESSES: Submit written comments on the collection of information to Nancy J. Kessinger, Veterans Benefits Administration (20M35), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 or e-mail comments to: irmnkess@vba.va.gov. Please refer to "OMB Control No. 2900-0166" in any correspondence.

FOR FURTHER INFORMATION CONTACT: Nancy J. Kessinger at (202) 273-7079 or FAX (202) 275-5947.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Pub. L. 104-13; 44 U.S.C. 3501-3521), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed 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, including through the use of automated collection techniques or the use of other forms of information technology.

Titles:

a. Application for Ordinary Life Insurance, Replacement Insurance for Modified Life Reduced at Age 65, National Service Life Insurance, VA Form 29-8485.

b. Application for Ordinary Life Insurance, Replacement Insurance for Modified Life Reduced at Age 70, National Service Life Insurance, VA Form 29-8485a.

c. Application for Ordinary Life Insurance, Replacement Insurance for Modified Life Reduced at Age 65, National Service Life Insurance, VA Form 29-8700.

d. Information About Modified Life Reduction, VA Forms 29-8700a-e and VA Forms 29-8701a-e.

e. Application for Ordinary Life Insurance, Replacement Insurance for Modified Life Reduced at Age 70, National Service Life Insurance, VA Form 29-0701.

OMB Control Number: 2900-0166.

Type of Review: Extension of a currently approved collection.

Abstract: Policyholders applying for replacement insurance for Modified Life reduced at age 65 and 70 use these forms. The information collected is used to determine the insured's eligibility for the insurance.

Affected Public: Individuals or households.

Estimated Annual Burden: 1,284 hours.

Estimated Average Burden Per Respondent: 5 minutes.

Frequency of Response: One time.

Estimated Number of Respondents: 15,400.

Dated: November 1, 2004.

By direction of the Secretary.

Loise Russell,

Director, Records Management Service.

[FR Doc. 04-25150 Filed 11-10-04; 8:45 am]

BILLING CODE 8320-01-P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900-0101]

Proposed Information Collection Activity: Proposed Collection; Comment Request

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection and allow 60 days for public comment in response to the notice. This notice solicits comments on information needed to determine and verify entitlement to income-based benefits.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before January 11, 2005.

ADDRESSES: Submit written comments on the collection of information to Nancy J. Kessinger, Veterans Benefits Administration (20M35), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 or e-mail: irmnkess@vba.va.gov. Please refer to "OMB Control No. 2900-0101" in any correspondence.

FOR FURTHER INFORMATION CONTACT:

Nancy J. Kessinger at (202) 273-7079 or fax (202) 275-5947.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Public Law 104-13; 44 U.S.C. 3501-3521), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed 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, including through the use of automated collection techniques or the use of other forms of information technology.

Titles: Eligibility Verification Reports (EVR).

a. Eligibility Verification Report Instructions, VA Form 21-0510.

b. Old Law and Section 306 Eligibility Verification Report (Surviving Spouse), VA Form 21-0512S-1.

c. Old Law and Section 306 Eligibility Verification Report (Veteran), VA Form 21-0512V-1.

d. Old Law and Section 306 Eligibility Verification Report (Children Only), VA Form 21-0513-1.

e. DIC Parent's Eligibility Verification Report, VA Forms 21-0514 and 21-0514-1.

f. Improved Pension Eligibility Verification Report (Veteran With No Children), VA Forms 21-0516 and 21-0516-1.

g. Improved Pension Eligibility Verification Report (Veteran With Children), VA Forms 21-0517 and 21-0517-1.

h. Improved Pension Eligibility Verification Report (Surviving Spouse With No Children), VA Forms 21-0518 and 21-0518-1.

i. Improved Pension Eligibility Verification Report (Child or Children), VA Forms 21-0519C and 21-0519C-1.

j. Improved Pension Eligibility Verification Report (Surviving Spouse With Children), VA Forms 21-0519S and 21-0519S-1.

OMB Control Number: 2900-0101.

Type of Review: Extension of a currently approved collection.

Abstract: Eligibility Verification Reports (EVR) forms are used to verify continued entitlement to benefits.

Individuals who have applied for or receives Improved Pension or Parents' Dependency and Indemnity Compensation must promptly notify VA in writing of any changes in entitlement factors. EVRs are required annually by beneficiaries whose social security number (SSN) or whose spouse's SSN is not verified, or who has income other than Social Security. Recipients of Old Law and Section 306 Pension are no longer required to submit annual EVRs unless there is a change in their income.

Affected Public: Individuals or households.

Estimated Annual Burden: 113,075 hours. The annual burden for VA Forms 21-512S, 21-512S-1, 21-512V, 21-512V-1, 21-513-1, 21-514, 21-514-1, 21-0516, 21-0516-1, 21-0518, 21-0518-1, 21-519C, and 21-519C-1 is 9,8775 and 14,300 for VA Forms 21-517, 21-0517-a, 21-0519S, and 21-519S-1.

Estimated Average Burden Per Respondent: The estimated burden respondent for VA Forms 21-512S, 21-512S-1, 21-512V, 21-512V-1, 21-513-1, 21-514, 21-514-1, 21-0516, 21-0516-1, 21-0518, 21-0518-1, 21-519C, and 21-519C-1 is 30 minutes and 40 minutes for VA Forms 21-517, 21-0517-a, 21-0519S, and 21-519S-1.

Frequency of Response: Annually.

Estimated Number of Respondents: 219,000. The number of respondents for VA Forms 21-512S, 21-512S-1, 21-512V, 21-512V-1, 21-513-1, 21-514, 21-514-1, 21-0516, 21-0516-1, 21-0518, 21-0518-1, 21-519C, and 21-519C-1 is 197,550 and 21,450 for VA Forms 21-517, 21-0517-a, 21-0519S, and 21-519S-1.

Dated: November 1, 2004.

By direction of the Secretary.

Loise Russell,

Director, Records Management Service.

[FR Doc. 04-25151 Filed 11-10-04; 4:45 am]

BILLING CODE 8320-01-P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900-0129]

Proposed Information Collection Activity: Proposed Collection; Comment Request

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection, and allow 60 days for public comment in response to the notice. This notice solicits comments on information needed to evaluate a claim for disability insurance benefits.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before January 11, 2005.

ADDRESSES: Submit written comments on the collection of information to Nancy J. Kessinger, Veterans Benefits Administration (20M35), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 or e-mail: irmnkess@vba.va.gov. Please refer to "OMB Control No. 2900-0129" in any correspondence.

FOR FURTHER INFORMATION CONTACT:

Nancy J. Kessinger at (202) 273-7079 or FAX (202) 275-5947.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Pub. L. 104-13; 44 U.S.C. 3501-3521), Federal agencies must obtain approval from the Office of

Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed 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, including through the use of automated collection techniques or the use of other forms of information technology.

Title: Supplemental Disability Report, VA Form Letter 29-30a.

OMB Control Number: 2900-0129.

Type of Review: Extension of a currently approved collection.

Abstract: VA Form Letter 29-30a is used by the insured to provide additional information required to process a claim for disability insurance benefits.

Affected Public: Individuals or households.

Estimated Annual Burden: 548 hours.

Estimated Average Burden Per

Respondent: 5 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 6,570.

Dated: November 1, 2004.

By direction of the Secretary.

Loise Russell,

Director, Records Management Service.

[FR Doc. 04-25152 Filed 11-10-04; 8:45 am]

BILLING CODE 8320-01-P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900-0261]

Proposed Information Collection Activity: Proposed Collection; Comment Request

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the

Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection, and allow 60 days for public comment in response to the notice. This notice solicits comments on the information needed to process refunds of contributions made by program participants who disenroll from the Post Vietnam Era Veterans Education Program.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before January 11, 2005.

ADDRESSES: Submit written comments on the collection of information to Nancy J. Kessinger, Veterans Benefits Administration (20M35) Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 or e-mail: irmnkess@vba.va.gov. Please refer to "OMB Control No. 2900-0261" in any correspondence.

FOR FURTHER INFORMATION CONTACT:

Nancy J. Kessinger at (202) 273-7079 or FAX (202) 275-5947.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Pub. L. 104-13; 44 U.S.C. 3501-3521), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed 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, including through the use of automated collection techniques or the use of other forms of information technology.

Title: Application for Refund of Educational Contributions (VEAP, Chapter 32, Title 38, U.S.C.), VA Form 24-5281.

OMB Control Number: 2900-0261.

Type of Review: Extension of a currently approved collection.

Abstract: VA Form 24-5281 is completed by veterans and service persons to request a refund of their

contribution to the Post-Vietnam Veterans Education Program. Contribution made into the Post-Vietnam Veterans Education Program may be refunded only after the participant has disenrolled from the program. Request for refund of contribution prior to discharge or release from active duty will be refunded on the date of the participant's discharge or release from active duty or within 60 days of receipt of notice by the Secretary of the participant's discharge or disenrollment. Refunds may be made earlier in instances of hardship or other good reason. Participants who stops enrollment from the program after discharge or release from active duty, the contributions will be refunded within 60 days of receipt of the participant's application.

Affected Public: Individuals or households.

Estimated Annual Burden: 8,333 hours.

Estimated Average Burden Per Respondent: 10 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 50,000.

Dated: November 1, 2004.

By direction of the Secretary.

Loise Russell,

Director, Records Management Service.

[FR Doc. 04-25153 Filed 11-10-04; 8:45 am]

BILLING CODE 8320-01-P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900-0038]

Proposed Information Collection Activity: Proposed Collection; Comment Request

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection, and allow 60 days for public comment in response to the notice. This notice solicits comments on information needed to determine a child's pension eligibility and benefit rates.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before January 11, 2005.

ADDRESSES: Submit written comments on the collection of information to Nancy J. Kessinger, Veterans Benefits Administration (20M35), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 or e-mail irmnkess@vba.va.gov. Please refer to "OMB Control No. 2900-0038" in any correspondence.

FOR FURTHER INFORMATION CONTACT: Nancy J. Kessinger at (202) 273-7079 or FAX (202) 275-5947.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Pub. L. 104-13; 44 U.S.C. 3501-3521), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed 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, including through the use of automated collection techniques or the use of other forms of information technology.

Title: Information from Remarried Widow/er, VA Form 21-4103.

OMB Control Number: 2900-0038.

Type of Review: Extension of a currently approved collection.
Abstract: When a surviving spouse receiving death pension remarries, his/her entitlement to death pension is permanently lost. Death pension may be payable to eligible children of deceased veterans who served during a wartime period when there is not an eligible surviving spouse. VA Form 21-4103 is used to determine if a child meet the requirements for death pension upon remarriage of the surviving spouse. The income and net worth of the child or children, remarried widow/er and his/her spouse must be within the limits imposed by law.

Affected Public: Individuals or households.

Estimated Annual Burden: 334 hours.

Estimated Average Burden Per Respondent: 20 minutes.

Frequency of Response: One-time.
Estimated Number of Respondents: 1,000.

Dated: November 1, 2004.

By direction of the Secretary.

Loise Russell,

Director, Records Management Service.

[FR Doc. 04-25154 Filed 11-10-04; 8:45 am]

BILLING CODE 8320-01-P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900-0179]

Proposed Information Collection Activity: Proposed Collection; Comment Request

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection, and allow 60 days for public comment in response to the notice. This notice solicits comments on information needed to establish eligibility to change insurance plans.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before January 11, 2005.

ADDRESSES: Submit written comments on the collection of information to Nancy J. Kessinger, Veterans Benefits Administration (20M35), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 or e-mail: irmnkess@vba.va.gov. Please refer to "OMB Control No. 2900-0179" in any correspondence.

FOR FURTHER INFORMATION CONTACT: Nancy J. Kessinger at (202) 273-7079 or FAX (202) 275-5947.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Pub. L. 104-13; 44 U.S.C. 3501-3521), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites

comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed 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, including through the use of automated collection techniques or the use of other forms of information technology.

Title: Application for Change of Permanent Plan (Medical) (Change to a policy with a lower reserve value), VA Form 29-1549.

OMB Control Number: 2900-0179.

Type of Review: Extension of a currently approved collection.

Abstract: The form is used by the insured to establish his/her eligibility to change insurance plans from a higher reserve to a lower reserve value.

Affected Public: Individuals or households.

Estimated Annual Burden: 14 hours.

Estimated Average Burden Per Respondent: 30 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 28.

Dated: November 1, 2004.

By direction of the Secretary.

Loise Russell,

Director, Records Management Service.

[FR Doc. 04-25155 Filed 11-10-04; 8:45 am]

BILLING CODE 8320-01-P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900-0139]

Proposed Information Collection Activity: Proposed Collection; Comment Request

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection, and allow 60 days for public comment in response to this notice. This notice solicits comments for information needed to determine eligibility to reinstate government life insurance.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before January 11, 2005.

ADDRESSES: Submit written comments on the collection of information to Nancy J. Kessinger, Veterans Benefits Administration (20M35), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 or e-mail irmnkess@vba.va.gov. Please refer to "OMB Control No. 2900-0139" in any correspondence.

FOR FURTHER INFORMATION CONTACT: Nancy J. Kessinger at (202) 273-7079 or FAX (202) 275-5947.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Pub. L. 104-13; 44 U.S.C. 3501-3521), Federal agencies must obtain approval from the Office of

Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed 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, including through the use of automated collection techniques or the use of other forms of information technology.

Title: Notice-Payment Not Applied (Government Life Insurance), VA Form 29-4499a.

OMB Control Number: 2900-0139.

Type of Review: Extension of a currently approved collection.

Abstract: VA Form 29-4499a is used by policy holders to reinstate their National Service Life Insurance (NSLI) policy. The information collected is used to determine the insurer's eligibility for reinstatement to government life insurance.

Affected Public: Individuals or households.

Estimated Annual Burden: 300 hours.

Estimated Average Burden Per Respondent: 15 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 1,200.

Dated: November 1, 2004.

By direction of the Secretary.

Loise Russell,

Director, Records Management Service.

[FR Doc. 04-25156 Filed 11-10-04; 8:45 am]

BILLING CODE 8320-01-P

Corrections

Federal Register

Vol. 69, No. 218

Friday, November 12, 2004

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 HOMELAND SECURITY

8 CFR Parts 215, 235, and 252

[DHS 2004-0002]

RIN 1650-AA00

Notice of Nonimmigrant Aliens Subject To Be Enrolled in the United States Visitor and Immigrant Status Indicator Technology System (US-VISIT); Extension of Comment Period

Correction

In rule document 04-24811 beginning on page 64477 in the issue of Friday, November 5, 2004, make the following correction:

On page 64477, in the third column, the docket number is corrected to read as set forth above.

[FR Doc. C4-24811 Filed 11-10-04; 8:45 am]

BILLING CODE 1505-01-D

DEPARTMENT OF LABOR

Employment and Training Administration

Proposed Information Collection Request Submitted for Public Comment and Recommendations; Disaster Unemployment Assistance Handbook and Operating Forms

Correction

In notice document E4-3030 beginning on page 64593 in the issue of Friday, November 5, 2004, make the following correction:

On page 64593, in the second column, under the heading “**DATES**”, in the second line, “January 4, 2004” should read “January 4, 2005”.

[FR Doc. Z4-3030 Filed 11-10-04; 8:45 am]

BILLING CODE 1505-01-D



Federal Register

**Friday,
November 12, 2004**

Part II

The President

Proclamation 7844—Veterans Day, 2004

Notice of November 9, 2004—

**Continuation of the National Emergency
With Respect to Iran**

Presidential Documents

Title 3—

Proclamation 7844 of November 9, 2004

The President

Veterans Day, 2004

By the President of the United States of America

A Proclamation

Americans live in freedom because of our veterans' courage, dedication to duty, and love of country. On Veterans Day, we honor these brave men and women who have served in our Armed Forces and defended our Nation.

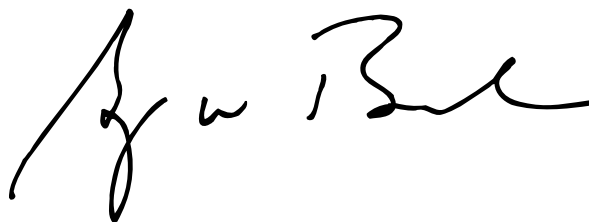
Across America, there are more than 25 million veterans. Their ranks include generations of citizens who have risked their lives while serving in military conflicts, including World War II, Korea, Vietnam, the Persian Gulf, and the war on terror. They have fought for the security of our country and the peace of the world. They have defended our founding ideals, protected the innocent, and liberated the oppressed from tyranny and terror. They have known the hardships and the fears and the tragic losses of war. Our veterans know that in the harshest hours of conflict they serve just and honorable purposes.

Through the years, our veterans have returned home from their duties to become active and responsible citizens in their communities, further contributing to the growth and development of our Nation. Their commitment to service inspires all Americans.

With respect for and in recognition of the contributions our service men and women have made to the cause of peace and freedom around the world, the Congress has provided (5 U.S.C. 6103(a)) that November 11 of each year shall be set aside as a legal public holiday to honor veterans.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, do hereby proclaim November 11, 2004, as Veterans Day and urge all Americans to observe November 7 through November 13, 2004, as National Veterans Awareness Week. I urge all Americans to recognize the valor and sacrifice of our veterans through ceremonies and prayers. I call upon Federal, State, and local officials to display the flag of the United States and to encourage and participate in patriotic activities in their communities. I invite civic and fraternal organizations, places of worship, schools, businesses, unions, and the media to support this national observance with commemorative expressions and programs.

IN WITNESS WHEREOF, I have hereunto set my hand this ninth day of November, in the year of our Lord two thousand four, and of the Independence of the United States of America the two hundred and twenty-ninth.

A handwritten signature in black ink, appearing to read "G. W. Bush". The signature is fluid and cursive, with the first name "G" being particularly large and stylized.

[FR Doc. 04-25367

Filed 11-10-04; 9:46 am]

Billing code 3195-01-P

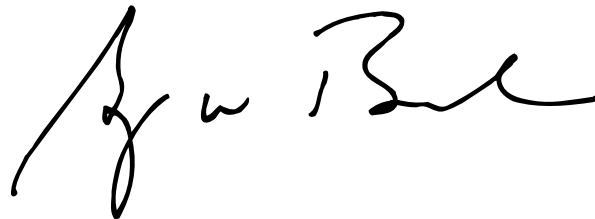
Presidential Documents

Notice of November 9, 2004

Continuation of the National Emergency With Respect to Iran

On November 14, 1979, by Executive Order 12170, the President declared a national emergency with respect to Iran pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701–1706) to deal with the unusual and extraordinary threat to the national security, foreign policy, and economy of the United States constituted by the situation in Iran. Because our relations with Iran have not yet returned to normal, and the process of implementing the January 19, 1981, agreements with Iran is still underway, the national emergency declared on November 14, 1979, must continue in effect beyond November 14, 2004. Therefore, consistent with section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)), I am continuing for 1 year this national emergency with respect to Iran.

This notice shall be published in the **Federal Register** and transmitted to the Congress.



THE WHITE HOUSE,
November 9, 2004.

Reader Aids

Federal Register

Vol. 69, No. 218

Friday, November 12, 2004

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The Federal Register staff cannot interpret specific documents or regulations.

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LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "PLUS" (Public Laws Update Service) on 202-741-6043. This list is also available online at http://www.archives.gov/federal_register/public_laws/public_laws.html.

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www.gpoaccess.gov/plaws/index.html. Some laws may not yet be available.

H.R. 4381/P.L. 108-392

To designate the facility of the United States Postal Service located at 2811 Springdale Avenue in Springdale, Arkansas, as the "Harvey and Bernice Jones Post Office Building". (Oct. 30, 2004; 118 Stat. 2245)

H.R. 4471/P.L. 108-393

Homeownership Opportunities for Native Americans Act of 2004 (Oct. 30, 2004; 118 Stat. 2246)

H.R. 4481/P.L. 108-394

Wilson's Creek National Battlefield Boundary Adjustment Act of 2004 (Oct. 30, 2004; 118 Stat. 2247)

H.R. 4556/P.L. 108-395

To designate the facility of the United States Postal Service located at 1115 South Clinton Avenue in Dunn, North Carolina, as the "General William Carey Lee Post Office Building". (Oct. 30, 2004; 118 Stat. 2249)

H.R. 4579/P.L. 108-396

Truman Farm Home Expansion Act (Oct. 30, 2004; 118 Stat. 2250)

H.R. 4618/P.L. 108-397

To designate the facility of the United States Postal Service located at 10 West Prospect Street in Nanuet, New York, as the "Anthony I. Lombardi Memorial Post Office Building". (Oct. 30, 2004; 118 Stat. 2251)

H.R. 4632/P.L. 108-398

To designate the facility of the United States Postal Service located at 19504 Linden Boulevard in St. Albans, New York, as the "Archie Spigner Post Office Building". (Oct. 30, 2004; 118 Stat. 2252)

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To amend the Federal Water Pollution Control Act to reauthorize the National Estuary Program. (Oct. 30, 2004; 118 Stat. 2253)

H.R. 4827/P.L. 108-400

To amend the Colorado Canyons National Conservation Area and Black Ridge Canyons Wilderness Act of 2000 to rename the Colorado Canyons National Conservation Area as the McInnis Canyons National Conservation Area. (Oct. 30, 2004; 118 Stat. 2254)

H.R. 4917/P.L. 108-401

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(Oct. 30, 2004; 118 Stat. 2255)

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To designate the facility of the United States Postal Service located at 411 Midway Avenue in Mascotte, Florida, as the "Specialist Eric Ramirez Post Office". (Oct. 30, 2004; 118 Stat. 2257)

H.R. 5039/P.L. 108-403

To designate the facility of the United States Postal Service located at United States Route 1 in Ridgeway, North Carolina, as the "Eva Holtzman Post Office". (Oct. 30, 2004; 118 Stat. 2258)

H.R. 5051/P.L. 108-404

To designate the facility of the United States Postal Service located at 1001 Williams Street in Ignacio, Colorado, as the "Leonard C. Burch Post Office Building". (Oct. 30, 2004; 118 Stat. 2259)

H.R. 5107/P.L. 108-405

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H.R. 5131/P.L. 108-406

Special Olympics Sport and Empowerment Act of 2004 (Oct. 30, 2004; 118 Stat. 2294)

H.R. 5133/P.L. 108-407

To designate the facility of the United States Postal Service located at 11110 Sunset Hills Road in Reston, Virginia, as the "Martha Pennino Post Office Building". (Oct. 30, 2004; 118 Stat. 2297)

H.R. 5147/P.L. 108-408

To designate the facility of the United States Postal Service located at 23055 Sherman Way in West Hills, California, as the "Evan Asa Ashcraft Post Office Building". (Oct. 30, 2004; 118 Stat. 2298)

H.R. 5186/P.L. 108-409

Taxpayer-Teacher Protection Act of 2004 (Oct. 30, 2004; 118 Stat. 2299)

H.R. 5294/P.L. 108-410

John F. Kennedy Center Reauthorization Act of 2004 (Oct. 30, 2004; 118 Stat. 2303)

S. 129/P.L. 108-411

Federal Workforce Flexibility Act of 2004 (Oct. 30, 2004; 118 Stat. 2305)

S. 144/P.L. 108-412

To require the Secretary of Agriculture to establish a program to provide assistance to eligible weed management entities to control or eradicate

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S. 643/P.L. 108-413

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