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

FEDERAL LABOR RELATIONS AUTHORITY

5 CFR Chapter XIV

New Addresses

AGENCY: Federal Labor Relations Authority.

ACTION: Final rule; correction.

SUMMARY: On March 9, 2005 (70 FR 11535), a final rule was published announcing the relocation of the Boston Regional Office of the Federal Labor Relations Authority effective March 21, 2005. However, the moving date of the Boston Regional Office has been delayed and the relocation will be effective April 25, 2005.

DATES: *Effective Date:* March 9, 2005.

FOR FURTHER INFORMATION CONTACT: Yvonne Thomas, Director, Administrative Services Division, Federal Labor Relations Authority, 1400 K Street, NW., Washington, DC 20424–0001; (202) 218–7750.

Dated: March 10, 2005.

Yvonne Thomas,

Director, Administrative Services Division.

[FR Doc. 05–5053 Filed 3–10–05; 12:59 pm]

BILLING CODE 6727–01–P

FARM CREDIT ADMINISTRATION

12 CFR Part 622

RIN 3052–AC28

Rules of Practice and Procedure; Adjusting Civil Money Penalties for Inflation

AGENCY: Farm Credit Administration.

ACTION: Final rule.

SUMMARY: This regulation implements cost-of-living adjustments to civil money penalties (CMPs) that the Farm Credit Administration (FCA) may impose under the Farm Credit Act of 1971, as amended (Farm Credit Act), and under the National Flood Insurance Reform Act of 1994 (Reform Act). The Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Debt Collection Improvement Act of 1996, requires all Federal agencies with the authority to impose CMPs to evaluate those CMPs periodically to ensure that they continue to maintain their deterrent value.

EFFECTIVE DATE: The regulation will become effective on March 16, 2005.

FOR FURTHER INFORMATION CONTACT:

Mark L. Johansen, Senior Policy Analyst, Office of Policy and Analysis, Farm Credit Administration, McLean, VA 22102–5090, (703) 883–4498, TTY (703) 883–4434; or

Wendy R. Laguarda, Senior Counsel, or Rebecca S. Orlich, Senior Attorney, Office of General Counsel, Farm Credit Administration, McLean, VA 22102–5090, (703) 883–4020, TTY (703) 883–4020.

SUPPLEMENTARY INFORMATION:

I. Background

A. Federal Civil Penalties Inflation Adjustment Act of 1990, as Amended

The Federal Civil Penalties Inflation Adjustment Act of 1990 (FCPIA Act),[1] as amended by the Debt Collection Improvement Act of 1996 (DCIA),[2] requires every Federal agency with authority to issue CMPs [3] to enact regulations that adjust its CMPs pursuant to the inflation adjustment formula in section 5(b) of the FCPIA Act. Each Federal agency was required to issue these regulations by October 23, 1996, and adjust when necessary at least once every 4 years thereafter. Section 6 of the amended FCPIA Act specifies that inflation-adjusted CMPs will apply only to violations that occur after the effective date of the adjustment. The inflation adjustment is based on the percentage increase in the Consumer Price Index (CPI).[4] Specifically, section 5(b) of the FCPIA Act defines the term ''cost-of-living adjustment'' as ''the percentage (if any) for each civil monetary penalty by which (1) the Consumer Price Index for the month of June of the calendar year preceding the adjustment, exceeds (2) the Consumer Price Index for the month of June of the calendar year in which the amount of such civil monetary penalty was last set or adjusted pursuant to law.'' Furthermore, the increase for each CMP that is adjusted for inflation must be rounded using a method prescribed by section 5(a) of the FCPIA Act. We made our last adjustments to CMPs issued under the Farm Credit Act in October 1996.[5]

B. CMPs Issued Under the Farm Credit Act

The adjustment requirement affects two provisions of section 5.32(a) of the Farm Credit Act, which authorizes the FCA to impose CMPs on Farm Credit System (FCS or System) institutions and their related parties. Section 5.32(a) provides that any FCS institution or any officer, director, employee, agent, or other person participating in the conduct of the affairs of an FCS institution who violates the terms of a final order issued under section 5.25 or 5.26 of the Farm Credit Act must pay up to $1,000 per day for each day during which such violation continues. Orders issued under section 5.25 or 5.26 of the Farm Credit Act include temporary and permanent cease-and-desist orders. In addition, section 5.32(h) provides for the FCA to treat a directive issued under sections 4.3(b)(2), 4.3A(e), or 4.14A(i) of the Farm Credit Act as a final order issued under section 5.25 for purposes of assessing a CMP. Section 5.32(a) also states that ''[a]ny such institution or person who violates any provision of the [Farm Credit] Act or any regulation issued under this Act shall forfeit and pay a civil penalty of not more that $500 per day for each day during which such violation continues.'' The maximum

[1] Pub. L. 101–410, 104 Stat. 890 (October 5, 1990), codified at 28 U.S.C. 2461 note.

[2] Pub. L. 104–134, title III, section 31001(s), 110 Stat. 1321–373 (April 26, 1996), codified at 28 U.S.C. 2461 note.

[3] Section 3(2) of the amended FCPIA Act defines a CMP as any penalty, fine, or other sanction that: (1) Either is for a specific monetary amount as provided by Federal law or has a maximum amount provided for by Federal law; (2) is assessed or enforced by an agency pursuant to Federal law; and (3) is assessed or enforced pursuant to an administrative proceeding or a civil action in the Federal courts.

[4] The CPI is published by the Department of Labor, Bureau of Statistics, and is available at its Web site: *ftp://ftp.bls.gov/pub/special.requests/cpi/cpiai.txt.*

[5] We made CMP adjustments in 2000 and rescinded them in 2002 pursuant to instructions from the General Accounting Office (now the Government Accountability Office). *See* 65 FR 46087 (July 27, 2000) and 67 FR 68931 (Nov. 14, 2002).

amounts of these CMPs last increased in 1996, and the increases are set forth in existing § 622.61.

1. Mathematical Calculation

The adjustment calculation will be based on the percentage by which the CPI for June 2004 exceeds the CPI for June 1996. According to the Bureau of Labor Statistics, the CPI for June 1996 was 156.7, and the CPI for June 2004 was 189.7, resulting in a percentage change of 21.06 percent.

2. Penalty Amounts Remain the Same in § 622.61(a)(1)

The maximum CMP in § 622.61(a) for a violation of a final order issued under section 5.25 or 5.26 of the Farm Credit Act is currently $1,100. Multiplying $1,100 by 21.06 percent results in an increase of $231.65. When that number is rounded as required by the FCPIA Act,[6] the inflation-adjusted maximum remains $1,100. Existing § 622.61(a) will be revised and redesignated as § 622.61(a)(1).

3. New Penalty Amounts in § 622.61(a)(2)

The maximum CMP in existing § 622.61(b) for a violation of the Act or regulations is $550. Multiplying $550 by 21.06 percent results in an increase of $115.83. When that number is rounded to $100 as required by the FCPIA Act,[7] the inflation-adjusted maximum increases to $650. Existing § 622.61(b) will be revised and redesignated as § 622.61(a)(2).

C. CMPs Issued Under the Reform Act

The Flood Disaster Protection Act of 1973,[8] as amended by the Reform Act,[9] requires that FCA assess a CMP for a pattern or practice of committing certain specific actions in violation of the National Flood Insurance Program. Under the Reform Act, which became law in 1994, these CMPs were not to exceed $350 for each violation, and the total amount of penalties assessed for certain violations of the program against any single regulated entity during any calendar year was not to exceed $100,000.[10]

1. Mathematical Calculation

Because this is our first adjustment of the amounts for CMPs issued under the Reform Act since the CMPs were set in 1994, the adjustment calculation will be based on the percentage by which the CPI for June 2004 exceeds the CPI for June 1994. According to the Bureau of Labor Statistics, the CPI for June 1994 was 148.0, and the CPI for June 2004 was 189.7, resulting in a percentage change of 28.18. However, the amended FCPIA Act limits the first adjustment of a CMP to an amount not in excess of 10 percent of the original penalty.[11] Therefore, any required adjustments are limited to 10 percent.

2. New Penalty Amounts in § 622.61(b)

Multiplying $350 by 28.18 percent yields a $98.63 increase, which would be rounded to a $100 increase under the usual formula. But the 10-percent limit means that the CMP may increase by only $35. Therefore, the new CMP maximum for each violation will be $385. Similarly, the $100,000 total cap would have increased by a rounded $30,000 under the usual formula, but the 10-percent limit results in an increase of only $10,000, bringing the new cap to $110,000 in total penalties that may be assessed under the Reform Act against any single regulated entity during any calendar year.

II. Other Changes to Part 622, Subpart B

We have revised various sections in part 622, subpart B on ''Rules and Procedures for Assessment and Collection of Civil Money Penalties'' to clarify that the current CMP procedures apply to CMPs assessed under the Reform Act. We have provided that FCA will forward payments for CMPs assessed under the Reform Act to the National Flood Mitigation Fund. We have also made nonsubstantive changes to conform the language of subpart B to plain English principles.

In addition, we have deleted existing §§ 622.53 and 622.54 as unnecessary because they simply repeat provisions of section 5.32(b) of the Farm Credit Act. These deletions will have no substantive effect on FCA procedures for assessing and collecting CMPs.

As described above, these inflation-adjusted CMPs will apply only to violations that occur after the effective date of this rule.

III. Notice and Comment Not Required by Administrative Procedure Act

The FCPIA Act gives Federal agencies no discretion in the adjustment of CMPs for the rate of inflation. Further, these revisions are ministerial, technical, and noncontroversial. For these reasons, the FCA finds good cause to determine that public notice and an opportunity to comment are impracticable, unnecessary, and contrary to the public interest pursuant to the Administrative Procedure Act, 5 U.S.C. 553(b)(B), and adopts this rule in final form. For all of the foregoing reasons, the FCA also finds good cause to determine that this regulation should become effective immediately, pursuant to the Administrative Procedure Act, 5 U.S.C. 553(d).

IV. Regulatory Flexibility Act

Pursuant to section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the FCA hereby certifies that the final rule will not have a significant economic impact on a substantial number of small entities. Each of the banks in the System, considered together with its affiliated associations, has assets and annual income in excess of the amounts that would qualify them as small entities. Therefore, System institutions are not ''small entities'' as defined in the Regulatory Flexibility Act.

List of Subjects in 12 CFR Part 622

Administrative practice and procedure, Crime, Investigations, Penalties.

■ For the reasons stated in the preamble, part 622 of chapter VI, title 12 of the Code of Federal Regulations is amended to read as follows:

PART 622—RULES OF PRACTICE AND PROCEDURE

■ 1. The authority citation for part 622 is revised to read as follows:

Authority: Secs. 5.9, 5.10, 5.17, 5.25–5.37 of the Farm Credit Act (12 U.S.C. 2243, 2244, 2252, 2261–2273); 28 U.S.C. 2461 note; and 42 U.S.C. 4012a(f).

Subpart B—Rules and Procedures for Assessment and Collection of Civil Money Penalties

■ 2. In § 622.52, revise paragraphs (a) and (b) and add paragraph (c) to read as follows:

§ 622.52 Purpose and scope.

* * * * *

[6] ''Any increase determined under this paragraph shall be rounded to the nearest * * * (3) multiple of $1,000 in the case of penalties greater than $1,000 but less than or equal to $10,000.'' Therefore, $231.65 is rounded to the nearest multiple of $1,000, which is $0.

[7] ''Any increase determined under this paragraph shall be rounded to the nearest * * * (3) multiple of $100 in the case of penalties greater than $100 but less than or equal to $1,000.'' Therefore, $115.83 is rounded to the nearest multiple of $100, or to $100.

[8] 42 U.S.C. 4012a.

[9] 103 Pub. L. 325, title V, 108 Stat. 2160, 2255–87 (September 23, 1994).

[10] 42 U.S.C. 4012a(f).

[11] Section 6 of the FCPIA Act, as amended by the DCIA, provides: ''The first adjustment of a civil monetary penalty made pursuant to the amendment made by paragraph (1) [amending the FCPIA Act] may not exceed 10 percent of such penalty.''

(a) For violations of the terms of a final cease and desist order issued under section 5.25 or 5.26 of the Act;

(b) For violations of any provision of the Act or any regulation issued under the Act; or

(c) For violations of the National Flood Insurance Reform Act (Reform Act) as set forth in 42 U.S.C. 4012a(f) or any regulation issued under the Reform Act.

§§ 622.53 and 622.54 [Removed and Reserved]

■ 3. Remove and reserve §§ 622.53 and 622.54.

■ 4. Revise § 622.55(a) to read as follows:

§ 622.55 Notice of assessment of civil money penalty.

(a) *Notice of assessment.* The notice of assessment for a civil money penalty will state:

(1) The legal authority for the assessment;

(2) The amount of the civil money penalty being assessed;

(3) The date by which the civil money penalty must be paid;

(4) The matter of fact or law constituting the grounds for assessment of the civil money penalty;

(5) The right of the institution or person being assessed to a formal hearing to challenge the assessment;

(6) That failure to request a hearing constitutes a waiver of the opportunity for a hearing and the notice of assessment will constitute a final and unappealable order; and

(7) The time limit to request such a formal hearing.

* * * * *

§§ 622.57(a), 622.58, and 622.59(b) [Amended]

■ 5. Amend §§ 622.57(a), 622.58, and 622.59(b) by removing the ''shall'' and adding in its place, the word ''will'' each place it appears.

■ 6. Revise §§ 622.60 and 622.61 to read as follows:

§ 622.60 Payment of civil money penalty.

(a) *Payment date.* Generally, the date designated in the notice of assessment for payment of the civil money penalty will be 60 days from the issuance of the notice. If, however, the Board finds, in a specific case, that the purposes of the relevant statutes would be better served if the 60-day period were changed, the Board may shorten or lengthen the period or make the civil money penalty payable immediately upon receipt of the notice of assessment. If a timely request for a formal hearing to challenge an assessment of a civil money penalty is filed, payment of the penalty will not be required unless and until the Board issues a final order of assessment following the hearing. If an assessment order is issued, it will specify the date by which the civil money penalty is to be paid or collected.

(b) *Method of payment.* Checks in payment of civil money penalties must be made payable to the ''Farm Credit Administration.'' Upon collection, the FCA will forward payment for penalties described in § 622.52(a) and (b) to the United States Department of Treasury. The FCA will forward payment for penalties described in § 622.52(c) to the National Flood Mitigation Fund as required by 42 U.S.C. 4012a(f)(8).

§ 622.61 Adjustment of civil money penalties by the rate of inflation under the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended.

(a) The maximum amount of each civil money penalty within FCA's jurisdiction is adjusted in accordance with the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended (28 U.S.C. 2461 note), as follows:

(1) Amount of civil money penalty imposed under section 5.32 of the Act for violation of a final order issued under section 5.25 or 5.26 of the Act: The maximum daily amount is $1,100.

(2) Amount of civil money penalty for violation of the Act or regulations: The maximum daily amount is $550 for each violation that occurs before March 16, 2005, and $650 for each violation that occurs on or after such date.

(b) The maximum civil money penalty amount assessed under 42 U.S.C. 4012a(f) is $350 for each violation that occurs before March 16, 2005, with total penalties under such statute not to exceed $100,000 for any single institution during any calendar year. For violations that occur on or after March 16, 2005, the maximum civil money penalty is $385 for each violation, with total penalties under such statute not to exceed $110,000 for any single institution during any calendar year.

Dated: March 9, 2005.

Jeanette C. Brinkley,

Secretary, Farm Credit Administration Board.

[FR Doc. 05–5001 Filed 3–14–05; 8:45 am]

BILLING CODE 6705–01–P

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Parts 4022 and 4044

Benefits Payable in Terminated Single-Employer Plans; Allocation of Assets in Single-Employer Plans; Interest Assumptions for Valuing and Paying Benefits

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: The Pension Benefit Guaranty Corporation's regulations on Benefits Payable in Terminated Single-Employer Plans and Allocation of Assets in Single-Employer Plans prescribe interest assumptions for valuing and paying benefits under terminating single-employer plans. This final rule amends the regulations to adopt interest assumptions for plans with valuation dates in April 2005. Interest assumptions are also published on the PBGC's Web site (*http://www.pbgc.gov*).

DATES: *Effective Date:* April 1, 2005.

FOR FURTHER INFORMATION CONTACT: Catherine B. Klion, Attorney, Legislative and Regulatory Department, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005, (202) 326–4024. (TTY/TDD users may call the Federal relay service toll-free at 1–800–877–8339 and ask to be connected to (202) 326–4024.)

SUPPLEMENTARY INFORMATION: The PBGC's regulations prescribe actuarial assumptions—including interest assumptions—for valuing and paying plan benefits of terminating single-employer plans covered by title IV of the Employee Retirement Income Security Act of 1974. The interest assumptions are intended to reflect current conditions in the financial and annuity markets.

Three sets of interest assumptions are prescribed: (1) A set for the valuation of benefits for allocation purposes under section 4044 (found in Appendix B to part 4044), (2) a set for the PBGC to use to determine whether a benefit is payable as a lump sum and to determine lump-sum amounts to be paid by the PBGC (found in Appendix B to part 4022), and (3) a set for private-sector pension practitioners to refer to if they wish to use lump-sum interest rates determined using the PBGC's historical methodology (found in Appendix C to part 4022).

Accordingly, this amendment (1) adds to Appendix B to part 4044 the interest assumptions for valuing benefits for allocation purposes in plans with valuation dates during April 2005, (2)

adds to Appendix B to part 4022 the interest assumptions for the PBGC to use for its own lump-sum payments in plans with valuation dates during April 2005, and (3) adds to Appendix C to part 4022 the interest assumptions for private-sector pension practitioners to refer to if they wish to use lump-sum interest rates determined using the PBGC's historical methodology for valuation dates during April 2005.

For valuation of benefits for allocation purposes, the interest assumptions that the PBGC will use (set forth in Appendix B to part 4044) will be 3.80 percent for the first 20 years following the valuation date and 4.75 percent thereafter. These interest assumptions are unchanged from those in effect for March 2005.

The interest assumptions that the PBGC will use for its own lump-sum payments (set forth in Appendix B to part 4022) will be 2.75 percent for the period during which a benefit is in pay status and 4.00 percent during any years preceding the benefit's placement in pay status. These interest assumptions are unchanged from those in effect for March 2005.

For private-sector payments, the interest assumptions (set forth in Appendix C to part 4022) will be the same as those used by the PBGC for determining and paying lump sums (set forth in Appendix B to part 4022).

The PBGC has determined that notice and public comment on this amendment are impracticable and contrary to the public interest. This finding is based on the need to determine and issue new interest assumptions promptly so that the assumptions can reflect, as accurately as possible, current market conditions.

Because of the need to provide immediate guidance for the valuation and payment of benefits in plans with valuation dates during April 2005, the PBGC finds that good cause exists for making the assumptions set forth in this amendment effective less than 30 days after publication.

The PBGC has determined that this action is not a ''significant regulatory action'' under the criteria set forth in Executive Order 12866.

Because no general notice of proposed rulemaking is required for this amendment, the Regulatory Flexibility Act of 1980 does not apply. *See* 5 U.S.C. 601(2).

List of Subjects

29 CFR Part 4022

Employee benefit plans, Pension insurance, Pensions, Reporting and recordkeeping requirements.

29 CFR Part 4044

Employee benefit plans, Pension insurance, Pensions.

■ In consideration of the foregoing, 29 CFR parts 4022 and 4044 are amended as follows:

PART 4022—BENEFITS PAYABLE IN TERMINATED SINGLE-EMPLOYER PLANS

■ 1. The authority citation for part 4022 continues to read as follows:

Authority: 29 U.S.C. 1302, 1322, 1322b, 1341(c)(3)(D), and 1344.

■ 2. In Appendix B to part 4022, Rate Set 138, as set forth below, is added to the table. (The introductory text of the table is omitted.)

Appendix B to Part 4022—Lump Sum Interest Rates for PBGC Payments

* * * * *

Rate set	For plans with a valuation date		Immediate annuity rate (percent)	Deferred annuities (percent)				
	On or after	Before		i_1	i_2	i_3	n_1	n_2
* * *		*	*		*		*	
138	4–1–05	5–1–05	2.75	4.00	4.00	4.00	7	8

■ 3. In Appendix C to part 4022, Rate Set 138, as set forth below, is added to the table. (The introductory text of the table is omitted.)

Appendix C to Part 4022—Lump Sum Interest Rates for Private-Sector Payments

* * * * *

Rate set	For plans with a valuation date		Immediate annuity rate (percent)	Deferred annuities (percent)				
	On or after	Before		i_1	i_2	i_3	n_1	n_2
* * *	*		*		*		*	
138	4–1–05	5–1–05	2.75	4.00	4.00	4.00	7	8

PART 4044—ALLOCATION OF ASSETS IN SINGLE-EMPLOYER PLANS

■ 4. The authority citation for part 4044 continues to read as follows:

Authority: 29 U.S.C. 1301(a), 1302(b)(3), 1341, 1344, 1362.

■ 5. In Appendix B to part 4044, a new entry, as set forth below, is added to the table. (The introductory text of the table is omitted.)

Appendix B to Part 4044—Interest Rates Used to Value Benefits

* * * * *

For valuation dates occurring in the month—	The values of i_t are:					
	i_t	for t =	i_t	for t =	i_t	for t=
* * * *	*		*		*	
April 2005	.0380	1–20	.0475	>20	N/A	N/A

Issued in Washington, DC, on this 9th day of March 2005.

Vincent K. Snowbarger,

Deputy Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 05–5010 Filed 3–14–05; 8:45 am]

BILLING CODE 7708–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[Docket # R10–OAR–2005–OR–0002; FRL–7881–4]

Approval and Promulgation of Air Quality Implementation Plans; Oregon Visibility Protection Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve revisions to the Oregon Visibility Protection Plan submitted to EPA on January 22, 2003. The revisions are the result of a required periodic review of the Visibility Protection Plan conducted by the State, and reflect recommendations from the Oregon Visibility Advisory Committee. In general, the revisions reflect work the State intends to conduct over the next three years. EPA has determined that this submission is a general strengthening of the State Implementation Plan (SIP) as it expands strategies to protect visibility in Oregon.

DATES: This direct final rule will be effective May 16, 2005, without further notice, unless EPA receives adverse comments by April 14, 2005. If adverse comments are 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 Docket ID No. R10–OAR–2005–OR–0002, 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://www.epa.gov/edocket.* EDOCKET, EPA's electronic public docket and comment system, is EPA's preferred method for receiving comments. Follow the on-line instructions for submitting comments.
- Mail: Gina Bonifacino, Office of Air, Waste and Toxics, OAWT–107 EPA, Region 10, 1200 Sixth Ave., Seattle, Washington 98101.
- Hand Delivery: EPA, Region 10 Service Center, 14th Floor, 1200 Sixth Ave., Seattle, Washington 98101. Attention: Gina Bonifacino, Office of Air, Waste and Toxics, OAWT–107. Such deliveries are only accepted during normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. R10–OAR–2005–OR–0002. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.epa.gov/edocket,* 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 EDOCKET, regulations.gov or e-mail. The EPA EDOCKET 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 EDOCKET 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 docket are listed in the EDOCKET index at *http://www.epa.gov/edocket.* Although listed in the index, some information is not publicly available, such as 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 electronically in EDOCKET, in hard copy at EPA, Region 10, Office of Air, Waste and Toxics, 1200 Sixth Avenue, Seattle, Washington, or in hard copy at the EPA Oregon Operations Office, 811 SW., 6th Ave., 3rd Floor, Portland, OR 97204 from 8 a.m. to 4:30 p.m. Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: Gina Bonifacino at telephone number: (206) 553–2970, e-mail address: *bonifacino.gina@epa.gov,* fax number: (206) 553–0110, or the above EPA, Region 10 address.

SUPPLEMENTARY INFORMATION: Throughout this document wherever ''we'', ''us'' or ''our'' are used, we mean EPA.

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I. Background

A. What Is Visibility Protection and Why Do We Have It?

Section 169A of the Federal Clean Air Act (CAA or Act) requires States to protect visibility in mandatory Class I Federal areas. Mandatory Class I Federal areas are specified large National Parks or Wilderness Areas. In Oregon, there are 12 mandatory Class I Federal areas; the Crater Lake National Park, Diamond Peaks Wilderness Area, Eagle Cap Wilderness Area, Gearhart Mountain Wilderness Area, Hells Canyon Wilderness Area, Mountain Lakes Wilderness Area, Mount Hood Wilderness Area, Mount Jefferson Wilderness Area, Mount Washington Wilderness Area, Strawberry Mountain Wilderness Area, Three Sisters Wilderness Area, and Kalmiopsis Wilderness Area. See 40 CFR 81.425. The Federal rules regulating visibility protection are set out in 40 CFR part 51, subpart P.

B. What Are the Main Visibility Protections Provided by the Federal Rules?

The Clean Air Act sets out a goal of preventing any future and remedying any existing impairment of visibility in mandatory Class I Federal areas. See 42 U.S.C. 7491. Employing a close coordination process among the state and the Federal Land Managers (FLM), the Federal rules require monitoring of visibility in mandatory Class I Federal areas, as well as the development of a long-term strategy for making reasonable progress towards the national visibility goal. The visibility protection rules also provide for an assessment of visibility impacts from any new or major modification that may affect mandatory Class I Federal areas. Additionally, in the event that a Federal Land Manager certifies impairment of visibility in a mandatory Class I Federal area that could be caused, or contributed to, by an existing stationary facility, emission limitations representing Best Available Retrofit Technology (BART) must be imposed on the facility.

The Federal visibility rules were modified in 1999 to include provisions for addressing regional haze. See 64 FR 35714. Regional haze is visibility impairment which results from the cumulative impact of emissions from many point and non-point sources. All states are currently in the process of developing revisions to their SIPs to address the regional haze provisions. The SIP submission under discussion in this action is not required to comply with the regional haze provisions of 40 CFR part 51, subpart P until December 2007. We note that Oregon submitted a Regional Haze Section 309 Plan (Requirements related to the Grand Canyon Visibility Transport Commission) on December 18, 2003. See 49 CFR part 51, section 309. EPA has not acted on the December 18, 2003 Regional Haze section 309 Plan submission as of the date of this action.

C. How has Visibility Been Protected in Oregon?

On November 22, 1988, EPA approved visibility protection provisions into Oregon's State Implementation Plan (53 FR 47188). Oregon's visibility protection provisions are at Oregon Administrative Rules (OAR) 340–200–040, Section 5.2. The visibility protection SIP provided three approaches to visibility protection: (1) A short-term strategy to be accomplished over a five year period to mitigate existing visibility impairment; (2) a long-range strategy to reduce fine particle emissions from agricultural field burning and forest prescribed burning over a 10–15 year period; and (3) on-going visibility protection afforded through the New Source Review permitting process. EPA approved the visibility SIP because it conformed to the Federal visibility protection provisions outlined in 40 CFR 51.300, subpart P. On November 1, 2001, EPA approved changes to Oregon's regulations as proposed revisions to the visibility SIP. See 66 FR 55105. The 2001 revisions built on the programs established in the earlier visibility SIP. Focusing on vegetative burning, the 2001 revisions: (1) Expanded the period during which restrictions to protect visibility apply by approximately 15 days; (2) incorporated the Class I area visibility protection provisions of the Union and Jefferson County field burning ordinances (Union County Ordinance #1992–4 passed May 6, 1992, and Jefferson County Ordinance #0–58–89 passed May 31, 1989); (3) reduced the annual acreage allowed for research and hardwood conversion burning from 1200 to 600 acres per year; and (4) revised the Willamette Valley field burning restriction emergency clause to allow hardship requests for visibility protection exemptions beyond August 10th of each year. In addition to these changes, the 2001 revisions proposed to decrease the frequency of the formal review of the visibility program by the Department of Environmental Quality from three to five years. However, EPA took no action on this provision because Federal visibility protection regulations require the states to review the visibility program every three years. See 40 CFR 51.306(c). Thus, the three year review period remained in the SIP. As discussed below, the January, 2003 SIP submission revises the review period back to three years.

D. What Changes Is EPA Approving With This Action?

The January, 2003 submission contains expanded strategies to protect visibility in Oregon. Thus, EPA has determined that the submission is a general strengthening of the SIP. The expanded strategies include a provision to expand the current visibility monitoring network subject to available funding, provisions to improve smoke management coordination between agricultural burning and forestry burning programs, provisions to increase the use of non-burning alternatives in agricultural open burning and forestry burning programs, and provisions to improve fire emission inventory and tracking of burning. In addition to these provisions, the January 2003 submission reorganized the content of the plan, made minor editorial changes for housekeeping purposes, and removed the short term strategy prohibiting prescribed burning from July 1-September 15. EPA has determined that the reorganization of the plan is non-substantive and the revision removing summer prohibition on prescribed burning is not a relaxation of the SIP. Accordingly, EPA is taking direct final action to approve the revisions to the Oregon Visibility Protection Plan contained in the January 2003 submission. The revisions, and EPA's rationale for approving the revisions are described below in section III.

II. What Are the Required Provisions of a Visibility State Implementation Plan (SIP) and How Does Oregon Meet the Requirements for Visibility Protection?

40 CFR 51.302 provides the requirements for Visibility SIPs. These requirements and how the Oregon Visibility SIP meets these requirements are summarized below.

A. Long-Term Strategy

The SIP needs to include a long-term (10–15 year) strategy that includes emission limitations, schedules of compliance, and other measures as deemed necessary to make reasonable progress toward the national goal. See

40 CFR 51.302(c)(2)(i). In general, Section 5.8.2 of the proposed SIP revision provides a discussion of the long-term strategy, including measures for stationary sources, mobile sources, area sources, and interstate coordination.

The long-term strategy must include:

• A strategy for evaluating visibility in mandatory Class I Federal areas by visual observation or other appropriate monitoring techniques. See 40 CFR Part 51.305(a). Section 5.6 of the January 2003 submission provides for monitoring through the IMPROVE monitoring network and Oregon DEQ's real-time monitoring network to help identify sources and the degree of impairment in Cascade Class I areas.

• A provision for the available visibility data and provide a mechanism for its use in decisions required by the regulations. See 40 CFR 51.305(b). Section 5.7 of the January 2003 submission provides for the development and use of available data for SIP review and development.

• A strategy to address any existing impairment the Federal Land Manager certifies to the State and integral vista of which the Federal Land Manager notifies the State at least 6 months prior to plan submission. See 40 CFR 51.306(a)(1). Sections 5.3 and 5.5 of the January 2003 submission contain strategies covering existing impairment in Federal mandatory Class I areas. Section 5.9 of the January 2003 submission discusses integral vistas.

• A discussion, with reasonable specificity, why the long-term strategy is adequate for making reasonable progress. See 40 CFR 51.306(a)(3). Section 5.8.2 of the January 2003 SIP submission discusses all source categories, the control measures that apply to them, and a qualitative assessment of how these are adequate for making reasonable progress. Section 5.8 of the proposed January 2003 SIP submission discusses the evaluation of progress toward achieving the national visibility goal.

• Coordination of the long-term strategy with other existing plans and goals, including those provided by affected Federal Land Managers. See 40 CFR 51.306(a)(3). Section 5.7 of the January 2003 submission describes the procedure for periodic program reviews and revision of the SIP. The procedures include consultation with Federal Land Managers for the review of the visibility SIP and New Source Review rules, annual Visibility Committee meetings and periodic plan review and assessments.

• Provisions for periodic review of not less than every three years See 40 CFR 51.306(c). The review must include consultation with the appropriate Federal Land Managers and the State must provide a report to the public and EPA that includes an assessment of:

(1) Progress achieved in remedying existing impairment;

(2) The ability of the long-term strategy to prevent future impairment;

(3) Any change in visibility since the last report;

(4) Additional measures, including the need for SIP revisions that may be needed to assure reasonable progress;

(5) The progress achieved in implementing BART and meeting other schedules set forth in the long-term strategy; and

(6) The impact of any exemption granted under 40 CFR 51.303.

(7) The need for BART to remedy existing visibility impairment of any integral vista.

Section 5.7 of the January 2003 SIP submission directs the State to conduct a three year periodic review and assessment and provide a report summarizing the periodic plan review and assessment to State and Federal Land Managers, EPA and other interested parties.

• Provisions for review of the impacts of any new or modified major stationary source. See 40 CFR 51.306(d). The Oregon Department of Environmental Quality rules for the prevention of significant deterioration of air quality (provisions of OAR chapter 340, Divisions 200, 202, 209, 212, 216, 222, 224, 225, and 268), as in effect on October 8, 2002, are approved as meeting the requirements of title I, part C, subpart 1 of the Clean Air Act, as in effect on July 1, 2002, for preventing significant deterioration of air quality. See 68 FR 2891(January 22, 2003).

B. Monitoring

The plan must contain an assessment of visibility impairment and a discussion of how each element of the plan relates to preventing future or remedying existing impairment. See 40 CFR 51.302(c)(2)(ii). Section 5.8 of the 2003 submission provides a description of control strategies and how these control strategies are directed at preventing future and remedying existing impairment.

C. BART

The plan must contain emission limitations representing BART for any existing facility that meets the requirements of 40 CFR 51.301(e), and for which impairment has been certified by the Federal Land Managers and for which the State has determined such impairment is reasonably attributed to that source. See 40 CFR 51.302(c)(2)(iii).

Section 5.10 of the January 2003 submission contains a discussion of BART eligible sources in Oregon. Based on visibility monitoring and analysis, the State has not determined that existing impairment in any mandatory Class I Federal area for which impairment has been certified can be reasonably attributed to a specific major stationary source.

III. What Does This Visibility SIP Revision Change and How Do These Changes Compare to Federal Requirements?

A. Provision To Expand the Current Visibility Monitoring Network

Since the early 1980's, the Oregon Department of Environmental Quality has conducted visibility monitoring annually, at a minimum, from July to September in the Class I areas in the Oregon Cascade Mountain Range. The January 2003 SIP revision proposes to expand this monitoring network statewide to evaluate visibility in all Class 1 areas in Oregon. The expanded monitoring is contingent on Oregon Department of Environmental Quality securing necessary funds.

B. Provisions To Improve Smoke Management Coordination Between Agricultural Burning and Forestry Burning Programs

There are four smoke management programs operating in Oregon that help protect visibility in Class I areas in the summer months. These programs are operated by the Oregon Department of Forestry, the Oregon Department of Agriculture and Jefferson and Union County governments. The programs control open field burning of grass straw residue in different parts of the state and forestry burning throughout the State. Section 5.8.1.1 of the January 2003 SIP revision directs the Oregon Department of Environmental Quality to make efforts to ensure on an on-going basis that good coordination is achieved between these smoke management programs.

C. Provisions To Increase the Use of Non-Burning Alternatives in Agricultural Open Burning and Forestry Burning Programs

The long-term strategy for Willamette Valley field burning includes an ongoing research and development program investigating alternatives to open field burning. Under state law, the Oregon Department of Agriculture is required to conduct an on-going research and development program to

seek, develop, and promote viable alternatives to open field burning. Alternatives include straw utilization, minimum tillage, less-than-annual burning and alternate crops not requiring burning. Sections 5.8.2.3 of the January 2003 submission reiterates the Department of Environmental Quality's continued coordination with the Oregon Department of Agriculture to encourage alternatives to field burning.

D. Provisions To Improve Fire Emission Inventory and Tracking of Burning

Smoke management program managers in Oregon track their own burning and prepare annual reports that are submitted to the Oregon Department of Environmental Quality. Burning information is collected and submitted to the Department in various formats. The Department is evaluating an approach to better coordinate accurate emissions data for these programs as well as surveying other areas of the state where significant burning occurs and develop new ways of tracking emissions where possible.

E. Provisions To Change the Periodic Plan Review Period From Five to Three Years

Federal visibility rules require a three year review and assessment of the effectiveness of visibility strategies. See 40 CFR 51.306. In a 1993 submission to EPA, Oregon revised its Visibility Plan to change the review period from three to five years. EPA did not act on Oregon's revision changing the periodic review period from three to five years because Federal visibility protection regulations require the states to review and revise as necessary the visibility program every three years. See 66 FR 55105. Section 5.7.2 of the January, 2003 submission directs the Oregon Department of Environmental Quality to change periodic plan review back to every three years.

F. Provisions To Remove the Summer Prohibition on Prescribed Burning in Northwest Oregon on a Trial Basis

Oregon's Visibility Protection Plan defines prescribed burning as the controlled application of fire to wildland fuels in either their natural or modified state, under such conditions of weather, fuel and soil moisture, as allows the fire to be confined to a predetermined area while producing the intensity of heat and rate of fire spread required to meet planned objectives including silviculture, wildlife habitat management, grazing and fire hazard reduction. Prior to the adoption of the Visibility Plan in 1986, prescribed burning in Northwest Oregon during the summer months impaired visibility in several Cascade Class 1 areas. See 53 FR 47188. The 1986 Plan prohibited prescribed burning in Western Oregon counties between July 1 and September 15, with certain exemptions. For example, one exemption allowed burning on days when natural visibility impairment exists. Another allowed for a hardship exemption at the beginning of summer if poor weather conditions and other factors significantly hindered burning in the spring. After reviewing the Visibility Protection Plan, including the prescribed burning strategies, the Visibility Advisory Committee recommended removing the summertime prohibition on prescribed burning. In the January, 2003 submission, Oregon removed the summertime prohibition on prescribed burning. According to the January 2003 submission, over the last fifteen years, most prescribed burning has been intentionally shifted to spring and fall months, and the remaining burning has decreased due to an overall decline in timber harvesting in Western Oregon.

EPA has determined that the removal of the summer prescribed burning prohibition meets the requirements of Section 110(l) of the Act. Section 110(l) of the Act states that a SIP revision can not be approved if the revision would interfere with any applicable requirement concerning attainment and reasonable further progress towards attainment of the National Ambient Air Quality Standards (NAAQS) or any other applicable requirements of the Act. EPA has determined that the removal of the summertime prohibition on burning will not interfere with the attainment and reasonable further progress towards attainment of the National Ambient Air Quality Standards maintenance of the NAAQS, or any other applicable requirements of the Act. EPA believes that even without the summertime prohibition on prescribed burning, the other elements in the long term and short term strategy will provide protection from summertime visibility impairment. These elements include:

(1) Oregon's Smoke Management Plan. Oregon's Smoke Management Plan provides protection from summertime visibility impairment from prescribed burning. Oregon's Smoke Management Plan was approved into the SIP in 1988 and is designed to manage smoke impacts from the burning of silvicultural wastes and the prescribed burning of forests. See 53 FR 47188. In November 2001, EPA approved changes to Oregon's Smoke Management Plan to strengthen visibility protection of Class 1 areas, and to provide for additional protections around nonattainment areas for particulate matter. See 66 FR 55015. Under the Smoke Management Program, efforts will be made to conduct all prescribed burning in Western Oregon during the spring and fall months, and;

(2) The Visibility Protection Period. The Visibility Protection Period (July 1 to September 15) remains in place. During the Visibility Protection Period, other short term strategies, such as the open field burning programs, provide protection from summertime visibility impairment.

G. Provisions Establishing Annual Visibility Advisory Committee Meetings

Under the prior Visibility Protection Plan, the Visibility Advisory Committee was required to convene only for the periodic plan review. In order to keep better informed of visibility trends and conditions, the Committee recommended holding an annual meeting, in addition to the three year periodic review meetings. The January 2003 submission requires the Committee to hold an annual meeting. This annual meeting will be open to the public, the news media and other interested persons. Topics to be addressed will include a review of the monitoring data, and assessment of visibility trends and sources contributing to visibility impairment, and discussion of reasonable progress toward achievement of the national visibility goal.

EPA has determined that these revisions to the Oregon Visibility Protection Plan submitted on January 22, 2003 constitute a general strengthening of the State Implementation Plan (SIP), and is taking direct final action to approve these revisions.

V. Direct Final Action

EPA is publishing this action without a prior proposal because EPA views this as a noncontroversial amendment and anticipates no adverse comments. In the proposed rules section of this **Federal Register** publication, however, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision should relevant adverse comments be filed. This direct final rule is effective on May 16, 2005, without further notice, unless EPA receives adverse comment by April 14, 2005. If a adverse comment is received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule did not take effect. All adverse public comments received will then be addressed in a subsequent final rule based on the proposed rule. EPA will

not institute a second comment period on this action. Any parties interested in commenting must do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

V. 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 6, 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 Clean Air Act. 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 Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This 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. section 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. section 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 May 16, 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, Particulate matter, Reporting and record keeping requirements.

Dated: February 24, 2005.

Kathryn M. Davidson,

Acting Regional Administrator, Region 10.

■ 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 MM—Oregon

■ 2. Section 52.1970 is amended by adding paragraph (c)(144) to read as follows:

§ 52.1970 Identification of plan.

* * * * *

(c) * * *

(144) The Oregon Department of Environmental Quality submitted a Visibility SIP revision on January 22, 2003. EPA approves these revisions.

(i) Incorporation by reference.

(A) OAR 340–200–0040, Sections 5.2–5.11, effective May 3, 2002.

[FR Doc. 05–5045 Filed 3–14–05; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[R01–OAR–2004–ME–0002; A–1–FRL–7884–7]

Approval and Promulgation of Air Quality Implementation Plans; Maine; Control of Total Reduced Sulfur From Kraft Pulp Mills: Withdrawal of Direct Final Rule; and Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Withdrawal of direct final rule, correcting amendment.

SUMMARY: This document withdraws the direct final rule published in the **Federal Register** on March 1, 2005. 70 FR 9872. In that rule, we approved a revision to the State of Maine's plan for controlling total reduced sulfur (''TRS'') from kraft pulp mills under section 111(d) of the Clean Air Act (''CAA'') (the ''111(d) plan''). That revision extended the compliance date for brown stock washers to April 17, 2007. EPA stated in the direct final rule that if it received adverse comment by March 31, 2005, the rule would be withdrawn and not take effect. We are withdrawing the direct final rule today because we received an adverse comment concerning our approval to extend the

compliance date for brown stock washers. EPA will address this comment and any others received concerning Maine's revision to its 111(d) plan in a subsequent final action based upon the proposed rule that was issued simultaneously with the direct final rule. 70 FR 9901. As explained in the direct final rule and the proposed rule, EPA will not institute a second comment period on this action. 70 FR 9874; 70 FR 9901. In addition, this document corrects a statement in the preamble of the direct final rule. In that preamble, the Agency inaccurately summarized the provisions of CAA section 111(d). This mistake has no bearing on the substance of EPA's proposed approval of Maine's revision to its 111(d) plan.

DATES: The direct final rule is withdrawn as of March 15, 2005. EPA will continue to take comments on the proposed rule until March 31, 2005. Please see EPA's direct final rule published on March 1, 2005 (70 FR 9872) for instructions for submitting comments.

FOR FURTHER INFORMATION CONTACT: Ian D. Cohen, Air Permits, Toxics, and Indoor Air Programs Unit, U.S. Environmental Protection Agency, EPA New England Regional Office, One Congress Street, Suite 1100 (CAP), Boston, MA 02114–2023, *cohen.ian@epa.gov.*

SUPPLEMENTARY INFORMATION: The statement in the preamble to the direct final rule that we are correcting today concerns the summary of section 111(d) that we provided in the statutory background section of the notice. Specifically, we stated:

> Section 111(d) of the CAA allows EPA to approve state plans to regulate emissions from existing sources of ''designated pollutants,'' *i.e.,* pollutants not listed as criteria pollutants under CAA section 108(a) nor as hazardous air pollutants (''HAPs'') under section 112(b)(1), but to which a standard of performance for new sources applies under section 111.''

70 FR 9872, 9873 (column 3). This summary of CAA section 111(d)(1) is inaccurate and incomplete. As an initial matter, we intended for the above statement to summarize one of our regulations. The above statement incorrectly summarizes that regulation because the regulation refers to section 112(b)(1)(A) of the Act, not section 112(b)(1). Upon further examination of the regulation, we recognize that we erred in relying on the regulation because that regulation interprets section 111(d) of the 1970 CAA, not the 1990 Act, which represents existing law. See 40 C.F.R. 60.21(a) (promulgated in November 1975). This is evidenced, in part, by the fact that the CAA, as amended in 1990, does not include a ''section 112(b)(1)(A)'' to which the regulation refers. The above-quoted statement therefore does not take into account or, in any way, address the 1990 CAA, in which Congress amended section 111(d).[1]

As explained in our January 30, 2004, proposed rule concerning emissions of hazardous air pollutants from Electric Utility Units, we believe that we can regulate hazardous air pollutants from certain source categories under CAA section 111(d). 69 FR 4652, 4684–86 (Jan. 30, 2004). Nevertheless, the question of whether we can regulate hazardous air pollutants from particular source categories under CAA section 111(d), as amended in 1990, is not material to our approval of the State of Maine's section 111(d) plan revision, since that revision concerns TRS, which is not a hazardous air pollutant. Thus, we revise the statutory background in the preamble of the direct final rule approving the TRS section 111(d) plan, to read as follows:

> Section 111(d) of the CAA provides that where EPA has issued section 111(b) standards for new sources of a listed source category for a particular pollutant, EPA shall establish regulations for existing sources in that category that emit the pollutant at issue. The regulations that EPA establishes are to set forth a procedure similar to that provided for under CAA section 110, where each State submits a plan to the Administrator for review and approval. Section 111(d) does contain certain exceptions for regulation under that provision. Those exceptions are not relevant here.

Specifically, the above corrected statement replaces the first sentence that appears under the heading ''Background and Purpose'' in the direct final rule, see 70 FR 9873, column 3. We are correcting this statement in the direct final rule because the rationale underlying EPA's approval of Maine's revision to its 111(d) plan is set forth only in the direct final rule, not in the proposed rule that was issue on March 1, 2005. See 70 FR 9901 (''For additional information, see the direct final rule''). Because interested parties must prepare any comments on the proposed rule by reference to the content of the direct final rule that was published on March 1, 2005, we take action today to correct the statutory background statement included in that notice.

Furthermore, EPA approved Maine's TRS section 111(d) plan in 1990, and approved revisions to that plan in 1994 and 2003. The issue addressed in the direct final rule published on March 1, 2005, does not concern whether EPA has authority to regulate TRS from kraft pulp mill plants under section 111(d), but rather, whether EPA reasonably approved Maine's proposed extension of the compliance date for certain facilities. Accordingly, the above revised statement accurately summarizes the statutory background that is relevant to the proposed extension of the compliance date for brown stock washers. See 70 FR 9872, 9874 (March 1, 2005) for a summary and explanation of the proposed compliance date extension.

[1] A commenter on the direct final rule noted that the above-quoted statement does not take into account section 111(d), as amended in 1990.

II. Statutory and Executive Order Reviews

This action merely corrects a statement in the preamble of the direct final rule published on March 1, 2005, and nothing in this action changes the analysis found in section V, ''Statutory and Executive Order Reviews,'' of the direct final rule. Please, refer to that direct final rule (70 FR 9874, 9875) for information regarding applicable Statutory and Executive Order Reviews.

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**. This correction to rule document 05–3908 is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 62

Environmental protection, Total reduced sulfur.

Dated: March 9, 2005.

Ira W. Leighton,

Acting Regional Administrator, EPA New England.

[FR Doc. 05–5133 Filed 3–14–05; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[FRL–7884–4]

Alabama: Final Authorization of State Hazardous Waste Management Program Revision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Immediate final rule.

SUMMARY: Alabama has applied to EPA for Final authorization of the changes to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). EPA has determined that these changes satisfy all requirements needed to qualify for Final authorization, and is authorizing the State's changes through this immediate final action. EPA is publishing this rule to authorize the changes without a prior proposal because we believe this action is not controversial and do not expect comments that oppose it. Unless we get written comments which oppose this authorization during the comment period, the decision to authorize Alabama's changes to its hazardous waste program will take effect. If we get comments that oppose this action, we will publish a document in the **Federal Register** withdrawing this rule before it takes effect and a separate document in the proposed rules section of this **Federal Register** will serve as a proposal to authorize the changes.

DATES: This final authorization will become effective on May 16, 2005, unless EPA receives adverse written comments by April 14, 2005. If EPA receives such comments, it will publish a timely withdrawal of this immediate final rule in the **Federal Register** and inform the public that this authorization will not take effect.

ADDRESSES: Submit your comments by one of the following methods:

- Federal eRulemaking Portal: *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.
- E-mail: *middlebrooks.gail@epa.gov.*
- Fax: (404) 562–8439 (prior to faxing, please notify the EPA contact listed below).
- Mail: Send written comments to Gail Middlebrooks at the address listed below.

Instructions: Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov,* or e-mail. The Federal *regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comments. 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.

You can view and copy Alabama's applications from 8 a.m. to 5 p.m. at the following addresses: Alabama Department of Environmental Management, 1400 Coliseum Blvd., Montgomery, Alabama 36130–1463; (334) 271–7700 and EPA Region 4, Library, 9th Floor, The Sam Nunn Atlanta Federal Center, 61 Forsyth Street, SW., Atlanta, Georgia 30303–3104; (404) 562–8190.

FOR FURTHER INFORMATION CONTACT: Gail Middlebrooks, RCRA Services Section, RCRA Programs Branch, Waste Management Division, U.S. Environmental Protection Agency, Region 4, The Sam Nunn Atlanta Federal Center, 61 Forsyth Street, SW., Atlanta, Georgia 30303–3104; (404) 562–8494.

SUPPLEMENTARY INFORMATION:

A. Why Are Revisions to State Programs Necessary?

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

B. What Decisions Have We Made in This Rule?

We conclude that Alabama's applications to revise its authorized program meet all of the statutory and regulatory requirements established by RCRA. Therefore, we grant Alabama Final authorization to operate its hazardous waste program with the changes described in the authorization application. Alabama has responsibility for permitting Treatment, Storage, and Disposal Facilities (TSDFs) within its borders (except in Indian Country) and for carrying out the aspects of the RCRA program described in its revised program application, subject to the limitations of the Hazardous and Solid Waste Amendments of 1984 (HSWA). New Federal requirements and prohibitions imposed by Federal regulations that EPA promulgates under the authority of HSWA take effect in authorized States before they are authorized for the requirements. Thus, EPA will implement those requirements and prohibitions in Alabama, including issuing permits, until the State is granted authorization to do so.

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

The effect of this decision is that a facility in Alabama subject to RCRA will now have to comply with the authorized State requirements instead of the equivalent Federal requirements in order to comply with RCRA. Alabama has enforcement responsibilities under its State hazardous waste program for violations of such program, but EPA retains its authority under RCRA sections 3007, 3008, 3013, and 7003, which include, among others, authority to:

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

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

D. Why Wasn't There a Proposed Rule Before Today's Rule?

EPA did not publish a proposal before today's rule because we view this as a routine program change and do not expect comments that oppose this approval. We are providing an opportunity for public comment now. In addition to this rule, in the proposed rules section of today's **Federal Register**, we are publishing a separate document that proposes to authorize the State program changes.

E. What Happens if EPA Receives Comments That Oppose This Action?

If EPA receives comments that oppose this authorization, we will withdraw this rule by publishing a document in the **Federal Register** before the rule becomes effective. EPA will base any further decision on the authorization of the State program changes on the proposal mentioned in the previous paragraph. We will then address all public comments in a later final rule.

You may not have another opportunity to comment. If you want to comment on this authorization, you must do so at this time.

If we receive comments that oppose only the authorization of a particular change to the State hazardous waste program, we will withdraw that part of this rule but the authorization of the program changes that the comments do not oppose will become effective on the date specified above. The **Federal Register** withdrawal document will specify which part of the authorization will become effective, and which part is being withdrawn.

F. What Has Alabama Previously Been Authorized for?

Alabama initially received final authorization on December 8, 1987, effective December 22, 1987 (52 FR 46466), to implement the RCRA hazardous waste management program. We granted authorization for changes to Alabama's program on November 29, 1991, effective January 28, 1992 (56 FR 60926), May 13, 1992, effective July 12, 1992 (57 FR 20422), October 21, 1992, effective December 21, 1992 (57 FR 47996), March 17, 1993, effective May 17, 1993 (58 FR 20422), September 24, 1993 effective November 23, 1993 (58 FR 49932), February 1, 1994, effective April 4, 1994 (59 FR 4594), November 14, 1994, effective January 13, 1995 (59 FR 56407), August 14, 1995, effective October 13, 1995 (60 FR 41818), February 14, 1996, effective April 15, 1996 (61 FR 5718), April 25, 1996, effective June 24, 1996 (61 FR 5718), November 21, 1997 effective February 10, 1998 (62 FR 62262), and on December 20, 2000 effective February 20, 2001 (65 FR 79769).

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

On November 17, 2004, Alabama submitted final complete program revision applications, seeking authorization of its changes in accordance with 40 CFR 271.21. We now make an immediate final decision, subject to receipt of comments that oppose this action, that Alabama's hazardous waste program revisions satisfy all of the requirements necessary to qualify for final authorization. Therefore, we grant final authorization for the following program changes:

Description of Federal requirement (revision checklist)	**Federal Register** date and page	Analogous state authority [1]
Checklist 160, Land Disposal Restrictions Phase III—Emergency Extension of the KO88 National Capacity Variance, Amendment.	7/14/97 62FR 37694	335–14–9–.03(10).
Checklist 161, Emergency Revision of the Carbamate Land Disposal Restrictions.	8/28/97 62 FR 45568	335–14–9–.04(1), .04(8).
Checklist 162, Clarification of Standards for Hazardous Waste LDR Treatment Variances.	12/5/97 62 FR 64504	335–14–9–.04(5).
Checklist 163, Organic Air Emission Standards for Tanks, Surface Impoundments, and Containers; Clarification and Technical Amendment.	12/8/97 62 FR 64636	335–14–5–.05(40)(b)6. 335–14–5–.27(1)(2)(4). 335–14–5–.28(1). 335–14–5–.29(1,3,4,5,6,10,11). 335–14–5–.28(13)(15). 335–14–6–.02(6)(b)4. 335–14–.05(4)(b)6. 335–14–6–.27(1)(4). 335–14–28(11,13,15). 335–14–6–.29 (1–11). 335–14–6—Appendix VI.
Checklist 164, Kraft Mill Steam Stripper Condensate Exclusion	4/15/98 63 FR 18504	335–14–2–.01(4)(a)15.
Checklist 165, Organobromine Production Wastes	5/14/98 63 FR 24596 6/29/98 63 FR 35147	335–14–2–.04(3). 335–14–2–.04(4)(e). 335–12–2—Appendix VII. 335–14–2—Appendix VIII. 335–14–9–.03(3).
Checklist 166, Recycled Used Oil Management Standards; Technical Correction and Clarification.	5/6/98 63 FR 24963 7/14/98 63 FR 37780	335–14–2–.01(5)(j). 335–1.01(6)(a)3.(iv)(I–III). 335–14–17–.02(1)(i). 335–14–17–.03(3)(d). 335–14–17–.05(6)(h). 335–14–17–.06(5)(g). 335–14–17–.08(5)(b).
Checklist 167A, Land Disposal Restrictions Phase IV—Treatment Standards for metal Wastes and Mineral Processing Wastes.	5/26/98 63 FR 28556	335–14–9–.01(2,3,5). 335–14–9–.04(1)(8).
Checklist 167B, Land Disposal Restrictions Phase IV—Hazardous Soils Treatment Standards and Exclusions.	5/26/98 63 FR 29556	335–14–9–.01(2)(7). 335–14–9–.04(5)(9).
Checklist 167C, Land Disposal Restrictions Phase IV–Corrections	5/26/98 63 FR 28556	335–14–9–.01(4)(7). 335–14–9–.04(1,3,6,8) 335–14–9—Appendix VII and VIII.
Checklist 167D, Mineral Processing Secondary Materials Exclusion	5/26/98 63 FR 28556	335–14–2–.01(2)(c)3. 335–14–2–.01(2)(c)4./Table. 335–14–2–.01(2)(e)1.(iii). 335–14–2–.01(4)(a)16. 335–14–2–.01(4)(a)16.(iv). 334–14–8–.04(3)(a)9.(v). 335–14–8–.07(3)(b)8.
Checklist 167E, Bevil Exclusion Revision and Clarifications	5/26/98 63 FR 28556	335–14–2–.01(3)(a)2. 335–14–2–.01(4)(b)7.
167F, Exclusion of Recycled Wood Pr Checklist deserving Wastewaters	5/26/98 63 FR 28556	335–14–2.01(4)(a)9.(iii).

Description of Federal requirement (revision checklist)	Federal Register date and page	Analogous state authority [1]
Checklist 168, Hazardous Waste Combustors; Revised Standards	6/19/98 63 FR 33782	335–14–2–.01(4)(a)16. 335–14–2–.04(9). 335–14–8–.04(3)(a)9.(v). 335–14–8–.07.
Checklist 169, Petroleum Refining Process Wastes	8/6/98, 63 FR 42110	335–14–2.01(3)(a)2.(iv). 335–14–2–.01(3)(a)2 (ii)(II,V). 335–14–.01(4)(a)12.(i,ii). 335–14–2–.01(4)(a)18. 335–14–2–.01(4)(a)19. 335–14–2–.01(6)(a)3.(iv)(III). 335–14–2–.04(2)(a). 335–14–2–.04(3). 335–14–2—Appendix VII. 335–14–7–.08(1). 335–14–9–.03(6). 335–14–9–.04(1).
Checklist 170, Land Disposal Restrictions Phase IV—Zinc Micronutrient Fertilizers, Amendment.	8/31/98 63 FR 46332	335–14–9–.04(1).
Checklist 171, Emergency Revision of the Land Disposal Restrictions Treatment Standards for Listed hazardous Wastes from Carbamate Production.	9/4/98 63 FR 47410	335–14–9–.04(1)(8).
Checklist 172, Land Disposal Restrictions Phase IV—Extension of Compliance Date for Characteristic Slags.	9/9/98 63 FR 48124	335–14–9–.03(5).
Checklist 173, Land Dispposal Restrictions: Treatment Standards for spent Potliners from Primary; Aluminum Reduction (K088); Final Rule.	9/24/98 63 FR 51254	335–14–9–.03(10). 335–14–9–.04(1).
Checklist 174, Post-Closure Permit Requirement and Closure Process	10/22/98 63 FR 56710	335–14–5–.06(1)(e)(f). 335–14–5–.07(1)(c). 335–14–5–.07(3)(b)8. 335–14–5.07(3)(c)2.(iv). 335–14–5–.07(9)(b)4. 335–14–6–.06(1)(f). 335–14–6.07(1)(c, d). 335–14–6–.07(3)(b)8. 335–14–6–.7(3)(c)1.(iv). 335–14–6–.07()(c)4,5. 335–14–6–.07(9)(d)1. 335–14–6–.07(12)(a,b). 335–14–8–.01(1)(c). 335–14–8–.02(5)(a). 335–14–8–.02(19)(a).
Checklist 175, HWIR-–Media	11/3/98 63 FR 65874	335–14–1–.02(1). 335–14–2–.01(2)(g). 335–14–5–.01(1)(j). 335–14–.05(4)(b)17. 335–14–5–.06(12)(d). 335–14–5–.19(1)(a). 335–14–5–19(2)(a). 335–14–5–.19(3)(a–c). 335–14–5–.19(3)(d). 335–14–5–.19(3)(e). 335–14–5–.19(3)(f). 335–14–5–.19(3)(g). 335–14–5–.19(3)(h). 335–14–5–.19(3)(i). 335–14–5–.19(3)(j). 335–14–5–.19(3)(k). 335–14–5–.19(3)(l). 335–14–5–.19(3)(m). 335–14–6–.01(1)(b). 335–14–9–.01(2). 335–14–9–.05(1) 335–14–8–.01(2)(q). 335–14–8–.02(2)(d)1, 2. 335–14–8–.04. 335–14–8–.06(7). 335–14–8–14(1)(a)1–6. 335–14–8–.14(1)(e)1–3. 335–14–8–.14(1)(i). 335–.14–8(2)(a,e,m,q,u,y). 335–14–8–.14(3)(a)1, 2. 335–.14–8..14(3)(e,i,m,q,u,y). 335–14–8–.14(3)(cc). 335–14–8–.14(4)(a). 335–14–8–.14(4)(e)1–3. 335–14–8–.14(4)(i)1, 2.

Description of Federal requirement (revision checklist)	**Federal Register** date and page	Analogous state authority [1]
		335–14–8–.14(4)q,u,m,y.
		335–14–8–.14(4)(cc).
		335–14–8–.14(5)(a).
		335–14–8–.14(5)(e)1–4.
		335–14–8–.14(5)(e)3,4.
		335–14–8–.14(5)(i)1,2.
		335–14–8–.14(5)(m).
Checklist 176, Universal Rule-Technical Amendments	12/24/98 63 F71225	335–14–7–.07(1)(a)(b).
		335–14–11–.01(7).
Checklist 177, Organic Air Emission Standards; Clarification and Technical Amendments.	1/21/99 64 FR 3382	335–14–3–.03(5)(a)1.(i, ii).
		335–14–5–.27(2).
		335–14–5–.29(1,4,5,7).
		335–14–5–.29(7).
		335–14–6–.29(1,5,6,8).
Checklist 178, Petroleum refining Process Wastes-Leachate Exemption	2/11/99 64 FR 6806	335–14–2–.01(4)(b)15.
Checklist 179, Land Disposal Restrictions Phase IV–Technical Corrections and Clarifications to Treatment Standards.	5/11/99 64 FR 25408	335–14–2–.01(2)(c)3,4.
		335–14–2.01(2)(e)1.(iii).
		335–14–2–.01(4)(a)17.
		335–14–3–.03(5)(d)4.
		335–14–9–.01(2.7,9).
		335–14–9–.04(1).
		335–14–9–.04(8)(9).
Checklist 180, Test Procedures for the Analysis of Oil and Grease and Non-Polar Material.	5/14/99 64 FR 26315	335–14–1–.02(2).
Checklist 181, Universal Waste Rule: Specific Provisions for Hazardous Waste Lamps.	7/6/99 64 FR 36466	335–14–1–.02.
		335–14–2–.01.
		335–14–5–.01.
		335–14–11–.01–.04.
		335–14–11–.05(1)(a).
Checklist 182, Hazardous air Pollutant Standards for Combustors	9/30/99 64 FR 52828	335–14–1–.02.
	11/19/99 64 FR 63209	335–14–2–.04(9)(b) Table 1.
		335–14–5–(.15)(1)(b)X.
		335–14–5–.15(1)(b)1, 2.
		335–14–5–.15(1)(c–e).
		335–14–5–.24(2).
		335–14–6–.15(c).
		335–14–7–.08(1,2,6).
Checklist 183, Land Disposal Restrictions Phase IV—Technical Corrections	10/20/99 64 FR 56469	335–14–2–.04(3).
		335–14–9–.01(7).
Checklist 184, Accumulation Time for Waste Water Treatment Sludges	3/8/00 65 FR 12378	335–14–.03(5)(g)(4,5).
		335–14–.03(5)(a).
Checklist 185, Organobromine Production Wastes Vacatur	3/17/00 65 FR 14472	335–14–2–.04(3, 4).
		335–14–2—App.VII, VIII.
		335–14–9–.03(4).
		335–14–9–.04(1,8).
Checklist 187, Petroleum Refining Process Wastes-Clarification	6/8/00 64 FR 36365	335–14–2–.04(2)(a).
		335–14–9—App.VII.
Checklist 188, Hazardous Air Pollutant Standards; Technical Corrections	7/10/00 63 FR 42292	335–14–.04(9)(c)(2)(iv).
	5/14/01 66 FR 24270	335–14–04(3)(a)9.(v)(I).
Checklist 189, Chlorinated Aliphatics Listing and LDRs for newly :Identified Wastes.	11/8/00 65 FR 67068	335–14–2–.04(3).
		335–14–2—AppVII,VIII.
		335–14–9–.03(4).
		335–14–9–.04(1,8).
Checklist 190, Land Disposal Restrictions Phase IV—Deferral for PCBs in Soil.	12/26/00 FR 81373	335–14–9–.03(3).
		335–14–9–.04(8,9).
		335–14–9—App III.
Checklist 191, Mixed Waste Rule	5/16/01 66 FR 27218	335–14–7–.14(1–22).
Checklist 192A, Mixture And Derived—From Rules	5/16/01 66 FR 27266	335–14–2.01(3)(a) 2.(iii, iv).
		335–14–2–.01(3)(c)2.(i).
		335–14–2–.01(3)(g)1–3.
		335–14–2–.01(3)(h)1–3.
Checklist 192B, Land Disposal Restrictions Correction	5/16/01 66 FR 27266	335–14–9—App VII—Table 1.
Checklist 193, Change of Official EPA Mailing Address	6/28/01 66 FR 34374	335–14–1–.02(2).
Checklist 194, Mixture and Derived—From Rules Revision II	10/33/01 66 FR 50332	335–14–2 .01(3)(a) 2.(iv).
		335–14–2–.01(3)(g)4.
Checklist 195, Inorganic Chemical Manufacturing Wastes Identification and Listing.	11/20/01 66 FR 58258	335–14–2–.01(4)(b)15.
	4/9/02 67 FR 17119	335–14–2–.04(3).
		335–14–2—App VII.
		335–14–9–.03(7).
Checklist 196, CAMU Amendments	1/22/02 67 FR 2962	335–14–.5–.19.

Description of Federal requirement (revision checklist)	Federal Register date and page	Analogous state authority [1]
Checklist 197, Hazardous Air Pollutants Standards for Combustors: Interim Standards.	2/13/02 67 FR 6792	335–14–5–.15(1)(b)1–4. 335–14–7–.08(1). 335–14–8–.02(10)(e). 335–14–8–.02(13). 335–14–8–.06(2)(5). 335–14–8–.15(1).
Checklist 198, Hazardous Air Pollutant Standards for Combustors: Corrections.	2/14/02 67 FR 6968	335–14–7–.08(1). 335–14–8–.04(3)(a) 9.(v)(i).
Checklist 199, Vacatur of Mineral Processing Spent Materials Being Reclaimed as Solid Wastes and TCLP Use with MGP Waste.	3/13/02 67 FR 11251	335–14–2–.01(2)(C)3. 335–14–2–.01(4)(a)17. 335–14–2–.03(5)(a).

[1] Alabama Department of Environmental Administrative Code, Division 335–14, Hazardous Waste Program Regulations effective April 2, 1999, March 31, 2000, April 13, 2001, March 15, 2002, and April 17, 2003.

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

Alabama's analog, 335–14–1–.02(1), to 40 CFR 260.10, includes the definition for ''Corrective action management unit (CAMU)'' which has been moved to 40 CFR 265.552(a) under the Federal rules.

I. Who Handles Permits After the Authorization Takes Effect?

Alabama will issue permits for all the provisions for which it is authorized and will administer the permits it issues. EPA will continue to administer any RCRA hazardous waste permits or portions of permits which we issued prior to the effective date of this authorization. At the time the State program is approved, EPA will suspend issuance of Federal permits in the State. EPA will transfer any pending permit applications, completed permits or pertinent file information to the State within thirty days of the approval of the State program. We will not issue any more new permits or new portions of permits for the provisions listed in the Table above after the effective date of this authorization. EPA will continue to implement and issue permits for HSWA requirements for which Alabama is not yet authorized.

J. How Does Today's Action Affect Indian Country (18 U.S.C. 115) in Alabama?

The State of Alabama's Hazardous Waste Program is not being authorized to operate in Indian Country.

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

Codification is the process of placing the State's statutes and regulations that comprise the State's authorized hazardous waste program into the Code of Federal Regulations. We do this by referencing the authorized State rules in 40 CFR part 272. We reserve the amendment of 40 CFR part 272, subpart B for this authorization of Alabama's program changes until a later date.

L. Administrative Requirements

The Office of Management and Budget has exempted this action from the requirements of Executive Order 12866 (58 FR 51735, October 4, 1993), and therefore this action is not subject to review by OMB. This action authorizes State requirements for the purpose of RCRA section 3006 and imposes no additional requirements beyond those imposed by State law. Accordingly, I certify that this action will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this action authorizes 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). For the same reason, this action also does not significantly or uniquely affect the communities of Tribal governments, as specified by Executive Order 13084 (63 FR 27655, May 10, 1998). This action will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely authorizes State requirements as part of the State RCRA hazardous waste program without altering the relationship or the distribution of power and responsibilities established by RCRA. This action also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant and it does not make decisions based on environmental health or safety risks.

Under RCRA section 3006(b), EPA grants a State's application for authorization as long as the State meets the criteria required by RCRA. It would thus be inconsistent with applicable law for EPA, when it reviews a State authorization application, to require the use of any particular voluntary consensus standard in place of another standard that otherwise satisfies the requirements of RCRA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the ''Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings' issued under the Executive Order. 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 document and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication in the **Federal Register**. 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). This action will be effective May 16, 2005.

List of Subjects in 40 CFR Part 271

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

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

Dated: March 1, 2005.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

[FR Doc. 05–5047 Filed 3–14–05; 8:45 am]

BILLING CODE 6560–50–P

GENERAL SERVICES ADMINISTRATION

41 CFR Part 302–17

[FTR Amendment 2005–02; FTR Case 2005–302]

RIN 3090–AI05

Federal Travel Regulation; Relocation Income Tax (RIT) Allowance Tax Tables—2005 Update

AGENCY: Office of Governmentwide Policy, (GSA).

ACTION: Final rule.

SUMMARY: The Federal, State, and Puerto Rico tax tables for calculating the relocation income tax (RIT) allowance must be updated yearly to reflect changes in Federal, State, and Puerto Rico income tax brackets and rates. The Federal, State, and Puerto Rico tax tables contained in this rule are for calculating the 2005 RIT allowance to be paid to relocating Federal employees.

DATES: *Effective Date:* January 1, 2005.

FOR FURTHER INFORMATION CONTACT: The Regulatory Secretariat (VIR), Room 4035, GS Building, Washington, DC 20405, (202) 208–7312, for information pertaining to status or publication schedules. For clarification of content, contact Ms. Sallie Sherertz, Office of Governmentwide Policy, Travel Management Policy Division, at (202) 219–3455. Please cite FTR Amendment 2005–02, FTR case 2005–302.

SUPPLEMENTARY INFORMATION:

A. Background

Section 5724b of title 5, United States Code, provides for reimbursement of substantially all Federal, State, and local income taxes incurred by a transferred Federal employee on taxable moving expense reimbursements. Policies and procedures for the calculation and payment of a RIT allowance are contained in FTR Part 302–17. The Federal, State, and Puerto Rico tax tables for calculating RIT allowance payments are updated yearly to reflect changes in Federal, State, and Puerto Rico income tax brackets and rates.

This amendment provides the tax tables necessary to compute the relocation income tax (RIT) allowance for employees who are taxed in 2004 on moving expense reimbursements.

B. Executive Order 12866

This is not a significant regulatory action and, therefore, was not subject to review under section 6(b) of Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

C. Regulatory Flexibility Act

This final rule is not required to be published in the **Federal Register** for notice and comment; therefore, the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.,* does not apply.

D. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the FTR do not impose recordkeeping or information collection requirements, or the collection of information from offerors, contractors, or members of the public that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

E. Small Business Regulatory Enforcement Fairness Act

This final rule is also exempt from congressional review prescribed under 5 U.S.C. 801 since it relates solely to agency management and personnel.

List of Subjects in 41 CFR Chapter 302, Part 302–17

Government employees, Income taxes, Relocation allowances and entitlements, Transfers, Travel and transportation expenses.

Dated: March 1, 2005.

Stephen A. Perry,

Administrator of General Services.

■ For the reasons set forth in the preamble, under 5 U.S.C. 5701–5709, GSA amends 41 CFR chapter 302, part 302–17 as set forth below:

PART 302–17__RELOCATION INCOME TAX (RIT) ALLOWANCE

■ 1. The authority citation for 41 CFR part 302–17 continues to read as follows:

Authority: 5 U.S.C. 5738; 20 U.S.C. 905(a); E.O. 11609, 36 FR 13747, 3 CFR, 1971–1975 Comp., p. 586.

■ 2. Revise Appendixes A, B, and C to part 302–17 to read as follows:

APPENDIX A TO PART 302–17—FEDERAL TAX TABLES FOR RIT ALLOWANCE

FEDERAL MARGINAL TAX RATES BY EARNED INCOME LEVEL AND FILING STATUS—TAX YEAR 2004

[The following table is to be used to determine the Federal marginal tax rate for Year 1 for computation of the RIT allowance as prescribed in § 302–17.8(e)(1). This table is to be used for employees in which their Year 1 occurred during calendar year 2004.]

Marginal tax rate percent	Single taxpayer		Head of household		Married filing jointly		Married filing separately	
	Over	But not over	Over	But not over	Over	But not over	Over	But not over
10	$8,486	$15,852	$15,539	$25,991	$22,763	$36,688	$10,614	$17,891
15	15,852	39,093	25,991	56,668	36,688	82,625	17,891	41,386
25	39,093	84,081	56,668	123,629	82,625	147,439	41,386	74,492
28	84,081	166,123	123,629	193,801	147,439	212,158	74,492	108,134
33	166,123	341,553	193,801	354,536	212,158	352,775	108,134	179,237
35	341,553		354,536		352,775		179,237	

APPENDIX B TO PART 302–17—STATE TAX TABLES FOR RIT ALLOWANCE
STATE MARGINAL TAX RATES BY EARNED INCOME LEVEL—TAX YEAR 2004

[The following table is to be used to determine the State marginal tax rates for calculation of the RIT allowance as prescribed in § 302–17.8(e)(2). This table is to be used for employees who received covered taxable reimbursements during calendar year 2004. (The rates shown below are married filing jointly.) If the state has a specific single rate, it is shown. If an employee is in a different filing status, please see 2005 State Tax Handbook, CCH Inc.]

	Marginal tax rates (stated in percents) for the earned income amounts specified in each column. [1] [2]			
State (or district)	$20,000–$24,999	$25,000–$49,999	$50,000–$74,999	$75,000 & Over [3]
Alabama	5	5	5	5
Alaska	0	0	0	0
Arizona	3.20	3.20	3.74	3.74
If single status [4]	3.20	3.74	4.72	4.72
Arkansas	6	7	7	7
California	2	4	6	9.3
If single status [4]	4	8	9.3	9.3
Colorado	4.63	4.63	4.63	4.63
Connecticut	5	5	5	5
Delaware	5.2	5.55	5.95	5.95
District of Columbia	7.5	9.3	9.3	9.3
Florida	0	0	0	0
Georgia	6	6	6	6
Hawaii	6.4	7.2	7.6	8.25
If single status [4]	7.6	7.9	8.25	8.25
Idaho	7.4	7.4	7.8	7.8
If single status [4]	7.4	7.8	7.8	7.8
Illinois	3	3	3	3
Indiana	3.4	3.4	3.4	3.4
Iowa	6.48	7.92	8.98	8.98
Kansas	3.5	6.25	6.45	6.45
If single status [4]	6.25	6.45	6.45	6.45
Kentucky	6	6	6	6
Louisiana	4	4	6	6
If single status [4]	4	6	6	6
Maine	7	8.5	8.5	8.5
If single status [4]	8.5	8.5	8.5	8.5
Maryland	4.75	4.75	4.75	4.75
Massachusetts	5.3	5.3	5.3	5.3
Michigan	3.9	3.9	3.9	3.9
Minnesota	5.35	7.05	7.05	7.05
If single status [4]	7.05	7.05	7.85	7.85
Mississippi	5	5	5	5
Missouri	6	6	6	6
Montana	8	9	10	11
Nebraska	3.57	5.12	6.84	6.84
If single status [4]	5.12	6.84	6.84	6.84
Nevada	0	0	0	0
New Hampshire	0	0	0	0
New Jersey	1.75	1.75	2.45	5.525
If single status [4]	1.75	3.5	5.525	6.37
New Mexico	4.7	6	6.8	6.8
If single status [4]	6	6.8	6.8	6.8
New York	5.25	5.9	6.85	6.85
If single status [4]	6.85	6.85	6.85	6.85
North Carolina	7	7	7	7
If single status [4]	7	7	7.75	7.75
North Dakota	2.1	2.1	3.92	3.92
If single status [4]	2.1	3.92	3.92	4.34
Ohio	4.457	4.457	5.201	5.943
Oklahoma	6.65	6.65	6.65	6.65
Oregon	9	9	9	9
Pennsylvania	3.07	3.07	3.07	3.07
Rhode Island [5]	25	25	25	25
South Carolina	7	7	7	7
South Dakota	0	0	0	0
Tennessee	0	0	0	0
Texas	0	0	0	0
Utah	7	7	7	7
Vermont	3.6	3.6	7.2	7.20
If single status [4]	3.6	7.2	8.5	8.5
Virginia	5.75	5.75	5.75	5.75
Washington	0	0	0	0
West Virginia	4	4.5	6	6.5
Wisconsin	6.5	6.5	6.5	6.5

APPENDIX B TO PART 302–17—STATE TAX TABLES FOR RIT ALLOWANCE—Continued
STATE MARGINAL TAX RATES BY EARNED INCOME LEVEL—TAX YEAR 2004

[The following table is to be used to determine the State marginal tax rates for calculation of the RIT allowance as prescribed in § 302–17.8(e)(2). This table is to be used for employees who received covered taxable reimbursements during calendar year 2004. (The rates shown below are married filing jointly.) If the state has a specific single rate, it is shown. If an employee is in a different filing status, please see 2005 State Tax Handbook, CCH Inc.]

Marginal tax rates (stated in percents) for the earned income amounts specified in each column. [1] [2]				
State (or district)	$20,000–$24,999	$25,000–$49,999	$50,000–$74,999	$75,000 & Over [3]
Wyoming	0	0	0	0

(The above table headings established by IRS.)

[1] Earned income amounts that fall between the income brackets shown in this table (*e.g.,* $24,999.45, $49,999.75) should be rounded to the nearest dollar to determine the marginal tax rate to be used in calculating the RIT allowance.

[2] If the earned income amount is less than the lowest income bracket shown in this table, the employing agency shall establish an appropriate marginal tax rate as provided in § 302–17.8(e)(2)(ii).

[3] This is an estimate. For earnings over $100,000, and for filing statuses other than those above, please consult actual tax tables. (See 2005 State Tax Handbook, CCH, Inc.)

[4] This rate applies only to those individuals certifying that they will file under a single status within the States where they will pay income taxes.

[5] The income tax rate for Rhode Island is 25 percent of Federal income tax liability for all employees. Rates shown as a percent of Federal income tax liability must be converted to a percent of income as provided in § 302–17.8(e)(2)(iii).

APPENDIX C TO PART 302–17—FEDERAL TAX TABLES FOR RIT ALLOWANCE—YEAR 2
ESTIMATED RANGES OF WAGE AND SALARY INCOME CORRESPONDING TO FEDERAL STATUTORY MARGINAL INCOME TAX RATES BY FILING STATUS IN 2005

[The following table is to be used to determine the Federal marginal tax rate for Year 2 for computation of the RIT allowance as prescribed in § 302–17.8(e)(1). This table is to be used for employees whose Year 1 occurred during calendar years 1995, 1996, 1997, 1998, 1999, 2001, 2002, 2003, or 2004.]

Marginal tax rate percent	Single taxpayer		Head of household		Married filing jointly		Married filing separately	
	Over	But not over	Over	But not over	Over	But not over	Over	But not over
10	$8,712	$16,201	$15,989	$26,630	$23,519	$37,568	$10,897	$18,242
15	16,201	39,898	26,630	58,079	37,568	84,110	18,242	42,410
25	39,898	85,748	58,079	125,252	84,110	150,301	42,410	76,165
28	85,748	169,230	125,252	195,589	150,301	216,710	76,165	109,970
33	169,230	348,318	195,589	360,009	216,710	360,571	109,970	182,419
35	348,318	.....	360,009	.....	360,571	.....	182,419	.....

Appendix D to Part 302–17—[Amended]

■ 3. Amend the heading of Appendix D to part 302–17 by removing ''2003'' and adding ''2004'' in its place.

[FR Doc. 05–5000 Filed 3–14–05; 8:45 am]

BILLING CODE 6820–14–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 64

[Docket No. FEMA–7871]

Suspension of Community Eligibility

AGENCY: Federal Emergency Management Agency, Emergency Preparedness and Response Directorate, Department of Homeland Security.

ACTION: Final rule.

SUMMARY: This rule identifies communities, where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP), that are scheduled for suspension on the effective dates listed within this rule because of noncompliance with the floodplain management requirements of the program. If the Federal Emergency Management Agency (FEMA) receives documentation that the community has adopted the required floodplain management measures prior to the effective suspension date given in this rule, the suspension will not occur and a notice of this will be provided by publication in the **Federal Register** on a subsequent date.

EFFECTIVE DATES: The effective date of each community's scheduled suspension is the third date (''Susp.'') listed in the third column of the following tables.

ADDRESSES: If you wish to determine whether a particular community was suspended on the suspension date, contact the appropriate FEMA Regional Office or the NFIP servicing contractor.

FOR FURTHER INFORMATION CONTACT: Michael M. Grimm, Mitigation Division, 500 C Street, SW., Room 412, Washington, DC 20472, (202) 646–2878.

SUPPLEMENTARY INFORMATION: The NFIP enables property owners to purchase flood insurance which is generally not otherwise available. In return, communities agree to adopt and administer local floodplain management aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4022, prohibits flood insurance coverage as authorized under the National Flood Insurance Program, 42 U.S.C. 4001 *et seq.*; unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed in this document no longer meet that statutory requirement for compliance with program regulations, 44 CFR part

59 *et seq.* Accordingly, the communities will be suspended on the effective date in the third column. As of that date, flood insurance will no longer be available in the community. However, some of these communities may adopt and submit the required documentation of legally enforceable floodplain management measures after this rule is published but prior to the actual suspension date. These communities will not be suspended and will continue their eligibility for the sale of insurance. A notice withdrawing the suspension of the communities will be published in the **Federal Register.**

In addition, the Federal Emergency Management Agency has identified the special flood hazard areas in these communities by publishing a Flood Insurance Rate Map (FIRM). The date of the FIRM if one has been published, is indicated in the fourth column of the table. No direct Federal financial assistance (except assistance pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act not in connection with a flood) may legally be provided for construction or acquisition of buildings in the identified special flood hazard area of communities not participating in the NFIP and identified for more than a year, on the Federal Emergency Management Agency's initial flood insurance map of the community as having flood-prone areas (section 202(a) of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4106(a), as amended). This prohibition against certain types of Federal assistance becomes effective for the communities listed on the date shown in the last column. The Administrator finds that notice and public comment under 5 U.S.C. 553(b) are impracticable and unnecessary because communities listed in this final rule have been adequately notified.

Each community receives a 6-month, 90-day, and 30-day notification letter addressed to the Chief Executive Officer that the community will be suspended unless the required floodplain management measures are met prior to the effective suspension date. Since these notifications have been made, this final rule may take effect within less than 30 days.

National Environmental Policy Act. This rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Considerations. No environmental impact assessment has been prepared.

Regulatory Flexibility Act. The Administrator has determined that this rule is exempt from the requirements of the Regulatory Flexibility Act because the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4022, prohibits flood insurance coverage unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed no longer comply with the statutory requirements, and after the effective date, flood insurance will no longer be available in the communities unless they take remedial action.

Regulatory Classification. This final rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Paperwork Reduction Act. This rule does not involve any collection of information for purposes of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

Executive Order 12612, Federalism. This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, October 26, 1987, 3 CFR, 1987 Comp.; p. 252.

Executive Order 12778, Civil Justice Reform. This rule meets the applicable standards of section 2(b)(2) of Executive Order 12778, October 25, 1991, 56 FR 55195, 3 CFR, 1991 Comp.; p. 309.

List of Subjects in 44 CFR Part 64

Flood insurance, Floodplains.

■ Accordingly, 44 CFR part 64 is amended as follows:

PART 64—[AMENDED]

■ 1. The authority citation for part 64 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp.; p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp.; p. 376.

§ 64.6 [Amended]

■ 2. The tables published under the authority of § 64.6 are amended as follows:

State and location	Community No.	Effective date authorization/cancellation of sale of flood insurance in community	Current effective map date	Date certain Federal assist ance no longer available in special flood hazard areas
Region IV				
Kentucky:				
Magoffin County, Unicorporated Areas	210158	December 18, 1978, Emerg; March 4, 1986, Reg; March 16, 2005, Susp.	March 16, 2005	March 16, 2005.
Salyersville, City of, Magoffin County ...	210159	July 8, 1975, Emerg; October 15, 1985, Reg; March 16, 2005, Susp.	.....do*	Do.*

*-do-=Ditto.
Code for reading third column: Emerg.-Emergency; Reg.-Regular; Susp.-Suspension.

David I. Maurstad,

Acting Mitigation Division Director, Emergency Preparedness and Response Directorate.

[FR Doc. 05–5052 Filed 3–14–05; 8:45 am]

BILLING CODE 9110–12–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Chapter I

[CC Docket No. 02–53, FCC 05–32]

Presubscribed Interexchange Carrier Charges

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document revises the Commission's presubscribed interexchange carrier (PIC)-change charge policies. PIC-change charges are federally-tariffed charges imposed by incumbent local exchange carriers on end-user subscribers when these subscribers change their long distance carriers. The report and order requires incumbent local exchange carriers to

create separate PIC-change charges based on the method used to process the request. Based on cost information submitted in the record of the proceeding, the report and order adopts safe harbors below which PIC change charges will be considered reasonable. These safe harbors are $1.25 for electronically-processed PIC changes and $5.50 for manually-processed PIC changes.

DATES: Effective April 14, 2005.

FOR FURTHER INFORMATION CONTACT: Jennifer McKee, Wireline Competition Bureau, Pricing Policy Division, (202) 418–1530, *jennifer.mckee@fcc.gov.*

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order in CC Docket No. 02–53 released on February 17, 2005. The full text of this document is available on the Commission's Electronic Comment Filing System Web site and for public inspection during regular business hours in the FCC Reference Center, Room CY–A257, 445 Twelfth Street, SW., Washington, DC 20554.

Paperwork Reduction Act Analysis

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. 44 U.S.C. 3506(c)(4).

Background

In this Report and Order, adopted February 10, 2005 and released February 17, 2005 in CC Docket No. 02–53, FCC 05–32, the Commission revises its policies regarding the charge incumbent local exchange carriers (LECs) impose on customers when the customers change their long distance service provider. For incumbent LECs, these charges currently are subject to a $5 safe harbor within which a PIC change charge is considered reasonable. Significant industry and market changes have occurred since the implementation of the $5 safe harbor in 1984; therefore, the Commission initiated this proceeding to reexamine the existing safe harbor for incumbent LEC PIC change charges. Based on the record in this proceeding, the Commission requires incumbent LECs to adopt separate PIC change charges for changes that are processed electronically and manually. The Commission adopts a safe harbor of $1.25 for electronically processed PIC changes, and a safe harbor of $5.50 for manually processed PIC changes.

Discussion

As a threshold matter, we consider whether regulation of incumbent LEC PIC change charges is necessary at the current time. As discussed above, incumbent LECs assess PIC change charges on their end user customers that switch long distance service providers. Under the Commission's existing domestic common carrier regulations, incumbent LECs generally are treated as dominant carriers because the Commission has found that these carriers possess and are likely to be able to exercise market power. While we do believe that residential competition is growing, competition is not yet so ubiquitous to serve as a reliable constraint on PIC change charge rates. Thus, we find that, at this time, market forces cannot be relied upon to limit incumbent LEC PIC change charge rates.

PIC Change Charge Safe Harbors

We do not require incumbent LECs to tariff PIC change charges based on individual incumbent LEC actual costs. Such a requirement would be unduly burdensome, both to the incumbent LECs that would now be required to compile and submit detailed cost information related to PIC changes, and to the Commission, which would have to expend scarce resources evaluating the multiple cost submissions. Instead, we find that adopting a safe harbor for the incumbent LEC PIC change charge has been a reasonable method of regulating the charge in the past, and use of this method continues to be a reasonable practice going forward. Under the safe harbor approach, incumbent LECs may tariff PIC change charge rates that are equal to or less than the safe harbor without having to provide detailed cost filings in support of the rates. Incumbent LECs are free, however, to submit cost showings if their costs exceed the safe harbor limit. We find that adoption of a safe harbor in this instance provides a reasonable proxy for incumbent LECs' PIC change costs, while allowing carriers the option of foregoing the submission of cost support if their rates are within the safe harbor limits.

An examination of PIC change costs reveals a substantial difference between the costs of electronically processed PIC changes and PIC changes that require manual processing. The record in this proceeding further confirms that the costs of an electronically processed PIC change are substantially lower than the costs of PIC changes that must be processed manually. By allowing carriers to impose a single, blended PIC change charge, customers whose PIC changes are processed through the less costly electronic system are realizing no benefit from the use of these more efficient systems. They will be assessed the same charge as a customer whose PIC change is more complicated and requires costly manual processing. With no distinction in the rates between electronically processed and manually processed changes, long distance carriers lack an incentive to invest in the more efficient electronic systems, as there is no competitive benefit to doing so. Instead, we believe that both customers and long distance providers should reap the benefit of the long distance providers' investments in more efficient electronic processing capabilities. We therefore adopt separate safe harbors for incumbent LEC PIC changes that are processed manually and electronically. Adopting a two-tiered approach will provide an incentive for long distance providers to invest in electronic processing capabilities to gain the competitive advantage of lower incumbent LEC PIC change charges for customers switching to these long distance providers' services.

We find that small and rural incumbent LECs should be subject to the same safe harbors for electronic and manual processing applicable to larger incumbent LECs. There is no evidence on the record that the costs for processing electronically submitted PIC changes are greater for small and rural incumbent LECs than for larger and non-rural incumbent LECs. Therefore we have no basis on which to establish a separate electronic PIC change safe harbor rate for these carriers. One carrier submitted cursory cost information regarding its costs to process manually submitted PIC changes, but this information from a single carrier was not sufficient evidence on which to base a separate small and rural incumbent LEC manual PIC change charge safe harbor. In any event, we note that, as discussed below, we are raising the current manual safe harbor rate for all incumbent LECs, including small and rural carriers. Finally, we note that prior to our decision in this report and order small and rural incumbent LECs have been subject to the same $5.00 safe harbor applicable to all other incumbent LECs. No small or rural carrier has submitted cost information seeking to increase this $5.00 charge. As has been the case since 1984, all carriers remain free to submit cost studies to justify a higher rate to the extent these

companies' costs exceed the safe harbors.

We find that incumbent LECs without electronic PIC change capabilities may rely solely on a manual rate, subject to the manual safe harbor. We do not require any small or rural carrier to implement electronic PIC change processing systems if doing so would not be economically rational. To the extent small and rural incumbent LECs have electronic PIC change processing systems in place, we find that the separate electronic PIC change rate will provide an incentive for long distance providers to use this less costly manner of PIC change submission. Customers selecting long distance providers that employ electronic PIC change processing will be charged the incumbent LECs' tariffed lower electronic PIC change charge rates.

Costs Recovered in the PIC Change Charge

We find that incumbent LECs should not recover PIC freeze or third-party verification (TPV) costs through the PIC change charge. PIC freeze services are optional services offered by LECs to their customers. If LECs choose to offer a PIC freeze service, they should recover the costs from those customers requesting and using the service. If LECs are allowed to recover the costs of PIC freezes through the PIC change charge, customers that pay the PIC change charge are paying for the PIC freeze service for other customers. Customers that do not subscribe to the PIC freeze service are more likely to change their long distance providers and to pay the PIC change charge. It is unreasonable to require these customers to pay the costs of a PIC freeze service utilized by other customers. Therefore, we find that the costs associated with administering PIC freeze services cannot be recovered through the PIC change charge.

We also find that the costs of TPV cannot be recovered through the PIC change charge. LECs are not required to conduct TPV under our rules unless a customer is switching to the service of the LECs' long distance affiliates (or from a competitive LEC to the LECs themselves for local service). To the extent TPV is used to verify a change to a LEC-affiliated carrier, LECs should not be allowed to recover these costs from customers switching to competing long distance providers. Instead, these costs should be recovered by the LEC from its affiliate. Similarly, LECs should not be allowed to increase the costs of PIC changes by including the costs of TPV processes that are voluntarily undertaken by the LECs. For example, a cost study submitted by Verizon in the record of this proceeding demonstrates that TPV costs represent approximately 12 percent of its manual processing costs. Allowing LECs to inflate the PIC change charge by recovering these voluntarily incurred costs may reduce customers' willingness to switch long distance providers, thereby hindering competition. Therefore, we find that incumbent LECs may not recover voluntarily-incurred TPV costs through the PIC change charge, and may recover mandatorily-incurred TPV costs only from customers that switch to the incumbent LECs' long distance affiliates.

Some commenters also argue that costs related to ''slamming,'' which is an unauthorized change in a customer's long distance provider, should not be recovered through the PIC change charge. They contend that incumbent LECs have no legitimate role in investigating slamming complaints so there are no costs to be recovered. These commenters overlook the fact that customers may not be aware of the Commission's slamming complaint procedures and may contact the LECs for information about the process. Under the Commission's rules, if a customer notifies its LEC of an unauthorized change of its long distance provider, the LEC must notify both the authorized and the unauthorized long distance provider, and must also refer the customer to the appropriate regulatory authority for resolution of the complaint. Incumbent LECs do incur some small costs in carrying out these duties. In Verizon's cost study, for example, slamming inquiry costs represented only approximately $0.09 per PIC change, or approximately two percent of the total costs included in Verizon's PIC change costs. Because these costs are incurred legitimately by the LECs as part of implementation of customers' PIC selections; because, as represented by Verizon's cost study, these costs are slight; and because all customers benefit directly or indirectly from the LECs' diligence in investigating slamming complaints, we will allow incumbent LECs to spread these costs over all PIC change requests and recover them through the PIC change charge.

We also find that incumbent LECs may recover a reasonable percentage of their common costs through the PIC change charge. SBC and Verizon argue that common costs, such as legal, executive, marketing, and other costs, are not incurred in relation to any specific service, but are required for LECs to provide all of the services they offer, including the PIC change service. Commenters have offered no justification for treating the PIC change service differently from other incumbent LEC services with respect to the inclusion of reasonable common costs.

Establishing Safe Harbor Rates

To set the incumbent LEC electronic and manual PIC change charge safe harbors, we look to the cost information submitted in the record of this proceeding. There are three cost studies in the record: one filed by BellSouth in support of a change to its tariffed PIC change charge rate in November 2003; one filed by Verizon on June 15, 2004, in response to the Further Notice of Proposed Rulemaking in this proceeding; and one filed by SBC more than four months after the record closed, on November 4, 2004. BellSouth's cost information was not promulgated in response to the issues raised in this proceeding, and it does not provide as much detail in certain areas, such as PIC freeze costs, as does Verizon's cost study. Verizon's cost study provides the most detailed analysis of the costs it includes in its PIC change charge, including costs associated with PIC freezes and the TPV process. Commenters objecting to Verizon's cost study focus on costs that should be excluded from the PIC change charge and do not contest the actual amounts of the costs. SBC's cost study was submitted after the record closed and parties have not had an opportunity to comment on it. Furthermore, SBC's cost study does not provide a detailed analysis of the costs attributable to electronically processed PIC changes. We therefore rely on Verizon's cost study as the best record evidence to establish revised safe harbor rates.

After removing costs that Verizon identifies as associated with PIC freezes and TPV, we adopt a safe harbor rate of $1.25 for electronically processed PIC changes and a safe harbor rate of $5.50 for manually processed PIC changes. Verizon's cost study on which we base these safe harbor rates includes in its electronically processed PIC change costs the costs associated with electronically submitted change requests that ''fall out'' of the electronic system and require some manual handling. We therefore clarify that all PIC change requests that are submitted electronically by the long distance carrier will result in the incumbent LEC charging the end user the electronic PIC change charge rate, regardless of whether some manual processing is required.

Incumbent LECs that process PIC change requests through electronic and manual methods must amend their tariffs to reflect separate rates for electronic and manual processing of PIC

changes. If an incumbent LEC's rates are at or below these safe harbors, the incumbent LEC is not required to file cost support for the rates. If an incumbent LEC wishes to demonstrate costs in excess of the safe harbor rates, it must file detailed cost support for its proposed rates. If at the time it filed its currently tariffed PIC change charge rate an incumbent LEC relied on cost data demonstrating that its costs are lower than the new safe harbor rates, the incumbent LEC may not increase its PIC change charge rates unless it files new cost support justifying the higher rates.

Multiple PIC Change Charges for Simultaneous Changes in Services

Some commenters in the proceeding argue that LECs should not be able to assess multiple PIC change charges when customers change both their PIC and their intraLATA primary interexchange carrier (LPIC) at the same time. Two incumbent LEC commenters confirm that, when the changes are requested simultaneously, the costs are equal to the costs of a single change. Generally, incumbent LECs' PIC change charges are contained in their federal tariffs and LPIC change charges are contained in state tariffs. For purposes of the federally-tariffed PIC change charge, when customers change their PICs in conjunction with changing their LPICs, incumbent LECs should assess half of the applicable federally-tariffed PIC change charge. Carriers may recover their remaining costs through the state-tariffed LPIC change charges. We require incumbent LECs to amend their federal tariffs to include a rate that is 50 percent of the manual PIC change charge rate, and another rate that is 50 percent of the electronic PIC change charge rate, and the respective 50 percent rate will apply when a customer requests a PIC change simultaneously with an LPIC change.

Conclusion

As discussed above, we require all incumbent LECs that process PIC change requests through electronic and manual methods to revise their tariffs to include one rate for PIC changes that are processed electronically and a separate rate for PIC changes that are processed manually. Rates that are within the safe harbors of $1.25 for electronically processed PIC changes and $5.50 for manually processed PIC changes may be filed without separate cost support. Rates in excess of these safe harbors must include appropriately detailed cost support justifying the rates. Incumbent LECs must also revise their tariffs to reflect a rate that is equal to 50 percent of the full PIC change charge rate when a customer requests a PIC change in conjunction with an LPIC change. These tariff revisions are to be filed on or before April 14, 2005.

Procedural Matters

Final Regulatory Flexibility Analysis

As required by the Regulatory Flexibility Act of 1980, as amended (RFA), 5 U.S.C. 603, an Initial Regulatory Flexibility Analysis (IRFA) was incorporated in the Notice of Proposed Rulemaking, 67 FR 34665, May 15, 2002, and the Further Notice of Proposed Rulemaking, 69 FR 29913, May 26, 2004. The Commission sought written public comment on the proposals in the Notice of Proposed Rulemaking and Further Notice of Proposed Rulemaking, including comment on the IRFA. This present Final Regulatory Flexibility Analysis (FRFA) conforms to the RFA. 5 U.S.C. 604.

Need for, and Objectives of, the Report and Order

PIC change charges are federally tariffed charges imposed by LECs on end user subscribers when these subscribers change their presubscribed long distance providers. The Commission in 1984 established a safe harbor of $5 for PIC change charges of incumbent LECs, allowing carriers to set rates at or below the $5 safe harbor without the need for filing detailed cost support for the rates. Significant industry and market changes have occurred since the implementation of the $5 safe harbor in 1984; therefore, the Commission initiated this proceeding to reexamine the existing safe harbor for incumbent LEC PIC change charges. As discussed in paragraphs 0–0 of the report and order, incumbent LECs are required to adopt separate PIC change charges for changes that are processed electronically and manually. We adopt a safe harbor of $1.25 for electronically processed PIC changes, and a safe harbor of $5.50 for manually processed PIC changes. Also as discussed in paragraph 0, incumbent LECs must include in their federal tariffs a rate equal to 50 percent of the full PIC change charge rate when a customer requests a PIC change in conjunction with a change in its intraLATA presubscribed interexchange carrier (LPIC).

Summary of Significant Issues Raised by Public Comments in Response to the IRFA

There were no comments filed that specifically addressed the rules and policies proposed in the IRFA.

Description and Estimate of the Number of Small Entities to Which the Proposed Rules Will Apply

The RFA directs agencies to provide a description of, and, where feasible, an estimate of the number of small entities that may be affected by rules adopted herein. 5 U.S.C. 604(a)(3). The RFA generally defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' 5 U.S.C. 601(6). In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act. 5 U.S.C. 601(3) (incorporating by reference the definition of ''small business concern'' in the Small Business Act, 15 U.S.C. 632). Pursuant to 5 U.S.C. 601(3), the statutory definition of a small business applies ''unless an agency, after consultation with the Office of Advocacy of the Small Business Administration and after opportunity for public comment, establishes one or more definitions of such term which are appropriate to the activities of the agency and publishes such definition(s) in the **Federal Register**.'' A ''small business concern'' is one that: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA). 15 U.S.C. 632.

We have included small incumbent LECs in this present RFA analysis. As noted above, a ''small business'' under the RFA is one that, *inter alia,* meets the pertinent small business size standard (*e.g.*, a telephone communications business having 1,500 or fewer employees), and ''is not dominant in its field of operation.'' 15 U.S.C. 632. The SBA's Office of Advocacy contends that, for RFA purposes, small incumbent LECs are not dominant in their field of operation because any such dominance is not ''national'' in scope. Letter from Jere W. Glover, Chief Counsel for Advocacy, SBA, to William E. Kennard, Chairman, FCC (May 27, 1999). The Small Business Act contains a definition of ''small business concern,'' which the RFA incorporates into its own definition of ''small business.'' *See* 15 U.S.C. 632(a); 5 U.S.C. 601(3). SBA regulations interpret ''small business concern'' to include the concept of dominance on a national basis. 13 CFR 121.102(b). We have therefore included small incumbent LECs in this RFA analysis, although we emphasize that this RFA action has no effect on Commission analyses and determinations in other, non-RFA contexts.

Wired Telecommunications Carriers. The SBA has developed a small business size standard for Wired Telecommunications Carriers, which consists of all such companies having 1,500 or fewer employees. 13 CFR 121.201, NAICS code 517110. According to Census Bureau data for 1997, there were 2,225 firms in this category, total, that operated for the entire year. Of this total, 2,201 firms had employment of 999 or fewer employees, and an additional 24 firms had employment of 1,000 employees or more. Thus, under this size standard, the majority of firms can be considered small.

Incumbent Local Exchange Carriers. Neither the Commission nor the SBA has developed a size standard for small businesses specifically applicable to incumbent local exchange carriers. The closest applicable size standard under SBA rules is for Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees. 13 CFR 121.201, NAICS code 517110. According to Commission data, 1,310 carriers reported that they were incumbent local exchange service providers. Of these 1,310 carriers, an estimated 1,025 have 1,500 or fewer employees and 285 have more than 1,500 employees. Consequently, the Commission estimates that most incumbent local exchange carriers are small entities that may be affected by the rules and policies adopted herein.

Description of Projected Reporting, Recordkeeping and Other Compliance Requirements for Small Entities

All incumbent LECs, including those that are small entities, are now required to make revisions to their federal tariffs to implement our revised PIC change charge policies. To the extent their federal tariffs do not already reflect this, all incumbent LECs must file rates equal to 50 percent of the full PIC change charge rate when an end user customer requests a PIC change in conjunction with an LPIC change. Also, all incumbent LEC that are able to process PIC changes electronically must file separate rates for PIC changes that are processed manually and electronically. If the rates are within the safe harbor rates of $5.50 for manually processed changes and $1.25 for electronically processed changes, no cost support is required. For rates in excess of the safe harbor rates, incumbent LECs must file detailed cost information justifying the higher rates.

Steps Taken To Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered

The RFA requires an agency to describe any significant alternatives that it has considered in developing its approach, which may include the following four alternatives (among others): ''(1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance rather than design standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities.'' 5 U.S.C. 603(c)(1)–(c)(4).

Some commenters in this proceeding argue that incumbent LECs should be required to base their PIC change charges on their individual costs. As discussed in paragraph 10 of the report and order, we reject this approach as unduly burdensome on incumbent LECs, including any that may be small entities. Instead, adopting safe harbors for PIC change charges allows incumbent LECs to file rates without the burden of filing detailed cost support. Incumbent LECs still have the option of filing cost support if their PIC change costs exceed the safe harbor rates. As discussed in paragraphs 9–10 of the report and order, we decline to adopt a separate safe harbor rate for small and rural incumbent LECs. We note that prior to our decision in this order small and rural carriers have been subject to the same $5.00 safe harbor applicable to all other carriers. No small or rural carrier has submitted cost information seeking to increase this $5.00 charge. As has been the case since 1984, all carriers remain free to submit cost studies to justify a higher rate to the extent these companies' costs exceed the safe harbors. As discussed in paragraph 0, we do not require any small or rural carrier to implement electronic PIC change processing systems if doing so would not be economically rational.

Report to Congress

The Commission will send a copy of this Report and Order, including this FRFA, in a report to be sent to Congress and the General Accounting Office pursuant to the Congressional Review Act. 5 U.S.C. 801(a)(1)(A). In addition, the Commission will send a copy of the Report and Order, including the FRFA, to the Chief Counsel for Advocacy of the SBA. A copy of the Report and Order and FRFA (or summaries thereof) will also be published in the **Federal Register**. 5 U.S.C. 604(b).

Ordering Clauses

Accordingly, *it is ordered that*, pursuant to 4(i), 4(j), 201(b), 203(a), 205, and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 154(j), 201(b), 203(a), 205, and 403, all incumbent LECs that process PIC change requests through electronic and manual methods shall file revised rates, to include one rate for PIC changes that are processed electronically and a separate rate for PIC changes that are processed manually, and all incumbent LECs shall file revised rates equal to 50 percent of the full PIC change charge rate when a customer requests a PIC change in conjunction with an LPIC change, no later than April 14, 2005. These rates shall be effective on fifteen (15) days' notice.

It is further ordered that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, shall send a copy of this Report and Order, including the Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 05–5058 Filed 3–14–05; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 64

[CC Docket No. 94–129, CC Docket No. 00–257; FCC 04–153]

2000 Biennial Review—Review of Policies and Rules Concerning Unauthorized Changes of Consumers' Long Distance Carriers

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Commission addresses issues raised in petitions for reconsideration filed pursuant to the First Report and Order and Fourth Report and Order, and certain ancillary slamming issues relating to switchless resellers that were raised in CC Docket No. 94–129 and CC Docket No. 00–257 that have not yet been resolved.

DATES: Effective March 15, 2005.

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

FOR FURTHER INFORMATION CONTACT: Nancy Stevenson or David Marks, of the Consumer & Governmental Affairs Bureau at (202) 418–2512.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's First Order on Reconsideration and Fourth Order on Reconsideration (Reconsideration Order), CC Docket Nos. 94–129 and 00–257, FCC 04–153, adopted June 30, 2004 and released July 16, 2004. The complete text of the Reconsideration Order is 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. The complete text of this decision may be purchased from the Commission's duplicating contractor, Best Copy and Printing Inc. (BCPI), Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC 20554. Customers may also contact BCPI at their website: *www.bcpiweb.com* or call 1–800–378–3160. The Reconsideration Order addresses issues arising from the First Report and Order and Fourth Report and Order FCC 01–156, 16 FCC Rcd 11218; published at 66 FR 28117, May 22, 2001. This Reconsideration Order does not contain new or modified information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13. In addition, it does not contain any new or modified ''information collection burden for small business concerns with fewer than 25 employees,'' pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44.U.S.C. 3506(c)(4).

To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an e-mail to *fcc504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at (202) 418–0530 (voice) or (202) 418–0432 (TTY). This *First Order on Reconsideration and Fourth Order on Reconsideration* can also be downloaded in Word and Portable Document Format (PDF) at *http://www.fcc.gov/cgb/policy*.

Synopsis

In the *Second Report and Order and Further Notice of Proposed Rulemaking* (Section 258 Order) the Commission established a comprehensive framework of rules to implement section 258 and strengthen its existing anti-slamming rules. The Commission modified the existing requirements for the authorization and verification of preferred carrier changes, added procedures for handling preferred carrier freezes, and adopted aggressive new liability rules designed to take the profit out of slamming. (*See* 64 FR 7763, February 16, 1999). However, at that time, the Commission did not specifically address the process for carrier changes associated with the sale or transfer of a subscriber base from one carrier to another. In such situations, carriers typically sought waivers of the carrier change authorization and verification rules in order to effect the sale or transfer without obtaining individual subscriber consent. The former Common Carrier Bureau, now the Wireline Competition Bureau, routinely granted such requests, contingent upon the carrier's provision of adequate notice to the affected subscribers, along with other consumer protections. *See, DA 01–1431*, Order 16 FCC Rcd 12503 (2001); *DA 01–1450*, Order, 16 FCC Rcd 12607 (2001).

In the *Report and Order Streamlining the International Section 214 Authorization Process and Tariff Requirements* (Streamlining Order), the Commission eliminated the need for such waivers by establishing a self-certification process for compliance with the authorization and verification requirements for the carrier-to-carrier sale or transfer of subscriber bases. Incorporating the streamlined certification and notification process into the rules has significantly reduced the burden on carrier and Commission resources while still protecting consumers' interests. Under the revised rules, carriers need not obtain individual authorization and verification for carrier changes associated with the carrier-to-carrier sale or transfer of a subscriber base, provided that, not later than 30 days before the planned carrier change, the acquiring carrier notifies the Commission, in writing, of its intention to acquire the subscriber base and certifies that it will comply with the required procedures, including the provision of advance written notice to all affected subscribers. (See 61 FR 15724, April 9, 1996). The advance subscriber notice must disclose: (1) The rates, terms, and conditions of the service(s) to be provided by the acquiring carrier; (2) the fact that the acquiring carrier will be responsible for any carrier change charges associated with the transaction; (3) the subscriber's right to select a different preferred carrier, if an alternate carrier is available; (4) a toll-free customer service telephone number for inquiries about the transfer; (5) the fact that all subscribers receiving the notice, including those who have arranged preferred carrier freezes through their local service providers, will be transferred to the new carrier if they do not select a different preferred carrier before the transfer date; and (6) whether the acquiring carrier will be responsible for resolving outstanding complaints against the selling or transferring carrier. (*See* 47 CFR 64.1120(e)(3)).

The petitions for reconsideration focus on the following main issues: Costs associated with the transfer of customers, provision of the advance written notice to affected subscribers, and preferred carrier freezes. We address these in turn below.

Charges Associated With Carrier Transfers

Background. In the Streamlining Order, the Commission found that it was consistent with section 258 to require the acquiring carrier to be responsible for any carrier change charges associated with customer transfers. In addition, the Commission directed the acquiring carrier to state in its advance subscriber notice that it will assume such responsibility.

Discussion. SBC argues that the Commission should not require acquiring carriers to be responsible for any carrier change charges associated with a carrier-to-carrier sale or transfer. SBC agrees that subscribers should not bear the burden of carrier change charges for negotiated carrier-to-carrier transfers, but states that the current rule eliminates carriers' flexibility to allocate the responsibility for carrier change charges between the carriers. SBC further argues that the requirement is particularly problematic for default transfers, because the acquiring carrier is forced to transfer subscribers to its service pursuant to state-created obligations, and the Commission's requirement may conflict with state rules that require the exiting competing LEC to pay carrier change charges. According to SBC, because default carrier obligations are created by the states, the states are best situated to determine which carrier is responsible for switch-over charges in a default transfer. Additionally, SBC claims that a significant number of the customers who have been defaulted to its service have left SBC shortly after the transfer. It contends that ''a former customer that previously made a conscious decision to discard SBC's service and obtain service from a competing LEC is likely to do so again within a short period of time. Thus, SBC is unlikely to recoup any switch-over costs from the default customer via a long-term carrier-customer relationship.''

In a similar vein, Verizon seeks clarification that our rules do not prevent an incumbent LEC from assessing a nonrecurring charge on customers it acquires by default transfer. In contrast to SBC, however, Verizon does not dispute that carrier change charges should not be imposed on subscribers in the normal sale of a long distance subscriber base. Verizon states that, under these circumstances, the two carriers have agreed to a sale and the cost of carrier change charges has been taken into account when the terms of the transfer were negotiated. In a default carrier transfer, however, Verizon states that the incumbent LEC has not negotiated for these customers, but is instead required by law to take them. According to Verizon, ''[r]equiring ILECs to waive these charges, and imposing other obligations on them under these rules, is likely to cause them to resist becoming default carriers, with the possible customer service problems that could result.'' As a general rule, when subscribers are switched between carriers as a result of a negotiated sale or transfer or the exiting carrier's bankruptcy, we believe that the acquiring carrier should be responsible for carrier change charges associated with that transfer. As we stated in the Streamlining Order, because carrier change charges associated with a carrier-to-carrier sale or transfer are involuntary in terms of the subscriber, subscribers should not bear the burden of the cost of the service provider change. In addition, we noted that the acquiring carrier is in the best position to cover these charges because it would have the billing relationship with the customer after the transfer. We therefore deny SBC's request to modify this general rule. In situations where an incumbent LEC acquires customers, the revenues from those customers following the transfer will flow to the incumbent LEC. Though some subscribers may switch from the acquiring carrier to an alternative provider after the transfer, we believe a significant number will stay and generate revenues for the acquiring carrier. We note that in some situations, transferred customers would not have an alternative to the acquiring carrier when a competing LEC leaves the market and there is no other competing LEC in the service area. Thus, we continue to believe that the acquiring carrier will generally be in the best position to cover carrier change costs, because in most instances it will have a billing relationship with the customer post-transfer. (*See* Streamlining Order, 16 FCC Rcd 11228 at paragraph 25). We do not believe that this rule eliminates carrier flexibility in negotiated transfer situations. As noted in the *Streamlining Order*, if carrier change charges are known to be the responsibility of the acquiring carrier, we expect that these charges will be factored into the terms of the agreement between the selling/transferring carrier and the acquiring carrier.

We also deny Verizon's request to impose carrier change charges on subscribers who are switched as the result of a default carrier-to-carrier transfer, rather than imposing such charges on the acquiring carrier. As the Commission has previously held, because subscribers do not request the carrier changes associated with a carrier-to-carrier sale or transfer, they should not bear the burden of the cost of changing service providers. Also, as Sprint notes in its opposition, the modification suggested by Verizon could deter customers from switching from an incumbent LEC to a competing LEC in the first place, as the incumbent LEC would likely emphasize to subscribers that they will pay the costs of resuming incumbent LEC service in the event the competing LEC exits the market.

As noted above, when subscribers are switched between carriers as a result of a negotiated sale or transfer or the exiting carrier's bankruptcy, we believe the acquiring carrier should generally be responsible for carrier change charges associated with a negotiated sale or transfer. However, while we maintain this general rule rather than adopting either SBC's or Verizon's proposed modifications, we do adopt one minor modification to the rule for particular, limited circumstances. Specifically, when an acquiring carrier acquires customers by default ''other than through bankruptcy—and State law would require the exiting carrier to pay these costs, we will require the exiting carrier to pay such costs to meet our streamlined slamming rules.(See 47 CFR 64.1120(e)(3)(iii); *see also* Rule Changes). We recognize that States are often in the best position to evaluate the circumstances surrounding a carrier's exit from providing service in the first instance and to consider whether the circumstances warrant imposing exit costs on that carrier. Moreover, states have a valid interest, as do we, in ensuring the continuation of service to all customers. In situations where no State law assigns carrier responsibility for these costs, the Commission's general rule would control.

Advance Subscriber Notice

As noted above, in the Streamlining Order, the Commission required acquiring carriers to provide subscribers with 30-day advance notice of a carrier change associated with a sale or transfer. In reaching this conclusion, the Commission noted that providing affected subscribers with notice of the transaction at least 30 days before it occurs would enable a subscriber to make an informed decision as to whether to accept the acquiring carrier as his or her preferred carrier. The Commission also required that the advance written notice to affected subscribers must include the details of the rates, terms and conditions of the service(s) to be provided to transferred customers and the means by which customers will be notified of changes in those service features. Disclosure of such information has likewise been a feature of the waiver process.

Responsibility for Notice

SBC argues that the Commission should not require acquiring carriers to provide advance written notice to affected subscribers where State law imposes that responsibility on the exiting carrier, claiming that modification of this rule will eliminate unnecessary duplicative notice by the acquiring carrier. Verizon agrees that an exiting carrier's compliance with State notice rules should be sufficient, and that additional notice by the default carrier should not be required unless the exiting LEC has failed to provide such notice. Similarly, Qwest argues that the Commission should hold a default transferee responsible for customer notification only where ''no other processes have been established.'' According to Qwest, the transferring carrier often notifies its customers of its decision to exit the business, and therefore the Commission should not require the involuntary acquiring carrier LEC to incur the expense of additional notification. Qwest claims that there is no proof that the public interest mandates a second notice from a default carrier.

We are not persuaded by petitioners' arguments that acquiring carriers should not be responsible for providing advance notification of a default or carrier-to-carrier transfer or sale. The least cost provider of information about any given carrier's rates, terms and conditions is the carrier that is offering those services to the public. We believe providing this information to consumers is consistent with and furthers the goal of section 258 to protect consumers from fraudulent activities. Although we

recognize and appreciate that both state law and contractual obligations may impose some obligations on exiting carriers, the default carrier will still be best able to inform customers of the rates, terms and conditions of the service(s) it will provide, the exact means by which it will notify the subscriber of any changes to those rates, terms and conditions, and its toll-free customer service number. Moreover, as the Commission noted in the Streamlining Order, in most cases sufficient subscriber list information will be available to the acquiring carrier such that it will be able to provide the required notice.

Timing of Notice

Verizon states that the streamlined procedures do not adequately address situations in which the competing LEC has left the marketplace due to insolvency or for other reasons and the incumbent LEC is required by a State commission to serve the exiting LEC's customers. In these cases, according to Verizon, the incumbent LEC has no control over the timing of the competing LEC's departure from the market and will not be able to comply with the streamlined procedure rules. Verizon requests that we modify the rules to require affected subscriber notice within a ''reasonable'' time of the State-ordered default carrier's learning that customers will be transferred, rather than 30 days prior to the planned change. Verizon argues that the Commission should modify the rules for such transfers ''to take their peculiar nature into account'' rather than resolving such issues on a case-by-case basis. We deny Verizon's request. Verizon has offered no evidence to refute the Commission's general finding that a 30-day notice period is necessary to provide subscribers with sufficient opportunity to make an informed decision whether to accept the acquiring carrier as his or her preferred carrier. We continue to believe that customers acquired by state order should be entitled to the same protections as subscribers acquired in a ''normal'' sale or transfer. We note that, in the case of an order by a state commission, that commission should take into consideration the 30-day notice rule when deciding the timing of the transfers it is ordering. We recognize, however, that in certain limited cases, 30 days advance notice may not be possible. Accordingly, under our current rules, default carriers unable to provide 30 days' notice to the Commission may request a limited waiver of the 30-day notice requirement. Based on our experience administering these rules, we believe that situations of the sort described by Verizon occur infrequently and under varied circumstances. As such, we continue to believe that these situations are best handled on a case-by-case basis as requests for waivers of the streamlined carrier change rules. (*See* 68 FR 19152, April 18, 2003.)

Rates, Terms, and Conditions of the New Service Provider

AT&T argues that requiring carriers to provide detailed information about their services to newly-acquired customers may result in substantial needless expense and delay for participants in carrier-to-carrier sale or transfer of subscriber bases. AT&T requests that the Commission clarify that the rules are not intended to impose more stringent advance disclosure requirements than were applied under the Commission's waiver process. AT&T argues that ''[n]othing in the Third Further Notice of Proposed Rulemaking, (Third Further Notice) proposing the new self-certification process suggested that the Commission intended the revised rule to be more onerous than the then existing waiver process in this regard.'' *See* 66 FR 8093, January 18, 2001. AT&T states that it would be more reasonable to permit acquiring carriers to summarize the material terms of their service offerings in their notifications to affected customers.

ASCENT and WorldCom support AT&T's position. ASCENT agrees that the streamlined rules ''should not impose more stringent notification requirements than had been required by the Commission under the previous waiver paradigm,'' claiming that it would be inconsistent with the goal of streamlining to simultaneously increase disclosure obligations. Similarly, WorldCom contends that the Streamlining Order was ''intended to institutionalize the amount of detail already required under the waiver process. The Commission did not intend to expand upon carriers' obligations, but to simply describe the amount of information that carriers are currently required to provide.''

We disagree with AT&T that it would be ''more reasonable'' to permit acquiring carriers to summarize the material terms of their service offerings in their notifications to affected customers. We reiterate that acquiring carriers are required to provide affected subscribers with detailed information concerning the rates, terms and conditions of the service(s) to be provided to transferred customers. Because the acquiring carrier is no longer required to obtain each individual subscriber's consent, it is critical that the advance written notice contain at least some level of detail as to the rates, terms and conditions of the services the acquiring carrier will provide. We disagree with WorldCom's assertion that such disclosure is inconsistent with the goal of streamlining. Disclosing the rates, terms and conditions of service in the advance notice to subscribers is significantly less burdensome to acquiring carriers than obtaining individual subscriber consent and verification in these transactions. Moreover, providing this information in the advance notice will enable transferred subscribers to make a timely, informed decision regarding their ultimate choice of service providers in areas where alternatives to the acquiring carrier are available. It is difficult to imagine how a subscriber could make this sort of decision without knowing, for example, the rates the acquiring carrier will charge. We also note that the Commission, in the Streamlining Order, declined to require the acquiring carrier to continue to charge affected subscribers the same rates as those charged by the selling or transferring carrier for a specified period after the transfer. Commenters in that proceeding had asserted that such a requirement could prove difficult and costly. Waivers issued by the Commission prior to the creation of the streamlined rules, however, generally were predicated on assurances that rates would not change. Therefore, the level of detail necessary to inform subscribers of the rates they will be charged may differ under the current streamlined rules as compared to the former waiver process.

Preferred Carrier Freezes

Section 64.1190 of our rules permits local service providers to offer subscribers the option of requesting a preferred carrier ''freeze'' as an additional measure of protection against unauthorized carrier changes. (47 CFR 64.1190.) With such a freeze in place, the subscriber is assured that his or her preferred carrier will not be changed without the subscriber's express consent. As discussed above, the Streamlining Order required the acquiring carrier to inform subscribers in advance that they will be transferred to it if they do not select a different preferred carrier before the transfer date. In addition, the subscriber notice must state that existing preferred carrier freezes on the service(s) involved in the transfer will be lifted, and that customers who wish to have freeze protection after the transfer must contact their local service providers to obtain this service.

SBC requests that the Commission modify its rules such that, to the extent mechanized processes or other methods allow LECs to effect the transfer without lifting the freeze, LECs would not be required to lift preferred carrier freezes on services involved in a carrier-to-carrier transfer. SBC states that mechanized processes exist that allow local service providers to transfer a subscriber base with freeze protection on some accounts by bypassing the freeze rather than actually lifting it. In such cases, SBC contends that the acquiring carrier should only be required to inform affected subscribers that their existing freeze protections will remain in place after the transfer.

SBC claims that this proposed modification will permit carriers to effectuate carrier-to-carrier transfers as efficiently as possible. Sprint opposes SBC's proposal, noting that it would require customers to determine on their own whether their preferred carrier freezes were still in place, which would be contrary to the underpinnings of the rules governing preferred carrier freezes: ''the customer—and not the LEC—should decide whether to freeze his/her service account with the acquiring carrier.''

We decline to modify the rules as SBC suggests. Although SBC represents that it has implemented a mechanized process in ''several of its operating companies,'' it does not provide any indication of how commonly used or reliable such mechanized processes are. It is thus unclear what impact the proposed modification would have—*i.e.*, whether it would address a significant problem for LECs or whether it might create headaches for subscribers should the mechanized process fail in some way. As noted in the Streamlining Order, in the event of a sale or transfer of a subscriber base, a subscriber with a freeze could be left without presubscribed service when the selling or transferring carrier ceases to provide service, if that customer failed to give consent to lift the freeze and thus was not automatically switched to the acquiring carrier. We continue to believe that, under such circumstances, it is preferable to permit the transfer of such a subscriber to the acquiring carrier, after adequate advance notice, rather than risk having the subscriber lose presubscribed service altogether. We believe that it is appropriate to ensure that subscribers with preferred carrier freezes in place do not lose presubscribed service even if they fail to respond to notice of an impending carrier change.

As the Commission has previously noted, ''the essence of a preferred carrier freeze is that a subscriber must specifically communicate his or her intent to request or lift a freeze.'' The current rule maintains the consumer's control over such freezes by requiring that customers be informed in advance of the transfer that any applicable preferred carrier freeze will be lifted, so that those customers who wish to initiate a freeze on the services they receive after the transfer must specifically express their intent to do so. Under the streamlined procedures, ''frozen'' subscribers who prefer not to receive service from the acquiring carrier will have sufficient notice of their ability to select another provider, and will have notice of the need to contact their local service providers if they wish to initiate freeze protection for the service(s) they receive after a transfer to a new carrier. The decision remains in the hands of the customer, not the LEC.

Switchless Reseller Issues

As noted above, we address in the First Report and Order and Fourth Report and Order certain ancillary slamming issues relating to switchless resellers that were raised in this docket but have not yet been resolved. Specifically, we affirm the recommendations of the NANC regarding switchless resellers' use of carrier identification codes. In 2000, the Commission sought analysis and recommendations from the NANC on a proposal to require switchless resellers to obtain their own carrier identification codes (''CICs'') in order to address ''soft slamming'' and related carrier identification problems that arise from the shared use of CICs. A switchless reseller is a carrier that lacks switches or other transmission facilities in a given local access and transport area (LATA). It purchases long distance service in bulk from facilities-based carriers and resells such service directly to consumers. Resellers frequently share CICs with the underlying carriers whose services they resell. CICs are four-digit numerical codes used by LECs to route traffic to IXCs and to identify them for billing purposes. They are assigned by the North American Numbering Plan Administration on a nationwide basis. A soft slam is the unauthorized change of a subscriber from its authorized carrier to a new carrier that uses the same CIC. Because the change is not executed by the LEC, which continues to use the same CIC to route the subscriber's calls, a soft slam bypasses the preferred carrier freeze protection available to consumers from LECs. Carrier misidentification occurs because LECs also identify carriers by their CICs for billing purposes. A LEC's call record therefore is likely to reflect the identity of the underlying carrier whose CIC is used, even if the actual service provider is a reseller. As a result, the name of the underlying carrier may appear on the subscriber's bill in lieu of, or in addition to, the reseller with whom the subscriber has a direct relationship. This makes it difficult for consumers to detect a slam and to identify the responsible carrier. In April, 2001, the NANC submitted its recommendations. (*See* Report to the NANC, April 17, 2001 (submitted April 20, 2001) (CIC IMG Report to the NANC, Analysis and Recommendation on the Adoption of a Switchless Reseller CIC Requirement to Address ''Soft Slamming''). It concluded that the proposal to require switchless resellers to obtain and fully deploy CICs would not be effective to prevent soft slamming due to technical constraints, and would speed the depletion of numbering resources, dampen competition, hinder the participation of small businesses in telecommunications, and reduce choice while increasing prices for consumers. This conclusion affirms the concerns about potential adverse impact on the industry and consumers raised in the Third Report and Order. *See* 66 FR 12877, August 15, 2000. We agree with the NANC's assessment, and therefore decline to adopt a requirement that all switchless resellers deploy CICs. While we acknowledge that soft slamming remains a problem, albeit one of undetermined dimensions, we believe that our existing rules offer some help in alleviating this problem. For example, the Section 258 Order imposes on facilities-based carriers the responsibilities of executing carriers in soft slam situations (*See Section 258 Order,* 14 FCC Rcd 1564–65 at paragraphs 92–93. *See also* 47 CFR 64.1100(b); 64.1150(a), (b); and 64.1140(b)(1)). Our rules require that the name of the service provider associated with each charge must be clearly and conspicuously identified on the telephone bill, which should help to make unauthorized carrier changes readily detectable by end users. (*See* 47 CFR 64.2401). However, we encourage the industry to work to find additional, effective ways to prevent soft slamming without adversely affecting consumer choice.

Supplemental Final Regulatory Flexibility Analysis

As required by the Regulatory Flexibility Act (RFA) (*See* 5 U.S.C. 603. The RFA, *see* 5 U.S.C. 601, *et seq.*, was amended by the Contract with America Advancement Act of 1996, Public Law

104-121, 110 Statute 87 (1996) (CWAA). Title II of the CWAA is the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), an Initial Regulatory Flexibility Analysis (IRFA) (5 U.S.C. 603) was incorporated into the Third Further Notice in this proceeding. *See* 66 FR 8093 January 18, 2001. Additionally, a Final Regulatory Flexibility Analysis (FRFA) was included in the Streamlining Order. In compliance with the RFA, this Supplemental Final Regulatory Flexibility Analysis (Supplemental FRFA) supplements the FRFA included in the Streamlining Order to the extent that changes to that *Order* adopted here on reconsideration require changes in the conclusions reached in the FRFA.

Need for and Objectives of This Action

Section 258 of the Act makes it unlawful for any telecommunications carrier ''to submit or execute a change in a subscriber's selection of a provider of telephone exchange services or telephone toll service except in accordance with such verification procedures as the Commission shall prescribe.'' In the Section 258 Order, the Commission established a comprehensive framework of rules to implement section 258 and strengthen its existing anti-slamming rules. After the release of that Order, the Commission received many requests for waiver of the carrier change and authorization rules in transactions where carriers were selling or transferring their subscriber bases to other carriers in order to transition in a seamless, efficient manner. The Streamlining Order modified those rules to provide for a streamlined approach that would meet the consumer protection goals of section 258 and also permit carriers to efficiently transfer customers without the need for Commission approval of a waiver petition. Subsequently, several petitioners sought reconsideration of the Streamlining Order's treatment of the costs associated with the transfer of customers, provision of the advance written notice to affected subscribers, and preferred carrier freezes. This Reconsideration Order addresses those issues, and also resolves an outstanding request from 2001 on a proposal to address ''soft slamming'' issues and related carrier identification problems that arise from the shared use of carrier identification codes.

Description and Estimate of the Number of Small Entities to Which This Order on Reconsideration Will Apply

The RFA directs agencies to provide a description of, and, where feasible, an estimate of, the number of small entities that may be affected by the rules adopted herein. (*See* 5 U.S.C 603(b)(3)). The RFA generally defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' (*See* 5 U.S.C 601(3)). In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act. (*See* 15 U.S.C 632). A ''small business concern'' is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA). (*See* 5 U.S.C 601(4)).

In the previous FRFA of the Streamlining Order, we described and estimated the number of small entities that would be affected by the streamlined rules. These included wireline carriers and service providers, local exchange carriers, interexchange carriers, competitive access providers, operator service providers, pay telephone operators, resellers (including debit card providers), toll-free 800 and 800-like service subscribers, and cellular licensees. The rule amendment adopted herein may apply to the same entities affected by the rules adopted in that order.

Summary Analysis of the Projected Reporting, Record-Keeping, and Other Compliance Requirements

The RFA requires an agency to describe any significant alternatives that it has considered in developing its approach, which may include the following four alternatives (among others): ''(1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance and reporting requirements under the rule for such small entities; (3) the use of performance rather than design standards; and (4) an exemption from coverage of the rule, or any part thereof, for such small entities.'' (*See* 5 U.S.C. 603(c)(1)–(c)(4)). We do not find that this Reconsideration Order creates a significant economic impact on small entities. We could therefore meet our obligations under the RFA by certifying that there is no significant economic impact on small entities, rather than including this SFRFA. (*See generally* 5 U.S.C. 605). We nonetheless include this Supplemental FRFA to demonstrate that we have considered the impact of our action on small entities in adopting this Reconsideration Order.

Steps Taken To Minimize the Significant Economic Impact on Small Entities, and Significant Alternatives Considered

As noted above, the amendment to our rules adopted in this Reconsideration Order does not have a significant impact on small entities. The amendment provides that, where applicable, state law shall determine carrier responsibility for switch-over charges associated with default transfers. The Commission concludes that this requirement would not impose significant additional costs or administrative burdens on small carriers.

Report to Congress

The Commission will send a copy of this Reconsideration Order, including this Supplemental FRFA, in a report to be sent to Congress pursuant to the Congressional Review Act. (*See* 5 U.S.C. 801(a)(1)(A)). In addition, the Commission will send a copy of this Reconsideration Order, including this Supplemental FRFA, to the Chief Counsel for Advocacy of the Small Business Administration. A copy of this Reconsideration Order and Supplemental FRFA (or summaries thereof) will also be published in the **Federal Register**. (*See* 5 U.S.C. 604(b)).

Ordering Clauses

Accordingly, pursuant to sections 1, 4, 201–205, 255, and 258 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154, 201–205, 255 and 258, this reconsideration order is adopted.

The Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, shall send a copy of this Reconsideration Order, including the Supplemental Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects in 47 CFR Part 64

Communications common carriers, Telecommunications.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

Rule Change

■ For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 64 as follows:

PART 64—MISCELLANEOUS RULES RELATING TO COMMON CARRIERS

■ 1. The authority citation for part 64 continues to read as follows:

Authority: 47 U.S.C. 154, 254(k) secs. 403(b)(2)(B), (C), Public Law 104–104, 110 Stat. 56. Interpret or apply 47 U.S.C. 201, 218, 225, 226, 228, and 254(k) unless otherwise noted.

■ 2. Section 64.1120 is amended by revising paragraph (e)(3)(iii) to read as follows:

§ 64.1120 Verification of orders for telecommunications service

* * * * *

(e) * * *

(3) * * *

(iii) The acquiring carrier will be responsible for any carrier change charges associated with the transfer, except where the carrier is acquiring customers by default, other than through bankruptcy, and state law requires the exiting carrier to pay these costs;

* * * * *

[FR Doc. 05–5059 Filed 3–14–05; 8:45 am]

BILLING CODE 6712–01–P

Proposed Rules

Federal Register
Vol. 70, No. 49
Tuesday, March 15, 2005

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

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2005–20594; Directorate Identifier 2004–NM–213–AD]

RIN 2120–AA64

Airworthiness Directives; Fokker Model F.28 Series Airplanes

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for all Fokker Model F.28 series airplanes. This proposed AD would require a one-time inspection of the area underneath the auxiliary power unit (APU) enclosure to determine if drain tubes in the area are correctly installed and to detect damaged wiring, and corrective action if necessary. This proposed AD is prompted by a report of a fire under the APU enclosure. We are proposing this AD to prevent fuel from accumulating under the APU enclosure, which, in the presence of an ignition source, could result in a fire.

DATES: We must receive comments on this proposed AD by April 14, 2005.

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 Fokker Services B.V., P.O. Box 231, 2150 AE Nieuw-Vennep, the Netherlands.

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. This docket number is FAA–2005–20594; the directorate identifier for this docket is 2004–NM–213–AD.

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

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to submit any relevant written data, views, or arguments regarding this proposed AD. Send your comments to an address listed under **ADDRESSES**. Include ''Docket No. FAA–2005–20594; Directorate Identifier 2004–NM–213–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.*

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 Civil Aviation Authority—The Netherlands (CAA–NL), which is the airworthiness authority for the Netherlands, notified us that an unsafe condition may exist on all Fokker Model F.28 series airplanes. The CAA–NL advises of an incident of a fire under the enclosure of the auxiliary power unit (APU). The flightcrew had received an APU fire warning following a successful APU start during taxiing. After the flightcrew shut down the APU and discharged the APU fire extinguisher, fire was subsequently observed at the APU overboard drain holes. The fire was extinguished by airport fire services. Investigation revealed that one of the APU drains was not connected properly, which had allowed fuel to accumulate under the APU enclosure. It is possible that the drain was not reconnected properly following maintenance activity in the area. Due to the extent of the fire damage, the ignition source has not been identified, but the fire may have been caused by sparks generated by damaged wiring underneath the APU enclosure. Accumulation of fuel under the APU enclosure, if not corrected, and if in the presence of an ignition source, could result in a fire.

Relevant Service Information

Fokker Services B.V. has issued Fokker Service Bulletins SBF100–49–036 (for Fokker Model F.28 Mark 0070 and 0100 series airplanes) and F28/49–038 (for the other Fokker Model F.28 series airplanes), both dated April 26, 2004. The service bulletins describe procedures for these one-time inspections of the area underneath the APU enclosure:

- A visual inspection to determine if the left- and right-hand engine drain

tubes and the APU enclosure drain tube are correctly installed.

• A visual inspection to detect any damage, including, but not limited to, chafing, of the wiring in the area.

The corrective action if any drain tube is not correctly installed is to correctly install the drain tube and to remove any fuel that has accumulated under the APU enclosure. Corrective action if any damaged wiring is found is to repair the wiring. Accomplishing the actions specified in the service information is intended to adequately address the unsafe condition. The CAA–NL mandated the service information and issued Dutch airworthiness directive 2004–059, dated April 29, 2004, to ensure the continued airworthiness of these airplanes in the Netherlands.

FAA's Determination and Requirements of the Proposed AD

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

Clarification of Inspection Terminology

The service bulletins specify a visual inspection of the area underneath the APU enclosure to determine if drain tubes in the area are correctly installed and to detect damaged wiring. We have determined that the inspection procedures specified in the service bulletins constitute a general visual inspection. Note 1 of this proposed AD defines this type of inspection.

Costs of Compliance

This proposed AD would affect about 4 airplanes of U.S. registry. The proposed actions 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 $260, or $65 per airplane.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

We prepared a regulatory evaluation of the estimated costs to comply with this proposed AD. *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):

Fokker Services B.V.: Docket No. FAA–2005–20594; Directorate Identifier 2004–NM–213–AD.

Comments Due Date

(a) The Federal Aviation Administration must receive comments on this AD action by April 14, 2005.

Affected ADs

(b) None.

Applicability

(c) This AD applies to all Fokker Model F.28 series airplanes, certificated in any category.

Unsafe Condition

(d) This AD was prompted by a report of a fire under the APU enclosure. We are issuing this AD to prevent fuel from accumulating under the APU enclosure, which, in the presence of an ignition source, could result in a fire.

Compliance

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

Inspections

(f) Within 6 months after the effective date of this AD, perform a one-time general visual inspection of the area underneath the APU enclosure to determine if the left- and right-hand engine drain tubes and the APU enclosure drain tube are correctly installed, and to detect any damage, including, but not limited to, chafing of the wiring in the area. Do the inspection in accordance with the Accomplishment Instructions of Fokker Service Bulletin SBF100–49–036 (for Fokker Model F.28 Mark 0070 and 0100 series airplanes) or F28/49–038 (for all other Fokker Model F.28 series airplanes), both dated April 26, 2004, as applicable.

(1) If any drain tube is not correctly installed: Before further flight, correctly install the drain tube and remove any fuel that has accumulated under the APU enclosure, in accordance with the Accomplishment Instructions of the applicable service bulletin.

(2) If any damaged wiring is found: Before further flight, repair the wiring in accordance with the Accomplishment Instructions of the applicable service bulletin.

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

droplight and may require removal or opening of access panels or doors. Stands, ladders, or platforms may be required to gain proximity to the area being checked.''

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) Dutch airworthiness directive 2004–059, dated April 29, 2004, also addresses the subject of this AD.

Issued in Renton, Washington, on March 7, 2005.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 05–5011 Filed 3–14–05; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2005–20595; Directorate Identifier 2004–NM–149–AD]

RIN 2120–AA64

Airworthiness Directives; Bombardier Model DHC–7 Series Airplanes

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for certain Bombardier Model DHC–7 series airplanes. This proposed AD would require revising the Airworthiness Limitations section of the Instructions of Continued Airworthiness to include a new lower life limit for lower wing skins. This proposed AD is prompted by the discovery that during the manufacture of the lower wing skins, score marks may have been accidentally inscribed around the edge of the lower wing skin doublers. We are proposing this AD to prevent fatigue cracks from developing at the score marks in the lower wing skins, which could result in the structural failure of the wing.

DATES: We must receive comments on this proposed AD by April 14, 2005.

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 Bombardier, Inc., Bombardier Regional Aircraft Division, 123 Garratt Boulevard, Downsview, Ontario M3K 1Y5, Canada.

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. This docket number is FAA–2005–20595; the directorate identifier for this docket is 2004–NM–149–AD.

FOR FURTHER INFORMATION CONTACT: David Lawson, Aerospace Engineer, Airframe and Propulsion Branch, ANE–171, FAA, New York Aircraft Certification Office, 1600 Stewart Avenue, suite 410, Westbury, New York 11590; telephone (516) 228–7327; fax (516) 794–5531.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to submit any relevant written data, views, or arguments regarding this proposed AD. Send your comments to an address listed under **ADDRESSES.** Include ''Docket No. FAA–2005–20595; Directorate Identifier 2004–NM–149–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.*

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

Transport Canada Civil Aviation (TCCA), which is the airworthiness authority for Canada, notified us that an unsafe condition may exist on certain Bombardier Model DHC–7 series airplanes. TCCA advises that during the manufacture of the wing bottom skins, score marks may have been accidentally inscribed around the edge of the lower wing skin doublers. Wing stations YW180 to YW375 were identified as the locations where these scores could result in a reduced wing life. Bombardier evaluated the lower wing skin with score marks 0.003 inch in depth and determined that a wing life of 60,000 flights must be introduced. This condition, if not corrected, could result in fatigue cracks developing at the score marks and could result the structural failure of the wing.

Relevant Service Information

Bombardier has issued Temporary Revision (TR) 5–103 to Chapter 5–10–11 of the DHC–7 Maintenance Manual (PSM 1–7–2), dated March 26, 2004, which adds a new life limit of 60,000 flights for the DHC–7 lower wing skins to prevent a structural failure of the wing. Accomplishing the actions specified in the service information is intended to adequately address the unsafe condition. TCCA mandated the service information and issued Canadian airworthiness directive CF–2004–12, dated June 28, 2004, to ensure the continued airworthiness of these airplanes in Canada.

FAA's Determination and Requirements of the Proposed AD

This airplane model is manufactured in Canada 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, TCCA has kept the FAA informed of the situation described above. We have examined the TCCA's 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 revising the Airworthiness Limitations section of the Instructions of Continued Airworthiness to include a new lower life limit for certain lower wing skins. The proposed AD would require you to use the service information described previously to perform these actions.

Clarification of Actions in the Canadian Airworthiness Directive and the Proposed AD

The Canadian airworthiness directive specifies that the operator's maintenance schedule be revised to incorporate a new life limit for the lower skins and that, before reaching the life limit, wings having lower wing skins be removed from service. This proposed AD would only require revising the Airworthiness Limitations section of the Instructions of Continued Airworthiness to require the new life limit. Once that document is revised, as required, and the proposed AD has been fully complied with, the life limit remains enforceable as a part of the Airworthiness Limitations section in accordance with 14 CFR 91.403(c). As no lower wing skin is near the life limit, only the revision to the Airworthiness Limitation section is necessary to address the unsafe condition.

Costs of Compliance

This proposed AD would affect about 3 airplanes of U.S. registry. The proposed revision of the Airworthiness Limitations section 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 $195, or $65 per airplane.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

We prepared a regulatory evaluation of the estimated costs to comply with this proposed AD. 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):

Bombardier, Inc. (Formerly de Havilland, Inc.): Docket No. FAA–2005–20595; Directorate Identifier 2004–NM–149–AD.

Comments Due Date

(a) The Federal Aviation Administration must receive comments on this AD action by April 14, 2005.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Bombardier Model DHC–7 series airplanes, serial numbers 3 through 10 inclusive, 12 through 14 inclusive, and 16 through 27 inclusive; certificated in any category.

Note 1: This AD requires revision to a certain operator maintenance document to include a new replacement time. Compliance with this replacement time is required by 14 CFR 91.403(c). For airplanes that have been previously modified, altered, or repaired in the areas addressed by this replacement time, the operator may not be able to accomplish the replacement described in the revision. In this situation, to comply with 14 CFR 91.403(c), the operator must request approval for an alternative method of compliance according to paragraph (i) of this AD. The request should include a description of changes to the required replacement time that will ensure the continued damage tolerance of the affected structure. The FAA has provided guidance for this determination in Advisory Circular (AC) 25–1529.

Unsafe Condition

(d) This AD is prompted by the discovery that during the manufacture of the lower wing skins, score marks may have been accidentally inscribed around the edge of the lower wing skin doublers. We are issuing this AD to prevent fatigue cracks from developing at the score marks in the lower wing skins, which could result in the structural failure of the wing.

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.

Revise the Airworthiness Limitations (AWL) Section—New Life Limit

(f) Within 30 days after the effective date of this AD, revise the AWL section of the Instructions for Continued Airworthiness to incorporate new life limits for the lower wing skins by incorporating Bombardier Temporary Revision (TR) 5–103, dated March 26, 2004, to the Bombardier DHC–7 Maintenance Manual (PSM 1–7–2), into the AWL section.

(g) When the contents of TR 5–103 have been included in the general revisions of the AWL section, the general revisions may be incorporated into the AWL section, and the TR may be removed from the AWL section.

(h) After the actions specified in paragraphs (f) of this AD have been accomplished, no alternative life limits may be approved for the lower wing skins, except as provided in paragraph (i) of this AD.

Alternative Methods of Compliance (AMOCs)

(i) The Manager, New York Aircraft Certification Office, FAA, has the authority to

approve AMOCs for this AD, if requested in accordance with the procedures found in 14 CFR 39.19.

Related Information

(j) Canadian airworthiness directive CF–2004–12, dated June 28, 2004, also addresses the subject of this AD.

Issued in Renton, Washington, on March 7, 2005.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 05–5012 Filed 3–14–05; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2005–20596; Directorate Identifier 2004–NM–113–AD]

RIN 2120–AA64

Airworthiness Directives; Saab Model SAAB SF340A and SAAB 340B Series Airplanes

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to supersede an existing airworthiness directive (AD) that applies to certain Saab Model SAAB SF340A and SAAB 340B series airplanes. The existing AD currently requires repetitive detailed inspections of the windshield wiper assembly for discrepant conditions, and corrective actions if necessary. This proposed AD also would require a detailed inspection of the left and right wiper arm assemblies for damage, and corrective/related investigative actions if necessary. This proposed AD is prompted by an additional incident of a windshield wiper blade separating from the wiper arm. We are proposing this AD to prevent separation of a wiper arm from the airplane, which could result in damage to the fuselage skin and propeller.

DATES: We must receive comments on this proposed AD by April 14, 2005.

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

• *DOT Docket Web Site:* Go to *http://.dot.gov* and follow the instructions for sending your comments electronically.

• *Government-wide Rulemaking Web Site:* Go to *http://www.regulations.gov* and follow the instructions for sending your comments electronically.

• *Mail:* Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, room PL–401, Washington, DC 20590.

• *Fax:* (202) 493–2251.

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

For service information identified in this proposed AD, contact Saab Aircraft AB, SAAB Aircraft Product Support, S–581.88, Linköping, Sweden.

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. This docket number is FAA–2005–20596; the directorate identifier for this docket is 2004–NM–113–AD.

FOR FURTHER INFORMATION CONTACT: 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.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to submit any relevant written data, views, or arguments regarding this proposed AD. Send your comments to an address listed under **ADDRESSES**. Include ''Docket No. FAA–2005–20596; Directorate Identifier 2004–NM–113–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the proposed AD. We will consider all comments received by the closing date and may amend the proposed AD in light of those comments.

We will post all comments we receive, without change, to *http://dms.dot.gov,* including any personal information you provide. We will also post a report summarizing each substantive verbal contact with FAA personnel concerning this proposed AD. Using the search function of 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.*

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

On September 14, 1998, we issued AD 98–20–11, amendment 39–10778 (63 FR 50755, September 23, 1998), for certain Saab Model SAAB SF340A and SAAB 340B series airplanes. That AD requires repetitive detailed visual inspections of the windshield wiper assembly for discrepant conditions, and corrective actions, if necessary. That AD was prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. We issued that AD to prevent failure of the windshield wiper assembly, which could result in loss of visibility; or damage to the propeller(s), possible penetration of the fuselage skin, and consequent depressurization of the airplane.

Actions Since Existing AD Was Issued

Since we issued AD 98–20–11, the Luftfartsverket (LFV), which is the airworthiness authority for Sweden, has notified us that the unsafe condition of AD 98–11–20 may still exist on certain Saab Model SAAB SF340A and SAAB 340B series airplanes. The LFV advises that an additional incident of a windshield wiper blade separating from the wiper arm has occurred. The LFV advises that an extended inspection is needed to adequately address this unsafe condition. A wiper arm separating from the airplane, if not prevented, could result in damage to the fuselage skin and propeller.

Relevant Service Information

Saab has issued Service Bulletin 340–30–088, dated October 7, 2003. The service bulletin describes procedures for inspecting the left and right wiper arm assemblies for damage, and doing corrective/related investigative actions if necessary. The inspection includes the following:

• Inspecting the wiper arms for dents, warpage, or other deformities.

• Inspecting all riveted, brazed, or bonded assemblies for cracks, corrosion, proper alignment, and secure attachment.

• Ensuring that the arm tip is not loose.

• Removing the wiper arm assembly and inspecting the attachment area and attachment parts of the wiper arms for cracks, corrosion, stripped threads, and other damage.

The corrective/related investigative actions include the following:

• For wiper arm assemblies having part number (P/N) 2314M22–7 or –9, repairing the wiper arm if any rivet is missing, damaged, or corroded; or if a wiper arm tip is loose. The repair includes replacing a loose arm tip or rivets; inspecting the arm channel holes for cracks, damage, elongation, and any abnormalities; and measuring the arm channel holes and replacing the arm if necessary.

• Replacing a wiper arm if any of the following conditions are found: cracks or corrosion in the head of the pivot rivet; cracks or stripped threads in the hub area; damage to the serrations of the adjustment sleeve and hub; or cracks or corrosion in the attachment of the fluid dispensing tube if applicable.

• Replacing the retaining bolt and any other damaged components if the bolt is cracked or thread damage is found.

Accomplishing the actions specified in the service information is intended to adequately address the unsafe condition. The LFV mandated the service information and issued Swedish airworthiness directive 1–193, dated October 8, 2003, to ensure the continued airworthiness of these airplanes in Sweden.

FAA's Determination and Requirements of the Proposed AD

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

This proposed AD would supersede AD 98–20–11. This proposed AD would retain the requirements of the existing AD. This proposed AD would also require accomplishing the actions specified in the service information described previously, except as discussed under ''Difference Between the Proposed AD and Swedish Airworthiness Directive.''

Difference Between the Proposed AD and Swedish Airworthiness Directive

Although Swedish airworthiness directive 1–193 does not specifically cite a repetitive inspection interval for the extended detailed inspection, Swedish airworthiness directive 1–193 references Saab Service Bulletin 340–30–088, which recommends changing the inspection interval of Maintenance Review Board (MRB) Task No. 304302 from 4,000 flight hours to 800 flight hours. The service bulletin also recommends moving MRB Task No. 304302 from section B to section F, Airworthiness Limitations. We have determined that the unsafe condition of this proposed AD is better addressed by mandating repetitive inspections in this proposed AD, rather than by revising the Limitations sections of the MRB. Therefore, this proposed AD would require repetitive inspections at intervals not to exceed 800 flight hours.

Change to Existing AD

This proposed AD would retain all requirements of AD 98–20–11. Since AD 98–20–11 was issued, the AD format has been revised, and certain paragraphs have been rearranged. As a result, the corresponding paragraph identifiers have changed in this proposed AD, as listed in the following table:

REVISED PARAGRAPH IDENTIFIERS

Requirement in AD 98–20–11	Corresponding requirement in this proposed AD
Paragraph (a)	Paragraph (f).

We have also changed all references to any ''detailed visual inspection'' in AD 98–20–11 to ''detailed inspection'' in this proposed AD and added a note to clarify the definition of a detailed inspection.

Costs of Compliance

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

ESTIMATED COSTS

Action	Work hours	Average labor rate per hour	Cost per airplane	Number of U.S.-registered airplanes	Fleet cost
Inspection (required by AD 98–20–11).	1	$65	$65, per inspection cycle	170	$11,050, per inspection cycle.
Extended Inspection (new proposed action).	1	65	$65, per inspection cycle	170	$11,050 per inspection cycle.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

We prepared a regulatory evaluation of the estimated costs to comply with this proposed AD. 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 removing amendment 39–10778 (63 FR 50755, September 23, 1998) and adding the following new airworthiness directive (AD):

Saab Aircraft AB: Docket No. FAA–2005–20596; Directorate Identifier 2004–NM–113–AD.

Comments Due Date

(a) The Federal Aviation Administration must receive comments on this AD action by April 14, 2005.

Affected ADs

(b) This AD supersedes AD 98–20–11, amendment 39–10778 (63 FR 50755, September 23, 1998).

Applicability: (c) This AD applies to Saab Model SAAB SF340A and SAAB 340B series airplanes, certificated in any category, as identified in Saab Service Bulletin 340–30–088, dated October 7, 2003.

Unsafe Condition

(d) This AD was prompted by an additional incident of a windshield wiper blade separating from the wiper arm. We are issuing this AD to prevent separation of a wiper arm from the airplane, which could result in damage to the fuselage skin and propeller.

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

Requirements of AD 98–20–11:

(f) For Model SAAB SF340A series airplanes, manufacturer serial number (S/Ns) 004 through 159 inclusive and Model SAAB 340B series airplanes, manufacturer S/Ns 160 through 399 inclusive: Prior to the accumulation of 4,000 total flight hours, or within 3 months after October 28, 1998 (the effective date of AD 98–20–11), whichever occurs later, perform a detailed inspection of the windshield wiper assembly for discrepancies (corrosion; excessive wear; missing, loose, or broken parts; improper alignment; and insecure attachment), in accordance with Saab Service Bulletin 340–30–081, dated November 14, 1997, including Attachment 1, Revision 1, dated September 14, 1997.

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

(1) If no discrepancy is detected during the inspection, repeat the inspection thereafter at intervals not to exceed 4,000 flight hours until the inspection required by paragraph (g) of this AD is accomplished.

(2) If any discrepancy is detected during any inspection, prior to further flight, replace the windshield wiper assembly with a new or serviceable windshield wiper assembly, or repair in accordance with Saab Service Bulletin 340–30–081, dated November 14, 1997, including Attachment 1, Revision 1, dated September 14, 1997. Repeat the detailed inspection thereafter at intervals not to exceed 4,000 flight hours, until the inspection required by paragraph (g) of this AD is accomplished.

New Requirements of This AD:

Detailed Inspection of Wiper Arm Assemblies

(g) For all airplanes: Within 6 months after the effective date of this AD, do a detailed inspection of the left and right wiper arm assemblies for damage and any applicable corrective/investigative actions, by doing all of the actions specified in the Accomplishment Instructions of Saab Service Bulletin 340–30–088, dated October 7, 2003. Repeat the inspection thereafter at intervals not to exceed 800 flight hours. Accomplishment of this inspection terminates the repetitive inspections required by paragraphs (f)(1) and (f)(2) of this AD.

(h) Airplanes on which the inspection required by paragraph (g) of this AD is done within the compliance time specified in paragraph (f) of this AD are not required to accomplish the inspection required by paragraph (f) of this AD.

Alternative Methods of Compliance (AMOCs)

(i) 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

(j) Swedish airworthiness directive 1–193, dated October 8, 2003, also addresses the subject of this AD.

Issued in Renton, Washington, on March 7, 2005.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 05–5013 Filed 3–14–05; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2004–19564; Directorate Identifier 2004–NM–103–AD]

RIN 2120–AA64

Airworthiness Directives; Gulfstream Aerospace LP Model Galaxy and Gulfstream 200 Airplanes

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

ACTION: Proposed rule; withdrawal.

SUMMARY: The FAA withdraws a notice of proposed rulemaking (NPRM) that proposed a new airworthiness directive (AD) for certain Gulfstream Aerospace LP Model Galaxy and Gulfstream 200 airplanes. The proposed AD would have required repetitive inspections for damage of the flexible supply lines of the pilot and copilot oxygen mask boxes, and eventual replacement of the lines with new rigid tubes. Since the proposed AD was issued, we have received new data that 100% of the affected worldwide fleet has accomplished the hardware replacement in accordance with the service bulletin specified in the proposed AD. Accordingly, the proposed AD is withdrawn.

ADDRESSES: 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 U.S. Department of Transportation, 400 Seventh Street SW., room PL–401, Washington, DC. This docket number is FAA–2004–19564; the directorate identifier for this docket is 2004–NM–103–AD.

FOR FURTHER INFORMATION CONTACT: 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.

SUPPLEMENTARY INFORMATION:

Discussion

We proposed to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) with a notice of proposed rulemaking (NPRM) for a new AD for certain Gulfstream Aerospace LP Model Galaxy and Gulfstream 200 airplanes. That NPRM was published in the **Federal Register** on November 10, 2004 (69 FR 65105). The NPRM would have required repetitive inspections for damage of the flexible supply lines of the pilot and copilot oxygen mask boxes, and eventual replacement of the lines with new rigid tubes. The NPRM was prompted by a report of an oxygen leak in the cockpit mask box. The proposed actions were intended to prevent a broken oxygen supply line, which could result in oxygen being unavailable to the flightcrew.

Actions Since NPRM Was Issued

Since we issued the NPRM, we have received confirmation from the manufacturer that 100% of the affected worldwide fleet has accomplished the hardware replacement in accordance with the service bulletin specified in the NPRM.

FAA's Conclusions

Upon further consideration, we have determined that the maintenance actions have adequately addressed the safety concerns and that an AD is not required. Accordingly, the NPRM is withdrawn.

Withdrawal of the NPRM does not preclude the FAA from issuing another related action or commit the FAA to any course of action in the future.

Regulatory Impact

Since this action only withdraws an NPRM, it is neither a proposed nor a final rule and therefore is not covered under Executive Order 12866, the Regulatory Flexibility Act, or DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979).

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Withdrawal

Accordingly, we withdraw the NPRM, Docket No. FAA–2004–19564, Directorate Identifier 2004–NM–103–AD, which was published in the **Federal Register** on November 10, 2004 (69 FR 65105).

Issued in Renton, Washington, on March 7, 2005.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 05–5014 Filed 3–14–05; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2005–20413; Airspace Docket No. 05–AAL–03]

RIN 2120–AA66

Proposed Establishment of Area Navigation (RNAV) Routes; Alaska

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to establish eight area navigation (RNAV) routes in Alaska to support the Alaskan Region's Capstone Program. The Capstone Program is a Safety Program which seeks near term safety and efficiency gains by accelerating the implementation and use of modern technology. The FAA is proposing this action to enhance safety and to improve the efficient use of the navigable airspace in Alaska.

DATES: Comments must be received on or before April 29, 2005.

ADDRESSES: Send comments on this proposal to the Docket Management System, U.S. Department of Transportation, Room Plaza 401, 400 Seventh Street, SW., Washington, DC 20590–0001. You must identify FAA Docket No. FAA–2005–20413 and Airspace Docket No. 05–AAL–03, at the beginning of your comments. You may also submit comments through the Internet at *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: Ken McElroy, Airspace and Rules, Office of System Operations and Safety, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267–8783.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal.

Communications should identify both docket numbers (FAA Docket No. FAA–2005–20413 and Airspace Docket No. 05–AAL–03) and be submitted in triplicate to the Docket Management System (*see* **ADDRESSES** section for address and phone number). You may also submit comments through the Internet at *http://dms.dot.gov.*

Commenters wishing the FAA to acknowledge receipt of their comments on this action must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to FAA Docket No. FAA–2005–20413 and Airspace Docket No. 05–AAL–03.'' The postcard will be date/time stamped and returned to the commenter.

All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this action may be changed in light of comments received. All comments submitted will be available for examination in the public docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

An electronic copy of this document may be downloaded through the Internet at *http://dms.dot.gov.* Recently published rulemaking documents can also be accessed through the FAA's Web page at *http://www.faa.gov,* or the Federal Register's Web page at *http://www.gpoaccess.gov/fr/index.html.*

You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office (*see* **ADDRESSES** section for address and phone number) between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division, Federal Aviation Administration, 222 West 7th Avenue #14, Anchorage, AK 99513.

Persons interested in being placed on a mailing list for future NPRM's. should contact the FAA's Office of Rulemaking, (202) 267–9677, for a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

History

The Capstone program began in Southeast Alaska in October 2001, as part of the on-going National Airspace Redesign (NAR). The Capstone Program is an accelerated effort to improve aviation safety and efficiency through the installation of government-furnished Global Positioning System (GPS)-based avionics and data link communications suites in commercial aircraft. Compatible ground systems, equipment, and services will also be provided. The name ''Capstone'' is derived from the program's effect of drawing and holding together concepts and recommendations contained in reports from the Radio Technical Commission for Aeronautics (RTCA), the National Transportation Safety Board (NTSB), the Mitre Corporation's Center for Advanced Aviation System Development (CAASD), and Alaskan aviation industry representatives. In addition to the avionics suites, the Capstone Program will deploy a ground infrastructure for weather observation, data link communications, surveillance, and Flight Information Services (FIS) to improve safety and enable eventual implementation of new procedures. This specific effort focuses on developing and implementing navigation structure and operating method improvements to allow more flexible and efficient en route operations in the Alaska airspace environment.

In support of this program, the FAA is establishing RNAV routes to provide greater freedom to properly equipped users, and to achieve the safety and economic benefits of flying user selected non-restrictive routings. The new RNAV routes will be identified by the letter prefix ''Q,'' followed by a number consisting of one to three digits. The International Civil Aviation Organization (ICAO) has allocated the ''Q'' prefix, along with the number block 01 through 500, for use by the U.S. for designating domestic RNAV routes.

Related Rulemaking

On April 8, 2003, the FAA published the Designation of Class A, B, C, D, and E Airspace Areas; Air Traffic Service Routes, and Reporting Points rule in the **Federal Register** (68 FR 16943). This rule adopted certain amendments proposed in Notice No. 02–20, Area Navigation (RNAV) and Miscellaneous Amendments. The rule adopted and revised several definitions in FAA regulations, including Air Traffic Service Routes, to be in concert with ICAO definitions; and reorganized the structure of FAA regulations concerning the designation of Class A, B, C, D, and E airspace areas; airways; routes; and reporting points. The purpose of the rule was to facilitate the establishment of RNAV routes in the NAS for use by aircraft with advanced navigation system capabilities.

On May 9, 2003, the FAA published the Establishment of Area Navigation Routes (RNAV) rule in the **Federal Register** (68 FR 24864).

The Proposal

The FAA is proposing an amendment to Title 14 Code of Federal Regulations (14 CFR) part 71 (part 71) to establish eight RNAV routes in Alaska, within the airspace assigned to the Anchorage Air Route Control Center (ARTCC). These routes were developed as part of the Capstone Program. They are being proposed to enhance safety, and to facilitate the more flexible and efficient use of the navigable airspace for en route instrument flight rules (IFR) operations within the state of Alaska.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this proposed regulation: (1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under Department of Transportation (DOT) Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this proposed rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

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

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

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.9M, Airspace Designations and Reporting Points, dated August 30, 2004, and effective September 16, 2004, is amended as follows:

Paragraph 2006 Area navigation routes.

* * * * *

Q–6 TKA to BRW [New]

TKA	VOR/DME	(Lat. 62°17′55″ N., long. 150°06′20″ W.)
JOKAP	WP	(Lat. 63°54′46″ N., long. 150°58′29″ W.)
KUTDE	WP	(Lat. 66°19′20″ N., long. 152°29′01″ W.)
LACIL	WP	(Lat. 69°30′18″ N., long. 155°00′34″ W.)
BRW	VOR/DME	(Lat. 71°16′24″ N., long. 156°47′17″ W.)

* * * * * * *

Q–8 ANC to GAL [New]

ANC	VOR/DME	(Lat. 61°09′03″ N., long. 150°12′24″ W.)
WEBIK	WP	(Lat. 63°07′48″ N., long. 155°29′18″ W.)
GAL	VORTAC	(Lat. 64°44′17″ N., long. 156°46′38″ W.)

* * * * * * *

Q–10 ENM to ULL [New]

ENM	VOR/DME	(Lat. 62°47′00″ N., long. 164°29′16″ W.)
ULL	VOR/DME	(Lat. 63°41′32″ N., long. 170°28′12″ W.)

* * * * * * *

Q–12 OTZ to SCC [New]

OTZ	VOR/DME	(Lat. 66°53′08″ N., long. 162°32′24″ W.)
SCC	VOR/DME	(Lat. 70°11′57″ N., long. 148°24′58″ W.)

* * * * * * *

Q–14 ODK to JOH [New]

ODK	VORTAC	(Lat. 57°46′30″ N., long. 152°20′23″ W.)
WUXAN	WP	(Lat. 59°53′00″ N., long. 149°00′00″ W.)
JOH	VOR/DME	(Lat. 60°28′51″ N., long. 146°35′58″ W.)

* * * * * * *

Q–16 ODK to MDO [New]

ODK	VORTAC	(Lat. 57°46′30″ N., long. 152°20′23″ W.)
ZAXUM	WP	(Lat. 58°41′15″ N., long. 147°53′26″ W.)
MDO	VOR/DME	(Lat. 59°25′19″ N., long. 146°21′00″ W.)

* * * * * * *

Q–17 HOM to MDO [New]

HOM	VOR/DME	(Lat. 59°42′34″ N., long. 151°27′24″ W.)
WUXAN	WP	(Lat. 59°53′00″ N., long. 149°00′00″ W.)
MDO	VOR/DME	(Lat. 59°25′19″ N., long. 146°21′00″ W.)

* * * * * * *

Q–18 GAL to BRW [New]

GAL	VORTAC	(Lat. 64°44′17″ N., long. 156°46′38″ W.)
BRW	VOR/DME	(Lat. 71°16′24″ N., long. 156°47′17″ W.)

* * * * * * *

Issued in Washington, DC, on March 9, 2005.

Edith V. Parish,

Acting Manager, Airspace and Rules.

[FR Doc. 05–5094 Filed 3–14–05; 8:45 am]

BILLING CODE 4910–13–P

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 150

RIN 3038–AC24

Revision of Federal Speculative Position Limits

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Commodity Futures Trading Commission (Commission) periodically reviews its policies and rules pertaining to the regulatory framework for speculative position limits, including the speculative position limits set out in Commission regulation 150.2 (Federal speculative position limits). In this regard, the Commission has reviewed the existing levels for Federal speculative position limits and is now proposing to increase these limits for all single-month and all-months-combined positions. In addition, the Commission is proposing to delete several obsolete provisions that relate to contracts that are no longer listed for trading or to DCMs that no longer exist. The Commission is requesting comment on these rule amendments.

DATES: Comments must be received on or before April 14, 2005.

ADDRESSES: Comments should be submitted to Jean A. Webb, Secretary, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581. Comments also may be sent by facsimile to (202) 418–5521, or by electronic mail to *secretary@cftc.gov*. Reference should be made to ''Proposed Revision of Federal Speculative Position Limits.'' Comments may also be submitted by connecting to the Federal eRulemaking Portal at *http://www.regulations.gov* and following comment submission instructions.

FOR FURTHER INFORMATION CONTACT: Clarence Sanders, Attorney, Division of Market Oversight, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581, telephone (202) 418–5068, facsimile number (202) 418–5507, electronic mail *csanders@cftc.gov*; or Martin Murray, Economist, Division of Market Oversight, telephone (202) 418–5276, facsimile number (202) 418–5507, electronic mail *mmurray@cftc.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

A. Introduction

The Commission has long established and enforced speculative position limits for futures contracts on various agricultural commodities. The Commission periodically reviews its policies and rules pertaining to the regulatory framework for speculative position limits, including the Federal speculative position limits set out in Commission regulation 150.2.[1] Also, during March, April, and May, 2004, the Chicago Board of Trade (CBT), the Kansas City Board of Trade (KCBT), and the Minneapolis Grain Exchange (MGE) submitted separate petitions to the Commission seeking repeal or amendment of Commission regulation 150.2. In addition, the New York Board of Trade (NYBOT), while not submitting a formal petition of its own, submitted a letter in agreement with the action sought by the petitions.

The Commission published the petitions submitted by the designated contract markets (DCMs) in the **Federal Register** for comment on June 17, 2004, and received eight comments in response. Based upon the petitions and the comments received, the Commission has reexamined the particular levels set for Federal speculative position limits. In this regard, the Commission has reviewed the existing levels for Federal speculative position limits and is now proposing to increase these limits for all single-month and all-months-combined positions. In particular, the Commission is proposing to increase levels for single-month and all-months-combined positions for CBT Corn, Oats, Soybeans, Wheat, Soybean Oil, and Soybean Meal;

[1] Regulation 150.2 imposes three types of position limits for each specified contract: A spot month limit, a single-month limit, and an all-months-combined limit. The Commission most recently adopted amendments to levels for Federal speculative limits in 1999 (*see* 64 FR 24038, May 5, 1999).

MGE Hard Red Spring Wheat; KCBT Hard Winter Wheat, and NYBOT Cotton No. 2. In addition, the spot month limits for all of these commodities would remain unchanged. Finally, the Commission is proposing to delete several obsolete provisions in part 150 that relate to contracts that are no longer listed for trading or to DCMs that no longer exist.[2] The Commission is requesting comment on these rule amendments.

B. Regulatory Framework

Speculative position limits have been a tool for the regulation of the U.S. futures markets since the adoption of the Commodity Exchange Act of 1936. Section 4a(a) of the Commodity Exchange Act (Act), 7 U.S.C. 6a(a), states that:

> Excessive speculation in any commodity under contracts of sale of such commodity for future delivery made on or subject to the rules of contract markets or derivatives transaction execution facilities causing sudden or unreasonable fluctuations or unwarranted changes in the price of such commodity, is an undue and unnecessary burden on interstate commerce in such commodity.

Accordingly, section 4a(a) provides the Commission with the authority to:

> Fix such limits on the amounts of trading which may be done or positions which may be held by any person under contracts of sale of such commodity for future delivery on or subject to the rules of any contract market or derivatives transaction execution facility as the Commission finds are necessary to diminish, eliminate, or prevent such burden.

This longstanding statutory framework providing for Federal speculative position limits was supplemented with the passage of the Futures Trading Act of 1982, which acknowledged the role of exchanges in setting their own speculative position limits. The 1982 legislation also provided, under section 4a(e) of the Act, that limits set by exchanges and approved by the Commission were subject to Commission enforcement.

Finally, the Commodity Futures Modernization Act of 2000 (CFMA) established designation criteria and core principles with which a DCM must comply to receive and maintain designation. Among these, Core Principle 5 in section 5(d) of the Act states:

> Position Limitations or Accountability—To reduce the potential threat of market manipulation or congestion, especially during trading in the delivery month, the board of trade shall adopt position limitations or position accountability for speculators, where necessary and appropriate.

As outlined above, the regulatory structure is administered under a two-pronged framework. Under the first prong, the Commission establishes and enforces speculative position limits for futures contracts on a limited group of agricultural commodities. These Federal limits are enumerated in Commission regulation 150.2, and apply to the following futures and option markets: CBT corn, oats, soybeans, wheat, soybean oil, and soybean meal; MGE hard red spring wheat and white wheat; NYBOT cotton No. 2; and KCBT hard winter wheat. Under the second prong, individual DCMs establish and enforce their own speculative position limits or position accountability provisions, subject to Commission oversight and separate authority to enforce exchange-set speculative position limits approved by the Commission. Thus, responsibility for enforcement of speculative position limits is shared by the Commission and the DCMs.[3]

C. Petitions for Rulemaking

The Commission has received three petitions for rulemaking and a NYBOT letter in support thereof.[4] The first of these was submitted by the CBT in letters dated March 26, 2004, and April 27, 2004, the second by the KCBT in a letter dated April 27, 2004, and the third by the MGE in a letter dated May 20, 2004. NYBOT, while not submitting a formal petition of its own, submitted a May 27, 2004, letter stating that it fully supports the CBT petition.

The CBT petition requests that the Commission repeal regulation 150.2 and thereby eliminate the Federal speculative position limits for all commodity markets enumerated under that rule. The KCBT petition requests that the Commission repeal that part of regulation 150.2 pertaining to Federal speculative position limits for the KCBT hard winter wheat contract. The MGE petition also seeks repeal of regulation 150.2 as it relates to Federal speculative limits for the MGE contract in hard red spring wheat.[5]

Alternatively, should the Commission determine to retain regulation 150.2, all of the petitioners request that the Commission either (1) retain Federal speculative limits only for the spot or delivery month while eliminating Federal speculative limits for single-month and all-months-combined positions, or (2) in lieu of eliminating non-spot-month Federal speculative limits, increase most of the single-month and all-months-combined limits currently found in Commission regulation 150.2. Thus, although the petitions present a range of regulatory alternatives, one essential element embedded in the petitions involves an increase in speculative position limits for non-spot single months and/or in all-months-combined.

The petitions acknowledge that the Commission may determine to retain these limits. As noted, under that alternative, the DCMs seek an increase in most of the existing single-month and all-months-combined position limits. In particular, the CBT requests that the Commission amend that regulation to increase the single-month and all-months-combined speculative position limits for the corn, soybeans, wheat, soybean oil, and soybean meal contracts traded at the CBT to the maximum levels that would be permitted if the Commission were to apply the open interest formula found in Commission regulation 150.5 to set all-months combined levels, and to adjust the single month limits to reflect the existing ratio of single month to all-months-combined levels.[6]

Using open interest data for calendar year 2003 (the most recent year at the time the petitions were submitted), the CBT proposed the following:

---

[2] Commission regulation 150.2 currently includes Federal speculative position limits for agricultural commodities traded on the MidAmerica Commodity Exchange (MidAm) and for the white wheat futures contract traded on MGE. These provisions relating to the MidAm and the MGE white wheat futures contract are obsolete and are proposed for repeal as part of this action. In addition, reference to the New York Cotton Exchange is being changed to NYBOT to reflect a change in corporate organization.

[3] Provisions regarding the establishment of exchange-set speculative position limits were originally set forth in CFTC regulation 1.61. In 1999, the Commission simplified and reorganized its rules by relocating the substance of regulation 1.61's requirements to part 150 of the Commission's rules, thereby incorporating within part 150 provisions for both Federal speculative position limits and exchange-set speculative position limits (*see* 64 FR 24038, May 5, 1999). Section 4a(e) provides that a violation of a speculative position limit set by a Commission-approved exchange rule is also a violation of the Act. Thus, the Commission can enforce directly violations of exchange-set speculative position limits as well as those provided under Commission rules.

[4] Commission regulation 13.2 states in pertinent part that ''any person may file a petition with the Secretariat of the Commission for the issuance, amendment, or repeal of a rule of general application.''

[5] The Commission notes that if regulation 150.2 were to be repealed in its entirety, DCMs would be required to have speculative position limit or position accountability provisions consistent with section 5(d)(5) of the Act and part 38 of the Commission's regulations.

[6] The CBT has also separately submitted for Commission approval proposed amendments to the CBT's own speculative position limit rules for corn, soybeans, wheat, soybean oil, and soybean meal. The CBT's request has been stayed until such time as the Commission may act to amend the Federal speculative position limits.

CBT contract	Single month limit (by contracts)		All months limit (by contract)	
	Current	Proposed	Current	Proposed
Corn	5,500	10,000	9,000	17,000
Soybeans	3,500	6,500	5,500	10,000
Wheat	3,000	4,500	4,000	5,500
Soybean Oil	3,000	4,500	4,000	6,500
Soybean Meal	3,000	4,500	4,000	6,000

The CBT cites several justifications in support of the approach it took in proposing these levels. Among these, the CBT notes that it conducted a survey of the agricultural trading community and found that a majority of respondents supported an increase in single-month and/or all-months-combined limits. Additionally, the CBT notes that most respondents supporting an increase in limits also sought to retain the same approximate ratio of single-month to all-months-combined limits. The CBT asserts that the proposed higher levels conform to this standard and preserve the same approximate ratio as sought by survey respondents.

The CBT also comments that the proposed increases to the all-months combined levels noted above are consistent with the percentage of open interest formula (using data for calendar year 2003) included in regulation 150.5, which the Commission has applied in the past when it initiated action to increase CBT agricultural commodity limits to their present levels (57 FR 12766, April 13, 1992, and 64 FR 24038, May 5, 1999), and which continues to serve as an acceptable practice for the establishment of Exchange-set speculative position limits. In particular, regulation 150.5 stipulates that all-months-combined limit levels for tangible commodities should be set at levels no greater than 10% of the average combined futures and delta-adjusted option month-end open interest for the most recent calendar year up to 25,000 contracts with a marginal increase of 2.5% thereafter.

The CBT further notes that its proposed single-month speculative position limits were set to retain the same approximate ratio of single-month to all-months-combined limits as requested by respondents to its above-mentioned survey, and that the proposed limits would not be extraordinarily large relative to total open positions in the contracts, the breadth and liquidity of the cash market underlying each delivery month, and the opportunity for arbitrage between the futures market and the cash market.

The KCBT and MGE both request that the Commission continue to maintain ''parity'' in speculative position limit levels across wheat exchanges. The KCBT notes that growth in trading volume has been strong in recent years, and attributes this growth to the maintenance of parity in speculative limits among exchanges. The KCBT further observes that the increased growth in volume since 1999 has attracted commodity fund business to the KCBT wheat market, and maintains that failure to retain parity in speculative limits could cause a loss in fund business to other markets with higher limits. In addition, the KCBT remarks that significant trading volume is generated from arbitrage opportunities that exist between markets, and that differing limits between exchanges could affect the growth potential for inter-market spread volume. Finally, the KCBT comments that reportable commercial traders continue to hold the majority of open interest in KCBT wheat futures, and that increasing speculative limits would permit an increase in speculative activity and in turn increase liquidity to the benefit of commercial users.

The MGE notes that Federal speculative limits were most recently increased during 1999, and concludes that this increase was intended to recognize the greater activity in wheat futures trading. The MGE states that it has not observed any increased susceptibility to manipulation or price distortion in the hard red spring wheat contract during the period following the increase in Federal speculative limits. Rather, the MGE remarks that the increase in Federal speculative limits appears to have added liquidity and stability to the marketplace. The MGE notes that speculative limits historically have been uniform at the three domestic DCMs trading wheat contracts and that failure to maintain this equality would be unfairly discriminatory, not only to the MGE, but also to its market participants. In this regard, the MGE observes that many traders at the MGE, and in particular the commodity funds, utilize arbitrage opportunities among the wheat markets, and that any disparate treatment in speculative limits could drive away participants and reduce market liquidity.

As noted, NYBOT did not submit a petition of its own, but instead submitted a letter supporting the CBT petition. The NYBOT letter also suggests an alternative in the event that the Commission determines not to repeal regulation 150.2. Specifically, the NYBOT comment letter includes a request that the all-months-combined limit for Cotton No. 2 be increased from 3,500 contracts to 4,000 contracts.[7] The NYBOT letter supports this request on the basis of growth in open interest in the Cotton No. 2 futures contract, based on the open interest test specified in regulation 150.5 and using data for calendar year 2003.

D. Response to Petitions

As previously noted, the Commission published the DCMs' request in the **Federal Register** on June 17, 2004 (*see* 69 FR 33874, June 17, 2004). Along with the petitions, the Commission posed six questions, including a request for comment on general issues raised by the DCMs' petitions, such as whether any Federal speculative limits should be retained. In addition, the Commission requested comment on specific issues relating to the current composition of Part 150 of the Commission's regulations, including whether the speculative limit levels found in Commission regulation 150.2 should be increased. The comment period closed on August 16, 2004, and eight comment letters were received in response to the **Federal Register** notice. Comments were received from an agricultural producer, a grain company, a DCM, a CTA, and several commercial associations, including one comment letter signed jointly by six separate agricultural associations.

Of the eight comment letters received, three generally opposed the petitions and five generally supported the

[7] Currently, the NYBOT does not have its own speculative position limit provisions for cotton No. 2 but has submitted proposed amendments that would establish such limits. NYBOT's request has been stayed until such time as the Commission may act to amend the Federal speculative position limits.

petitions. There were some differences among those both favoring and opposing the petitions. For example, one commenter, although in nominal support of the petitions, conditioned that support with a recommendation that the Commission review for prior approval any DCM-proposed changes in speculative position limits for agricultural commodities.

The comment letter signed by the six agricultural associations discussed at length the DCMs' petitions and the questions posed by the Commission. In particular the associations indicated support for ''the concept of expanded speculative limits'' but at the same time opposed the DCMs' request that the Commission repeal regulation 150.2. With respect to the DCMs' request that the single- and all-months-combined position limits be increased, the associations responded that the new levels proposed by the CBT should be reviewed according to existing Commission criteria for each of the indicated contract markets. The associations acknowledged that such a review may support increased speculative position limits for some of the contracts. The associations also supported the request of the KCBT and MGE that position limit parity be retained among the wheat contracts traded on each of the petitioning DCMs.

II. Commission Speculative Position Limit Levels

The Commission is proposing several revisions to the speculative position limit levels found in regulation 150.2 based upon its experience in administering these limits and after carefully considering the DCM petitions and the comments received in response to the petitions for rulemaking. Under the proposed revisions, spot month limits would remain unchanged from the current levels, but every single-month and all-months-combined position limit would be increased. In general, the proposed levels for all-months-combined were established considering the open interest formula noted above and based on data for the most recent calendar year, *i.e.*, 2004, as well as other pertinent considerations as explained below. With respect to the individual month limits, a strict application of the open interest formula contained in regulation 150.5 would have resulted in somewhat lower individual month limits for some commodities and higher limits for others than those proposed below. However, the Commission believes there is merit in the argument that maintaining the existing ratios between single-month and all-months-combined speculative position limit levels is of benefit to the marketplace, and thus the Commission is proposing to establish individual-month limits that are consistent with that approach.

In addition, with respect to the MGE and KCBT wheat contracts, the Commission proposes to maintain parity with the levels proposed for CBT wheat rather than establish different limits based on the open interest formula for each contract. The Commission first adopted this parity approach in an action to revise position limits in 1993 (*see* 58 FR 17973, April 7, 1993). At that time the Commission concluded that the breadth and liquidity of the cash markets underlying the KCBT and MGE wheat contracts justified setting these limits at parity with little risk of regulatory harm from such action. 58 FR at 17979. The Commission continues to believe that the breadth and liquidity of underlying cash markets, as well as continued growth in open interest, for the KCBT and MGE wheat contracts support maintenance of these speculative position limit levels at parity with one another.

The Commission is also clarifying in regulation 150.2 its practice of aggregating traders' positions for purposes of ascertaining compliance with Federal speculative position limits when a DCM lists for trading two or more contracts with substantially identical terms based on the same underlying commodity characteristics. In particular, the aggregation requirement applies to the CBT's corn and mini-sized corn, soybeans and mini-sized soybeans, and wheat and mini-sized wheat futures and option contracts.

Based on the criteria noted above, the Commission is proposing the following changes to the Federal speculative position limits.

SPECULATIVE POSITION LIMITS

[By contract]

Contract	Spot month	Single month		All months	
	No change	Current	Proposed	Current	Proposed
Chicago Board of Trade					
Corn & Mini-Corn	600	5,500	13,500	9,000	22,000
Oats	600	1,000	1,400	1,500	2,000
Soybeans & Mini-Soybeans	600	3,500	6,500	5,500	10,000
Wheat & Mini-Wheat	600	3,000	5,000	4,000	6,500
Soybean Oil	540	3,000	5,000	4,000	6,500
Soybean Meal	720	3,000	5,000	4,000	6,500
Minneapolis Grain Exchange					
Hard Red Spring Wheat	600	3,000	5,000	4,000	6,500
New York Board of Trade					
Cotton No. 2	300	2,500	3,500	3,500	5,000
Kansas City Board of Trade					
Hard Winter Wheat	600	3,000	5,000	4,000	6,500

As noted above, the Commission has at this time determined to retain Federal speculative position limits at the increased levels proposed herein, notwithstanding that the DCM petitions sought their elimination and replacement with DCM-administered speculative position limit provisions. The Commission, however, intends to continue its review of its current policies regarding the administration of speculative position limits, including a further evaluation of the merits of retaining Federal speculative limits. At the same time, the Commission notes

that Exchanges may determine to establish, pursuant to sections 4a(e) and 5c(c) of the Act, their own speculative position limits at levels less than the Federal levels.[8]

At this time, the Commission does not intend to expand the scope of regulation 150.2 by including futures contracts that are not already enumerated therein, except, as noted above, in the limited case when such contracts would share substantially identical terms with an existing enumerated contract on the same DCM.[9] In this regard, Federal speculative position limits would not apply to the CBT's South American soybean contract or the MGE's cash-settled hard red spring wheat futures contract because these contracts have substantially different commodity characteristics than related contracts currently enumerated under regulation 150.2. Rather, in cases where a new contract's terms and conditions deviate from those of the enumerated contract list, the Commission will rely upon the DCMs to establish speculative position limit or position accountability provisions for such contracts consistent with the requirements of section 5(d)(5) of the Act and part 38 of the Commission's regulations.[10]

Finally, the Commission notes that existing regulation 150.2 also provides for speculative limits for agricultural commodities traded on the MidAm and for the white wheat futures contract traded on MGE. These provisions relating to the MidAm and the MGE white wheat futures contract are obsolete and are proposed for repeal as part of this action. In addition, the reference to the New York Cotton Exchange is being changed to NYBOT to reflect a change in corporate organization.

[8] Pursuant to subsection 5c(c)(2)(B) prior Commission approval is required before a DCM implements a rule that materially changes the terms and conditions, as determined by the Commission, in any contract of sale for future delivery of a commodity specifically enumerated in section 1a(4) of the Act (or any option thereon) traded through its facilities if the rule amendment applies to contracts and delivery months which have already been listed for trading and have open interest.

[9] The Commission also notes that should a DCM list a contract that shared substantially identical terms with a Regulation 150.2-enumerated contract listed on another DCM, the Commission could consider at that time whether to amend regulation 150.2 to likewise apply Federal limits to the newly-listed contract.

[10] For example, the CBT and the MGE have established Exchange-set speculative position limits for the South American soybean and the cash-settled national hard red spring wheat index futures contracts, respectively.

III. Related Matters

A. Cost Benefit Analysis

Section 15(a) of the Act requires the Commission to consider the costs and benefits of its action before issuing a new regulation under the Act. By its terms, section 15(a) does not require the Commission to quantify the costs and benefits of a new regulation or to determine whether the benefits of the proposed regulation outweigh its costs. Rather, section 15(a) requires the Commission to ''consider the costs and benefits'' of the subject rule.

Section 15(a) further specifies that the costs and benefits of the proposed rule shall be evaluated in light of five broad areas of market and public concern: (1) Protection of market participants and the public; (2) efficiency, competitiveness, and financial integrity of futures markets; (3) price discovery; (4) sound risk management practices; and (5) other public interest considerations. The Commission may, in its discretion, give greater weight to any one of the five enumerated areas of concern and may, in its discretion, determine that, notwithstanding its costs, a particular rule is necessary or appropriate to protect the public interest or to effectuate any of the provisions or to accomplish any of the purposes of the Act.

The proposed rules impose limited additional costs in terms of reporting requirements, particularly since entities trading in or holding large positions, who either approach or meet the speculative limits of the rules herein, already file large trader reports with the Commission. Moreover, the amendments proposed herein would increase Federal speculative limits for some commodities and, to that extent, reduce the compliance costs associated with these speculative position limits. The countervailing benefits to these costs are that the continued inclusion of appropriate speculative limits will help to ensure the maintenance of competitive and efficient markets, protect the price discovery and risk shifting functions, and protect market participants and the public interest.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA), 5 U.S.C. 601 *et seq.,* requires federal agencies, in proposing rules, to consider the impact of those rules on small businesses. The Commission believes that the proposed rule amendments to raise Commission speculative position limits would only impact large traders. The Commission has previously determined that large traders are not small entities for purposes of the RFA.[11] Therefore, the Acting Chairman, on behalf of the Commission, hereby certifies, pursuant to 5 U.S.C. 605(b), that the action taken herein will not have a significant economic impact on a substantial number of small entities. The Commission also notes in this regard that the proposed rules will raise speculative limit levels and thereby reduce the regulatory burden on all affected entities.

C. Paperwork Reduction Act

When publishing proposed rules, the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) imposes certain requirements on federal agencies (including the Commission) in connection with their conducting or sponsoring any collection of information as defined by the Paperwork Reduction Act. In compliance with the Act, the Commission, through this rule proposal, solicits comment to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including the validity of the methodology and assumptions used; (2) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (3) enhance the quality, utility and clarity of the information to be collected; and (4) minimize the burden of the collection of the information on those who are to respond 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.

The Commission has submitted the proposed rule and its associated information collection requirements to the Office of Management and Budget. The proposed rule is part of two approved information collections. The burdens associated with these rules are as follows:

	Collection No. [3038–0009]
Average burden hours per response.	.3
Number of respondents	2946
Frequency of response	On occasion
	Collection No. [3038–0013]
Average burden hours per response.	3

[11] 47 FR 18618 (April 30, 1982).

	Collection No. [3038–0009]
Number of respondents	9
Frequency of response	On occasion

List of Subjects in 17 CFR Part 150

Agricultural commodities, Bona fide hedge positions, Commodity futures, Cotton, Grains, Position limits, Spread exemptions.

In consideration of the foregoing, pursuant to the authority contained in the Commodity Exchange Act, the Commission hereby proposes to amend part 150 of chapter I of title 17 of the Code of Federal Regulations as follows:

PART 150—LIMITS ON POSITIONS

1. The authority citation for part 150 is revised to read as follows:

Authority: 7 U.S.C. 6a, 6c, and 12a(5), as amended by the Commodity Futures Modernization Act of 2000, Appendix E of Pub. L. 106–554, 114 Stat. 2763 (2000).

2. Section 150.2 is revised to read as follows:

§ 150.2 Position limits.

No person may hold or control positions, separately or in combination, net long or net short, for the purchase or sale of a commodity for future delivery or, on a futures-equivalent basis, options thereon, in excess of the following:

SPECULATIVE POSITION LIMITS

[In contract units]

Contract	Spot month	Single month	All months
Chicago Board of Trade			
Corn and Mini Corn [1]	600	13,500	22,000
Oats	600	1,400	2,000
Soybeans and Mini Soybeans [1]	600	6,500	10,000
Wheat and Mini Wheat [1]	600	5,000	6,500
Soybean Oil	540	5,000	6,500
Soybean Meal	720	5,000	6,500
Minneapolis Grain Exchange			
Hard Red Spring Wheat	600	5,000	6,500
New York Board of Trade			
Cotton No. 2	300	3,500	5,000
Kansas City Board of Trade			
Hard Winter Wheat	600	5,000	6,500

[1] For purposes of compliance with these limits, positions in the regular sized and mini-sized contracts shall be aggregated.

Issued by the Commission this 7th day of March, 2005, in Washington, DC.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 05–5088 Filed 3–14–05; 8:45 am]

BILLING CODE 6351–01–P

DEPARTMENT OF THE INTERIOR

Minerals Management Service

30 CFR Parts 250 and 256

RIN 1010–AD16

Oil, Gas, and Sulphur Operations and Leasing in the Outer Continental Shelf (OCS)—Cost Recovery

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Proposed rule.

SUMMARY: MMS proposes to modify its regulations to change some existing fees and implement several new fees. The proposed fees would offset MMS's costs of performing certain services relating to its minerals programs.

DATES: MMS will consider all comments received by April 14, 2005. MMS may not fully consider comments received after April 14, 2005.

ADDRESSES: You may submit comments on the rulemaking by any of the following methods listed below. Please use 1010–AD16 as an identifier in your message. See also Public Comment Procedures under Procedural Matters.

- MMS's Public Connect on-line commenting system, *https://ocsconnect.mms.gov.* Follow the instructions on the Web site for submitting comments.
- Federal eRulemaking Portal: *http://www.regulations.gov*. Follow the instructions on the Web site for submitting comments.
- E-mail MMS at *rules.comments@mms.gov.* Identify the Regulation Identifier Number (RIN) in the subject line.
- Fax: (703) 787–1093. Identify the RIN.
- Mail or hand-carry comments to the Department of the Interior; Minerals Management Service; Mail Stop 4024; 381 Elden Street; Herndon, Virginia 20170–4817; Attention: Rules Processing Team (RPT). Please reference ''Oil, Gas, and Sulphur Operations and Leasing in the Outer Continental Shelf—Cost Recovery—AD16'' in your comments.

FOR FURTHER INFORMATION CONTACT: Angela Mazzullo, Offshore Minerals Management (OMM) Budget Office at (703) 787–1691.

SUPPLEMENTARY INFORMATION:

Background

Legal Authority and Policy Guidance: The Independent Offices Appropriation Act of 1952 (IOAA), 31 U.S.C. 9701, is a general law applicable Government-wide, that provides authority to MMS to recover the costs of providing services to the non-federal sector. It requires implementation through rulemaking. There are several policy documents that provide guidance on the process of charging applicants for service costs. These policy documents are found in the Office of Management and Budget (OMB) Circular A–25, ''User Charges,'' and the Department of the Interior Departmental Manual (DM), 330 DM 1.3A & 6.4, ''Cost Recovery'' and ''User Charges.'' The general policy that

governs charges for services provided states that a charge ''will be assessed against each identifiable recipient for special benefits derived from Federal activities beyond those received by the general public'' (OMB Circular A–25). The Department of the Interior Manual mirrors this policy (330 DM 1.3 A.). Certain activities may be exempted from these fees under certain conditions set out at 330 DM 1.3A & 6.4.4.

Cost Recovery Definition: In this rulemaking, cost recovery means reimbursement to MMS for its costs of performing a service by charging a fee to the identifiable applicant/beneficiary of the service. Further guidance is provided by Solicitor's Opinion M–36987, ''BLM's Authority to Recover Costs of Mineral Document Processing'' (December 5, 1996). The Department of the Interior Office of Inspector General issued reports in 1988 and 1995 addressing BLM's cost recovery responsibilities.

Proposed Regulation

How Did MMS Determine What Services It Would Propose for Cost Recovery in This Proposed Rule?

An MMS cost recovery team, drawn from both the Regional and Headquarters Offshore Minerals Management (OMM) offices, reviewed the statutory language found in the United States Code and OMB, Departmental, Bureau, and Solicitor Opinion guidance to evaluate what services were eligible for cost recovery. Since the authority is rather broad, the team chose to focus on whether the service provided results from compliance with a statutory requirement related to doing business on the Outer Continental Shelf (*e.g.*, Initial Designation of Operator), or from an activity exercised at the option of the applicant/beneficiary outside of a statutory requirement (*e.g.*, Change of Designation of Operator). The services proposed for cost recovery action at this time are limited to those that fall into the latter category of activities exercised at the option of the applicant/beneficiary.

Which MMS Services Would be Subject to a Cost Recovery Fee?

The following table lists the services that are proposed to be subject to a cost recovery fee for the first time under this proposed rule and those services for which MMS proposes to revise existing fees.

Service	Current fee	Proposed fee	30 CFR citation
Change in Designation of Operator	(1)	$140	§ 250.143
Suspensions of Operations/Suspensions of Production (SOO/SOP) Request	(1)	1,700	§ 250.171
Pipeline Right-of-Way (ROW) Grant Application	$2,350	1,100	§ 250.1015
Pipeline Conversion of Lease Term to ROW	300	180	§ 250.1015
Pipeline ROW Assignment	60	160	§ 250.1018
500 feet from Lease/Unit Line Production Request	(1)	3,100	§ 250.1101
Gas Cap Production Request	(1)	4,000	§ 250.1101
Downhole Commingling Request	(1)	4,600	§ 250.1106
Voluntary Unitization Proposal or Unit Expansion	(1)	10,000	§ 250.1303
Unitization Revision and Modification	(1)	720	§ 250.1303
Record Title/Operating Rights (Transfer)	185	160	§ 256.64
Non-required Document Filing	25	170	§ 256.64

[1] None.

What Type of Fees Does This Regulation Create?

This rule establishes fixed fees for certain OMM services based on cost recovery principles. A fixed fee remains the same for each request of a particular type. We considered determining and charging fees on a case-by-case basis, but proposes to assess fixed fees because of the broad similarity of the work required to process each request of a particular type.

Additionally, the fixed fee approach provides more objectivity and certainty as each applicant faces the same predetermined fee structure. Finally, a fixed fee is less administratively burdensome on both MMS and industry than an approach based on tracking ongoing processing costs of individual documents.

What Are the Fee Amounts Based On?

We considered various factors in determining the proposed fee amounts. These factors included actual costs, the monetary worth of the services to the applicant, and whether the services provide a benefit to the general public. MMS determined that the monetary value of each of the eligible services was greater than the processing costs, while the public benefit of the services was small and speculative relative to the processing costs. MMS concluded that an actual cost method for calculating fee amounts is the most appropriate way to achieve the cost recovery objectives of the IOAA statute.

The proposed cost methodology includes the sum of both direct costs and indirect costs. The direct costs are comprised of the salaries, benefits, and special materials or equipment (when applicable) attributed to processing each task-specific function of a request. The labor component is sub-divided by various steps in each process and by the hours spent for each employee involved in the task. The indirect costs include, but are not limited to, items such as office space, insurance, postage, computers, phones, fax machines, and general supplies not associated with a task specific request. To recover these types of costs, an indirect cost rate of 15 percent of the direct costs is applied.

How Did MMS Determine the Costs To Be Covered by the Proposed Fees?

The team created a template for each service for which a fee is proposed. The template listed the sub-processes needed to provide each service. Next, the staff that provided the services filled in the specific direct cost information associated with each of these activities. This data was compiled into a cost matrix for all Regions, request types, and yearly number of transactions, and then consolidated to set the fees proposed in § 250.125 and § 256.63.

Were There Differences in the Processing Costs and Number of Transactions Among the Regional Offices?

Yes. These differences were primarily attributable to the varying levels of offshore oil and gas activity across the Regions. We reconciled these differences with a weighted-average method that gives greater weight to costs from Regional offices with heavy workloads, and thus more expertise, in providing certain services. Using the number of yearly transactions in each

Region, we weighted each Region's costs to determine the average fixed fee that we propose to apply to all Regions. Since the Gulf of Mexico (GOM) Region has the majority of transactions, most of the proposed fixed fees are similar to the costs in the GOM Region.

Would the Proposed Fees be Adjusted for Inflation?

Yes. Since we used current salary and expense levels, the cost estimates reflect current dollars. To keep the costs in line with inflation, we propose to adjust the fees every five years according to the Implicit Price Deflator for the Gross Domestic Product (GDP), starting in 2005 dollars. This inflation index, as published by the U.S. Department of Commerce, is generally accepted by economists as the most reliable general price index and used by MMS for other inflationary adjustments. We propose to escalate for inflation on a five year basis because we estimate that as a significant interval of time to reflect inflationary adjustments. Because we would establish the process for changing fees in this rule, and the application of that process is simply a mathematical calculation, we would adjust the fees without publishing a proposed rule for notice and comment, and post them on our Web site. We would also review our costs for administering each type of request every two years. If we decide to amend fees based on something other than the Implicit Price Deflator GDP, we would do so through proposed rulemaking with a comment period.

Procedural Matters

Public Comment Procedures

All submissions received must include the agency name and RIN for this rulemaking. Our practice is to make comments, including names and addresses of respondents, available for public review. E-mail address is considered a form of address. Individual respondents may request that we withhold their addresses from the rulemaking record, which we will honor to the extent allowable by law. There may be circumstances in which we would withhold from the record a respondent's identity, as allowable by law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

Regulatory Planning and Review (Executive Order 12866)

This document is not a significant rule as determined by the Office of Management and Budget (OMB) and is not subject to review under Executive Order 12866.

(1) This proposed rule would not have an annual effect of $100 million or more on the economy. It would not adversely affect in a material way the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities. This rule establishes fees based on cost recovery principles. Based on historical filings, we project the fees will raise revenue by approximately $2 million annually.

(2) This proposed rule would not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency because the costs incurred are for specific MMS services and other agencies are not involved in these aspects of the OCS program.

(3) This proposed rule would not alter the budgetary effects of entitlements, grants, user fees, or loan programs or the rights or obligations of their recipients. This change will have no effect on the rights of the recipients of entitlements, grants, user fees, or loan programs. The fees proposed by this rule are service fees based on cost recovery, and not user fees.

(4) This proposed rule will not raise novel legal or policy issues.

Regulatory Flexibility Act (RFA)

The Department certifies that this proposed rule would not have a significant economic effect on a substantial number of small entities under the RFA (5 U.S.C. 601 *et seq.*).

This proposed change would affect lessees and operators of leases in the OCS. This includes about 130 Federal oil and gas lessees and 115 holders of pipeline rights-of-way. Small lessees that operate under this rule would fall under the Small Business Administration's (SBA) North American Industry Classification System Codes (NAICS) 211111, Crude Petroleum and Natural Gas Extraction and 213111, Drilling Oil and Gas Wells. For these NAICS code classifications, a small company is one with fewer than 500 employees. Based on these criteria, an estimated 70 percent of these companies are considered small. This proposed rule, therefore, affects a substantial number of small entities.

The fees proposed in the rule would not have a significant economic effect on a substantial number of small entities because the fees are very small compared to normal costs of doing business on the OCS. For example, depending on water depth and well depth, cost estimates for drilling a well range from $5 million to $23 million. Thus the proposed fees, ranging from $140 to $10,000, are dwarfed by the millions of dollars that industry already commits to exploration, development, and production.

Additionally, the fees proposed in the rule would apply to both large and small firms in the same way. Also, applying for MMS services provides a benefit to the applicant (both large and small) if the applicant decides to operate in the OCS.

Comments are important. The Small Business and Agriculture Regulatory Enforcement Ombudsman and 10 Regional Fairness Boards were established to receive comments from small business about Federal agency enforcement actions. The Ombudsman will annually evaluate the enforcement activities and rate each agency's responsiveness to small business. If you wish to comment on the actions of MMS, call 1–888–734–3247. You may comment to the Small Business Administration without fear of retaliation. Disciplinary action for retaliation by an MMS employee may include suspension or termination from employment with the Department of the Interior.

Small Business Regulatory Enforcement Fairness Act (SBREFA)

This is not a major rule under the SBREFA (5 U.S.C. 804(2)). This proposed rule:

(a) Would not have an annual effect on the economy of $100 million or more.

(b) Would not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions.

(c) Would not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises. Leasing on the U.S. OCS is limited to residents of the U.S. or companies incorporated in the United States. This rule does not change that requirement.

Paperwork Reduction Act (PRA) of 1995

The proposed rulemaking related to 30 CFR part 250, subparts A, J, K, and M, and to 30 CFR part 256, subpart J. The rulemaking affects the information collections for these regulations but will not change the approved burden hours, just the associated fees. Therefore, OMB

has ruled that there is no change in the information collection and that MMS does not need to make a formal submission by Form OMB 83–I for this rulemaking. When the rule is finalized, we will submit Form OMB 83–C to modify the fees in each collection.

OMB has approved the information collections for the affected regulations as 30 CFR part 250, subpart A, OMB Control Number 1010–0114 (expiration 10/31/07); subpart J, 1010–0050 (expiration 1/31/06); subpart K, 1010–0041 (expiration 7/31/06); and subpart M, 1010–0068 (expiration 8/31/05); and as 30 CFR part 256, subpart J, 1010–0006, (expiration 3/31/07).

MMS will summarize written responses to this notice and address them in the final rule. All comments will become a matter of public record.

Federalism (Executive Order 13132)

With respect to Executive Order 13132, the proposed rule would not have federalism implications. It would not substantially and directly affect the relationship between the Federal and State Governments. To the extent that State and local governments have a role in OCS activities, this proposed change would not affect that role.

Takings Implication Assessment (Executive Order 12630)

With respect to Executive Order 12630, the proposed rule would not have significant takings implications. A Takings Implication Assessment is not required. The rulemaking is not a governmental action capable of interfering with constitutionally protected property rights.

Civil Justice Reform (Executive Order 12988)

With respect to Executive Order 12988, the Office of the Solicitor has determined that this proposed rule would not unduly burden the judicial system, and meets the requirements of Sections 3(a) and 3(b)(2) of the Executive Order.

National Environmental Policy Act (NEPA) of 1969

MMS analyzed this proposed rule using the criteria of the NEPA and 516 Departmental Manual, Chapter 2, and concluded that the preparation of an environmental analysis which would result in the issuance of a Finding of No Significant Impact or the preparation of an environmental impact statement would not be required.

Unfunded Mandate Reform Act (UMRA) of 1995 (Executive Order 12866)

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. The proposed rule would not have a significant or unique effect on State, local, or tribal governments or the private sector. A statement containing the information required by the UMRA (2 U.S.C. 1531 *et seq.*) is not required. This is because the proposal would not affect State, local, or tribal governments, and the effect on the private sector is small.

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

In accordance with Executive Order 13175, this proposed rule does not have tribal implications that impose substantial direct compliance costs on Indian tribal governments.

Effects on the Nation's Energy Supply (Executive Order 13211)

Executive Order 13211 requires the agency to prepare a Statement of Energy Effects when it takes a regulatory action that is identified as a significant energy action. This proposed rule is not a significant energy action, and therefore does not require a Statement of Energy Effects, because it:

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

(2) Is not likely to have a significant adverse effect on the supply, distribution, or use of energy, and

(3) Has not been designated by the Administrator of the Office of Information and Regulatory Affairs, Office of Management and Budget, as a significant energy action.

List of Subjects

30 CFR Part 250

Continental shelf, Environmental impact statements, Environmental protection, Government contracts, Investigations, Mineral royalties, Oil and gas development and production, Oil and gas exploration, Oil and gas reserves, Penalties, Pipelines, Public lands-mineral resources, Public lands—right-of-way, Reporting and recordkeeping requirements, Sulphur development and production, Sulphur exploration, Surety bonds.

30 CFR Part 256

Administrative practice and procedure, Continental shelf, Environmental protection, Government contracts, Intergovernmental relations, Minerals Management Service, Oil and gas exploration, Public lands-mineral resources, Public lands—rights-of-way, Reporting and recordkeeping requirements, Surety bonds.

Dated: February 16, 2005.

Chad Calvert,

Acting Assistant Secretary—Land and Minerals Management.

For the reasons stated in the preamble, the Minerals Management Service (MMS) proposes to amend 30 CFR parts 250 and 256 as follows:

PART 250—OIL AND GAS AND SULPHUR OPERATIONS IN THE OUTER CONTINENTAL SHELF

1. The authority citation for part 250 continues to read as follows:

Authority: 43 U.S.C. 1331 *et seq.*

2. In 30 CFR part 250, subpart A, a new § 250.125 is added and a new undesignated center heading is added preceding the new § 250.125 to read as follows:

Subpart A—General

* * * * *

Fees

§ 250.125 Service fees.

The table in this section shows the fees that you must pay to MMS for the services listed. All fees are nonrefundable. The fees will be adjusted every five years, or more frequently as needed, according to the Implicit Price Deflator for Gross Domestic Product, and the updated amounts will be posted on our Web site. MMS will re-examine the cost methodology of the fees every two years. If a significant adjustment is needed to arrive at the new actual cost, a proposed rule containing the new fees will be published for comment.

FY 2005 SERVICE FEE TABLE

Service	Proposed fee	30 CFR citation
(1) Change In Designation of Operator	$140	§ 250.143
(2) Suspension of Operations/Suspension of Production (SOO/SOP) Request	1,700	§ 250.171
(3) Pipeline Right-of-Way (ROW) Grant Application	1,100	§ 250.1015
(4) Pipeline Conversion of Lease Term to ROW	180	§ 250.1015

FY 2005 SERVICE FEE TABLE—Continued

Service	Proposed fee	30 CFR citation
(5) Pipeline ROW Assignment	160	§ 250.1018
(6) 500 feet from Lease/Unit Line Production Request	3,100	§ 250.1101
(7) Gas Cap Production Request	4,000	§ 250.1101
(8) Downhole Commingling Request	4,600	§ 250.1106
(9) Voluntary Unitization Proposal or Unit Expansion	10,000	§ 250.1303
(10) Unitization Revision and Modification	720	§ 250.1303

3. In § 250.143, add a new paragraph (d) to read as follows:

§ 250.143 How do I designate an operator?

* * * * *

(d) If you change the designated operator on your lease, you must pay the service fee listed in § 250.125 of this subpart with your request for a change in designation of operator.

4. In § 250.171, add a new paragraph (e) to read as follows:

§ 250.171 How do I request a suspension?

* * * * *

(e) You must pay the service fee listed in § 250.125 of this subpart with your request for a SOO or SOP.

5. In § 250.1015, paragraph (a) is revised to read as follows:

§ 250.1015 Applications for pipeline right-of-way grants.

(a) You must submit an original and three copies of an application for a new or modified pipeline ROW grant to the Regional Supervisor. The application must address those items required by § 250.1007 (a) or (b) of this subpart, as applicable. It must also state the primary purpose for which you will use the ROW grant. If the ROW has been used before the application is made, the application must state the date such use began, by whom, and the date the applicant obtained control of the improvement. When you file your application, you must pay the rental required under § 250.1012 of this subpart, as well as the service fees listed in § 250.125 of this part for a pipeline ROW grant to install a new pipeline, or to convert an existing lease term pipeline into a ROW pipeline. An application to modify an approved ROW grant must be accompanied by the additional rental required under § 250.1012 of this subpart if applicable. You must file a separate application for each ROW.

* * * * *

6. In § 250.1018, paragraph (b) is revised to read as follows:

§ 250.1018 Assignment of pipeline right-of-way grants.

* * * * *

(b) Any application for approval for an assignment, in whole or in part, of any right, title, or interest in a right-of-way grant must be accompanied by the same showing of qualifications of the assignees as is required of an applicant for a ROW in § 250.1015 of this subpart and must be supported by a statement that the assignee agrees to comply with and to be bound by the terms and conditions of the ROW grant. The assignee must satisfy the bonding requirements in § 250.1011 of this part. No transfer will be recognized unless and until it is first approved, in writing, by the Regional Supervisor. The assignee must pay the service fee listed in § 250.125 of this part for a pipeline ROW assignment request.

7. In § 250.1101, add a new paragraph (f) to read as follows:

§ 250.1101 General requirements and classification of reservoirs.

* * * * *

(f) You must pay the service fee listed in § 250.125 of this part with your request for either a 500 feet from lease/unit line production interval or to produce from a completion in an associated gas cap of a sensitive reservoir under this section.

8. In § 250.1106, add a new paragraph (d) to read as follows:

§ 250.1106 Downhole commingling.

* * * * *

(d) You must pay the service fee listed in § 250.125 of this part with your request for downhole commingling.

9. In § 250.1303, add a new paragraph (d) to read as follows:

§ 250.1303 How do I apply for voluntary unitization?

* * * * *

(d) You must pay the service fee listed in § 250.125 of this part with your request for a voluntary unitization proposal or unit expansion. Additionally, you must pay the non-refundable service fee listed in § 250.125 with your request for unitization revision and modification.

PART 256—LEASING OF SULPHUR OR OIL AND GAS IN THE OUTER CONTINENTAL SHELF

10. The authority citation for 30 CFR part 256 continues to read as follows:

Authority: 43 U.S.C. 1331 *et seq.*; 42 U.S.C. 6213.

11. Add a new § 256.63 to read as follows:

§ 256. 63 Service fees.

The table in this section shows the fees that you must pay to MMS for the services listed. All fees are nonrefundable. The fees will be adjusted every five years, or more frequently as needed, according to the Implicit Price Deflator for Gross Domestic Product, and the updated amounts will be posted on our Web site. MMS will re-examine the cost methodology of the fees every two years. If a significant adjustment is needed to arrive at the new actual cost, a proposed rule containing the new fees will be published for comment.

FY 2005 SERVICE FEE TABLE

Service	Proposed fee	30 CFR citation
(1) Record Title/Operating Rights (Transfer)	$160	§ 256.64
(2) Non-required Document Filing	170	§ 256.64

12. In § 256.64, paragraph (a)(8) is revised to read as follows:

§ 256.64 How to file transfers.

* * * * *

(a) * * *

(8) You must pay the service fee listed in § 256.63 of this subpart with your application for approval of any instrument of transfer you are required to file (Record Title/Operating Rights (Transfer) Fee). Where multiple transfers of interest are included in a single instrument, a separate fee applies to each individual transfer of interest. For any document you are not required to file by these regulations but which you submit for record purposes per lease affected, you must also pay the service fee listed in § 256.63 (Non-required Document Filing Fee). Such documents may be rejected at the discretion of the authorized officer.

* * * * *

[FR Doc. 05–4999 Filed 3–14–05; 8:45 am]

BILLING CODE 4310–MR–P

LIBRARY OF CONGRESS

COPYRIGHT OFFICE

37 CFR Part 270

[Docket No. RM 2005–2]

Reports of Use of Sound Recordings Under Statutory License

AGENCY: Copyright Office, Library of Congress.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Copyright Office of the Library of Congress is proposing amendments to the rules governing reports of use of sound recordings under the statutory license for preexisting subscription services.

DATES: Comments are due no later than April 14, 2005.

ADDRESSES: If hand delivered by a private party, an original and ten copies of any comment should be brought to Room LM–401 of the James Madison Memorial Building between 8:30 a.m. and 5 p.m. and the envelope should be addressed as follows: Copyright Office General Counsel/CARP, U.S. Copyright Office, James Madison Memorial Building, Room LM–401, 101 Independence Avenue, SE., Washington, DC 20559–6000. If hand delivered by a commercial courier, an original and ten copies of any comment must be delivered to the Congressional Courier Acceptance Site located at Second and D Streets, NE., Washington, DC, between 8:30 a.m. and 4 p.m. The envelope should be addressed as follows: Copyright Office General Counsel/CARP, Room LM–403, James Madison Memorial Building, 101 Independence Avenue, SE., Washington, DC. If sent by mail (including overnight delivery using U.S. Postal Service Express Mail), an original and ten copies of any comment should be addressed to: Copyright Arbitration Royalty Panel (CARP) P.O. Box 70977, Southwest Station, Washington, DC 20024–0977. Comments may not be delivered by means of overnight delivery services such as Federal Express, United Parcel Service, etc., due to delays in processing receipt of such deliveries.

FOR FURTHER INFORMATION CONTACT: David O. Carson, General Counsel, or William J. Roberts, Jr. Telephone: (202) 707–8380. Telefax: (202) 252–3423.

SUPPLEMENTARY INFORMATION: Digital audio services provide copyrighted sound recordings of music for the listening enjoyment of the users of those services. In order to provide these sound recordings, however, a digital audio service must license the copyrights to each musical work, as well as the sound recording of the musical work. There are two statutory licenses in the Copyright Act that enable a digital audio service to transmit performances of copyrighted sound recordings: section 112 and section 114. 17 U.S.C. 112 & 114. Congress initially established these licenses in the Digital Performance Right in Sound Recordings Act of 1995, Pub. L. 104–39, for subscription digital audio services then in existence, and later amended sections 112 and 114 in the Digital Millennium Copyright Act of 1998, Pub. L. 105–304, to include other types of digital audio services. It is the former category of services (hereinafter referred to as ''preexisting subscription services'') to which this Notice of Proposed Rulemaking (''NPRM'') applies.

On June 24, 1998, the Copyright Office published interim regulations establishing the requirements by which copyright owners receive reasonable notice of the use of their works from preexisting subscription services, and how reports of use shall be kept and made available to copyright owners. Originally codified at § § 201.35 through 201.37 of title 37 of the Code of Federal Regulations, these regulations have recently been moved to part 270 of the CFR, but have remained unchanged. On March 18, 2003, the preexisting subscription services–Music Choice, DMX Music Inc., and Muzak LLC–and representative organizations of copyright owners of sound recordings–SoundExchange, Inc., the American Federation of Television and Radio Artists, and the American Federation of Musicians–filed a petition with the Copyright Office seeking to amend the regulations regarding reports of use (formerly § 201.36, now § 270.2) for preexisting subscription services. At that time, the Office was conducting a rulemaking proceeding to establish notice and recordkeeping requirements for digital audio services other than preexisting subscription services and declined to include the petition in that proceeding. *See* 69 FR 11515, 11517 n.9 (March 11, 2004). Instead, the Office determined to address the petition ''in a separate **Federal Register** document.'' *Id.* Today's NPRM fulfills that directive.

Petitioners request what they describe as ''minor adjustments [that] will make the rules more useful to copyright owners and performers and less burdensome on users of copyrighted works.'' Petition at 1. The proposed changes can be generally described as follows. First, to provide copyright owners with a more complete report of the use of their works, petitioners request that preexisting subscription services report the copyright notice (i.e., the ''P line'') accompanying record albums or sound recordings, where it is available. Second, petitioners propose to extend the time allowed for filing reports of use to comply with current payment periods for preexisting subscription services. *See* 68 FR 39837 (July 3, 2003). And third, petitioners propose some technical amendments that, in their view, clarify that the requirements of § 270.2 apply only to preexisting subscription services.

The Office welcomes public comment to the proposed changes.

List of Subjects in Part 270

Copyright, Sound Recordings.

Proposed Regulations

In consideration of the foregoing, the Copyright Office proposes to amend part 270 of 37 CFR to read as follows:

PART 270–NOTICE AND RECORDKEEPING REQUIREMENTS FOR STATUTORY LICENSES

1. The authority citation for part 270 continues to read as follows:

Authority: 17 U.S.C. 702

2. Section 270.2 is amended as follows:

a. By revising paragraph (b)(2);

b. By revising paragraph (b)(3);

c. In paragraph (c), by adding ''or pursuant to a settlement agreement reached or statutory license adopted pursuant to section 112(e)'' after ''17 U.S.C. 802(f)'' and by removing ''twentieth'' and adding ''forty–fifth'' in its place;

d. In paragraph (d) introductory text, by removing ''20th'' and adding ''forty–fifth'' in its place; and

e. By revising paragraph (e).

The additions and revisions to § 270.2 read as follows:

§ 270.2 Reports of use of sound recordings under statutory license for preexisting subscription services.

* * * * *

(b) * * *

(2) *A Report of Use of Sound Recordings Under Statutory License* is the report of use required under this section to be provided by a Service transmitting sound recordings and making ephemeral phonorecords therewith under statutory licenses.

(3) A *Service* is a preexisting subscription service, as defined in 17 U.S.C. 114(j)(11).

* * * * *

(e) Content. A ''Report of Use of Sound Recordings under Statutory License'' shall be identified as such by prominent caption or heading, and shall include a preexisting subscription service's ''Intended Playlists'' for each channel and each day of the reported month. The ''Intended Playlists'' shall include a consecutive listing of every recording scheduled to be transmitted, and shall contain the following information in the following order:

(1) The name of the preexisting subscription service or entity;

(2) The channel;

(3) The sound recording title;

(4) The featured recording artist, group, or orchestra;

(5) The retail album title (or, in the case of compilation albums created for commercial purposes, the name of the retail album identified by the preexisting subscription service for purchase of the sound recording);

(6) The marketing label of the commercially available album or other product on which the sound recording is found;

(7) The catalog number;

(8) The International Standard Recording Code (ISRC) embedded in the sound recording, where available and feasible;

(9) Where available, the copyright owner information provided in the copyright notice on the retail album or other product (*e.g.*, following the symbol (P), that is the letter P in a circle) or, in the case of compilation albums created for commercial purposes, in the copyright notice for the individual sound recording;

(10) The date of transmission; and

(11) The time of transmission.

* * * * *

Dated: March 8, 2005

Tanya M. Sandros,

Associate General Counsel.

[FR Doc. 05–5064 Filed 3–14–05; 8:45 am]

BILLING CODE 1410–33–S

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[Docket # R10–OAR–2005–OR–0002; FRL–7881–5]

Approval and Promulgation of Air Quality Implementation Plans; Oregon Visibility Protection Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve revisions to the Oregon Visibility Protection Plan submitted to EPA on January 22, 2003. The revisions are the result of a required periodic review of the Visibility Protection Plan conducted by the State, and reflect recommendations from the Oregon Visibility Advisory Committee. In general, the revisions reflect work the State intends to conduct over the next three years. EPA has determined that this submission is a general strengthening of the State Implementation Plan (SIP) as it expands strategies to protect visibility in Oregon.

DATES: Comments must be received on or before April 14, 2005.

ADDRESSES: Submit your comments, identified by Docket ID No. R10-OAR–2005–OR–0002, 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://www.epa.gov/edocket.* EDOCKET, EPA's electronic public docket and comment system, is EPA's preferred method for receiving comments. Follow the on-line instructions for submitting comments.
- Mail: Gina Bonifacino, Office of Air, Waste and Toxics, OAWT–107 EPA, Region 10, 1200 Sixth Ave., Seattle, Washington 98101.
- Hand Delivery: EPA, Region 10 Service Center, 14th Floor, 1200 Sixth Ave., Seattle, Washington 98101. Attention: Gina Bonifacino, Office of Air, Waste and Toxics, OAWT–107. Such deliveries are only accepted during normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Please see the direct final rule which is located in the Rules section of this **Federal Register** for detailed instructions on how to submit comments.

FOR FURTHER INFORMATION CONTACT: Gina Bonifacino at telephone number: (206) 553–2970, e-mail address: *bonifacino.gina@epa.gov*, fax number: (206) 553–0110, or the above EPA, Region 10 address.

SUPPLEMENTARY INFORMATION: For further information, please see the direct final action, of the same title, which is located in the Rules section of this **Federal Register**. EPA is approving the State's SIP revision as a direct final rule without prior proposal because EPA views this as a noncontroversial SIP revision and anticipates no adverse comments. A detailed rationale for the approval is set forth in the preamble to the direct final rule. If EPA receives no adverse comments, EPA will not take further action on this proposed rule.

If EPA receives adverse comments, EPA will withdraw the direct final rule and it will not take effect. EPA will address all public comments 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. Please note that if we receive adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

Dated: February 24, 2005.

Kathryn M. Davidson,

Acting Regional Administrator, Region 10.

[FR Doc. 05–5046 Filed 3–14–05; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 228

[FRL–7883–7]

Ocean Dumping; De-designation of Ocean Dredged Material Disposal Sites and Designation of New Sites; Correction

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule; correction.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to correct a final rule that appeared in the **Federal Register** of March 2, 2005 (70 FR 10041). The document de-designated certain ocean dredged material disposal sites and designated new sites located off the mouth of the Columbia River near the states of Oregon and Washington. The coordinates for one of those sites, the Shallow Water site, contained a typographical error in the Overall Site Coordinates as published

on page 10055 in **Federal Register**. This rule proposes to correct the typographical error.

DATES: Comments must be received on or before March 30, 2005.

ADDRESSES: Written comments on this proposed rule should be sent on or before 5 p.m. of the 15th day from the date of this publication in the **Federal Register** to: John Malek, Dredging and Ocean Dumping Coordinator, EPA Region 10, MS: ETPA–083, 1200 Sixth Avenue, Seattle, WA 98101–1128.

Electronic comments may be sent to: *malek.john@epa.gov.*

FOR FURTHER INFORMATION CONTACT: John Malek, Ocean Dumping Coordinator, U.S. Environmental Protection Agency, Region 10 (EPTA–083), 1200 Sixth Avenue, Seattle, WA 98101–1128, telephone (206) 553–1286, e-mail: *malek.john@epa.gov.*

SUPPLEMENTARY INFORMATION:

1. General Information

In the **Federal Register** of Wednesday, March 2, 2005 (70 FR 10041), EPA published a final rule to de-designate and to designate ocean dredged material disposal sites off the mouth of the Columbia River near the states of Oregon and Washington. The final rule published on that date contained a typographical error in the coordinates for one of those sites, the Shallow Water site. The typographical error was printed in the Overall Site Coordinates for the Shallow Water site as published on page 10055 in **Federal Register**. EPA proposes to correct the typographical error by making the following correction to that final rule:

Section 228.15 Dumping Sites Designated on a Final Basis [Corrected]

1. On page 10055, § 228.15(n)(8)(i) is corrected to read as follows:

(i) Location: Overall Site Coordinates for the third N and third W coordinates of the Shallow Water site are as follows: 46 [deg] 15′02.87 N, 124 [deg] 08′11.47 W.

II. Statutory and Executive Order Reviews

1. Executive Order 12866

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the Agency must determine whether the regulatory action is ''significant'' and, therefore, subject to OMB review and the requirements of the Executive Order. The Order defines ''significant regulatory action'' as one that is likely to result in a rule that may:

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

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

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

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

It has been determined that this proposed action, which is a technical correction, is not a ''significant regulatory action'' under the terms of Executive Order 12866 and is, therefore, not subject to OMB review.

2. Paperwork Reduction Act

The Paperwork Reduction Act, 44 U.S.C. 3501, *et seq.*, is intended to minimize the reporting and record-keeping burden on the regulated community, as well as to minimize the cost of Federal information collection and dissemination. In general, the Act requires that information requests and record-keeping requirements affecting ten or more non-Federal respondents be approved by OPM. Since the proposed Rule does not establish or modify any information or record-keeping requirements, it is not subject to the provisions of the Paperwork Reduction Act.

3. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA), as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA), 5 U.S.C. 601 *et seq.*, generally requires Federal agencies to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions. For purposes of assessing the impacts of today's rule on small entities, small entity is defined as: (1) A small business, as codified in the Small Business Size Regulations at 13 CFR part 121; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field. EPA has determined that this proposed action, a technical correction, will not have a significant impact on small entities. After considering the economic impacts of today's proposed rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities.

4. Unfunded Mandates

Title II of the Unfunded Mandates Reform Act (UMRA) of 1995 (Public Law 104–4) establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures to State, local and tribal governments, in the aggregate, or to the private sector, of $100 million or more in any year. Before promulgating an EPA rule for which a written statement is needed, Section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the Administrator publishes with the final rule an explanation why the alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA, a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements. This proposed rule contains no Federal mandates (under the regulatory provisions of Title II of the UMRA) for State, local or tribal governments or the private sector. It imposes no new enforceable duty on any State, local or tribal government or the private sector.

EPA has also determined that this proposed rule contains no regulatory requirements that might significantly or uniquely affect small government entities. Thus, the requirements of section 203 of the UMRA do not apply to this rule.

5. Executive Order 13132: Federalism

Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among various levels of government.'' This proposed rule, a technical correction, does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among various levels of government, as specified in Executive Order 13132. Thus, Executive Order 13132 does not apply to this rule.

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

Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000), requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' This proposed rule does not have tribal implications, as specified in Executive Order 13175. The proposed rule is a technical correction and does not establish any regulatory policy with tribal implications. Thus, Executive Order 13175 does not apply to this proposed rule.

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

Executive Order 13045 applies to any rule that: (1) Is determined to be ''economically significant'' as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency. This proposed rule is not subject to Executive Order 13045 because it is not economically significant as defined in Executive Order 12866 and because the Agency does not have reason to believe the environmental health or safety risks addressed by this proposed action, a technical correction, present a disproportionate risk to children.

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

This rule is not subject to Executive Order 13211, ''Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001) because it is not a ''significant regulatory action'' as defined under Executive Order 12866.

9. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (''NTTAA''), Public Law 104–113, 12(d) (15 U.S.C. 272) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus bodies. The NTTAA directs EPA to provide Congress, through the OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards. This proposed rulemaking is a technical correction and does not involve technical standards.

10. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low Income Populations

To the greatest extent practicable and permitted by law, and consistent with the principles set forth in the report on the National Performance Review, each Federal agency must make achieving environmental justice part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health and environmental effects of its programs, policies, and activities on minority populations and low-income populations in the United States and its territories and possessions, the District of Columbia, the Commonwealth of Puerto Rico, and the Commonwealth of the Mariana Islands. Because this proposed rule is a technical correction with no anticipated significant adverse human health or environmental effects, the rule is not subject to Executive Order 12898.

List of Subjects in 40 CFR Part 228

Environmental protection, Water pollution control.

Dated: March 4, 2005.

Ronald A. Kreizenbeck,

Acting Regional Administrator, Region 10.

For the reasons set out in the preamble, chapter I of title 40 of the Code of Federal Regulations is proposed to be amended as set forth below:

PART 228—[AMENDED]

1. The authority citation for part 228 continues to read as follows:

Authority: 33 U.S.C. 1412 and 1418.

2. Section 228.15 is amended by revising paragraph (n)(8)(i) to read as follows:

§ 228.15 Dumping sites designated on a final basis.

* * * * *

(n) * * *

(8) * * *

(i) Location: Overall Site Coordinates: 46 [deg] 15′31.64″ N, 124 [deg] 05′09.72″ W; 46 [deg] 14′17.66″ N, 124 [deg] 07′ 14.54″ W; 46[deg] 15′ 02.87″ N, 124 [deg] 08′ 11.47″ W; 46 [deg] 15′52.77″ N, 124[deg] 05′ 42.92″ W. Drop Zone: 46 [deg] 15′ 35.36″ N, 124 [deg] 05′ 15.55″ W; 46 [deg] 14′ 31.07″ N, 124[deg] 07′ 03.25″ W; 46 [deg] 14′ 58.83″ N, 124[deg] 07′ 36.89″ W; 46 [deg] 15′ 42.38″ N, 124 [deg] 05′ 26.65′ W (All NAD 83)

* * * * *

[FR Doc. 05–5049 Filed 3–14–05; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[FRL–7884–5]

Alabama: Final Authorization of State Hazardous Waste Management Program Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: Alabama has applied to EPA for Final authorization of the changes to

its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). EPA proposes to grant final authorization to Alabama for RCRA Clusters VIII through XII. In the ''Rules and Regulations'' section of this **Federal Register**, EPA is authorizing the changes by an immediate final rule. EPA did not make a proposal prior to the immediate final rule because we believe this action is not controversial and do not expect comments that oppose it. We have explained the reasons for this authorization in the preamble to the immediate final rule. Unless we get written comments which oppose this authorization during the comment period, the immediate final rule will become effective on the date it establishes, and we will not take further action on this proposal. If we get comments that oppose this action, we will withdraw the immediate final rule and it will not take effect. We will then respond to public comments in a later final rule based on this proposal. You may not have another opportunity for comment. If you want to comment on this action, you must do so at this time.

DATES: Send your written comments by April 14, 2005.

ADDRESSES: Submit your comments by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov*. Follow the on-line instructions for submitting comments.
- *E-mail: middlebrooks.gail@epa.gov*.
- *Fax:* (404) 562–8439 (prior to faxing, please notify the EPA contact listed below).
- *Mail:* Send written comments to Gail Middlebrooks at the address listed below.

Instructions: Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov*, or e-mail. The Federal *regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comments. 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.

You can view and copy Alabama's applications from 8 a.m. to 5 p.m. at the following addresses: Alabama Department of Environmental Management, 1400 Colliseum Blvd., Montgomery, Alabama 36130–1463, (334) 271–7700, and EPA, Region 4, Library, 9th Floor, The Sam Nunn Atlanta Federal Center, 61 Forsyth Street, SW., Atlanta, Georgia 30303–3104; (404) 562–8190.

FOR FURTHER INFORMATION CONTACT: Gail Middlebrooks, RCRA Services Section, RCRA Programs Branch, Waste Management Division, U.S. Environmental Protection Agency, Region 4, The Sam Nunn Atlanta Federal Center, 61 Forsyth Street, SW., Atlanta, Georgia 30303–3104; (404) 562–8494.

SUPPLEMENTARY INFORMATION: For additional information, please see the immediate final rule published in the ''Rules and Regulations'' section of this **Federal Register**.

Dated: March 1, 2005.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

[FR Doc. 05–5048 Filed 3–14–05; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 544

[Docket No.: NHTSA–2004–20484]

RIN 2127–AJ54

Insurer Reporting Requirements; List of Insurers Required To File Reports

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

ACTION: Notice of proposed rulemaking.

SUMMARY: This document proposes to amend regulations on insurer reporting requirements. The appendices list those passenger motor vehicle insurers that are required to file reports on their motor vehicle theft loss experiences. An insurer included in any of these appendices would be required to file three copies of its report for the 2002 calendar year before October 25, 2005. If the passenger motor vehicle insurers remain listed, they must submit reports by each subsequent October 25. We are proposing to add adn remove several insurers from relevant appendices.

DATES: Comments must be submitted not later than May 16, 2005. Insurers listed in the appendices are required to submit reports on or before October 25, 2005.

ADDRESSES: You may submit comments, identified by docket number: NHTSA–2005–20484 and/or RIN number: 2127–AJ54, by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov*. Follow the instructions for submitting comments.
- *Agency Web Site: http://dms.dot.gov*. Follow the instructions for submitting comments on the Docket Management System.
- *Fax:* (202) 493–2251.
- *Mail:* Dockets, 400 7th Street, SW., Washington, DC 20590.
- *Hand Delivery/Courier:* Plaza Level Room 401, (PL #401), of the Nassif Building, 400 7th Street, SW., Washington, DC 20590. Telephone: 1–800–647–5527.

You may visit the Docket from 10 a.m. to 5 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Rosalind Proctor, Office of International Policy, Fuel Economy and Consumer Programs, NHTSA, 400 Seventh Street, SW., Washington, DC 20590, by electronic mail to *rosalind.proctor@nhtsa.dot.gov*. Ms. Proctor's telephone number is (202) 366–0846. Her fax number is (202) 493–2290.

SUPPLEMENTARY INFORMATION:

I. Background

Pursuant to 49 U.S.C. 33112, *Insurer reports and information*, NHTSA requires certain passenger motor vehicle insurers to file an annual report with the agency. Each insurer's report includes information about thefts and recoveries of motor vehicles, the rating rules used by the insurer to establish premiums for comprehensive coverage, the actions taken by the insurer to reduce such premiums, and the actions taken by the insurer to reduce or deter theft. Under the agency's regulation, 49 CFR part 544, the following insurers are subject to the reporting requirements:

(1) Issuers of motor vehicle insurance policies whose total premiums account for 1 percent or more of the total premiums of motor vehicle insurance issued within the United States;

(2) Issuers of motor vehicle insurance policies whose premiums account for 10 percent or more of total premiums written within any one State; and

(3) Rental and leasing companies with a fleet of 20 or more vehicles not covered by theft insurance policies issued by insurers of motor vehicles, other than any governmental entity.

Pursuant to its statutory exemption authority, the agency exempted certain passenger motor vehicle insurers from the reporting requirements.

A. Small Insurers of Passenger Motor Vehicles

Section 33112(f)(2) provides that the agency shall exempt small insurers of passenger motor vehicles if NHTSA finds that such exemptions will not significantly affect the validity or usefulness of the information in the reports, either nationally or on a state-

by-state basis. The term ''small insurer'' is defined, in Section 33112(f)(1)(A) and (B), as an insurer whose premiums for motor vehicle insurance issued directly or through an affiliate, including pooling arrangements established under state law or regulation for the issuance of motor vehicle insurance, account for less than 1 percent of the total premiums for all forms of motor vehicle insurance issued by insurers within the United States. However, that section also stipulates that if an insurance company satisfies this definition of a ''small insurer,'' but accounts for 10 percent or more of the total premiums for all motor vehicle insurance issued in a particular State, the insurer must report about its operations in that state.

In the final rule establishing the insurer reports requirement (52 FR 59; January 2, 1987), 49 CFR part 544, NHTSA exercised its exemption authority by listing in Appendix A each insurer that must report because it had at least 1 percent of the motor vehicle insurance premiums nationally. Listing the insurers subject to reporting, instead of each insurer exempted from reporting because it had less than 1 percent of the premiums nationally, is administratively simpler since the former group is much smaller than the latter. In Appendix B, NHTSA lists those insurers required to report for particular states because each insurer had a 10 percent or greater market share of motor vehicle premiums in those states. In the January 1987 final rule, the agency stated that it would update Appendices A and B annually. NHTSA updates the appendices based on data voluntarily provided by insurance companies to A.M. Best, which A.M. Best [1] publishes in its *State/Line Report* each spring. The agency uses the data to determine the insurers' market shares nationally and in each state.

B. Self-Insured Rental and Leasing Companies

In addition, upon making certain determinations, NHTSA grants exemptions to self-insurers, *i.e.*, any person who has a fleet of 20 or more motor vehicles (other than any governmental entity) used for rental or lease whose vehicles are not covered by theft insurance policies issued by insurers of passenger motor vehicles, 49 U.S.C. 33112(b)(1) and (f). Under 49 U.S.C. 33112(e)(1) and (2), NHTSA may exempt a self-insurer from reporting, if the agency determines:

(1) The cost of preparing and furnishing such reports is excessive in relation to the size of the business of the insurer; and 33112(e)(1) and (2).

(2) The insurer's report will not significantly contribute to carrying out the purposes of Chapter 331.

In a final rule published June 22, 1990 (55 FR 25606), the agency granted a class exemption to all companies that rent or lease fewer than 50,000 vehicles, because it believed that the largest companies' reports sufficiently represent the theft experience of rental and leasing companies. NHTSA concluded that smaller rental and leasing companies' reports do not significantly contribute to carrying out NHTSA's statutory obligations and that exempting such companies will relieve an unnecessary burden on them. As a result of the June 1990 final rule, the agency added Appendix C, consisting of an annually updated list of the self-insurers subject to part 544. Following the same approach as in Appendix A, NHTSA included, in Appendix C, each of the self-insurers subject to reporting instead of the self-insurers which are exempted. NHTSA updates Appendix C based primarily on information from *Automotive Fleet Magazine* and *Auto Rental News*.[2]

C. When a Listed Insurer Must File a Report

Under part 544, as long as an insurer is listed, it must file reports on or before October 25 of each year.

Thus, any insurer listed in the appendices must file a report before October 25, and by each succeeding October 25, absent an amendment removing the insurer's name from the appendices.

II. Proposal

1. Insurers of Passenger Motor Vehicles

Appendix A lists insurers that must report because each had 1 percent of the motor vehicle insurance premiums on a national basis. The list was last amended in a final rule published on July 13, 2004 (69 FR 41974). Based on the 2002 calendar year data market shares from A.M. Best, we propose to remove CGU Group and Great American P&C Group and add the Mercury General Group and Auto-Owners Insurance Group to Appendix A.

Each of the 19 insurers listed in Appendix A are required to file a report before October 25, 2005, setting forth the information required by part 544 for each State in which it did business in the 2002 calendar year. As long as these 19 insurers remain listed, they will be required to submit reports by each subsequent October 25 for the calendar year ending slightly less than 3 years before.

Appendix B lists insurers required to report for particular States for calendar year 2002, because each insurer had a 10 percent or greater market share of motor vehicle premiums in those States. Based on the 2002 calendar year data for market shares from A.M. Best, we propose to add the Nodak Mutual Group (North Dakota) to Appendix B.

The nine insurers listed in Appendix B are required to report on their calendar year 2001 activities in every State where they had a 10 percent or greater market share.

These reports must be filed by October 25, 2005, and set forth the information required by part 544. As long as these nine insurers remain listed, they would be required to submit reports on or before each subsequent October 25 for the calendar year ending slightly less than 3 years before.

2. Rental and Leasing Companies

Appendix C lists rental and leasing companies required to file reports. Based on information in *Automotive Fleet Magazine* and *Auto Rental News* for 2002, NHTSA proposes to add Enterprise Fleet Services and remove Alamo Rent-A-Car, Inc., National Car Rental System, Inc., Ryder TRS and Thrifty Rental Car System, Inc. Each of the 14 companies (including franchisees and licensees) listed in Appendix C would be required to file reports for calendar year 2002 no later than October 25, 2005, and set forth the information required by part 544. As long as those 14 companies remain listed, they would be required to submit reports before each subsequent October 25 for the calendar year ending slightly less than 3 years before.

III. Regulatory Impacts

1. Costs and Other Impacts

This notice has not been reviewed under Executive Order 12866. NHTSA has considered the impact of this proposed rule and determined that the action is not ''significant'' within the meaning of the Department of Transportation's regulatory policies and procedures. This proposed rule implements the agency's policy of ensuring that all insurance companies that are statutorily eligible for exemption from the insurer reporting requirements are in fact exempted from those requirements. Only those

[1] A.M. Best Company is a well-recognized source of insurance company ratings and information. 49 U.S.C. 33112(i) authorizes NHTSA to consult with public and private organizations as necessary.

[2] Automotive Fleet Magazine and Auto Rental News are publications that provide information on the size of fleets and market share of rental and leasing companies.

companies that are not statutorily eligible for an exemption are required to file reports.

NHTSA does not believe that this proposed rule, reflecting current data, affects the impacts described in the final regulatory evaluation prepared for the final rule establishing part 544 (52 FR 59; January 2, 1987). Accordingly, a separate regulatory evaluation has not been prepared for this rulemaking action. Using the Bureau of Labor Statistics Consumer Price Index for 2004 (*see http://www.bls.gov/cpi*), the cost estimates in the 1987 final regulatory evaluation were adjusted for inflation. The agency estimates that there is no cost of compliance for any insurer added to Appendix A, $37,780 for any insurer added to Appendix B, and −$32,698.59 for any insurer added to Appendix C. If this proposed rule is made final, for Appendix A, the agency would propose to add two companies and remove two companies; for Appendix B, the agency would propose to add one company; and for Appendix C, the agency would propose to remove four companies and add one company. The agency estimates that the net effect of this proposal, if made final, would be a cost increase to insurers, as a group of approximately $5,081.41.

Interested persons may wish to examine the 1987 final regulatory evaluation. Copies of that evaluation were placed in Docket No. T86–01; Notice 2. Any interested person may obtain a copy of this evaluation by writing to NHTSA, Docket Section, Room 5109, 400 Seventh Street, SW., Washington, DC 20590, or by calling (202) 366–4949.

2. Paperwork Reduction Act

The information collection requirements in this proposed rule were submitted and approved by the Office of Management and Budget (OMB) pursuant to the requirements of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). This collection of information is assigned OMB Control Number 2127–0547 (''Insurer Reporting Requirements'') and approved for use through July 31, 2006, and the agency will seek to extend the approval afterwards.

3. Regulatory Flexibility Act

The agency also considered the effects of this rulemaking under the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*). I certify that this proposed rule will not have a significant economic impact on a substantial number of small entities. The rationale for the certification is that none of the companies proposed for Appendices A, B, or C are construed to be a small entity within the definition of the RFA. ''Small insurer'' is defined, in part under 49 U.S.C. 33112, as any insurer whose premiums for all forms of motor vehicle insurance account for less than 1 percent of the total premiums for all forms of motor vehicle insurance issued by insurers within the United States, or any insurer whose premiums within any State, account for less than 10 percent of the total premiums for all forms of motor vehicle insurance issued by insurers within the State. This notice would exempt all insurers meeting those criteria. Any insurer too large to meet those criteria is not a small entity. In addition, in this rulemaking, the agency proposes to exempt all ''self insured rental and leasing companies'' that have fleets of fewer than 50,000 vehicles. Any self-insured rental and leasing company too large to meet that criterion is not a small entity.

4. Federalism

This action has been analyzed according to the principles and criteria contained in Executive Order 12612, and it has been determined that the proposed rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

5. Environmental Impacts

In accordance with the National Environmental Policy Act, NHTSA has considered the environmental impacts of this proposed rule and determined that it would not have a significant impact on the quality of the human environment.

6. Regulation Identifier Number (RIN)

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

7. Plain Language

Executive Order 12866 and the President's memorandum of June 1, 1998, require each agency to write all rules in plain language. Application of the principles of plain language includes consideration of the following questions:

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

If you have any responses to these questions, you can forward them to me several ways:

a. *Mail:* Rosalind Proctor, Office of International Policy, Fuel Economy and Consumer Programs, NHTSA, 400 Seventh Street, SW., Washington, DC 20590;

b. *E-mail: rosalind.proctor@nhtsa.dot.gov*; or

c. *Fax:* (202) 493–2290.

IV. Comments

Submission of Comments

1. How Can I Influence NHTSA's Thinking on This Proposed Rule?

In developing our rules, NHTSA tries to address the concerns of all our stakeholders. Your comments will help us improve this rule. We invite you to provide views on our proposal, new data, a discussion of the effects of this proposal on you, or other relevant information. We welcome your views on all aspects of this proposed rule. Your comments will be most effective if you follow the suggestions below:

- Explain your views and reasoning clearly.
- Provide solid technical and cost data to support your views.
- If you estimate potential costs, explain how you derived the estimate.
- Provide specific examples to illustrate your concerns.
- Offer specific alternatives.
- Include the name, date, and docket number with your comments.

2. How Do I Prepare and Submit Comments?

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

Your comments must not exceed 15 pages long (49 CFR 553.21). We established this limit to encourage you to write your primary comments concisely. You may attach necessary documents to your comments. We have no limit on the attachments' length.

Please submit two copies of your comments, including the attachments, to Docket Management at the address given above under **ADDRESSES.**

Comments may also be submitted to the docket electronically by logging onto the Dockets Management System website at *http://dms.dot.gov.* Click on ''Help & Information'' or ''Help/Info'' to obtain instructions for filling the document electronically.

3. How Can I Be Sure That My Comments Were Received?

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

4. How Do I Submit Confidential Business Information?

If you wish to submit any information under a confidentiality claim, you should submit three copies of your complete submission, including the information you claim as confidential business information, to the Chief Counsel, Office of Chief Counsel, NHTSA, 400 Seventh Street, SW., Washington, DC 20590. In addition, you should submit two copies, from which you have deleted the claimed confidential business information, to Docket Management at the address given above under **ADDRESSES.** When you send a comment containing information claimed to be confidential business information, you should include a cover letter addressing the information specified in our confidential business information regulation (49 CFR part 512).

5. Will the Agency Consider Late Comments?

NHTSA will consider all comments that Docket Management receives before the close of business on the comment closing date indicated above under **DATES**. To the extent possible, we will also consider comments that Docket Management receives after that date. If Docket Management receives a comment too late for us to consider, in developing a final rule (assuming that one is issued), we will consider that comment as an informal suggestion for future rulemaking action.

6. How Can I Read the Comments Submitted by Other People?

You may read the comments received by Docket Management at the address given above under **ADDRESSES.** The hours of the Docket are indicated above, in the same location. You may also see the comments on the Internet. To read the comments on the Internet, take the following steps:

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

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

3. On the next page (*http://dms.dot.gov/search/*), type in the four-digit docket number shown at the beginning of this document. Example: If the docket number was ''NHTSA 1998–1234,'' you would type ''1234.'' After typing the docket number, click on ''search.''

4. On the next page, which contains docket summary information for the docket you selected, click on the desired comments. The ''pdf'' versions of the documents are word searchable.

V. Conclusion

Based on the foregoing, we are proposing to amend Appendices A, B, and C of 49 CFR 544, insurer reporting requirements.

List of Subjects in 49 CFR Part 544

Crime insurance, Insurance, Insurance companies, Motor vehicles, Reporting and recordkeeping requirements.

In consideration of the foregoing, 49 CFR part 544 is proposed to be amended as follows:

PART 544—[AMENDED]

1. The authority citation for part 544 is proposed to read as follows:

Authority: 49 U.S.C. 33112; delegation of authority at 49 CFR 1.50.

2. Paragraph (a) of § 544.5 is proposed to be revised to read as follows:

§ 544.5 General requirements for reports.

(a) Each insurer to which this part applies shall submit a report annually before October 25, beginning on October 25, 1986. This report shall contain the information required by § 544.6 of this part for the calendar year 3 years previous to the year in which the report is filed (*e.g.*, the report due by October 25, 2005 will contain the required information for the 2002 calendar year).

* * * * *

3. Appendix A to part 544 is proposed to be revised to read as follows:

Appendix A—Insurers of Motor Vehicle Insurance Policies Subject to the Reporting Requirements in Each State in Which They Do Business

Allstate Insurance Group
American Family Insurance Group
American International Group
Auto-Owners Insurance Group [1]
California State Auto Association
CNA Insurance Companies
Erie Insurance Group
Berkshire Hathaway/GEICO Corporation Group
Hartford Insurance Group
Liberty Mutual Insurance Companies
Metropolitan Life Auto & Home Group
Mercury General Group [1]
Nationwide Group
Progressive Group
SAFECO Insurance Companies
State Farm Group
Travelers/Citigroup Company
USAA Group
Farmers Insurance Group

[1] Indicates a newly-listed company, which must file a report beginning with the report due October 25, 2005.

4. Appendix B to part 544 is proposed to be revised to read as follows:

Appendix B—Issuers of Motor Vehicle Insurance Policies Subject to the Reporting Requirements Only in Designated States

Alfa Insurance Group (Alabama)
Arbella Mutual Insurance (Massachusetts)
Auto Club (Michigan)
Commerce Group, Inc. (Massachusetts)
Kentucky Farm Bureau Group (Kentucky)
New Jersey Manufacturers Group (New Jersey)
Nodak Mutual Group (North Dakota)[1]
Southern Farm Bureau Group (Arkansas, Mississippi)
Tennessee Farmers Companies (Tennessee)

[1] Indicates a newly-listed company, which must file a report beginning with the report due October 25, 2005.

5. Appendix C to part 544 is proposed to be revised to read as follows:

Appendix C—Motor Vehicle Rental and Leasing Companies

(Including Licensees and Franchisees)
Subject to the Reporting Requirements of Part 544
ANC Rental Corporation [1]
ARI (Automotive Resources International)
Avis, Rent-A-Car, Inc.
Budget Rent-A-Car Corporation
Dollar Rent-A-Car Systems, Inc.
Donlen Corporation
Enterprise Rent-A-Car
Enterprise Fleet Services [2]
GE Capital Fleet Services
Hertz Rent-A-Car Division (subsidiary of The Hertz Corporation)
Lease Plan USA, Inc.
PHH Vehicle Management Services/PHH Arval
U-Haul International, Inc. (Subsidiary of AMERCO)
Wheels Inc.

[1] National Car Rental, System, Inc., Inc., and Alamo Rent-A-Car Inc., became ANC Rental in 2002.

[2] Indicates a newly listed company, which must file a report beginning with the report due October 25, 2005.

Issued on: March 10, 2005.

H. Keith Brewer,

Office of Crash Avoidance Standards.

[FR Doc. 05–5092 Filed 3–14–05; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 050304059–5059–01; I.D. 022805D]

RIN 0648–AS21

Fisheries of the Northeastern United States; Recreational Measures for the Summer Flounder, Scup, and Black Sea Bass Fisheries; Fishing Year 2005

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes recreational measures for the 2005 summer flounder, scup, and black sea bass fisheries. The implementing regulations for these fisheries require NMFS to publish recreational measures for the upcoming fishing year and to provide an opportunity for public comment. The intent of these measures is to prevent overfishing of the summer flounder, scup, and black sea bass resources.

DATES: Comments must be received by 5 p.m. local time, on March 30, 2005.

ADDRESSES: Copies of supporting documents used by the Summer Flounder, Scup, and Black Sea Bass Monitoring Committees and of the Environmental Assessment, Regulatory Impact Review, and Initial Regulatory Flexibility Analysis (EA/RIR/IRFA) are available from Daniel Furlong, Executive Director, Mid-Atlantic Fishery Management Council, Room 2115, Federal Building, 300 South Street, Dover, DE 19901–6790. The EA/RIR/IRFA is also accessible via the Internet at *http://www.nero.noaa.gov*.

You may submit comments by any of the following methods:

- E-mail: *FSBREC05@noaa.gov*. Include in the subject line the following identifier: ''Comments on Summer Flounder, Scup, and Black Sea Bass Recreational Measures.≥
- Federal e-Rulemaking portal: *http://www.regulations.gov*.
- Mail: Patricia A. Kurkul, Regional Administrator, NMFS, Northeast Regional Office, One Blackburn Drive, Gloucester, MA 01930. Mark the outside of the envelope: ''Comments on Recreational Measures.''
- Fax: (978) 281–9135.

FOR FURTHER INFORMATION CONTACT: Sarah McLaughlin, Fishery Policy Analyst, (978) 281–9279, fax (978) 281–9135, e-mail *sarah.mclaughlin@noaa.gov*.

SUPPLEMENTARY INFORMATION:

Background

The summer flounder, scup, and black sea bass fisheries are managed cooperatively by the Atlantic States Marine Fisheries Commission (Commission) and the Mid-Atlantic Fishery Management Council (Council), in consultation with the New England and South Atlantic Fishery Management Councils.

The management units specified in the Fishery Management Plan (FMP) for the Summer Flounder, Scup, and Black Sea Bass Fisheries include summer flounder (*Paralichthys dentatus*) in U.S. waters of the Atlantic Ocean from the southern border of North Carolina northward to the U.S./Canada border, and scup (*Stenotomus chrysops*) and black sea bass (*Centropristis striata*) in U.S. waters of the Atlantic Ocean from 35°15.3′ N. lat. (the latitude of Cape Hatteras Lighthouse, Buxton, NC) northward to the U.S./Canada border.

The FMP and its implementing regulations, which are found at 50 CFR part 648, subparts A (general provisions), G (summer flounder), H (scup), and I (black sea bass), describe the process for specifying annual recreational measures that apply in the Exclusive Economic Zone (EEZ). The states manage these fisheries within 3 miles of their coasts, under the Commission's plan for summer flounder, scup, and black sea bass. The Federal regulations govern vessels fishing in the EEZ, as well as vessels possessing a Federal fisheries permit, regardless of where they fish.

The FMP established Monitoring Committees (Committees) for the three fisheries, consisting of representatives from the Commission, the Mid-Atlantic, New England, and South Atlantic Councils, and NMFS. The FMP and its implementing regulations require the Committees to review scientific and other relevant information annually and to recommend management measures necessary to achieve the recreational harvest limits established for the summer flounder, scup, and black sea bass fisheries for the upcoming fishing year. The FMP limits these measures to minimum fish size, possession limit, and fishing season.

The Council's Demersal Species Committee and the Commission's Summer Flounder, Scup, and Black Sea Bass Management Board (Board) then consider the Committees' recommendations and any public comment in making their recommendations to the Council and the Commission, respectively. The Council then reviews the recommendations of the Demersal Species Committee, makes its own recommendations, and forwards them to NMFS for review. The Commission similarly adopts recommendations for the states. NMFS is required to review the Council's recommendations to ensure that they are consistent with the targets specified for each species in the FMP.

Final quota specifications for the 2005 summer flounder, scup, and black sea bass fisheries were published on January 4, 2005 (70 FR 303). These specifications were determined to be consistent with the 2005 target fishing mortality rate (F) (for summer flounder) and target exploitation rates (for scup and black sea bass). The 2005 coastwide recreational harvest limits are 11.98 million lb (5,434 mt) for summer flounder, 3.96 million lb (1,796 mt) for scup, and 4.13 million lb (1,873 mt) for black sea bass. The specifications did not establish recreational measures, since final recreational catch data for 2004 were not available when the Council made its recreational harvest limit recommendation to NMFS.

All minimum fish sizes discussed below are total length measurements of the fish, i.e., the straight-line distance from the tip of the snout to the end of the tail while the fish is lying on its side. All possession limits discussed below are per person.

Summer Flounder

Overall, recreational landings for 2004 were estimated to be 10.7 million lb (4,853 mt), nearly 5 percent below the 2004 recreational harvest limit (by weight). However, the following states are projected to exceed their 2004 harvest limits when their allocations are converted to number of fish using the average weight of summer flounder harvested during 2003 and 2004: MA (16 percent over), RI (8 percent over), CT (34 percent over), NY (15 percent over), and NJ (2 percent over). The 2005 coastwide harvest limit is 11.98 million lb (5,434 mt), a 7–percent increase over the 2004 harvest limit, and 12 percent above the estimated 2004 landings. Assuming the same level of fishing effort in 2005, no reduction in landings coastwide would be required for summer flounder. However, as described below, under conservation equivalency, as recommended by the Council, MA, CT, and NY would be required to reduce summer flounder landings (in number of fish) in 2005 by 7 percent, 19 percent, and 6 percent, respectively.

NMFS implemented Framework Adjustment 2 to the FMP on July 29, 2001 (66 FR 36208), which established a process that makes conservation equivalency an option for the summer flounder recreational fishery. Conservation equivalency allows each state to establish its own recreational management measures (possession limits, minimum fish size, and fishing seasons), as long as the combined effect of all of the states' management measures achieves the same level of conservation as would Federal coastwide measures developed to achieve the recreational harvest limit, if implemented by all of the states. Conservation equivalency was approved for the 2004 summer flounder recreational fishery.

The Council and Board recommend annually that either state-specific recreational measures be developed (conservation equivalency) or coastwide management measures be implemented by all states to ensure that the recreational harvest limit will not be exceeded. Even when the Council and Board recommend conservation equivalency, the Council must specify a set of coastwide measures that would apply if conservation equivalency is not approved. If conservation equivalency is recommended, and following confirmation that the proposed state measures would achieve conservation equivalency, NMFS may waive the permit condition found at § 648.4(b), which requires federally permitted vessels to comply with the more restrictive management measures when state and Federal measures differ. Federally permitted charter/party permit holders and recreational vessels fishing for summer flounder in the EEZ then would be subject to the recreational fishing measures implemented by the state in which they land summer flounder, rather than the coastwide measures. In addition, the Council and the Board must recommend precautionary default measures. The Commission would require adoption of the precautionary default measures by any state that either does not submit a summer flounder management proposal to the Commission's Summer Flounder Technical Committee, or that submits measures that are determined by the Board not to achieve the required reduction. The precautionary default measures are defined as the set of measures that would achieve the greatest reduction in landings required for any state.

In December 2004, the Council and Board voted to recommend conservation equivalency to achieve the 2005 recreational harvest limit. The Commission's conservation equivalency guidelines require each state, using state-specific equivalency tables, to determine and implement an appropriate possession limit, minimum fish size, and closed season to achieve the landings reduction necessary for each state. The state-specific tables are adjusted to account for the past effectiveness of the regulations in each state. Landings projections for 2004 indicate that MA, CT, and NY will be the only states required to reduce recreational summer flounder landings in 2005, by 7 percent, 19 percent, and 6 percent, respectively. The other states (from ME to NC) would not require any reductions in recreational summer flounder landings if their current regulations are maintained.

The Board required that each state submit its conservation equivalency proposal to the Commission by January 15, 2005. The Commission's Summer Flounder Technical Committee then evaluated the proposals and advised the Board of each proposal's consistency with respect to achieving the coastwide recreational harvest limit. The Commission has invited public participation in its review process by holding public meetings and offering the public the opportunity to comment on the state proposals. The Board met on February 7, 2005, and approved all of the state management proposals. For some states, the Board approved multiple management options. Once these states select and submit their final summer flounder management measures to the Commission, the Commission officially will notify NMFS as to which state proposals have been approved or disapproved. NMFS retains the final authority to either approve or disapprove using conservation equivalency in place of the coastwide measures and will publish its determination in the final rule establishing the 2005 recreational measures for these fisheries.

States that do not submit conservation equivalency proposals, or for which proposals were disapproved by the Commission, would be required by the Commission to adopt the precautionary default measures. In the case of states that are initially assigned precautionary default measures, but subsequently receive Commission approval of revised state measures, NMFS will publish a notice in the **Federal Register** announcing a waiver of the permit condition at § 648.4(b).

As described above, for each fishing year, NMFS implements either coastwide measures or conservation equivalent measures at the final rule stage. The coastwide measures recommended by the Council and Board for 2005 are the same as those recommended for 2004 and consist of a 17–inch (43.2–cm) minimum fish size, a possession limit of four fish, and no closed season. In this action, NMFS proposes to maintain these coastwide measures in the EEZ. If implemented, the coastwide measures would reduce recreational landings by 18 percent, based on 2001 data, assuming the coastwide regulations are implemented by all states. State-specific reductions in landings would range from 0 percent in MD to 63 percent in NC. These measures would be waived if conservation equivalency is approved.

The precautionary default measures specified by the Council and Board are the same as specified for 2004 and consist of an 18–inch (45.7–cm) minimum fish size, a possession limit of one fish, and no closed season. These measures would reduce recreational landings by 62 percent, based on 2001 data, assuming the coastwide regulations are implemented by all states. State-specific reductions in landings would range from 41 percent in DE to 88 percent in NC.

Scup

For 2005, the Total Allowable Landings of scup was maintained at the 2004 level. As a result of a slightly larger research set-aside amount for 2005 than for 2004, the 2005 scup recreational harvest limit is 3.96 million lb (1,796 mt), a less than 1–percent decrease from the 2004 harvest limit of 3.99 million lb (1,810 mt). Recreational landings in 2004 were estimated to be 4.34 million lb (1,969 mt), approximately 9 percent above the 2004 harvest limit. To achieve the 2005 target, a 9–percent reduction in landings relative to landings in 2004 is necessary.

The 2005 scup recreational fishery will be managed under separate regulations for state and Federal waters; the Federal measures would apply to party/charter boats with Federal permits and other vessels subject to the possession limit that fish in the EEZ. In Federal waters, to achieve the 2005 target, the Council recommended the status quo coastwide management measures of a 10–inch (25.4–cm) minimum fish size, a 50–fish possession limit, and open seasons of January 1 through February 28, and September 7 through November 30. The Council has indicated that the status quo measures could achieve the 9–percent required reduction based on the average percent standard error (PSE) for scup landings (over the 1994–2003 period) estimated from the Marine Recreational Fisheries Statistics Survey (MRFSS). The Council

suggests that the 2005 harvest limit is within the average observed PSE's, or margin of error for estimates of landings in pounds, and that no additional restrictions are required.

As in the past 3 years, the scup fishery in state waters will be managed under a regional conservation equivalency system developed through the Commission. Addendum XI to the Interstate FMP (Addendum XI), approved by the Board at the January 2004 Council/Commission meeting, requires that the states of MA through NY each develop state-specific management measures to constrain their landings to an annual harvest level in number of fish (a total of 4.2 million fish for 2005), through a combination of minimum fish size, possession limits, and seasonal closures. Because the Federal FMP does not contain provisions for conservation equivalency, and states may adopt their own unique measures under Addendum XI, the Federal and state recreational scup management measures will differ for the 2005 season.

At the February 7, 2005, meeting, the Board approved a regional management proposal for MA through NY that would allow a season of at least 120 days, a minimum fish size of 10.5 inches (26.7 cm), and a common possession limit (25 fish for private vessels and shore-based anglers; and 60 fish for party/charter vessels, dropping to 25 fish after a 2–month period). The Board indicated that it would allow MA through NY to set a more conservative, i.e., higher, minimum fish size to allow for longer open seasons. These northern states are expected to submit their final management measures to the Commission by April 1, 2005. For NJ, the Board approved measures of a 9–inch (22.9–cm) minimum size, a 50–fish possession limit, and open seasons of January 1 through February 28, and July 1 through December 31, with the provision that, if NJ's catch exceeds 3 percent of the total coastwide catch for 2005, the minimum size will revert to 10 inches (25.4 cm) (the minimum size implemented for the 2004 fishing season). Due to low scup landings in the southern states, DE through NC, the Board approved the retention of status quo management measures, i.e., an 8–inch (20.3–cm) minimum fish size, a 50–fish possession limit, and no closed season.

Disapproval of Council's Preferred Scup Alternative and Request for Public Comment

After careful review, NMFS has decided to disapprove the Council's scup recommendation (Scup Alternative 1, the Council's Preferred Scup Alternative) because analysis of the materials considered by the Scup Monitoring Committee indicates that accepting this recommendation would not result in the achievement of the 2005 scup recreational target. The Council's recommendation to maintain the status quo measures for scup would result in a deviation from how NMFS has managed the Federal recreational scup fishery, i.e., through the setting of minimum fish size, possession limits, and fishing seasons that are determined to achieve the landings reductions needed to achieve the FMP's target exploitation rate. Further, the approach suggested by the Council has not undergone technical review by the Scup Monitoring Committee.

The Council submission also analyzed the following two alternatives that are expected to reduce recreational landings by the required 9 percent: (1) A 10–inch (25.4–cm) minimum fish size, a 50–fish possession limit, and open seasons of January 1 through February 28, and September 18 through November 30; and (2) a 10–inch (25.4–cm) minimum fish size, a 50–fish possession limit, and open seasons of January 1 through February 28, and September 12 through September 30. NMFS is hereby requesting public comment on these alternatives (defined later in this document and referred to as Scup Alternatives 2 and 3, respectively) for possible implementation in the final rule. The impacts associated with Scup Alternatives 2 and 3 are described in the Council's submission and are summarized in the Classification section of this proposed rule.

NMFS is proposing Scup Alternative 2 for publication in the proposed regulatory text. However, depending upon public comment, NMFS may instead implement Scup Alternative 3. Should Scup Alternative 3 ultimately be chosen, NMFS will publish the corresponding regulations in the final rule.

Black Sea Bass

Recreational landings in 2004 were estimated to be 1.72 million lb (780 mt), 57 percent below the 2004 target of 4.01 million lb (1,819 mt). Because the 2005 black sea bass recreational harvest limit is 4.13 million lb (1,873 mt), a 3–percent increase from the 2004 harvest limit, no coastwide reduction in landings is required.

Currently, the Federal coastwide black sea bass recreational measures are: A 25–fish possession limit; a minimum size of 12 inches (30.5 cm); and open seasons of January 1 through September 7, and September 22 through November 30. The Council and Board have approved measures that would maintain the 25–fish possession limit and the 12–inch (30.5–cm) minimum size, but would implement an open season of January 1 through December 31. These measures are expected to constrain recreational black sea bass landings to the 2005 target.

Corrections to the Summer Flounder and Scup Regulations

In addition to the specification of the 2005 recreational management measures for the summer flounder, scup, and black sea bass fisheries, this proposed rule contains two proposed corrections to the regulations at § 648.104. In the final rule to implement measures contained in Framework Adjustment 5 to the FMP (69 FR 62818, October 28, 2004), the paragraph referring to the requirements of the summer flounder small-mesh exemption area letter of authorization was inadvertently published as § 648.104(b)(1)(I) rather than § 648.104(b)(1)(i). This proposed rule would correct that reference. In the final rule to implement the 2005 annual summer flounder, scup, and black sea bass specifications, and other commercial scup measures (70 FR 303, January 4, 2005), the threshhold level to trigger the scup minimum mesh size requirement for otter trawl vessels during the scup Summer period (May 1 through October 31) was increased from 100 lb (45.4 kg) to 200 lb (90.7 kg). This change should also have been reflected in § 648.104(e), the paragraph regarding stowage of nets by trawl vessels fishing for scup. This proposed rule would make that change to be consistent with the threshhold level listed in the minimum mesh size regulations.

Classification

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

The Council prepared an IRFA that describes the economic impact this proposed rule, if adopted, would have on small entities.

A description of the action, why it is being considered, and the legal basis for this action are contained in the preamble to this proposed rule. This proposed rule does not duplicate, overlap, or conflict with other Federal rules. A copy of the complete IRFA is available from the Council (see **ADDRESSES**). A summary of the analysis follows.

The proposed action could affect any recreational angler who fishes for summer flounder, scup, or black sea bass in the EEZ or on a party/charter vessel issued a Federal permit for

summer flounder, scup, and/or black sea bass. However, the IRFA focuses upon the impacts on party/charter vessels issued a Federal permit for summer flounder, scup, and/or black sea bass because these vessels are considered small business entities for the purposes of the Regulatory Flexibility Act (RFA), i.e., businesses with receipts (gross revenues) of up to $3.5 million. These small entities can be specifically identified in the Federal vessel permit database and would be impacted by the recreational measures, regardless of whether they fish in Federal or state waters. Although individual recreational anglers are likely to be impacted, they are not considered small entities under the RFA. Also, there is no permit requirement to participate in these fisheries; thus, it would be difficult to quantify any impacts on recreational anglers in general.

The Council estimated that the proposed measures could affect any of the 777 vessels possessing a Federal charter/party permit for summer flounder, scup, and/or black sea bass in 2003, the most recent year for which complete permit data are available. However, only 337 of these vessels reported active participation in the recreational summer flounder, scup, and/or black sea bass fisheries in 2003.

In the EA/IRFA, the no-action alternative (i.e., maintenance of the regulations as codified) is defined as implementation of the following: (1) For summer flounder, coastwide measures of a 17–inch (43.2–cm) minimum fish size, a 4–fish possession limit, and no closed season, i.e., the measure that would be implemented if conservation equivalency is not implemented in the final rule; (2) for scup, a 10–inch (25.4–cm) minimum fish size, a 50–fish possession limit, and open seasons of January 1 through February 28, and September 7 through November 30; and (3) for black sea bass, a 12–inch (30.5–cm) minimum size, a 25–fish possession limit, and an open season of January 1 through September 7, and September 22 through November 30.

The implications of the no-action alternative are substantial. For summer flounder, reductions in landings would range from 0 percent in MD to 63 percent in NC. The no-action alternative (i.e., maintenance of the regulations as codified) would not be restrictive enough to effect the recommended 9–percent reduction in scup landings relative to 2004, but would constrain black sea bass landings to the harvest limit for 2005. In consideration of the recreational harvest limits established for the 2005 fishing year, taking no action in the summer flounder and scup fisheries would be inconsistent with the goals and objectives of the FMP and its implementing regulations because the coastwide summer flounder measures are more restrictive than necessary for most states and likely would not restrict recreational scup landings to the 2005 harvest limit. Because it could result in overfishing of the scup fishery, taking no action also would be inconsistent with National Standard 1 of the Magnuson-Stevens Fishery Conservation and Management Act.

Effects of the various management measures were analyzed by employing quantitative approaches, to the extent possible. Where quantitative data were not available, the Council conducted qualitative analyses. Although NMFS's RFA guidance recommends assessing changes in profitability as a result of proposed measures, the quantitative impacts were instead evaluated using changes in party/charter vessel revenues as a proxy for profitability. This is because reliable cost data are not available for these fisheries. Without reliable cost data, profits cannot be discriminated from gross revenues. As reliable cost data become available, impacts to profitability can be more accurately forecast. Similarly, changes to long-term solvency were not assessed due both to the absence of cost data and because the recreational management measures change annually according to the specification-setting process.

Assessments of potential changes in gross revenues for all 18 combinations of alternatives proposed in this action were conducted for federally permitted party/charter vessels in each state in the Northeast Region (NE). Management measures proposed under the summer flounder conservation equivalency alternative have yet to be adopted; therefore, potential losses under this alternative could not be analyzed in conjunction with alternatives proposed for scup and black sea bass. Since conservation equivalency allows each state to tailor specific recreational fishing measures to the needs of that state, while still achieving conservation goals, it is likely that the measures developed under this alternative, when considered in combination with the measures proposed for scup and black sea bass, would have fewer overall adverse effects than any of the other combinations that were analyzed.

Impacts were examined by first estimating the number of angler trips aboard party/charter vessels in each state in 2004 that would have been affected by the proposed 2005 management measures. All 2004 party/charter fishing trips that would have been constrained by the proposed 2005 measures in each state were considered to be affected trips.

There is very little information available to estimate empirically how sensitive the affected party/charter vessel anglers might be to the proposed fishing regulations, with the exception of states for which the contribution of summer flounder, scup, and black sea bass to the total catch by party/charter vessels is negligible (ME and NH) and DE, for which results are suppressed for confidentiality purposes. If the proposed measures discourage trip-taking behavior among some of the affected anglers, economic losses may accrue to the party/charter vessel industry in the form of reduced access fees. On the other hand, if the proposed measures do not have a negative impact on the value or satisfaction the affected anglers derive from their fishing trips, party/charter revenues would remain unaffected by this action. In an attempt to estimate the potential changes in gross revenues to the party/charter vessel industry in each state, two hypothetical scenarios were considered: A 25–percent reduction, and a 50–percent reduction, in the number of fishing trips that are predicted to be affected by implementation of the management measures in the NE (ME through NC) in 2005.

Total economic losses to party/charter vessels were then estimated by multiplying the number of potentially affected trips in each state in 2005, under the two hypothetical scenarios, by the estimated average access fee paid by party/charter anglers in the NE in 2004. Finally, total economic losses were divided by the number of federally permitted party/charter vessels that participated in the summer flounder, scup, and/or, black sea bass fisheries in 2003 in each state (according to homeport state in the NE database) to obtain an estimate of the average projected gross revenue loss per party/charter vessel in 2005.

The MRFSS data indicate that anglers fished 33.94 million days in 2004 in the NE. In the NE, party/charter anglers comprised about 5 percent of the angler fishing days. The number of trips in each state ranged from approximately 39,000 in CT to approximately 433,000 in NJ. The number of trips that targeted summer flounder, scup, and/or black sea bass was identified, as appropriate, for each measure, and the number of trips that would be impacted by the proposed measures was estimated. Finally, the revenue impacts were estimated by calculating the average fee paid by anglers on party/charter vessels in the NE in 2004 ($38.93 per angler),

and the revenue impacts on individual vessels were estimated. The analysis assumed that angler effort and catch rates in 2005 will be similar to 2004.

The Council noted that this method is likely to result in overestimation of the potential revenue losses that would result from implementation of the proposed coastwide measures in these three fisheries for several reasons. First, the analysis likely overestimates the potential revenue impacts of these measures because some anglers would continue to take party/charter vessel trips, even if the restrictions limit their landings. Also, some anglers may engage in catch and release fishing and/or target other species. It was not possible to estimate the sensitivity of anglers to specific management measures. Second, the universe of party/charter vessels that participate in the fisheries is likely to be even larger than presented in these analyses, as party/charter vessels that do not possess a Federal summer flounder, scup, or black sea bass permit because they fish only in state waters are not represented in the analyses. Considering the large proportion of landings from state waters (more than 90 percent of summer flounder and scup landings in 2003), it is probable that some party/charter vessels fish only in state waters and, thus, do not hold Federal permits for these fisheries. Third, vessels that hold only state permits likely will be fishing under different, potentially less restrictive, recreational measures for summer flounder in state waters, if such program is implemented in the final rule, and for scup in state waters under the Commission's scup conservation equivalency program.

Impacts of Summer Flounder Alternatives

The proposed action for the summer flounder recreational fishery would limit coastwide catch to 11.98 million lb (5,434 mt) by imposing coastwide Federal measures throughout the EEZ. As described earlier, upon confirmation that the proposed state measures would achieve conservation equivalency, NMFS may waive the permit condition found at § 648.4(b), which requires federally permitted vessels to comply with the more restrictive management measures when state and Federal measures differ. Federally permitted charter/party permit holders and recreational vessels fishing for summer flounder in the EEZ then would be subject to the recreational fishing measures implemented by the state in which they land summer flounder, rather than the coastwide measures.

The impact of the proposed summer flounder conservation equivalency alternative (in Summer Flounder Alternative 1) among states is likely to be similar to the level of landings reductions that are required of each state. As indicated above, only MA, CT, and NY would be required to reduce summer flounder landings in 2005, relative to their 2004 landings (by 7 percent, 19 percent, and 6 percent, respectively). If the preferred conservation equivalency alternative is effective at achieving the recreational harvest limit, then it is likely to be the only alternative that minimizes adverse economic impacts, to the extent practicable, yet achieves the biological objectives of the FMP. Because states have a choice, it is more rational (and is expected) that the states would adopt conservation equivalent measures that result in fewer adverse economic impacts than the much more restrictive precautionary default measures (i.e., only one fish measuring at least 18 inches (45.7 cm)). Therefore, the precautionary default provision that is included in the conservation equivalency proposal was not analyzed as a stand-alone provision. The state-specific landings reductions (relative to landings in these states in 2004) associated with the precautionary default measures, consisting of an 18–inch (45.7–cm) minimum fish size, a one-fish possession limit, and no closed season, would range from 41 percent (DE) to 88 percent (NC).

The impacts of the proposed, no-action summer flounder coastwide alternative (Summer Flounder Alternative 2), i.e., a 17–inch (43.2–cm) minimum fish size, a four-fish possession limit, and no closed season, were evaluated using the quantitative method described above. Impacted trips were defined as individual angler trips taken aboard party/charter vessels in 2004 that landed at least one summer flounder smaller than 17 inches (43.2 cm), or that landed more than four summer flounder. The analysis concluded that the measures would affect 0.5 percent of the party/charter vessel trips in the NE.

Impacts of Scup Alternatives

The proposed action for scup would limit coastwide landings to 3.96 million lb (1,796 mt) and reduce landings by at least 9 percent compared to 2004.

For Scup Alternative 1 (a 10–inch (25.4–cm) minimum fish size, a 50–fish possession limit, and open seasons of January 1 through February 28, and September 7 through November 30) , the no-action alternative and the Council's preferred scup alternative, impacted trips were defined as individual angler trips taken aboard party/charter vessels in 2004 that landed at least 1 scup smaller than 10 inches (25.4 cm), that landed more than 50 scup, or that landed at least 1 scup during the proposed closed seasons of March 1 through September 6, and December 1 through December 31. The analysis concluded that the measures would affect 2.6 percent of party/charter vessel trips in the NE.

For Scup Alternative 2 (a 10–inch (25.4–cm) minimum fish size, a 50–fish possession limit, and open seasons of January 1 through February 28, and September 18 through November 30), the proposed action, impacted trips were defined as individual angler trips taken aboard party/charter vessels in 2004 that landed at least 1 scup smaller than 10 inches (25.4 cm), that landed more than 50 scup, or that landed at least 1 scup during the periods of March 1 through September 17, and December 1 through December 31. The analysis concluded that the measures would affect 3.2 percent of party/charter vessel trips in the NE.

For the non-preferred scup measures (Scup Alternative 3: A 10–inch (25.4–cm) minimum fish size, a 50–fish possession limit, and open seasons of January 1 through February 28, and September 12 through September 30), impacted trips were defined as individual angler trips taken aboard party/charter vessels in 2004 that landed at least 1 scup smaller than 10 inches (25.4 cm), that landed more than 50 scup, or that landed at least 1 scup during the period March 1 through September 11, and October 1 through December 31. The analysis concluded that the measures in this alternative would affect 3.8 percent of party/charter vessel trips in the NE.

Impacts of Black Sea Bass Alternatives

The proposed action for black sea bass would limit coastwide landings to 4.13 million lb (1,873 mt). For the preferred black sea bass alternative (Black Sea Bass Alternative 1: A 12–inch (30.5–cm) minimum size, a 25–fish possession limit, and an open season of January 1 through December 31), impacted trips were defined as individual angler trips taken aboard party/charter vessels in 2004 that landed at least 1 black sea bass smaller than 12 inches (30.5 cm), or that landed more than 25 black sea bass. The analysis concluded that the measures would affect 0.1 percent of party/charter vessel trips in the NE.

For Black Sea Bass Alternative 2 (a 12–inch (30.5–cm) minimum size, a 25–fish possession limit, and an open season of January 1 through September

7, and September 22 through November 30), the no-action and non-preferred alternative, impacted trips were defined as individual angler trips taken aboard party/charter vessels in 2004 that landed at least 1 black sea bass smaller than 12 inches (30.5 cm), that landed more than 25 black sea bass, or that landed at least 1 black sea bass during the period September 8 through September 21, and December 1 through December 31. The analysis concluded that the measures would affect 0.2 percent of party/charter vessel trips in the NE.

For the non-preferred black sea bass measures considered in Black Sea Bass Alternative 3 (a 12–inch (30.5–cm) minimum size, a 25–fish possession limit, and an open season of January 1 through November 30), impacted trips were defined as individual angler trips taken aboard party/charter vessels in 2004 that landed at least 1 black sea bass smaller than 12 inches (30.5 cm), that landed more than 25 black sea bass, or that landed at least 1 black sea bass during the period of December 1 through December 31. The analysis concluded that the measures would affect 0.1 percent of party/charter trips in the NE.

Combined Impacts of Summer Flounder, Scup, and Black Sea Bass Alternatives

Since the management measures under Summer Flounder Alternative 1 (i.e., conservation equivalency) have yet to be adopted, the effort effects of this alternative could not be analyzed in conjunction with the alternatives proposed for scup and black sea bass. The percent of total party/charter vessel trips in the NE that were estimated to be affected by the other alternatives ranged from a low of 3 percent for the combination of measures proposed under Summer Flounder Alternative 2, Scup Alternative 1, and Black Sea Bass Alternative 1 or 3; to a high of 10.8 percent for the precautionary default measures for summer flounder (considered in Summer Flounder Alternative 1) combined with the measures proposed under Scup Alternative 3 and Black Sea Bass Alternative 2.

Potential revenue losses in 2005 could differ for party/charter vessels that land more than one of the regulated species. The cumulative maximum gross revenue loss per vessel varies by the combination of permits held and by state. All 18 potential combinations of management alternatives proposed for summer flounder, scup, and black sea bass are predicted to affect party/charter vessel revenues to some extent in 9 of the 11 NE coastal states. Angler effort aboard party/charter vessels in 2005 in ME and NH is not predicted to be constrained (i.e., affected) by the proposed measures, thus party/charter revenues for vessels operating in these states are not estimated to be impacted. In addition, although potential losses were estimated for party/charter vessels operating out of DE, these results are suppressed for confidentiality purposes. Average party/charter losses for federally permitted vessels operating in the remaining states are estimated to vary considerably across the 18 combinations of alternatives. For instance, in NY, average losses are predicted to range from $1,917 per vessel under the combined effects of Summer Flounder Alternative 2, Scup Alternative 1, and Black Sea Bass Alternative 1, to $8,817 per vessel under the combined effects of the summer flounder precautionary default (considered in Summer Flounder Alternative 1), Scup Alternative 3, and Black Sea Bass Alternative 3 (assuming a 25–percent reduction in affected effort).

There are no new reporting or recordkeeping requirements contained in any of the alternatives considered for this action.

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: March 10, 2005.

John Oliver,

Deputy Assistant Administrator for Operations, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 648 is proposed to be amended as follows:

PART 648—FISHERIES OF THE NORTHEASTERN UNITED STATES

1. The authority citation for part 648 continues to read as follows:

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

2. In § 648.104, the first sentence of paragraph (b)(1) is revised to read as follows:

§ 648.104 Gear restrictions.

* * * * *

(b) * * *

(1) Vessels issued a summer flounder moratorium permit, a summer flounder small-mesh exemption area letter of authorization (LOA), required under paragraph (b)(1)(i) of this section, and fishing from November 1 through April 30 in the exemption area, which is east of the line that follows 72°30.0′ W. long. until it intersects the outer boundary of the EEZ (copies of a map depicting the area are available upon request from the Regional Administrator). * * *

* * * * *

3. In § 648.122, paragraph (g) is revised to read as follows:

§ 648.122 Season and area restrictions.

* * * * *

(g) *Time restrictions.* Vessels that are not eligible for a moratorium permit under § 648.4(a)(6), and fishermen subject to the possession limit, may not possess scup, except from January 1 through the last day of February, and from September 18 through November 30. This time period may be adjusted pursuant to the procedures in § 648.120.

4. In § 648.123, the first sentence of paragraph (a)(5) is revised to read as follows:

§ 648.123 Gear restrictions.

(a) * * *

(5) * * * The owner or operator of an otter trawl vessel retaining 500 lb (226.8 kg) or more of scup from November 1 through April 30, or 200 lb (90.7 kg) or more of scup from May 1 through October 31, and subject to the minimum mesh requirements in paragraph (a)(1) of this section, and the owner or operator of a midwater trawl or other trawl vessel subject to the minimum size requirement in § 648.122, may not have available for immediate use any net, or any piece of net, not meeting the minimum mesh size requirement, or mesh that is rigged in a manner that is inconsistent with the minimum mesh size. * * *

* * * * *

5. Section 648.142 is revised to read as follows:

§ 648.142 Time restrictions.

Vessels that are not eligible for a moratorium permit under § 648.4(a)(7), and fishermen subject to the possession limit, may possess black sea bass from January 1 through December 31, unless this time period is adjusted pursuant to the procedures in § 648.140.

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Notices

Federal Register
Vol. 70, No. 49
Tuesday, March 15, 2005

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

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

March 10, 2005.

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

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

Risk Management Agency

Title: Organic Apple Production Survey in Pacific Northwest.

OMB Control Number: 0563–NEW.

Summary of Collection: The Risk Management Agency (RMA) is responsible for promoting, supporting, and regulating a broad array of market-based, risk management programs for agricultural producers. In legislation enacted in 2000 and 2002, Congress authorized and directed the agency to ''increase participation by producers of underserved agricultural commodities, including specialty crops'' and to ''enter into contracts to carry out research and development'' to achieve this end.

Need and Use of the Information: The main user of the data from the survey will be RMA in the development of appropriate risk management tools for the specialty crop producer as mandated by the Agricultural Risk Protection Act. The survey will enable the research partnership of RMA and the universities to develop a risk management profile of organic apple producers. An example of the analysis to be developed would be the projection of insurance demand under a variety of premium and indemnity calculations. In depth analysis of the survey results will provide guidance in the design of insurance programs.

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

Number of Respondents: 149.

Frequency of Responses: Reporting: Other (One time).

Total Burden Hours: 57.

Risk Management Agency

Title: Survey on Risk Issues for Organic Grain Farmers.

OMB Control Number: 0563–NEW.

Summary of Collection: The Risk Management Agency is responsible for promoting, supporting, and regulating a broad array of market-based, risk management programs for agricultural producers. In legislation enacted in 2000 and 2002, Congress authorized and directed the agency to ''increase participation by producers of underserved agricultural commodities, including specialty crops'' and to ''enter into contracts to carry out research and development'' to achieve this end.

Need and Use of the Information: The main user of the data from the survey will be the Risk Management Agency (RMA) in the development of appropriate risk management tools for organic grain producers. The survey will enable the research partnership of RMA and Kansas State University to develop a risk management profile of organic grain producers. An example of the analysis to be developed would be the projection of premiums for organic grains and net income projections under various market conditions and risk management strategies. In-depth analysis of the survey results will provide guidance in the design of risk management tools tailored for the use of organic grain producers.

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

Number of Respondents: 1,500.

Frequency of Responses: Reporting: Other (One time).

Total Burden Hours: 625.

Risk Management Agency

Title: Organic Handler Survey.

OMB Control Number: 0563–NEW.

Summary of Collection: The Risk Management Agency is responsible for promoting, supporting, and regulating a broad array of market-based, risk management programs for agricultural producers. In legislation enacted in 2000 and 2002, Congress authorized and directed the agency to ''increase participation by producers of underserved agricultural commodities, including specialty crops'' and to ''enter into contracts to carry out research and development'' to achieve this end.

Need and Use of the Information: The price and marketing information will improve the efficiency of farmers' production and marketing decisions. The research will reveal how the industry is coping with market risks and growth, will demonstrate different marketing options available to farmers, and determine the extent to which organic farmers are using specific risk-management tools traditionally used by conventional producers, such as contracts. The educational tool will provide farmers with information about risk-management strategies, marketing arrangements, and marketing channels for specific commodities. Certified organic farmers and those considering transitioning to organic farming will find this information useful in improving the efficiency of production and marketing decisions.

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

Number of Respondents: 2,000.

Frequency of Responses: Reporting: Other (One time).

Total Burden Hours: 1,100.

Risk Management Agency

Title: Organic Price Index Project.

OMB Control Number: 0563–NEW.

Summary of Collection: The Risk Management Agency is responsible for promoting, supporting, and regulating a broad array of market-based, risk management programs for agricultural producers. In legislation enacted in 2000 and 2002, Congress authorized and directed the agency to ''increase participation by producers of underserved agricultural commodities, including specialty crops'' and to ''enter into contracts to carry out research and development'' to achieve this end.

Need and Use of the Information: Since early 2003, the Rodale Institute has posted prices for around 40 organic products in a file called the ''Organic Price Index''. The prices have been collected from wholesale distributors, sales agencies, and cooperatives that specialize in the marketing of organic products. Fruit and vegetable prices have been collected from organic wholesalers operating in the vicinity of the Seattle and Boston wholesale produce markets. Prices of identical conventional products reported by Agricultural Marketing Service in these markets are also posted for comparison. As part of this project, prices will be collected for a wider array of organic products and in 13 additional market areas.

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

Number of Respondents: 60.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 53.

Ruth Brown,

Departmental Information Clearance Officer.

[FR Doc. 05–5054 Filed 3–14–05; 8:45 am]

BILLING CODE 3410–08–P

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

[Docket No. 05–002N]

Codex Alimentarius Commission: 22nd Session of the Codex Committee on General Principles

AGENCY: Office of the Under Secretary for Food Safety.

ACTION: Notice of public meeting; request for Comments.

SUMMARY: The Office of the Under Secretary for Food Safety, United States Department of Agriculture (USDA), and the Food and Drug Administration (FDA), United States Department of Health and Human Services, are sponsoring a public meeting on March 29, 2005, to provide draft U.S. positions and receive public comments on agenda items that will be discussed at the 22nd Session of the Codex Committee on General Principles (CCGP) of the Codex Alimentarius Commission (Codex). The 22nd Session of the CCGP will be held in Paris, France, April 11–15, 2005. The Under Secretary of USDA and FDA recognize the importance of providing interested parties with the opportunity to comment on the agenda items that will be debated at this forthcoming session of the CCGP.

DATES: The public meeting is scheduled for Tuesday, March 29, 2005, from 1 p.m. to 4 p.m.

ADDRESSES: The public meeting will be held in the USDA South Building Cafeteria (rear), 1400 Independence Avenue, SW., Washington, DC.

Documents related to the 22nd Session of the CCGP will be accessible via the World Wide Web at the following address: *http://www.codexalimentarius.net/current.asp*.

FSIS invites interested persons to submit comments on this notice. Comments may be submitted by any of the following methods:

- Mail, including floppy disks or CD–ROMs, and hand -or courier-delivered items: Send to the FSIS Docket Clerk, U.S. Department of Agriculture, Food Safety and Inspection Service, 300 12th Street, SW., Room 102, Cotton Annex, Washington D.C. 20730. All Comments received must include the Agency name and docket number 05–002N.

All comments submitted in response to this notice, will be available for public inspection in the FSIS Docket Room at the address listed above between 8:30 a.m. and 4:30 p.m., Monday through Friday. The comments also will be posted on the Agency's Web site at *http://www.fsis.usda.gov/regulations/2005_Notices_Index/*.

Participation by Conference Call: A call-in number has been arranged: 1–800–369–1941; the pass code is CODEX.

FOR FURTHER INFORMATION CONTACT: *About the 22nd Session of the CCGP:* U.S. Delegate, F. Edward Scarbrough, Ph.D., U.S. Manager for Codex, FSIS, USDA, 1400 Independence Avenue, SW., Washington, DC 20250, telephone: (202) 205–7760; facsimile: (202) 720–3157. Electronic mail: *ed.scarbrough@fsis.usda.gov*.

About the Public Meeting Contact: Ellen Matten, International Issues Analyst, U.S. Codex Office, FSIS, Room 4861, South Building, 1400 Independence Avenue, SW., Washington, DC 20250, telephone: (202) 205–7760; facsimile: (202) 720–3157.

SUPPLEMENTARY INFORMATION:

Background

The Codex Alimentarius (Codex) was established in 1962 by two United Nations organizations, the Food and Agriculture Organization (FAO) and the World Health Organization (WHO). Codex is the major international organization for protecting the health and economic interests of consumers and encouraging fair international trade in food. Through adoption of food standards, codes of practice, and other guidelines developed by its committees, and by promoting their adoption and implementation by governments, Codex seeks to ensure that the world's food supply is sound, wholesome, free from adulteration, and correctly labeled. In the United States, USDA, FDA, and the Environmental Protection Agency manage and carry out U.S. Codex activities.

The Codex Committee on General Principles (CCGP) deals with rules and procedures referred to it by the Codex Alimentarius Commission, including the establishment of principles that define the purpose and scope of the Codex Alimentarius and the nature of Codex standards. The development of mechanisms to address any economic impact statements also is the responsibility of the CCGP. The CCGP is chaired by France.

Issues To Be Discussed at the Public Meeting

The following items on the agenda for the 22nd Session of CCGP will be discussed during the public meeting:

- Matters referred by the Codex Alimentarius Commission and other Codex Committees.
- Proposed Draft Working Principles for Risk Analysis for Food Safety.
- Proposed Draft Revised Code of Ethics for International Trade in Foods.
- Proposed Amendments to the Procedural Manual: Acceptance of Codex Standards.
- Revision of the definition of the term ''food''.
- Consideration of the structure and presentation of the Procedural Manual.
- Clarification of the duration of the term of the Members of the Executive Committee.

Each issue will be fully described in documents distributed, or to be distributed, by the French Secretariat to

the meeting. Members of the public may access or request copies of these documents (*see* **ADDRESSES**).

Public Meeting

At the March 29, 2005, public meeting, draft U.S. positions on these agenda items will be described, discussed, and attendees will have the opportunity to pose questions and offer comments. Written comments may be offered at the meeting or sent to the delegate. Written comments should state that they relate to activities of the 22nd Session of the CCGP.

Additional Public Notification

Public awareness of all segments of rulemaking and policy development is important. Consequently, in an effort to ensure that the public and, in particular, minorities, women, and persons with disabilities are aware of this notice, FSIS will announce it on-line through the FSIS Web page located at *http://www.fsis.usda.gov/regulations/2005_Notices_Index/*.

FSIS also will make copies of this **Federal Register** publication available through the FSIS Constituent Update, which is used to provide information regarding FSIS policies, procedures, regulations, **Federal Register** notices, FSIS public meetings, recalls, and other types of information that could affect or would be of interest to our constituents and stakeholders. The update is communicated via Listserv, a free electronic mail subscription service for industry, trade, and farm groups, consumer interest groups, allied health professionals, scientific professionals, and other individuals who have requested to be included. The update is available on the FSIS Web page. Through Listserv and the Web page, FSIS is able to provide information to a much broader, more diverse audience.

In addition, FSIS offers an electronic mail subscription service which provides an automatic and customized notification when popular pages are updated, including **Federal Register** publications and related documents. This service is available at *http://www.fsis.usda.gov/news_and_events/email_subscription/* and allows FSIS customers to sign up for subscription options across eight categories. Options range from recalls to export information to regulations, directives, and notices.

Customers can add or delete subscriptions themselves and have the option to protect their accounts with passwords.

Done in Washington, DC, on March 9, 2005.

F. Edward Scarbrough,

U.S. Manager for Codex Alimentarius.

[FR Doc. 05–4995 Filed 3–14–05; 8:45 am]

BILLING CODE 3410–DM–P

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

[Docket No. 05–001N]

Codex Alimentarius Commission: 33rd Session of the Codex Committee on Food Labelling

AGENCY: Office of the Under Secretary for Food Safety.

ACTION: Notice of public meeting; request for comments.

SUMMARY: The Office of the Under Secretary for Food Safety, United States Department of Agriculture (USDA), and the Food and Drug Administration (FDA), United States Department of Health and Human Services, are sponsoring a public meeting on April 26, 2005, to provide draft U.S. positions and receive public comments on agenda items that will be discussed at the 33rd Session of the Codex Committee on Food Labelling (CCFL) of the Codex Alimentarius Commission (Codex), which will be held in Kota Kinabalu, Malaysia, May 9–13, 2005. The Under Secretary and FDA recognize the importance of providing interested parties with the opportunity to comment on the agenda items that will be debated at this forthcoming session of the CCFL.

DATES: The public meeting is scheduled for Tuesday, April 26, 2005, from 1 p.m. to 4 p.m.

ADDRESSES: The public meeting will be held in Room 107A, Jamie Whitten Building, 1400 Independence Avenue, SW., Washington, DC.

Documents related to the 33rd Session of the CCFL will be accessible via the World Wide Web at the following address: *http://www.codexalimentarius.net/current.asp*.

FSIS invites interested persons to submit comments on this notice. Comments may be submitted by any of the following methods:

- Mail, including floppy disks or CD–ROMs, and hand- or courier-delivered items: Send to the FSIS Docket Clerk, U.S. Department of Agriculture, Food Safety and Inspection Service, 300 12th Street, SW., Room 102, Cotton Annex, Washington, DC 20730. All comments received must include the Agency name and docket number 05–001N.

All comments submitted in response to this notice will be available for public inspection in the FSIS Docket Room at the address listed above between 8:30 a.m. and 4:30 p.m., Monday through Friday. The comments also will be posted on the Agency's Web site at *http://www.fsis.usda.gov/regulations/2005_Notices_Index/*.

Participation by Conference Call: A call-in number has been arranged: 1–888–422–7105; participant code 162347.

FOR FURTHER INFORMATION CONTACT: *About the 33rd Session of the CCFL:* U.S. Delegate, Leslye Fraser, J.D., Director, Office of Regulations and Policy, Center for Food Safety and Applied Nutrition, FDA, 5100 Paint Branch Parkway (HFS–004), College Park, MD 20740, telephone: (301) 436–2378; facsimile: (301) 436–2637. Electronic mail: *leslye.fraser@fda.hhs.gov.*

About the Public Meeting: Ellen Matten, International Issues Analyst, U.S. Codex Office, FSIS, Room 4861, South Building, 1400 Independence Avenue, SW., Washington, DC 20250, telephone: (202) 205–7760; facsimile: (202) 720–3157.

SUPPLEMENTARY INFORMATION:

Background

The Codex Alimentarius (Codex) was established in 1962 by two United Nations organizations, the Food and Agriculture Organization (FAO) and the World Health Organization (WHO). Codex is the major international organization for protecting the health and economic interests of consumers and encouraging fair international trade in food. Through adoption of food standards, codes of practice, and other guidelines developed by its committees, and by promoting their adoption and implementation by governments, Codex seeks to ensure that the world's food supply is sound, wholesome, free from adulteration, and correctly labeled. In the United States, USDA, FDA, and the Environmental Protection Agency manage and carry out U.S. Codex activities.

The Codex Committee on Food Labelling (CCFL) drafts provisions on labelling applicable to all foods; considers, amends, if necessary, and endorses specific provisions on labelling of draft standards, codes of practice, and guidelines prepared by other Codex committees; studies specific labelling problems assigned to it by the Commission; and studies problems associated with the advertisement of food with particular reference to claims and misleading descriptions. The CCFL is chaired by Canada.

Issues To Be Discussed at the Public Meeting

The following items on the agenda for the 33rd Session of the CCFL will be discussed during the public meeting:

- Matters referred to the Committee from other Codex bodies.
- Endorsement of labelling provisions of draft commodity standards.
- Proposed Draft Guidelines for the Labelling of Foods Obtained Through Certain Techniques of Genetic Modification/Genetic Engineering: Labelling Provisions and Definitions.
- Country-of-origin labelling.
- Discussion paper on advertising.
- Proposed Draft Amendment to the General Standard for the Labelling of Prepackaged Foods (Quantitative Ingredient Declaration).

Each issue listed will be fully described in documents distributed, or to be distributed, by the Canadian Secretariat to the Meeting. Members of the public may access or request copies of these documents (*see* **ADDRESSES**).

Public Meeting

At the April 26, 2005, public meeting, draft U.S. positions on these agenda items will be described, discussed, and attendees will have the opportunity to pose questions and offer comments. Written comments may be offered at the meeting or sent to the U.S. Delegate for the 33rd Session of the CCFL, Leslye Fraser, J.D., (*see* **ADDRESSES**). Written comments should state that they relate to activities of the 33rd Session of the CCFL.

Additional Public Notification

Public awareness of all segments of rulemaking and policy development is important. Consequently, in an effort to ensure that the public and, in particular, minorities, women, and persons with disabilities are aware of this notice, FSIS will announce it on-line through the FSIS Web page located at *http://www.fsis.usda.gov/regulations/2005_Notices_Index/*.

FSIS also will make copies of this **Federal Register** publication available through the FSIS Constituent Update, which is used to provide information regarding FSIS policies, procedures, regulations, **Federal Register** notices, FSIS public meetings, recalls, and other types of information that could affect or would be of interest to our constituents and stakeholders. The update is communicated via Listserv, a free electronic mail subscription service for industry, trade, and farm groups, consumer interest groups, allied health professionals, scientific professionals, and other individuals who have requested to be included. The update is available on the FSIS Web page. Through Listserv and the Web page, FSIS is able to provide information to a much broader, more diverse audience.

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Done in Washington, DC, on March 9, 2005.

F. Edward Scarbrough,

U.S. Manager for Codex Alimentarius.

[FR Doc. 05–4996 Filed 3–14–05; 8:45 am]

BILLING CODE 3410–DM–P

DEPARTMENT OF COMMERCE

Economics and Statistics Administration

Bureau of Economic Analysis

BEA Customer Satisfactions Survey

ACTION: Proposed information collection.

SUMMARY: The purpose of the BEA Customer Satisfaction Survey is to obtain feedback from customers on the quality of BEA products and services. The information collected is instrumental in allowing BEA to improve the quality of its data products and its methods of data dissemination.

DATES: The survey will be mailed out on May 24, 2005, and posted to the BEA home page on June 3, 2005.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or for copies of the information collection instrument and instructions should be directed to James Murphy, U.S. Department of Commerce, Bureau of Economic Analysis, BE–64, Washington, DC 20230, or by telephone at 202–606–2787.

SUPPLEMENTARY INFORMATION:

I. Abstract

As one of the Nation's leading statistical agencies, the Bureau of Economic Analysis (BEA) provides reliable and consistent measures of economic activity that are essential to intelligent decisionmaking by business people and policymakers and to the efficient operation of financial markets. The purpose of the BEA Customer Satisfaction Survey is to obtain feedback from customers on the quality of BEA products and services. The information collected will assist BEA in improving the quality of its data products and its methods of data dissemination.

II. Method of Collection

The survey and a cover letter with instructions on how to complete it will be mailed to about 5,000 potential respondents; BEA will request that responses be returned 30 days after the mailing. The survey will also be posted on BEA's Web site for 2,000 potential respondents. It is designed to ensure anonymity for all respondents and therefore eliminates the necessity for recordkeeping of respondents.

III. Data

OMB Control Number: 0691–0001.

Affected Public: Individuals from for profit and non profit organizations and individuals from other Federal, State, and local government agencies.

Estimated Number of Respondents: 500.

Estimated Response Time: 15 minutes.

Estimated Total Annual Burden Hours: 125.

Estimated Total Annual Cost: The only cost to the respondents is that of their time.

Legal Authority: Executive Order 12862, Section 1(b), of September 11, 1993.

Dated: March 8, 2005.

J. Steven Landefeld,

Director, Bureau of Economic Analysis.

[FR Doc. 05–4992 Filed 3–14–05; 8:45 am]

BILLING CODE 3510–06–M

DEPARTMENT OF COMMERCE

INTERNATIONAL TRADE ADMINISTRATION

(A–274–804)

Notice of Final Results of Antidumping Duty Administrative Review: Carbon and Certain Alloy Steel Wire Rod from Trinidad and Tobago

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

SUMMARY: On November 8, 2004, the Department of Commerce (the Department) published the preliminary results of its first administrative review

of the antidumping duty order on carbon and certain alloy steel wire rod from Trinidad and Tobago. The review covers one producer of the subject merchandise. The period of review (POR) is April 10, 2002, through September 30, 2003. Based on our analysis of comments received, these final results differ from the preliminary results. The final results are listed below in the Final Results of Review section.

EFFECTIVE DATE: March 15, 2005.

FOR FURTHER INFORMATION CONTACT: Dennis McClure or Vicki Cho, at (202) 482–5973 or (202) 482–5075, respectively; AD/CVD Operations, Office 3, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street & Constitution Avenue, NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Background

On November 8, 2004, the Department published in the **Federal Register** the preliminary results of the first administrative review of the antidumping duty order on carbon and certain alloy steel wire rod from Trinidad and Tobago. *See Preliminary Results of Antidumping Duty Administrative Review: Carbon and Certain Steel Alloy Steel Wire Rod from Trinidad and Tobago*, 69 FR 64726 (November 8, 2004) (*Preliminary Results*).

We invited parties to comment on the *Preliminary Results*. On December 8, 2004, we received case briefs from the sole respondent, Carribean Ispat Limited (CIL) and its affiliates Ispat North America Inc. (INA) and Walker Wire (Ispat) Inc. (Walker Wire) (collectively CIL), and the petitioners, Gerdau Ameristeel US Inc., ISG Georgetown Inc., Keystone Consolidated Industries, Inc., and North Star Steel Texas, Inc. Both parties submitted rebuttal briefs on December 13, 2004. A public hearing was requested by both parties and held on December 22, 2004. On March 3, 2005, we received a letter claiming that Carribean Ispat Limited had changed its name to Mittal Steel Point Lisas Limited. Given the timing of this letter, we have not been able to consider this further. We will do so in the future in the context of a changed circumstances review, in the event one is requested.

Scope of the Order

Effective July 24, 2003, in accordance with the Department's *Notice of Final Results of Changed Circumstances Review of the Antidumping Duty and Countervailing Duty Orders, and Intent to Revoke Orders in Part*, 68 FR 64079 (November 12, 2003), the scope of this order was amended. Therefore, for purposes of this review, there were separate scopes in effect. These scopes are set forth below.

Scope of Order from October 29, 2002, through July 23, 2003

The merchandise subject to this order is certain hot–rolled products of carbon steel and alloy steel, in coils, of approximately round cross section, 5.00 mm or more, but less than 19.00 mm, in solid cross-sectional diameter.

Specifically excluded are steel products possessing the above–noted physical characteristics and meeting the *Harmonized Tariff Schedule of the United States* (HTSUS) definitions for (a) Stainless steel; (b) tool steel; (c) high nickel steel; (d) ball bearing steel; and (e) concrete reinforcing bars and rods. Also excluded are (f) free machining steel products (*i.e.*, products that contain by weight one or more of the following elements: 0.03 percent or more of lead, 0.05 percent or more of bismuth, 0.08 percent or more of sulfur, more than 0.04 percent of phosphorus, more than 0.05 percent of selenium, or more than 0.01 percent of tellurium).

Also excluded from the scope are 1080 grade tire cord quality wire rod and 1080 grade tire bead quality wire rod. This grade 1080 tire cord quality rod is defined as: (i) grade 1080 tire cord quality wire rod measuring 5.0 mm or more but not more than 6.0 mm in cross-sectional diameter; (ii) with an average partial decarburization of no more than 70 microns in depth (maximum individual 200 microns); (iii) having no inclusions greater than 20 microns; (iv) having a carbon segregation per heat average of 3.0 or better using European Method NFA 04–114; (v) having a surface quality with no surface defects of a length greater than 0.15 mm; (vi) capable of being drawn to a diameter of 0.30 mm or less with 3 or fewer breaks per ton, and (vii) containing by weight the following elements in the proportions shown: (1) 0.78 percent or more of carbon, (2) less than 0.01 percent of aluminum, (3) 0.040 percent or less, in the aggregate, of phosphorus and sulfur, (4) 0.006 percent or less of nitrogen, and (5) not more than 0.15 percent, in the aggregate, of copper, nickel and chromium.

This grade 1080 tire bead quality rod is defined as: (i) grade 1080 tire bead quality wire rod measuring 5.5 mm or more but not more than 7.0 mm in cross-sectional diameter; (ii) with an average partial decarburization of no more than 70 microns in depth (maximum individual 200 microns); (iii) having no inclusions greater than 20 microns; (iv) having a carbon segregation per heat average of 3.0 or better using European Method NFA 04–114; (v) having a surface quality with no surface defects of a length greater than 0.2 mm; (vi) capable of being drawn to a diameter of 0.78 mm or larger with 0.5 or fewer breaks per ton; and (vii) containing by weight the following elements in the proportions shown: (1) 0.78 percent or more of carbon, (2) less than 0.01 percent of soluble aluminum, (3) 0.040 percent or less, in the aggregate, of phosphorus and sulfur, (4) 0.008 percent or less of nitrogen, and (5) either not more than 0.15 percent, in the aggregate, of copper, nickel and chromium (if chromium is not specified), or not more than 0.10 percent in the aggregate of copper and nickel and a chromium content of 0.24 to 0.30 percent (if chromium is specified).

The designation of the products as ''tire cord quality'' or ''tire bead quality'' indicates the acceptability of the product for use in the production of tire cord, tire bead, or wire for use in other rubber reinforcement applications such as hose wire. These quality designations are presumed to indicate that these products are being used in tire cord, tire bead, and other rubber reinforcement applications, and such merchandise intended for the tire cord, tire bead, or other rubber reinforcement applications is not included in the scope. However, should the petitioners or other interested parties provide a reasonable basis to believe or suspect that there exists a pattern of importation of such products for other than those applications, end–use certification for the importation of such products may be required. Under such circumstances, only the importers of record would normally be required to certify the end use of the imported merchandise.

All products meeting the physical description of subject merchandise that are not specifically excluded are included in this scope.

The products under review are currently classifiable under subheadings 7213.91.3010, 7213.91.3090, 7213.91.4510, 7213.91.4590, 7213.91.6010, 7213.91.6090, 7213.99.0031, 7213.99.0038, 7213.99.0090, 7227.20.0010, 7227.20.0020, 7227.20.0090, 7227.20.0095, 7227.90.6051, 7227.90.6053, 7227.90.6058, and 7227.90.6059 of the HTSUS. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this proceeding is dispositive.

Scope of Order from July 24, 2003, through the POR

The merchandise subject to this order is certain hot–rolled products of carbon steel and alloy steel, in coils, of approximately round cross section, 5.00 mm or more, but less than 19.00 mm, in solid cross-sectional diameter.

Specifically excluded are steel products possessing the above–noted physical characteristics and meeting the HTSUS definitions for (a) stainless steel; (b) tool steel; c) high nickel steel; (d) ball bearing steel; and (e) concrete reinforcing bars and rods. Also excluded are (f) free machining steel products (*i.e.*, products that contain by weight one or more of the following elements: 0.03 percent or more of lead, 0.05 percent or more of bismuth, 0.08 percent or more of sulfur, more than 0.04 percent of phosphorus, more than 0.05 percent of selenium, or more than 0.01 percent of tellurium).

Also excluded from the scope are 1080 grade tire cord quality wire rod and 1080 grade tire bead quality wire rod. This grade 1080 tire cord quality rod is defined as: (i) grade 1080 tire cord quality wire rod measuring 5.0 mm or more but not more than 6.0 mm in cross-sectional diameter; (ii) with an average partial decarburization of no more than 70 microns in depth (maximum individual 200 microns); (iii) having no non–deformable inclusions greater than 20 microns and no deformable inclusions greater than 35 microns; (iv) having a carbon segregation per heat average of 3.0 or better using European Method NFA 04–114; (v) having a surface quality with no surface defects of a length greater than 0.15 mm; (vi) capable of being drawn to a diameter of 0.30 mm or less with 3 or fewer breaks per ton, and (vii) containing by weight the following elements in the proportions shown: (1) 0.78 percent or more of carbon, (2) less than 0.01 percent of aluminum, (3) 0.040 percent or less, in the aggregate, of phosphorus and sulfur, (4) 0.006 percent or less of nitrogen, and (5) not more than 0.15 percent, in the aggregate, of copper, nickel and chromium.

This grade 1080 tire bead quality rod is defined as: (i) Grade 1080 tire bead quality wire rod measuring 5.5 mm or more but not more than 7.0 mm in cross-sectional diameter; (ii) with an average partial decarburization of no more than 70 microns in depth (maximum individual 200 microns); (iii) having no non–deformable inclusions greater than 20 microns and no deformable inclusions greater than 35 microns; (iv) having a carbon segregation per heat average of 3.0 or better using European Method NFA 04–114; (v) having a surface quality with no surface defects of a length greater than 0.2 mm; (vi) capable of being drawn to a diameter of 0.78 mm or larger with 0.5 or fewer breaks per ton; and (vii) containing by weight the following elements in the proportions shown: (1) 0.78 percent or more of carbon, (2) less than 0.01 percent of soluble aluminum, (3) 0.040 percent or less, in the aggregate, of phosphorus and sulfur, (4) 0.008 percent or less of nitrogen, and (5) either not more than 0.15 percent, in the aggregate, of copper, nickel and chromium (if chromium is not specified), or not more than 0.10 percent in the aggregate of copper and nickel and a chromium content of 0.24 to 0.30 percent (if chromium is specified).

For purposes of the grade 1080 tire cord quality wire rod and the grade 1080 tire bead quality wire rod, an inclusion will be considered to be deformable if its ratio of length (measured along the axis - that is, the direction of rolling - of the rod) over thickness (measured on the same inclusion in a direction perpendicular to the axis of the rod) is equal to or greater than three. The size of an inclusion for purposes of the 20 microns and 35 microns limitations is the measurement of the largest dimension observed on a longitudinal section measured in a direction perpendicular to the axis of the rod. This measurement methodology applies only to inclusions on certain grade 1080 tire cord quality wire rod and certain grade 1080 tire bead quality wire rod that are entered, or withdrawn from warehouse, for consumption on or after July 24, 2003.

The designation of the products as ''tire cord quality'' or ''tire bead quality'' indicates the acceptability of the product for use in the production of tire cord, tire bead, or wire for use in other rubber reinforcement applications such as hose wire. These quality designations are presumed to indicate that these products are being used in tire cord, tire bead, and other rubber reinforcement applications, and such merchandise intended for the tire cord, tire bead, or other rubber reinforcement applications is not included in the scope. However, should the petitioners or other interested parties provide a reasonable basis to believe or suspect that there exists a pattern of importation of such products for other than those applications, end–use certification for the importation of such products may be required. Under such circumstances, only the importers of record would normally be required to certify the end use of the imported merchandise.

All products meeting the physical description of subject merchandise that are not specifically excluded are included in this scope.

The products under review are currently classifiable under subheadings 7213.91.3010, 7213.91.3090, 7213.91.4510, 7213.91.4590, 7213.91.6010, 7213.91.6090, 7213.99.0031, 7213.99.0038, 7213.99.0090, 7227.20.0010, 7227.20.0020, 7227.20.0090, 7227.20.0095, 7227.90.6051, 7227.90.6053, 7227.90.6058, and 7227.90.6059 of the HTSUS. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this proceeding is dispositive.[1]

Analysis of Comments Received

The issues raised in the case briefs by parties to this administrative review are addressed in the *Issues and Decision Memorandum* to Joseph A. Spetrini, Acting Assistant Secretary for Import Administration, from Barbara E. Tillman, Acting Deputy Assistant Secretary (*Decision Memorandum*), which is hereby adopted by this notice. A list of the issues addressed in the *Decision Memorandum* is appended to this notice. The *Decision Memorandum* is on file in the Central Records Unit in Room B–099 of the main Commerce building, and can also be accessed directly on the Web at http://www.ia.ita.doc.gov/frn. The paper copy and electronic version of the Decision Memorandum are identical in content.

Changes Since the Preliminary Results

Based on our analysis of comments received, we have (1) Made adjustments to the payment date used to calculate credit expenses for sales where payment had not been made; (2) recalculated credit expenses and domestic inventory carrying costs related to sales through INA; (3) set inventory carrying costs in the United States, which were related to sales through INA equal to zero; (4) corrected the double–counting of imputed credit and warranty expenses in the constructed export price profit calculation; (5) added back the cost of billets purchased from affiliates to the cost of manufacturing; and (6) increased the cost of manufacturing to adjust for purchases of iron ore from affiliates used in calculating the final dumping margin in this proceeding. The adjustments are discussed in detail in the *Decision Memorandum*. In addition,

[1] Effective January 1, 2005, U.S. Customs and Border Protection (CBP) reclassified certain HTSUS numbers related to the subject merchandise. *See* http://hotdocs.usitc.gov/tariff__chapters__current/toc.html.

we corrected a programming error to calculate the margin based on CIL's reported further manufacturing costs.

Final Results of Review

As a result of our review, we determine that the following weighted–average margin exists for the period of April 10, 2002, through September 30, 2003:

Producer Weighted–Average	Margin (Percentage)
CIL	3.61

Assessment

The Department will determine, and CBP shall assess, antidumping duties on all appropriate entries, pursuant to 19 CFR 351.212(b). The Department calculated importer–specific duty assessment rates on the basis of the ratio of the total amount of antidumping duties calculated for the examined sales to the total entered value of the examined sales for that importer. Where the assessment rate is above *de minimis*, we will instruct CBP to assess duties on all entries of subject merchandise by that importer. The Department will issue appropriate assessment instructions directly to CBP within 15 days of publication of these final results of review.

Cash Deposits

Furthermore, the following deposit requirements will be effective upon publication of the final results of this administrative review for all shipments of carbon and certain alloy steel wire rod from Trinidad and Tobago entered, or withdrawn from warehouse, for consumption on or after the publication date of these final results, as provided by section 751(a) of the Tariff Act of 1930, as amended (the Act): (1) For CIL, the cash deposit rate will be the rate listed above; (2) for merchandise exported by producers or exporters not covered in this review but covered in the investigation, the cash deposit rate will continue to be the company–specific rate from the final determination; (3) if the exporter is not a firm covered in this review or the investigation, but the producer is, the cash deposit rate will be that established for the producer of the merchandise in these final results of review or in the final determination; and (4) if neither the exporter nor the producer is a firm covered in this review or the investigation, the cash deposit rate will be 11.40 percent[2], the ''All Others'' rate established in the less–than-fair–value investigation. These deposit requirements shall remain in effect until publication of the final results of the next administrative review.

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402 (f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent increase in antidumping duties by the amount of antidumping duties reimbursed.

This notice also is the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

We are issuing and publishing these results and notice in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: March 8, 2005.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

APPENDIX

Comment 1: Use of Home Market GAAP

Comment 2: Matching Hierarchy for Similar Products

Comment 3: Determination of Payment Dates

Comment 4: CEP Offset Adjustment and LOT Analysis

Comment 5: Classification of Expenses Incurred by U.S. Affiliate

Comment 6: Calculation of Imputed Expenses for CEP Sales

Comment 7: Treatment of Major Inputs from Affiliated Suppliers

Comment 8: Ministerial Error in Calculating CEP Profit

[FR Doc. E5–1128 Filed 3–14–05; 8:45 am]

BILLING CODE 3510–DS–S

[2] In the *Preliminary Results*, we inadvertently used the preliminary ''All Others'' rate from the investigation.

DEPARTMENT OF COMMERCE

International Trade Administration

A–485–803

Certain Cut–to-Length Carbon Steel Plate from Romania: Notice of Final Results and Final Partial Rescission of Antidumping Duty Administrative Review

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

SUMMARY: On September 7, 2004, the Department of Commerce (''the Department'') published the preliminary results of its administrative review of the antidumping duty order on certain cut–to-length carbon steel plate from Romania. *See Certain Cut–to-Length Carbon Steel Plate From Romania: Preliminary Results of the Antidumping Duty Administrative Review and Notice of Intent To Rescind in Part*, 69 FR 54108 (September 7, 2004) (''*Preliminary Results*''). This review covers producer Ispat Sidex, S.A. (''Sidex'') and exporter Metalexportimport, S.A. (''MEI''). The period of review (''POR'') is August 1, 2002, through July 31, 2003. We are rescinding the review with respect to CSR SA Resita (''CSR'') and MINMET, S.A. (''MINMET'') because CSR and MINMET did not ship subject merchandise to the United States during the POR. We invited parties to comment on our *Preliminary Results*. Based on our analysis of comments received, we have made changes in the margin calculation. Therefore, the final results differ from the preliminary results. The final results are listed below in the ''Final Results of Review'' section.

EFFECTIVE DATE: March 15, 2005.

FOR FURTHER INFORMATION CONTACT: Brandon Farlander at (202) 482–0182 or Abdelali Elouaradia at (202) 482–1374, AD/CVD Operations, Office 7, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Ave, NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Background

On September 7, 2004, we published in the **Federal Register** the preliminary results of this antidumping review on September 7, 2004. *See Preliminary Results.*

On September 17, 2004, the Department placed Egyptian import statistics on the record from the Egyptian Central Agency for Public Mobilization and Statistics (CAPMAS), the Egyptian government's official

statistical agency. On October 8, 2004, the International Steel Group, Inc. (ISG) and Sidex submitted proposed surrogate values. On October 18, 2004, ISG submitted publicly available factors data to rebut, clarify or correct the surrogate value information filed by Sidex on October 8, 2004. On October 28, 2004, Sidex filed a letter stating that it inadvertently bracketed page 3 of Exhibit 16 of its October 8, 2004, surrogate value submission and it filed this page without brackets.

We invited parties to comment on our *Preliminary Results*. We received case briefs from domestic interested parties IPSCO Steel Inc. (IPSCO) on October 7, 2004. Also, we received case briefs from domestic interested party ISG and respondent Sidex on October 18, 2004. We received rebuttal briefs from IPSCO and Sidex (and Sidex's U.S. affiliate Ispat North America, Inc.) on October 25, 2004. No interested party requested a hearing.

On January 5, 2005, we invited comments from interested parties on the calculation of the ''all others'' rate and the calculation of the cash deposit for the exporter and producer. On January 11, 2005, we received comments from Sidex, IPSCO, and Nucor on the cash deposit rates and the ''all others'' rate. On January 14, 2005, we received rebuttal comments from Nucor and IPSCO to Sidex's comments.

On January 11, 2005, the Department published in the **Federal Register** a notice extending the final results of the administrative review of the antidumping duty order on certain cut–to-length carbon steel plate from Romania by 30 days until no later than February 4, 2005. *See Notice of Extension of Time Limit for the Final Results of Antidumping Duty Administrative Review: Certain Cut–to-Length Carbon Steel Plate From Romania*, 70 FR 1867 (January 11, 2005).

On January 31, 2005, ISG, the only interested party which requested this review, withdrew its request for review with respect to Sidex and MEI but not with respect to CSR and MINMET. Also, on January 31, 2005, Sidex requested that the Department rescind the administrative review of Sidex and MEI. On February 1, 2005, and February 2, 2005, IPSCO and Nucor, respectively, none of which requested this review, stated that the Department should deny ISG's and Sidex's request to rescind this administrative review. On February 2, 2005, Sidex rebutted IPSCO's February 1, 2005, comments.

On February 11, 2005, the Department published in the **Federal Register** a notice extending the final results of the administrative review of the antidumping duty order on certain cut–to-length carbon steel plate from Romania by 30 days until no later than March 7, 2005. *See Notice of Extension of Time Limit for the Final Results of Antidumping Duty Administrative Review: Certain Cut–to-Length Carbon Steel Plate From Romania*, 70 FR 7232 (February 11, 2005).

On February 7, 2005, the Department requested comments on whether it is appropriate for the Department to rescind this review. On February 16, 2005, we received comments from Sidex, IPSCO, Nucor, U.S. Steel and the United Steelworkers of America (''USWA''). We received no comments from ISG. On February 22, 2005, we received rebuttals comments from Sidex, IPSCO, Nucor, and U.S. Steel. For a summarization of the comments and the Department's position on this issue, please see Comment 15 of the Department's ''Issues and Memorandum'' from Barbara E. Tillman, Acting Deputy Assistant Secretary, Import Administration, to Joseph A. Spetrini, Acting Assistant Secretary, Import Administration, dated March 7, 2005 (''*Decision Memorandum*'').

Partial Rescission

In our *Preliminary Results*, we announced our preliminary determination to rescind the administrative review with respect to CSR and MINMET because these companies had no entries of certain cut–to-length carbon steel plate from Romania during the POR. *See Preliminary Results*. We have received no new information contradicting our preliminary intent to rescind. Because the record evidence indicates that CSR and MINMET did not have sales or shipments of subject merchandise during the POR, in accordance with 19 CFR 351.213(d)(3) and consistent with our practice, we are rescinding this review for CSR and MINMET. *See e.g., Polychloroprene Rubber From Japan: Notice of Rescission of Antidumping Duty Administrative Review*, 66 FR 45005 (August 27, 2001).

Scope of the Order

The products under the order include hot–rolled carbon steel universal mill plates (*i.e.*, flat–rolled products rolled on four faces or in a closed box pass, of a width exceeding 150 millimeters but not exceeding 1,250 millimeters and of a thickness of not less than 4 millimeters, not in coil and without patterns in relief), of rectangular shape, neither clad, plated nor coated with metal, whether or not painted, varnished, or coated with plastics or other nonmetallic substances; and certain hot–rolled carbon steel flat–rolled products in straight lengths, of rectangular shape, hot rolled, neither clad, plated, nor coated with metal, whether or not painted, varnished, or coated with plastics or other nonmetallic substances, 4.75 millimeters or more in thickness and of a width which exceeds 150 millimeters and measures at least twice the thickness, as currently classifiable in the HTS under item numbers 7208.31.0000, 7208.32.0000, 7208.33.1000, 7208.33.5000, 7208.41.0000, 7208.42.0000, 7208.43.0000, 7208.90.0000, 7210.70.3000, 7210.90.9000, 7211.11.0000, 7211.12.0000, 7211.21.0000, 7211.22.0045, 7211.90.0000, 7212.40.1000, 7212.40.5000, and 7212.50.0000. Included in this review are flat–rolled products of nonrectangular cross-section where such cross-section is achieved subsequent to the rolling process (i.e., products which have been ≥worked after rolling≥)--for example, products which have been bevelled or rounded at the edges. Excluded from this review is grade X–70 plate. These HTS item numbers are provided for convenience and customs purposes. The written description remains dispositive.

Separate Rates

MEI and Sidex have requested separate, company–specific antidumping duty rates in this review. In the *Preliminary Results*, we found that MEI and Sidex had met the criteria for the application of separate antidumping duty rates. *See Preliminary Results*. We have not received any other information since the preliminary results which would warrant reconsideration of our separate rates determination with respect to these companies. We therefore determine that MEI and Sidex should be assigned individual dumping margins in this administrative review.

Analysis of Comments Received

The Department has received comments from Sidex and domestic interested parties ISG, USWA, Nucor, U.S. Steel, and IPSCO, all of which are addressed in the *Decision Memorandum*, which is hereby adopted by this notice. Attached to this notice as an Appendix is a list of the issues that the parties have raised and to which we have responded in the *Decision Memorandum*. Parties can find a complete discussion of all issues raised in this review and the corresponding recommendations in this public memorandum, which is on file in the

Department's Central Records Unit (''CRU''), located at 14th Street and Constitution Avenue, NW, Room B–099. In addition, a complete version of the *Decision Memorandum* can be accessed directly on the Import Administration website at http://ia.ita.doc.gov/ under the heading **Federal Register** Notices. The paper copy and electronic version of the *Decision Memorandum* are identical in content.

Changes Since the Preliminary Results

Based on our analysis of comments received, we have made the following changes for the final results:
1. For inputs coking coal and iron ore pellets, we inadvertently did not include domestic freight costs in the *Preliminary Results*. For the final results, we have added domestic freight costs for these two inputs. *See Decision Memorandum* at Comment 8.
2. For methane gas, we are using a different surrogate value for the final results. For coke gas and furnace gas, we are now using the BTU heat content methodology. *See Decision Memorandum* at Comments 5 and 6.
3. We are using more contemporaneous POR–specific data from Egypt for the following factors: (1) Manganese ore; (2) iron scrap; (3) aluminum; (4) lime; (5) injected coal powder; (6) ammonium sulfate; and (7) crude benzene. *See Decision Memorandum* at Comment 11.
4. In September 2004, the Department issued updated wage rates based on 2002 income data. As a result of these updated wage rates for selected NME countries, the hourly wage rate for Romania increased to $1.33. Because this wage rate is more contemporaneous than the wage rate used in our Preliminary Results, the Department is using this updated wage rate for the final results. *See* also http://www.ia.ita.doc.gov.
5. We are now using Alexandria National Iron and Steel Co.'s financial statement for our financial ratios, with an adjustment to include non–depreciation overhead from PT Jaya Pari Steel Tbk. (''Jaya Pari'') for the final results. *See Decision Memorandum* at Comment 10. The updated financial ratios are as follows:
   28.64% = Factory Overhead Ratio (includes non–depreciation overhead ratio from Jaya Pari)
   18.96% = SG&A Ratio (includes interest expenses)
   0.79% = Profit Ratio
   See Attachment 7 of the Department's Analysis Memorandum for the Final Results of the Antidumping Duty Administrative Review of the Antidumping Duty Order on Certain Cut–to-Length Carbon Steel Plate from Romania, dated March 7, 2005 (''*Final Analysis Memorandum*'') for these calculations.
6. We are not using Sidex's market economy purchases of iron ore powder from India because we have a reasonable basis to believe or suspect that the country benefits from broadly available non–industry specific export subsidies. As a result, we are also excluding all Indian export prices in our valuation of surrogate values, where applicable. *See Decision Memorandum* at Comment 4.

''All Others'' Rate

As a result of Romania's transition from a non–market economy to a market economy, an issue arose in this administrative review regarding the calculation of an ''all others'' rate. For the discussion of the Department's decision regarding the all–others rate, see the accompanying *Decision Memorandum* at Comment 2.

Final Results of Review

We note that although MEI was the exporter for all of Sidex's sales, because Sidex provided information that it had knowledge that the subject merchandise was destined for the United States, we have calculated a margin for both Sidex as the producer and MEI as the exporter. We determine that the following margin is the weighted–average antidumping duty margin of all sales made in both the NME and ME portions of the POR.

Manufacturer/Exporter	POR	Margin (percent)
Ispat Sidex,	08/01/02 - 07/30/030	13.50
Metalexportimport, S.A.	08/01/02 - 07/30/03	13.50

For details on the calculation of the antidumping duty weighted–average margins for Sidex and MEI, *see* the *Decision Memorandum and the Final Analysis Memorandum*. A public version of the analysis memorandum is on file in the CRU.

Assessment Rates

Pursuant to 19 CFR 351.212(b), the Department calculates an assessment rate for each importer of the subject merchandise. Upon issuance of the final results of this review, if any importer–specific assessment rates calculated in the final results are above *de minimis* (*i.e.*, at or above 0.50 percent), the Department will issue appraisement instructions directly to the U.S. Customs and Border Protection (CBP) to assess antidumping duties on appropriate entries by applying the assessment rate to the entered value of the merchandise. For assessment purposes for MEI and Sidex, we calculated importer–specific assessment rates for the subject merchandise by aggregating the dumping duties due for all U.S. sales to each importer and dividing the amount by the total quantity of the sales to that importer. We will direct CBP, within 15 days of publication of these final results of review, to assess the resulting rate, which is in dollars per metric ton, against the total quantity for the subject merchandise on each of MEI's and Sidex's importer's/customer's entries during the POR.

Cash–Deposit Requirements

The following cash–deposit rates will be effective upon publication of the final results of this review for all shipments of certain cut–to-length carbon steel plate from Romania entered, or withdrawn from warehouse, for consumption on or after publication date, as provided for by section 751(a)(2)(C) of the Act: (1) For subject merchandise exported by MEI or Sidex, the deposit rate will be the rate indicated above; (2) for previously reviewed or investigated companies not covered in this review, the cash deposit rate will continue to be the company–specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the original less than fair value (LTFV) investigation (*see Final Determination of Sales at Less Than Fair Value: Certain Cut–to-Length Carbon Steel Plate from Romania*, 58 FR 37209 (July 9, 1993)), but the manufacturer is, the cash deposit rate will be the rate established in the most recent period for the manufacturer of the merchandise; and, (4) if neither the exporter nor the manufacturer is a firm covered in this or any previous review conducted by the Department, the cash deposit rate will be 75.04 percent, which previously was the Romania–wide rate. *See* the accompanying *Decision Memorandum* at Comment 2.

These deposit requirements, when imposed, shall remain in effect until

publication of the final results of the next administrative review.

Notification to Importers

This notice also serves as a final reminder to importers of their responsibility under section 351.402(f) of the Department's regulations to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during these review periods. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

We are issuing and publishing this determination and notice in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: March 7, 2005.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

APPENDIX

List of Comments and Issues in the Decision Memorandum

Comment 1: Cash Deposit Rates

Comment 2: ''All Others'' Rate

Comment 3: Export Prices as Surrogate Value

Comment 4: Use of Market Economy Price of Iron Ore Powder

Comment 5: Methane Gas Surrogate Value

Comment 6: Coke Gas and Furnace Gas Surrogate Values

Comment 7: Surrogate Value for Wooden Boards

Comment 8: Romania Domestic Freight Costs

Comment 9: Updated Surrogate Wage Data

Comment 10: Surrogate Financial Ratios

Comment 11: Aberrational Surrogate Values

Comment 12: Value of Recycled Iron Scrap

Comment 13: Offsetting for Negative Margins

Comment 14: Barge Surrogate Value

Comment 15: Whether to Rescind this Review

[FR Doc. E5–1127 Filed 3–14–05; 8:45 am]

Billing Code: 3510–DS–S

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Withdrawal of Two Commercial Availability Petitions under the United States - Caribbean Basin Trade Partnership Act (CBTPA)

March 11, 2005.

AGENCY: The Committee for the Implementation of Textile Agreements (CITA)

ACTION: The petitioner has notified CITA that it is withdrawing two petitions it submitted for determinations that certain 100 percent cotton, 4-thread twill weave, flannel fabrics and certain 100 percent cotton, double faced sateen weave, flannel fabrics cannot be supplied by the domestic industry in commercial quantities in a timely manner under the CBTPA.

SUMMARY: On March 3, 2005, the Chairman of CITA received two petitions from Sandler, Travis & Rosenberg, P.A., on behalf of B*W*A of New York, New York, alleging that certain, 100 percent cotton, 4-thread twill weave, flannel fabrics, of yarn-dyed, ring spun and plied yarns, and certain 100 percent cotton, double faced sateen weave, flannel fabrics, of yarn-dyed, single yarns, of certain specifications, cannot be supplied by the domestic industry in commercial quantities in a timely manner. The petitions requested that men's and boys' woven cotton shirts and woven cotton shirts and blouses, respectively, of such fabrics assembled in one or more CBTPA beneficiary countries be eligible for preferential treatment under the CBTPA. On March 9, 2005, CITA published notices in the Federal Register (70 FR 11621 and 70 FR 11620) soliciting public comments on these petitions, in particular with regard to whether these fabrics can be supplied by the domestic industry in commercial quantities in a timely manner.

On March 9, 2005, CITA received a letter from Sandler, Travis & Rosenberg, P.A. withdrawing the petitions. The specifications of these fabrics are repeated below. The petitioner states that the weight of the fabrics was incorrectly stated in both petitions.

FOR FURTHER INFORMATION CONTACT: Janet E. Heinzen, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482-3400.

Specifications:

Petitioner Style No:	153, 154, 155, 156, W3004
Fiber Content:	100% Cotton
Weight:	168 - 172 g/m2
Width:	142 - 145 centimeters
Thread Count:	25 -26 warp ends per centimeter; 23-24 filling pick per centimeter; total 48-50 threads per square centimeter
Yarn Number:	35/2 - 36/2 metric warp and filling, ring spun; Overall average yarn number: 32-34 metric
Weave:	4-thread twill
Finish:	Of two or more yarns of different colors in the warp and filling, napped on both sides
Petitioner Style No:	5225
Fiber Content:	100% Cotton
Weight:	315-320 g/m2
Width:	148 - 152 centimeters
Thread Count:	33 - 35 warp ends per centimeter; 57 - 59 filling picks per centimeter; total 90 - 94 threads per square centimeter
Yarn Number:	50 - 52 metric warp; 23 - 25 metric filling; overall average yarn number: 28 - 30 metric
Weave:	Double faced irregular 3 X 1 sateen
Finish:	Printed on one side on yarns of different colors; napped on both sides; Sanforized

James C. Leonard III,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc.05–5205 Filed 3–11–05; 2:16 pm]

BILLING CODE 3510–DS–S

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Request for Public Comments on Commercial Availability Petition under the United States - Caribbean Basin Trade Partnership Act (CBTPA)

March 11, 2005.

AGENCY: The Committee for the Implementation of Textile Agreements (CITA)

ACTION: Request for public comments concerning a petition for a determination that certain 100 percent cotton, 4-thread twill and herringbone twill weave, flannel fabrics cannot be supplied by the domestic industry in

commercial quantities in a timely manner under the CBTPA.

SUMMARY: On March 9, 2005, the Chairman of CITA received a petition from Sandler, Travis & Rosenberg, P.A., on behalf of B*W*A of New York, New York alleging that certain 100 percent cotton, 4-thread twill weave and herringbone twill weave, flannel fabrics, of yarn-dyed, ring spun and plied yarns, of the specifications detailed below, classified in subheadings 5209.43.0050 and 5209.49.0090 of the Harmonized Tariff Schedule of the United States (HTSUS), cannot be supplied by the domestic industry in commercial quantities in a timely manner. The petition requests that men's and boys' woven cotton shirts of such fabrics assembled in one or more CBTPA beneficiary countries be eligible for preferential treatment under the CBTPA. CITA hereby solicits public comments on this petition, in particular with regard to whether these fabrics can be supplied by the domestic industry in commercial quantities in a timely manner. Comments must be submitted by March 30, 2005 to the Chairman, Committee for the Implementation of Textile Agreements, Room 3001, United States Department of Commerce, 14th and Constitution, N.W., Washington, D.C. 20230.

FOR FURTHER INFORMATION CONTACT: Janet E. Heinzen, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482-3400.

SUPPLEMENTARY INFORMATION:

Authority: Section 213(b)(2)(A)(v)(II) of the CBERA, as added by Section 211(a) of the CBTPA; Section 6 of Executive Order No. 13191 of January 17, 2001.

Background:

The CBTPA provides for quota- and duty-free treatment for qualifying textile and apparel products. Such treatment is generally limited to products manufactured from yarns or fabrics formed in the United States. The CBTPA also provides for quota- and duty-free treatment for apparel articles that are both cut (or knit-to-shape) and sewn or otherwise assembled in one or more CBTPA beneficiary countries from fabric or yarn that is not formed in the United States, if it has been determined that such fabric or yarn cannot be supplied by the domestic industry in commercial quantities in a timely manner. In Executive Order No. 13191, the President delegated to CITA the authority to determine whether yarns or fabrics cannot be supplied by the domestic industry in commercial quantities in a timely manner under the CBTPA and directed CITA to establish procedures to ensure appropriate public participation in any such determination. On March 6, 2001, CITA published procedures that it will follow in considering requests. (66 FR 13502).

On March 9, 2005, the Chairman of CITA received a petition on behalf of B*W*A of New York, New York alleging that certain 100 percent cotton, 4-thread twill weave and herringbone twill weave, flannel fabrics, of yarn-dyed, ring spun and plied yarns, of the specifications detailed below, classified HTSUS subheadings 5209.43.0050 and 5209.49.0090, cannot be supplied by the domestic industry in commercial quantities in a timely manner and requesting quota- and duty-free treatment under the CBTPA for certain apparel articles that are cut and sewn in one or more CBTPA beneficiary countries from such fabrics.

Specifications:

Petitioner Style No:	153, 154, 155, 156, W3004
Fiber Content:	100% Cotton
Weight:	301 - 303 g/m2
Width:	142 - 145 centimeters
Thread Count:	25 -26 warp ends per centimeter; 23 - 24 filling pick per centimeter; total 48 - 50 threads per square centimeter
Yarn Number:	35/2 - 36/2 metric warp and filling, ring spun; Overall average yarn number: 32-34 metric
Weave:	4-thread twill; herringbone twill
Finish:	Of two or more yarns of different colors in the warp and filling, napped on both sides

The petitioner emphasizes that the yarns must be ring spun, the yarns must be plied, and the fabric is napped on both sides. The petitioner further states because the fabric is heavily napped on both sides, it is imperative that the yarns be ring spun and plied in order to offset the degrading effects of napping on both sides.

CITA is soliciting public comments regarding this request, particularly with respect to whether these fabrics can be supplied by the domestic industry in commercial quantities in a timely manner. Also relevant is whether other fabrics that are supplied by the domestic industry in commercial quantities in a timely manner are substitutable for the fabric for purposes of the intended use. Comments must be received no later than March 30, 2005. Interested persons are invited to submit six copies of such comments or information to the Chairman, Committee for the Implementation of Textile Agreements, room 3100, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, DC 20230.

If a comment alleges that these fabrics can be supplied by the domestic industry in commercial quantities in a timely manner, CITA will closely review any supporting documentation, such as a signed statement by a manufacturer of the fabric stating that it produces the fabric that is the subject of the request, including the quantities that can be supplied and the time necessary to fill an order, as well as any relevant information regarding past production.

CITA will protect any business confidential information that is marked ''business confidential'' from disclosure to the full extent permitted by law. CITA will make available to the public non-confidential versions of the request and non-confidential versions of any public comments received with respect to a request in room 3100 in the Herbert Hoover Building, 14th and Constitution Avenue, N.W., Washington, DC 20230. Persons submitting comments on a request are encouraged to include a non-confidential version and a non-confidential summary.

James C. Leonard III,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc.05–5206 Filed 3–11–05; 2:16 pm]

BILLING CODE 3510–DS–S

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Request for Public Comments on Commercial Availability Petition under the United States - Caribbean Basin Trade Partnership Act (CBTPA)

March 11, 2005.

AGENCY: The Committee for the Implementation of Textile Agreements (CITA)

ACTION: Request for public comments concerning a petition for a determination that certain 100 percent cotton, double faced irregular sateen weave, flannel fabrics cannot be supplied by the domestic industry in commercial quantities in a timely manner under the CBTPA.

SUMMARY: On March 9, 2005, the Chairman of CITA received a petition from Sandler, Travis & Rosenberg, P.A., on behalf of B*W*A of New York, New York alleging that certain 100 percent cotton, double faced irregular sateen weave, flannel fabrics, of yarn-dyed, single yarns, of the specifications

detailed below, classified in subheading 5209.59.0025 of the Harmonized Tariff Schedule of the United States (HTSUS), cannot be supplied by the domestic industry in commercial quantities in a timely manner. The petition requests that woven cotton shirts and blouses of such fabrics assembled in one or more CBTPA beneficiary countries be eligible for preferential treatment under the CBTPA. CITA hereby solicits public comments on this petition, in particular with regard to whether these fabrics can be supplied by the domestic industry in commercial quantities in a timely manner. Comments must be submitted by March 30, 2005 to the Chairman, Committee for the Implementation of Textile Agreements, Room 3001, United States Department of Commerce, 14th and Constitution, N.W., Washington, D.C. 20230.

FOR FURTHER INFORMATION CONTACT:
Janet E. Heinzen, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482-3400.

SUPPLEMENTARY INFORMATION:

Authority: Section 213(b)(2)(A)(v)(II) of the CBERA, as added by Section 211(a) of the CBTPA; Section 6 of Executive Order No. 13191 of January 17, 2001.

Background:

The CBTPA provides for quota- and duty-free treatment for qualifying textile and apparel products. Such treatment is generally limited to products manufactured from yarns or fabrics formed in the United States. The CBTPA also provides for quota- and duty-free treatment for apparel articles that are both cut (or knit-to-shape) and sewn or otherwise assembled in one or more CBTPA beneficiary countries from fabric or yarn that is not formed in the United States, if it has been determined that such fabric or yarn cannot be supplied by the domestic industry in commercial quantities in a timely manner. In Executive Order No. 13191, the President delegated to CITA the authority to determine whether yarns or fabrics cannot be supplied by the domestic industry in commercial quantities in a timely manner under the CBTPA and directed CITA to establish procedures to ensure appropriate public participation in any such determination. On March 6, 2001, CITA published procedures that it will follow in considering requests. (66 FR 13502).

On March 9, 2005, the Chairman of CITA received a petition on behalf of B*W*A of New York, New York alleging that certain 100 percent cotton, double faced irregular sateen weave, flannel fabrics, of yarn-dyed, single yarns, of the specifications detailed below, classified HTSUS subheading 5209.59.0025, cannot be supplied by the domestic industry in commercial quantities in a timely manner and requesting quota- and duty-free treatment under the CBTPA for woven cotton shirts and blouses that are cut and sewn in one or more CBTPA beneficiary countries from such fabrics.

Specifications:

Petitioner Style No:	5225
Fiber Content:	100% Cotton
Weight:	325-327 g/m2
Width:	148 - 152 centimeters
Thread Count:	33 - 35 warp ends per centimeter; 57 - 59 filling picks per centimeter; total 90 - 94 threads per square centimeter
Yarn Number:	50 - 52 metric warp; 23 - 25 metric filling; overall average yarn number: 28 - 30 metric
Weave:	Double faced irregular 3 X 1 sateen
Finish:	Printed on one side on yarns of different colors; napped on both sides; Sanforized

The petitioner further describes the fabric as follows:

One face appears to be piece dyed, but in fact the filing yarns have been dyed prior to weaving. There are two sets of filling yarns, thus a loom capable of pick and pick filling insertion is required. In this instance, the warp is also dyed prior to weaving, but may be undyed as well. On the other face (intended to be the fabric back), the dyed yarns have been covered by a vivid print, which extends from selvedge to selvedge. The printing is done with fiber reactive dyes, not pigments. The fabric is heavily napped on both sides.

CITA is soliciting public comments regarding this request, particularly with respect to whether these fabrics can be supplied by the domestic industry in commercial quantities in a timely manner. Also relevant is whether other fabrics that are supplied by the domestic industry in commercial quantities in a timely manner are substitutable for the fabric for purposes of the intended use. Comments must be received no later than March 30, 2005. Interested persons are invited to submit six copies of such comments or information to the Chairman, Committee for the Implementation of Textile Agreements, room 3100, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC 20230.

If a comment alleges that these fabrics can be supplied by the domestic industry in commercial quantities in a timely manner, CITA will closely review any supporting documentation, such as a signed statement by a manufacturer of the fabric stating that it produces the fabric that is the subject of the request, including the quantities that can be supplied and the time necessary to fill an order, as well as any relevant information regarding past production.

CITA will protect any business confidential information that is marked ''business confidential'' from disclosure to the full extent permitted by law. CITA will make available to the public non-confidential versions of the request and non-confidential versions of any public comments received with respect to a request in room 3100 in the Herbert Hoover Building, 14th and Constitution Avenue, N.W., Washington, DC 20230. Persons submitting comments on a request are encouraged to include a non-confidential version and a non-confidential summary.

James C. Leonard III,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc.05–5207 Filed 3–11–05; 2:16 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF DEFENSE

Notice of Intent To Prepare a Draft Environmental Assessment for Beddown of Training and Support Initiatives at Northwest Field, Andersen Air Force Base, Guam (U.S. Territory)

AGENCY: United States Air Force.

SUMMARY: Pursuant to the National Environmental Policy Act (NEPA) of 1969, as amended (42 United States Code 4321, *et seq.*), the Council on Environmental Quality Regulations for implementing the procedural provisions of NEPA (40 Code of Federal Regulations (CFR) parts 1500–1508), and Air Force's Environmental Impact Analysis Process (EIAP) as implemented by 32 CFR part 989, the United States Air Force (Air Force) is issuing this notice to advise the public of our preparation of an Environmental Assessment (EA) for Beddown of Training and Support Initiatives at Northwest Field, Andersen Air Force Base (AFB), Guam. The EA will analyze and evaluate the effects of alternatives for the proposed basing of training and support initiatives at Northwest Field. The Air Force evaluated various initial

basing alternatives early in the planning process. Suitable installations were identified during this process, with Andersen AFB emerging as the alternative best meeting the underlying purpose and need for the action. Consequently, Andersen AFB is being considered as the Proposed Action. The proposed action would support the Nation's military deployable engineering, security and communications units in the Pacific Command and worldwide. The proposed action would enable engineers to train with security and communications functions at a common location, with a combat deployable civil engineering unit being relocated with security forces and combat communications at the same location. It is estimated that approximately 400 additional military, civilian and contractor personnel would be required to support the proposal. The action would result in facility construction, addition, and alteration projects to support basing and operation.

This notice is being provided to obtain suggestions and information from other agencies and the public on the scope of issues to be addressed in the EA, to include alternatives to the proposal and the potential for significant impacts. A public scoping meeting will be held to provide agencies and the public the opportunity to address the scope of the EA. The EA will end with either a Finding of No Significant Impact or a determination that an Environmental Impact Statement (EIS) is required. This scoping process may be used to scope for the EIS, should an EIS be deemed appropriate.

The Air Force will conduct a public scoping meeting from 6:30 to 8:30 p.m., Thursday, March 31, 2005 at the University of Guam, College of Arts and Science, Lecture Hall B, in Mangilao, Guam. Public comments on the scope of the Draft EA, reasonable alternatives that should be considered, anticipated environmental concerns, and actions that might be taken to address these issues are requested. Written comments will also be accepted at the address listed below.

FOR FURTHER INFORMATION CONTACT: All comments received at the meeting, and all written comments received by May 8, 2005 will be considered in preparing the Draft EA. Please submit written comments to Mr. Scott Whittaker, Environmental Flight Chief, Unit 14007, APO AP 96543–4007, Facsimile (671) 388–5088. For further information, please call (671) 388–2556.

Albert Bodnar,

Federal Register Liaison Officer.

[FR Doc. 05–5024 Filed 3–14–05; 8:45 am]

BILLING CODE 5001–05–P

DEPARTMENT OF DEFENSE

Department of the Air Force

Intent To Grant an Exclusive License.

Pursuant to the provisions of Part 404 of Title 37, Code of Federal Regulations, which implements Pub. L. 96–517, the Department of the Air Force announces its intention to grant Aseptico, Inc., a corporation of the State of Washington, an exclusive license under U.S. Patent 5,700,147, Air Controlled Sterile Irrigation System, to Mills *et al.* The license described above will be granted unless an objection thereto together with a request for an opportunity to be heard, if desired, is received in writing by the addressee set forth below, within fifteen (15) days from the date of publication of this Notice.

All communications concerning this Notice should be sent to: Paul D. Heydon, Patent Attorney, Commercial Law Division, Office of the Staff Judge Advocate, 311th Human Systems Wing, Air Force Materiel Command 8010, Chennault Path, Brooks City-Base, TX 78235, (210) 536–5359

Albert F. Bodnar,

Federal Register Liaison Officer.

[FR Doc. 05–5020 Filed 3–14–05; 8:45 am]

BILLING CODE 5001–05–P

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

SUMMARY: The Leader, Information Management Case Services Team, Regulatory Information Management Services, Office of the Chief Information Officer invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before April 14, 2005.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Carolyn Lovett, Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, NW., Room 10235, New Executive Office Building, Washington, DC 20503 or faxed to (202) 395–6974.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Information Management Case Services Team, Regulatory Information Management Services, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, *e.g.* new, revision, extension, existing or reinstatement; (2) title; (3) summary of the collection; (4) description of the need for, and proposed use of, the information; (5) respondents and frequency of collection; and (6) reporting and/or recordkeeping burden. OMB invites public comment.

Dated: March 9, 2005.

Angela C. Arrington,

Leader, Information Management Case Services Team, Regulatory Information Management Services, Office of the Chief Information Officer.

Office of Vocational and Adult Education

Type of Review: Revision.

Title: Adult Education and Family Literacy Act State Plan (Pub. L. 105–220).

Frequency: Annually.

Affected Public: State, local, or tribal gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 59.

Burden Hours: 2,655.

Abstract: It is unlikely that Congress will pass a reauthorization of the Workforce Investment Act (WIA) this year. Therefore, the enclosed Policy Memorandum is designed to advise states about how to continue their adult education program under section 422 of the General Education Provisions Act (GEPA) (20 U.S.C. 1226 (a)).

Requests for copies of the submission for OMB review; comment request may be accessed from *http://*

edicsweb.ed.gov, by selecting the ''Browse Pending Collections'' link and by clicking on link number 2661. When you access the information collection, click on ''Download Attachments'' to view. Written requests for information should be addressed to U.S. Department of Education, 400 Maryland Avenue, SW., Potomac Center, 9th Floor, Washington, DC 20202–4700. Requests may also be electronically mailed to the Internet address *OCIO_RIMG@ed.gov* or faxed to 202–245–6621. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be directed to Sheila Carey at her e-mail address *Sheila.Carey@ed.gov.* Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 05–5002 Filed 3–14–05; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

SUMMARY: The Leader, Information Management Case Services Team, Regulatory Information Management Services, Office of the Chief Information Officer invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before April 14, 2005.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Carolyn Lovett, Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, NW., Room 10235, New Executive Office Building, Washington, DC 20503 or faxed to (202) 395–6974.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Information Management Case Services Team, Regulatory Information Management Services, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, *e.g.* new, revision, extension, existing or reinstatement; (2) title; (3) summary of the collection; (4) description of the need for, and proposed use of, the information; (5) respondents and frequency of collection; and (6) reporting and/or recordkeeping burden. OMB invites public comment.

Dated: March 9, 2005.

Angela C. Arrington,

Leader, Information Management Case Services Team, Regulatory Information Management Group, Office of the Chief Information Officer.

Institute of Education Sciences

Type of Review: New.

Title: Evaluation of the Impact of Literacy Interventions in Freshman Academies—Baseline Intake and Administrative Records Forms.

Frequency: One time.

Affected Public: Individuals or household; not-for-profit institutions.

Reporting and Recordkeeping Hour Burden:

Responses: 3,901.

Burden Hours: 975.

Abstract: The current OMB package requests clearance for the baseline intake and administrative records instruments to be used in the Evaluation of the Impact of Literacy Interventions in Freshman Academies. The baseline intake instrument will collect information from parents of children applying for admission to the literacy intervention included in the study. The administrative records instruments will be used to collect information on student outcomes such as test scores and will be completed by school or district staff in these schools as well as by control group students who attend the same schools. The study will examine the impacts of these literacy interventions on student outcomes over a one-year follow-up period.

Requests for copies of the submission for OMB review; comment request may be accessed from *http://edicsweb.ed.gov*, by selecting the ''Browse Pending Collections'' link and by clicking on link number 2660. When you access the information collection, click on ''Download Attachments'' to view. Written requests for information should be addressed to U.S. Department of Education, 400 Maryland Avenue, SW., Potomac Center, 9th Floor, Washington, DC 20202–4700. Requests may also be electronically mailed to the Internet address *OCIO_RIMG@ed.gov* or faxed to 202–245–6621. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be directed to Katrina Ingalls at her e-mail address *Katrina.Ingalls@ed.gov*. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 05–5003 Filed 3–14–05; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

SUMMARY: The Leader, Information Management Case Services Team, Regulatory Information Management Services, Office of the Chief Information Officer invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before April 14, 2005.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Carolyn Lovett, Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, NW., Room 10235, New Executive Office Building, Washington, DC 20503 or faxed to (202) 395–6974.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Information Management Case Services Team, Regulatory Information Management Services, Office of the Chief Information Officer, publishes that

notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g. new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

Dated: March 9, 2005.

Angela C. Arrington,

Leader, Information Management Case Services Team, Regulatory Information Management Services, Office of the Chief Information Officer.

Institute of Education Sciences

Type of Review: New.

Title: Impact Evaluation of the DC Opportunity Scholarship Program.

Frequency: Annually.

Affected Public: Individuals or household; not-for-profit institutions; State, Local, or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden: Responses: 9,662, Burden Hours: 9,248.

Abstract: The DC Opportunity Scholarship Program is a five year school choice program that provides scholarships for children in low-income families in Washington DC. This evaluation uses a randomized control trial to compare the outcomes of eligible applicants who received scholarships to eligible applicants who did not receive a scholarship.

Requests for copies of the submission for OMB review; comment request may be accessed from *http://edicsweb.ed.gov,* by selecting the ''Browse Pending Collections'' link and by clicking on link number 2659. When you access the information collection, click on ''Download Attachments'' to view. Written requests for information should be addressed to U.S. Department of Education, 400 Maryland Avenue, SW., Potomac Center, 9th Floor, Washington, DC 20202–4700. Requests may also be electronically mailed to the Internet address *OCIO_RIMG@ed.gov* or faxed to 202–245–6621. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be directed to Kathy Axt at her e-mail address *Kathy.Axt@ed.gov.* Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 05–5004 Filed 3–14–05; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

SUMMARY: The Leader, Information Management Case Services Team, Regulatory Information Management Services, Office of the Chief Information Officer, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before May 16, 2005.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Information Management Case Services Team, Regulatory Information Management Services, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, *e.g.* new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: March 10, 2005.

Angela C. Arrington,

Leader, Information Management Case Services Team, Regulatory Information Management Group, Office of the Chief Information Officer.

Office of Elementary and Secondary Education

Type of Review: Extension.

Title: Annual Report of Children in State Agency and Locally Operated Institutions for Neglected and Delinquent Children.

Frequency: Annually.

Affected Public: State, local, or tribal gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden: Responses: 3,052, Burden Hours: 4,224.

Abstract: An annual survey is conducted to collect data on (1) the number of children enrolled in educational programs of State-operated institutions for neglected or delinquent (N or D) children, community day programs for N or D children, and adult correctional institutions and (2) the October caseload of N or D children in local institutions.

Requests for copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov*, by selecting the ''Browse Pending Collections'' link and by clicking on link number 2716. When you access the information collection, click on ''Download Attachments'' to view. Written requests for information should be addressed to U.S. Department of Education, 400 Maryland Avenue, SW., Potomac Center, 9th Floor, Washington, DC 20202–4700. Requests may also be electronically mailed to the Internet address *OCIO__RIMG@ed.gov or* faxed to (202) 245–6621. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be directed to Kathy Axt at her e-mail address *Kathy.Axt@ed.gov*. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 05–5055 Filed 3–14–05; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

SUMMARY: The Leader, Information Management Case Services Team, Regulatory Information Management Services, Office of the Chief Information Officer, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before May 16, 2005.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Information Management Case Services Team, Regulatory Information Management Services, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, *e.g.* new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: March 10, 2005.

Angela C. Arrington,

Leader, Information Management Case Services Team, Regulatory Information Management Services, Office of the Chief Information Officer.

Office of Elementary and Secondary Education

Type of Review: Extension.

Title: State Progress Report—School Renovation, IDEA, and Technology Grants Program.

Frequency: On Occasion.

Affected Public: State, local, or tribal gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden: Responses: 15, Burden Hours: 30.

Abstract: ED will collect the information required in the legislation from States and outlying areas to document the progress of the School Renovation Program in achieving the legislative goals of improving school facilities and ensuring the health and safety of students and staff.

Requests for copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov*, by selecting the ''Browse Pending Collections'' link and by clicking on link number 2710. When you access the information collection, click on ''Download Attachments'' to view. Written requests for information should be addressed to U.S. Department of Education, 400 Maryland Avenue, SW., Potomac Center, 9th Floor, Washington, DC 20202–4700. Requests may also be electronically mailed to the Internet address *OCIO__RIMG@ed.gov* or faxed to 202–245–6621. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be directed to Kathy Axt at her e-mail *Kathy.Axt@ed.gov*. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 05–5056 Filed 3–14–05; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

SUMMARY: The Leader, Information Management Case Services Team, Regulatory Information Management Services, Office of the Chief Information Officer invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before April 14, 2005.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Carolyn Lovett, Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, NW., Room 10235, New Executive Office Building, Washington, DC 20503 or faxed to (202) 395–6974.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Information Management Case Services Team, Regulatory Information Management Services, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, *e.g.* new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

Dated: March 10, 2005.

Angela C. Arrington,

Leader, Information Management Case Services Team, Regulatory Information Management Services, Office of the Chief Information Officer.

Office of Elementary and Secondary Education

Type of Review: Reinstatement.

Title: Survey on the Use of Funds Under Title II, Part A.

Frequency: Annually.

Affected Public: State, local, or tribal gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 800.

Burden Hours: 4,000.

Abstract: This study is being conducted to inform the Department's performance indicators for the Government Performance and Results Act (GPRA) report for the title II, Part A program.

Requests for copies of the submission for OMB review; comment request may be accessed from *http://edicsweb.ed.gov*, by selecting the ''Browse Pending Collections'' link and by clicking on link number 2663. When you access the information collection, click on ''Download Attachments'' to view. Written requests for information should be addressed to U.S. Department of Education, 400 Maryland Avenue, SW., Potomac Center, 9th Floor, Washington, DC 20202–4700. Requests may also be electronically mailed to the Internet address *OCIO_RIMG@ed.gov* or faxed to 202–245–6621. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be directed to Kathy Axt at her e-mail address *Kathy.Axt@ed.gov*. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 05–5057 Filed 3–14–05; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–70–007]

Algonquin Gas Transmission, LLC; Notice of Negotiated Rate

March 8, 2005.

Take notice that on March 2, 2005, Algonquin Gas Transmission, LLC (Algonquin) tendered for filing as a part of its FERC Gas Tariff, Fifth Revised Volume No. 1, the tariff sheets listed on Appendix A to the filing, to become effective April 1, 2005.

Algonquin states that the purpose of this filing is to implement the negotiated rate transactions for transportation service to be rendered to Connecticut Natural Gas Corporation, The Southern Connecticut Gas Company, Northern Utilities, Inc., Bay State Gas Company, Yankee Gas Services Company, NSTAR Gas Company, New England Gas Company—North Attleboro, New England Gas Company—Fall River, and New England Gas Company—Rhode Island.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Linda Mitry,

Deputy Secretary.

[FR Doc. E5–1070 Filed 3–14–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–301–126]

ANR Pipeline Company; Notice of Negotiated Rate Filing

March 8, 2005.

Take notice that on March 2, 2005, ANR Pipeline Company (ANR) tendered for filing and approval two negotiated rate service agreements between ANR and Coral Energy Resources, LP. ANR requests that the Commission accept and approve the agreements to be effective March 1, 2005.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Linda Mitry,

Deputy Secretary.

[FR Doc. E5–1067 Filed 3–14–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP05–217–000]

ANR Pipeline Company; Notice of Proposed Changes in FERC Gas Tariff

March 8, 2005.

Take notice that, on March 1, 2005, ANR Pipeline Company (ANR) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheets to be effective April 1, 2005:

Twenty-First Revised Sheet No. 19, Eleventh Revised Sheet No. 68H.

ANR states that the above-referenced tariff sheets are being filed to implement the annual fuel re-determination provisions of sections 1.68 and 37 of the General Terms and Conditions per the tariff sheets filed on February 10, 2005 in compliance with Paragraph 73 of the Commission's January 26, 2005 order at Docket Nos. RP04–201–002 and 003.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Linda Mitry,

Deputy Secretary.

[FR Doc. E5–1075 Filed 3–14–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–301–127]

ANR Pipeline Company; Notice of Negotiated Rate Filing

March 9, 2005.

Take notice that, on March 4, 2005, ANR Pipeline Company (ANR) tendered for filing and approval nine amendments to existing negotiated rate service agreements between ANR and Wisconsin Gas Company and nine amendments to existing negotiated rate service agreements between ANR and Wisconsin Electric Power Company.

ANR requests that the Commission accept and approve the subject negotiated rate agreement amendments to be effective April 1, 2005.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Linda Mitry,

Deputy Secretary.

[FR Doc. E5–1121 Filed 3–14–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER05–454–000]

Bear Swamp Power Company, LLC; Notice of Issuance of Order

March 8, 2005.

Bear Swamp Power Company, LLC (Bear Swamp) filed an application for market-based rate authority, with an accompanying rate tariff. The proposed rate tariff provides for wholesale sales of energy, capacity and ancillary services at market-based rates. Bear Swamp also requested waiver of various Commission regulations. In particular, Bear Swamp requested that the Commission grant blanket approval under 18 CFR part 34 of all future issuances of securities and assumptions of liability by Bear Swamp.

On March 3, 2005, the Commission granted the request for blanket approval under Part 34, subject to the following:

Any person desiring to be heard or to protest the blanket approval of issuances of securities or assumptions of liability by Bear Swamp should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. 18 CFR 385.211, 385.214 (2004).

Notice is hereby given that the deadline for filing motions to intervene or protest is April 4, 2005.

Absent a request to be heard in opposition by the deadline above, Bear Swamp is authorized to issue securities and assume obligations or liabilities as a guarantor, indorser, surety, or otherwise in respect of any security of

another person; provided that such issuance or assumption is for some lawful object within the corporate purposes of Bear Swamp, compatible with the public interest, and is reasonably necessary or appropriate for such purposes.

The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by continued approval of Bear Swamp's issuances of securities or assumptions of liability.

Copies of the full text of the Commission's Order are available from the Commission's Public Reference Room, 888 First Street, NE., Washington, DC 20426. The Order may also be viewed on the Commission's Web site at *http://www.ferc.gov,* using the eLibrary link. Enter the docket number excluding the last three digits in the docket number filed to access the document. Comments, protests, and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings.

Linda Mitry,

Deputy Secretary.

[FR Doc. E5–1088 Filed 3–14–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER05–455–000]

Bellows Falls Power Company, LLC; Notice of Issuance of Order

March 8, 2005.

Bellows Falls Power Company, LLC (Bellows Falls) filed an application for market-based rate authority, with an accompanying rate tariff. The proposed rate tariff provides for wholesale sales of energy, capacity and ancillary services at market-based rates. Bellows Falls also requested waiver of various Commission regulations. In particular, Bellows Falls requested that the Commission grant blanket approval under 18 CFR Part 34 of all future issuances of securities and assumptions of liability by Bellows Falls.

On March 3, 2005, the Commission granted the request for blanket approval under Part 34, subject to the following:

Any person desiring to be heard or to protest the blanket approval of issuances of securities or assumptions of liability by Bellows Falls should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. 18 CFR 385.211, 385.214 (2004).

Notice is hereby given that the deadline for filing motions to intervene or protest is April 4, 2005.

Absent a request to be heard in opposition by the deadline above, Bellows Falls is authorized to issue securities and assume obligations or liabilities as a guarantor, indorser, surety, or otherwise in respect of any security of another person; provided that such issuance or assumption is for some lawful object within the corporate purposes of Bellows Falls, compatible with the public interest, and is reasonably necessary or appropriate for such purposes.

The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by continued approval of Bellows Falls' issuances of securities or assumptions of liability.

Copies of the full text of the Commission's Order are available from the Commission's Public Reference Room, 888 First Street, NE., Washington, DC 20426. The Order may also be viewed on the Commission's Web site at *http://www.ferc.gov,* using the eLibrary link. Enter the docket number excluding the last three digits in the docket number filed to access the document. Comments, protests, and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings.

Linda Mitry,

Deputy Secretary.

[FR Doc. E5–1089 Filed 3–14–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP05–221–000]

Columbia Gulf Transmission Company; Notice of Proposed Changes in FERC Gas Tariff

March 8, 2005.

Take notice that on March 1, 2005, Columbia Gulf Transmission Company (Columbia Gulf) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following revised tariff sheets, with a proposed effective date of April 1, 2005:

Thirty-seventh Revised Sheet No. 18
Twenty-sixth Revised Sheet No. 18A
Thirty-eighth Revised Sheet No. 19

Columbia Gulf states that this filing represents Columbia Gulf's annual filing pursuant to the provisions of section 33, ''Transportation Retainage Adjustment (TRA),'' of the General Terms and Conditions (''GTC'') of its Tariff.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Linda Mitry,

Deputy Secretary.

[FR Doc. E5–1079 Filed 3–14–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP05–219–000]

El Paso Natural Gas Company; Notice of Tariff Filing

March 8, 2005.

Take notice that on March 1, 2005, El Paso Natural Gas Company (El Paso) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1–A, Fourth Revised Sheet No. 2, to become effective April 1, 2005.

El Paso states that it is submitting a Precedent Agreement and related documents for the Commission's review and acceptance and has listed the agreement on Sheet No. 2 of its tariff.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Linda Mitry,

Deputy Secretary.

[FR Doc. E5–1077 Filed 3–14–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER99–1757–002, ER99–1757–003, ER99–1757–004, ER99–1757–005, ER99–1757–006, ER99–1757–007, EL05–67–000]

The Empire District Electric Company; Notice of Institution of Proceeding and Refund Effective Date

March 7, 2005.

On March 3, 2005, the Commission issued an order in the above-referenced dockets initiating a proceeding in Docket No. EL05–67–000 under section 206 of the Federal Power Act to determine whether The Empire District Electric Company may continue to charge market-based rates.

The refund effective date in Docket No. EL05–67–000, established pursuant to section 206 of the Federal Power Act, will be 60 days following publication of this notice in the **Federal Register**.

Linda L. Mitry,

Deputy Secretary.

[FR Doc. E5–1092 Filed 3–14–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP04–249–005]

Florida Gas Transmission Company; Notice of Compliance Filing

March 9, 2005.

Take notice that on March 7, 2005, Florida Gas Transmission Company (FGT) submitted a compliance filing pursuant to the Commission's Order issued December 22, 2004 approving the Stipulation and Agreement of Settlement in Docket No. RP04–249.

FGT states that a copy of the filing is being distributed to all customers served under the rate schedules affected by this filing, all parties listed on the official service list in this docket and the interested state commissions.

Any person desiring to protest this filing must file in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). Protests to this filing will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Such protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing a protest must serve a copy of that document on all the parties to the proceeding.

The Commission encourages electronic submission of protests in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Linda Mitry,

Deputy Secretary.

[FR Doc. E5–1126 Filed 3–14–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP04–92–004]

Georgia Public Service Commission; Notice of Compliance Filing

March 9, 2005.

Take notice that on February 22, 2005, Atlanta Gas Light Company (AGLC) tendered for filing its Statement of Operating Conditions containing provisions related to the prearranged release of interstate capacity in compliance with the Commission's Order issued January 24, 2005, in Docket Nos. RP04–92–001 and RP04–92–002, 110 FERC ¶61,048 (2005).

Any person desiring to protest this filing must file in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). Protests to this filing will be considered by the Commission in determining the appropriate action to be

taken, but will not serve to make protestants parties to the proceeding. Such protests must be filed on or before the date as indicated below. Anyone filing a protest must serve a copy of that document on all the parties to the proceeding.

The Commission encourages electronic submission of protests in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208-3676 (toll free). For TTY, call (202) 502-8659.

Protest Date: 5 p.m. eastern time on March 16, 2005.

Linda Mitry,

Deputy Secretary.

[FR Doc. E5–1122 Filed 3–14–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP05–220–000]

Gulf South Pipeline Company, LP; Notice of Termination of Gathering Service

March 8, 2005.

Take notice that on March 1, 2005, Gulf South Pipeline Company, LP (Gulf South) tendered for filing a Natural Gas Act section 4 filing which identifies certain gathering services which will be terminated on March 31, 2005. Gulf South states that this filing is made in compliance with ordering paragraph (E) of the Commission's March 30, 2004 order in Docket No. CP04–24–000. Gulf South further states that it is not proposing any changes to its published tariff services or rates and therefore has not included any revised tariff sheets in this filing.

Gulf South states that copies of this filing have been served upon Gulf South's customers, state commissions and other interested parties.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Linda Mitry,

Deputy Secretary.

[FR Doc. E5–1078 Filed 3–14–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER05–463–000]

Mendota Hills LLC; Notice of Issuance of Order

March 8, 2005.

Mendota Hills LLC (Mendota) filed an application for market-based rate authority, with an accompanying rate tariff. The proposed rate tariff provides for wholesale sales of energy, capacity and ancillary services at market-based rates. Mendota also requested waiver of various Commission regulations. In particular, Mendota requested that the Commission grant blanket approval under 18 CFR part 34 of all future issuances of securities and assumptions of liability by Mendota.

On March 3, 2005, the Commission granted the request for blanket approval under part 34, subject to the following:

Any person desiring to be heard or to protest the blanket approval of issuances of securities or assumptions of liability by Mendota should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. 18 CFR 385.211, 385.214 (2004).

Notice is hereby given that the deadline for filing motions to intervene or protest is April 4, 2005.

Absent a request to be heard in opposition by the deadline above, Mendota is authorized to issue securities and assume obligations or liabilities as a guarantor, indorser, surety, or otherwise in respect of any security of another person; provided that such issuance or assumption is for some lawful object within the corporate purposes of Mendota, compatible with the public interest, and is reasonably necessary or appropriate for such purposes.

The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by continued approval of Mendota's issuances of securities or assumptions of liability.

Copies of the full text of the Commission's Order are available from the Commission's Public Reference Room, 888 First Street, NE., Washington, DC 20426. The Order may also be viewed on the Commission's Web site at *http://www.ferc.gov,* using the eLibrary link. Enter the docket number excluding the last three digits in the docket number filed to access the document. Comments, protests, and interventions may be filed electronically via the Internet in lieu of paper. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings.

Linda Mitry,

Deputy Secretary.

[FR Doc. E5–1090 Filed 3–14–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–176–107]

Natural Gas Pipeline Company of America; Notice of Negotiated Rate

March 8, 2005.

Take notice that on March 2, 2005, Natural Gas Pipeline Company of America (Natural) tendered for filing as part of its FERC Gas Tariff, Sixth Revised Volume No. 1, First Revised Sheet No. 26D.05, to become effective May 1, 2005.

Natural states that the purpose of this filing is to implement an amendment to the Agreement between Natural and Nicor Gas Company, under Natural's Rate Schedule DSS pursuant to section 49 of the General Terms and Conditions of Natural's Tariff.

Natural states that copies of the filing are being mailed to all parties set out on the Commission's official service list.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Linda Mitry,

Deputy Secretary.

[FR Doc. E5–1080 Filed 3–14–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP05-222-000]

Northern Natural Gas Company; Notice of Proposed Changes in FERC Gas Tariff

March 9, 2005.

Take notice that on March 4, 2005, Northern Natural Gas Company (Northern) tendered for filing to become part of Northern's FERC Gas Tariff, Fifth Revised Volume No. 1 the following tariff sheets to be effective April 4, 2005:

Fourth Revised Sheet No. 403
Fourth Revised Sheet No. 403A
Third Revised Sheet No. 458

Northern further states that copies of the filing have been mailed to each of its customers and interested state commissions.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208-3676 (toll free). For TTY, call (202) 502-8659.

Linda Mitry,

Deputy Secretary.

[FR Doc. E5–1124 Filed 3–14–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER05–419–000, ER05–419–001 and ER05–419–002]

Telemagine, Inc.; Notice of Issuance of Order

March 8, 2005.

Telemagine, Inc. (Telemagine) filed an application for market-based rate authority, with an accompanying rate tariff. The proposed rate tariff provides for wholesale sales of energy, capacity, and ancillary services at market-based rates. Telemagine also requested waiver of various Commission regulations. In particular, Telemagine requested that the Commission grant blanket approval under 18 CFR Part 34 of all future issuances of securities and assumptions of liability by Telemagine.

On March 3, 2005, the Commission granted the request for blanket approval under Part 34, subject to the following:

Any person desiring to be heard or to protest the blanket approval of issuances of securities or assumptions of liability by Telemagine should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. 18 CFR 385.211, 385.214 (2004).

Notice is hereby given that the deadline for filing motions to intervene or protest is April 4, 2005.

Absent a request to be heard in opposition by the deadline above, Telemagine is authorized to issue securities and assume obligations or liabilities as a guarantor, indorser,

surety, or otherwise in respect of any security of another person; provided that such issuance or assumption is for some lawful object within the corporate purposes of Telemagine, compatible with the public interest, and is reasonably necessary or appropriate for such purposes.

The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by continued approval of Telemagine's issuances of securities or assumptions of liability.

Copies of the full text of the Commission's Order are available from the Commission's Public Reference Room, 888 First Street, NE., Washington, DC 20426. The Order may also be viewed on the Commission's Web site at *http://www.ferc.gov*, using the eLibrary link. Enter the docket number excluding the last three digits in the docket number filed to access the document. Comments, protests, and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings.

Linda Mitry,

Deputy Secretary.

[FR Doc. E5–1087 Filed 3–14–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP05–223–000]

Texas Eastern Transmission, LP; Notice of Proposed Changes In FERC Gas Tariff

March 9, 2005.

Take notice that on March 4, 2005, Texas Eastern Transmission, LP (Texas Eastern) tendered for filing as part of its FERC Gas Tariff, Sixth Revised Volume No. 1 and Seventh Revised Volume No. 1, the following tariff sheets to be effective as specified below:

Sixth Revised Volume No. 1
Proposed to be Effective 3/1/2001
1st Rev Twelfth Revised Sheet No. 34
Seventh Revised Volume No. 1
Proposed to be Effective 4/15/2001
1st Rev First Revised Sheet No. 34
Proposed to be Effective 3/1/2005
Second Revised Sheet No. 34

Texas Eastern states that the purpose of this filing is to correct the date of the conversion of two contracts with NUI Corporation under Part 157 Rate Schedule FTS–4 to Part 284 Rate Schedule FT–1.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Linda Mitry,

Deputy Secretary.

[FR Doc. E5–1125 Filed 3–14–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–426–021]

Texas Gas Transmission, LLC; Notice of Negotiated Rate

March 8, 2005.

Take notice that on March 1, 2005, Texas Gas Transmission, LLC (Texas Gas), tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheets, to become effective March 1, 2005:

Original Sheet No. 53
Sheet No. 54

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Linda Mitry,

Deputy Secretary.

[FR Doc. E5–1069 Filed 3–14–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP05–216–000]

TransColorado Gas Transmission Company; Notice of Report Pursuant to Tariff

March 8, 2005.

Take notice that on March 1, 2005, TransColorado Gas Transmission Company (TransColorado) tendered for filing its Annual Fuel Gas Reimbursement Percentage (FGRP) report pursuant to Section 12.9 of the General Terms and Conditions of its FERC Gas Tariff, First Revised Volume No. 1.

TransColorado states that it has served copies of this filing upon all customers, interested state commissions, and other interested parties.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the date as indicated below. Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on March 15, 2005.

Linda Mitry,

Deputy Secretary.

[FR Doc. E5–1074 Filed 3–14–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP05–215–000]

Transcontinental Gas Pipe Line Corporation; Notice of Proposed Changes in FERC Gas Tariff

March 8, 2005.

Take notice that on March 1, 2005 Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, the tariff sheets listed on Appendix A to the filing, proposed to be effective April 1, 2005.

Transco states that it is serving copies of the instant filing to its affected customers, interested State Commissions and other interested parties.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Linda Mitry,

Deputy Secretary.

[FR Doc. E5–1073 Filed 3–14–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP05–218–000]

Transcontinental Gas Pipe Line Corporation; Notice of Proposed Changes in FERC Gas Tariff

March 8, 2005.

Take notice that on March 1, 2005, Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, the following tariff sheets to become effective April 1, 2005:

Twenty-Second Revised Sheet No. 29
Nineteenth Revised Sheet No. 44
Fifty-Sixth Revised Sheet No. 50
Eighth Revised Sheet No. 61
Fourth Revised Sheet No. 61A

Transco states that the purpose of the instant filing is to recalculate its fuel retention percentages applicable to transportation and storage rate schedules pursuant to section 38 of the General Terms and Conditions of Transco's Third Revised Volume No. 1 Tariff. Transco further states that Appendix B attached to the filing contains workpapers supporting the derivation of the revised fuel percentages.

Transco states that copies of the filing are being mailed to affected customers and interested state commissions.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to

become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Linda Mitry,

Deputy Secretary.

[FR Doc. E5–1076 Filed 3–14–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP05–81–000]

Transcontinental Gas Pipe Line Corporation; Notice of Application for Abandonment

March 8, 2005.

Take notice that on February 25, 2005, Transcontinental Gas Pipe Line Corporation (Transco), tendered for filing an application under section 7 of the Natural Gas Act to abandon the service agreement under Transco's Rate Schedule SS–2 for KCS Energy Services, Inc. (KCS).

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in on or before the date as indicated below. Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on March 23, 2005.

Linda Mitry,

Deputy Secretary.

[FR Doc. E5–1085 Filed 3–14–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER05–481–000]

Trimont Wind I LLC; Notice of Issuance of Order

March 7, 2005.

Trimont Wind I LLC (Trimont) filed an application for market-based rate authority, with an accompanying rate tariff. The proposed rate tariff provides for wholesale sales of energy, capacity and ancillary services at market-based rates. Trimont also requested waiver of various Commission regulations. In particular, Trimont requested that the Commission grant blanket approval under 18 CFR part 34 of all future issuances of securities and assumptions of liability by Trimont.

On March 3, 2005, the Commission granted the request for blanket approval under part 34, subject to the following:

Any person desiring to be heard or to protest the blanket approval of issuances of securities or assumptions of liability by Trimont should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. 18 CFR 385.211, 385.214 (2004).

Notice is hereby given that the deadline for filing motions to intervene or protest is April 4, 2005.

Absent a request to be heard in opposition by the deadline above, Trimont is authorized to issue securities and assume obligations or liabilities as a guarantor, indorser, surety, or otherwise in respect of any security of another person; provided that such issuance or assumption is for some lawful object within the corporate purposes of Trimont, compatible with the public interest, and is reasonably necessary or appropriate for such purposes.

The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by continued approval of Trimont's issuances of securities or assumptions of liability.

Copies of the full text of the Commission's Order are available from the Commission's Public Reference Room, 888 First Street, NE., Washington, DC 20426. The Order may also be viewed on the Commission's Web site at *http://www.ferc.gov*, using the eLibrary link. Enter the docket number excluding the last three digits in the docket number filed to access the document. Comments, protests, and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings.

Magalie R. Salas,

Secretary.

[FR Doc. E5–1091 Filed 3–14–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP05–214–000]

Viking Gas Transmission Company; Notice of Proposed Changes in FERC Gas Tariff

March 8, 2005.

Take notice that on March 1, 2005, Viking Gas Transmission Company (Viking) tendered for filing to be part of its FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheets to become effective April 1, 2005:

Ninth Revised Sheet No. 5C
Seventh Revised Sheet No. 87C

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Linda Mitry,

Deputy Secretary.

[FR Doc. E5–1072 Filed 3–14–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP05–158–001]

Viking Gas Transmission Company; Notice of Compliance Filing

March 9, 2005.

Take notice that on March 4, 2005, Viking Gas Transmission Company (Viking) tendered for filing to become part of Viking's FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheets to become effective February 20, 2005:

Substitute Eighth Revised Sheet No. 12,
Substitute Second Revised Sheet No. 15M.01,
Substitute Fourth Revised Sheet No. 13,
Substitute Second Revised Sheet No. 15N,
Substitute Third Revised Sheet No. 15L,
Substitute Second Revised Sheet No. 87E.

Viking states that this filing is made to comply with the Commission's Order issued on February 18, 2005 in Docket No. RP05–158–000, 110 FERC ¶ 61,172 (2005).

Any person desiring to protest this filing must file in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). Protests to this filing will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Such protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing a protest must serve a copy of that document on all the parties to the proceeding.

The Commission encourages electronic submission of protests in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Linda Mitry,

Deputy Secretary.

[FR Doc. E5–1123 Filed 3–14–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER05–294–000 and ER05–294–001]

Westbank Energy Capital, LLC; Notice of Issuance of Order

March 8, 2005.

Westbank Energy Capital, LLC (Westbank) filed an application for market-based rate authority, with an accompanying rate tariff. The proposed rate tariff provides for wholesale sales of energy and capacity at market-based rates. Westbank also requested waiver of various Commission regulations. In particular, Westbank requested that the Commission grant blanket approval under 18 CFR part 34 of all future issuances of securities and assumptions of liability by Westbank.

On March 3, 2005, the Commission granted the request for blanket approval under part 34, subject to the following:

Any person desiring to be heard or to protest the blanket approval of issuances of securities or assumptions of liability by Westbank should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. 18 CFR 385.211, 385.214 (2004).

Notice is hereby given that the deadline for filing motions to intervene or protest is April 4, 2005.

Absent a request to be heard in opposition by the deadline above, Westbank is authorized to issue securities and assume obligations or liabilities as a guarantor, indorser, surety, or otherwise in respect of any security of another person; provided that such issuance or assumption is for some lawful object within the corporate purposes of Westbank, compatible with the public interest, and is reasonably necessary or appropriate for such purposes.

The Commission reserves the right to require a further showing that neither

public nor private interests will be adversely affected by continued approval of Westbank's issuances of securities or assumptions of liability.

Copies of the full text of the Commission's Order are available from the Commission's Public Reference Room, 888 First Street, NE., Washington, DC 20426. The Order may also be viewed on the Commission's Web site at *http://www.ferc.gov*, using the eLibrary link. Enter the docket number excluding the last three digits in the docket number filed to access the document. Comments, protests, and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings.

Linda Mitry,

Deputy Secretary.

[FR Doc. E5–1086 Filed 3–14–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. EL05–73–000 and P–459–135]

Duncan's Point Lot Owners Association, Inc., and Duncan's Point Homeowners Association, Inc., and Nancy A. Brunson, Juanita Brackens, Helen Davis and Pearl Hankins, individually Complainants v. Union Electric Company, d/b/a Ameran UE, Respondents; Notice of Complaint

March 8, 2005.

Take notice that on March 4, 2005, Duncan's Point Lot Owners Association, Inc., *et al.*, filed a formal complaint against Union Electric Company, d/b/a/ Ameran UE pursuant to Section 206 of the Federal Power Act, 16 U.S.C. 824e, and 18 CFR 385.206, alleging that numerous violations of statutes and Commission regulations in connection with Ameran UE's status as a hydroelectric licensee.

Duncan's Point Lot Owners Association, Inc., *et al.*, certifies that copies of the complaint were served on Ameran UE, by mail on March 3, 2005.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. The Respondent's answer and all interventions, or protests must be filed on or before the comment date. The Respondent's answer, motions to intervene, and protests must be served on the Complainants.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on March 18, 2005.

Linda Mitry,

Deputy Secretary.

[FR Doc. E5–1081 Filed 3–14–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EG05–51–000, et al.]

SeaWest Asset Management Services, LLC, et al.; Electric Rate and Corporate Filings

March 7, 2005.

The following filings have been made with the Commission. The filings are listed in ascending order within each docket classification.

1. SeaWest Asset Management Services, LLC

[Docket No. EG05–51–000]

Take notice that on March 4, 2005, SeaWest Asset Management Services, LLC (SeaWest Asset Management) filed with the Commission an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's regulations.

SeaWest Asset Management states that it will be engaged directly and exclusively in the business of operating certain eligible facilities and selling electric energy exclusively at wholesale within the meaning of section 32 of PUHCA. SeaWest Asset Management requests that the Commission determine that it is an EWG as it is currently owned and after consummation of the sale of 100 percent of the capital stock of its parent, SeaWest Holdings, Inc., to a wholly-owned subsidiary of the AES Corporation, AES Western Wind, LLC.

SeaWest Asset Management states that a copy of the application has been served on the U.S. Secruities and Exchange Commission, the California Public Utilities Commission, and the Indiana Utility Regulatory Commission.

Comment Date: 5 p.m. eastern time on March 25, 2005.

2. Florida Power & Light Company, FPL Energy Maine Hydro LLC, FPL Energy Wyman, LLC, FPL Energy Wyman IV, LLC, FPL Energy Power Marketing, Inc., Doswell Limited Partnership, FPL Energy Cape, LLC, FPL Energy Vansycle, L.L.C., ER01–838–004, Badger Windpower, LLC, Gray County Wind Energy, LLC, Calhoun Power Company I, LLC, FPL Energy Hancock County Wind, LLC, and Jamaica Bay Peaking Facility, LLC

[Docket Nos. ER97–3359–007, ER98–3511–008, ER98–3563–008, ER98–3564–008, ER98–3566–011, ER00–2391–004, ER00–3068–004, ER01–1071–004, ER01–1972–004, ER01–2074–004, ER03–34–003, and ER03–623–004]

Take notice that on February 28, 2005, each of the above-referenced companies submitted revised tariff sheets in compliance with the Commission Orders in *Investigation of Terms and Conditions of Public Utility Market-Based Rate Authorizations*, 105 FERC ¶ 61,277 (2003) and *Reporting Requirement for Changes in Status for Public Utilities with Market-Based Rate Authority*, 110 FERC ¶ 61,097 (2005). In addition, Doswell Limited Partnership and Jamaica Bay Peaking Facility, LLC submitted revised tariff sheets to comply with Order No. 614, *Designation of Electric Rate Schedule Sheets*, [1996–2000 Reg. Preambles] FERC Stat. & Regs. ¶ 31,096 (2000).

Comment Date: 5 p.m. eastern time on March 18, 2005.

3. Madison Gas and Electric Company

[Docket No. ER00–586–005]

Take notice that on March 3, 2005, Madison Gas and Electric Company (MEG) submitted for filing its response to Commission staff's February 15, 2005 request for additional information

regarding MGE's updated market power analysis filed on November 9, 2004 in Docket No. ER00–586–003, as amended November 15, 2004 in Docket No. ER00–586–004.

Comment Date: 5 p.m. eastern time on March 14, 2005.

4. Devon Power LLC

[Docket No. ER03–563–049]

Take notice that on February 28, 2005, ISO New England Inc. (ISO–NE) submitted a report updating progress made in siting, permitting and construction of transmission and generation upgrades within the New England control area, in compliance with the Commission's order issued June 2, 2004, *Devon Power LLC, et al.*, 107 FERC ¶ 61,240.

Comment Date: 5 p.m. eastern time on March 21, 2005.

5. Wisconsin River Power Company

[Docket No. ER05–453–001]

Take notice that Wisconsin River Power Company, on March 2, 2005, tendered for filing a supplement to the market-based rate application and revised rate schedules in preparation for MISO Day-2 Market Operations filed on January 14, 2005 in Docket No. ER05–543–000.

Wisconsin River Power Company states that copies of the filing were served upon the official service list in this proceeding, PJM, MISO, the Michigan Public Service Commission and the Public Service Commission of Wisconsin.

Comment Date: 5 p.m. eastern time on March 14, 2005.

6. Cleco Power LLC

[Docket No. ER05–473–001]

Take notice that on February 28, 2005, Cleco Power LLC (Cleco Power) filed an erratum to its January 19, 2005 Order No. 2003–B compliance filing in Docket No. ER05–473–000.

Comment Date: 5 p.m. eastern time on March 21, 2005.

7. Duke Energy Washington, LLC

[Docket No. ER05–623–001]

Take notice that on February 28, 2005, Duke Energy Washington, LLC (Duke Washington) submitted an errata to its February 18, 2005 filing in Docket No. ER05–623–000 of its proposed tariff for reactive supply and voltage control from generation sources service.

Comment Date: 5 p.m. eastern time on March 21, 2005.

8. Harvard Dedicated Energy Limited

[Docket No. ER05–658–000]

Take notice that on February 28, 2005, Harvard Dedicated Energy Limited (HDEL) filed an application for acceptance of HDEL Rate Schedule FERC No. 1, the granting of certain blanket approvals, including the authority to sell electricity at market-based rates, and the waiver of certain Commission Regulations.

Comment Date: 5 p.m. eastern time on March 21, 2005.

9. Mid-Continent Area Power Pool

[Docket No. ER05–659–000]

Take notice that on February 28, 2005, Mid-Continent Area Power Pool (MAPP) filed a revised Restated Agreement reflecting the changed functions of MAPP. MAPP requested an effective date of March 1, 2005.

Comment Date: 5 p.m. eastern time on March 21, 2005.

10. Mill Run Windpower LLC

[Docket Nos. ER05–660–000 and ER01–1710–004]

Take notice that on February 28, 2005, Mill Run Windpower LLC (Mill Run) filed revisions to its market-based rate tariff and code of conduct. Mill Run states that the revisions make the tariff compliant with Order No. 652, *Reporting Requirements for Changes in Status for Public Utilities With Market-Based Rate Authority*, 110 FERC ¶ 61,097 (2005). Mill Run requests an effective date of April 25, 2003 for the code of conduct and March 21, 2005 for the Order No. 652 compliance filing.

Mill Run states that copies of the filing were served on the official service list for Docket No. ER01–1710 and on the Florida Public Service Commission.

Comment Date: 5 p.m. eastern time on March 21, 2005.

11. Somerset Windpower LLC

[Docket Nos. ER05–661–000 and ER01–2139–005]

Take notice that on February 28, 2005, Somerset Windpower LLC (Somerset) filed revisions to its market-based rate tariff and code of conduct. Somerset states that the revisions make the tariff compliant with Order No. 652, *Reporting Requirements for Changes in Status for Public Utilities With Market-Based Rate Authority*, 110 FERC ¶ 61,097 (2005). Somerset requests an effective date of April 25, 2003 for the code of conduct and March 21, 2005 for the Order No. 652 compliance filing.

Somerset states that copies of the filing were served on the official service list for Docket No. ER01–2139 and on the Florida Public Service Commission.

Comment Date: 5 p.m. eastern time on March 21, 2005.

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. E5–1094 Filed 3–14–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EG05–48–000, et al.]

Invenergy Cannon Falls LLC, et al.; Electric Rate and Corporate Filings

March 4, 2005.

The following filings have been made with the Commission. The filings are listed in ascending order within each docket classification.

1. Invenergy Cannon Falls LLC

[Docket No. EG05–48–000]

Take notice that on February 25, 2005, Invenergy Cannon Falls LLC (Invenergy

CF) 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.

Invenergy CF states it is a Delaware limited liability company that will construct, own and operate an approximately 357 MW electric generation facility located in Cannon Falls, Minnesota. Invenergy CF further states it will sell power exclusively at wholesale.

Comment Date: 5 p.m. eastern time on March 18, 2005.

2. Judith Gap Energy LLC

[Docket No. EG05–49–000]

Take notice that on February 25, 2005, Judith Gap Energy LLC (Judith Gap) 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.

Judith Gap states it is a Montana limited liability company that will construct, own and operate an approximately up to 188 MW electric generation facility located in Wheatland County, Montana. Judith Gap further states it will sell power exclusively at wholesale.

Comment Date: 5 p.m. eastern time on March 18, 2005.

3. Spring Canyon Energy LLC

[Docket No. EG05–50–000]

Take notice that on February 25, 2005, Spring Canyon Energy LLC (Spring Canyon) 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.

Spring Canyon states it is a Delaware limited liability company that will construct, own and operate an approximately up to 188 MW electric generation facility located in Logan, County, Colorado. Spring Canyon further states it will sell power exclusively at wholesale.

Comment Date: 5 p.m. eastern time on March 18, 2005.

4. The Detroit Edison Company

[Docket Nos. EL01–51–007, ER01–1649–007]

Take notice that on March 1, 2005, The Detroit Edison Company (Detroit Edison) filed an amendment to First Revised Replacement Sheet No. 22 of Detroit Edison's Distribution Interconnection Agreement with Dearborn Industrial Generation, LLC.

Comment Date: 5 p.m. eastern time on March 22, 2005.

5. Grant Energy, Inc.

[Docket No. ER05–557–001]

Take notice that on February 28, 2005, Grant Energy, Inc. (Grant) amended its petition to the Commission filed February 4, 2005 in Docket No. ER05–557–000 for acceptance of Grant Rate Schedule FERC No. 1; the granting of certain blanket approvals, including the authority to sell electricity at market-based rates; and the waiver of certain Commission regulations.

Comment Date: 5 p.m. eastern time on March 14, 2005.

6. Southwest Power Pool, Inc.

[Docket No. ER05–651–000]

Take notice that on February 28, 2005, Southwest Power Pool, Inc. (SPP) submitted for filing an unexecuted large generator interconnection agreement between SPP, FPL Energy Cowboy Wind, LLC (FPL Energy), and Public Service Company of Oklahoma (PSO). SPP seeks an effective date of March 1, 2005.

SPP states that both FPL Energy and PSO were served with a copy of this filing.

Comment Date: 5 p.m. eastern time March 21, 2005.

7. Southwest Power Pool, Inc.

[Docket No. ER05–652–000]

Take notice that on February 28, 2005, Southwest Power Pool, Inc. (SPP) submitted a filing to revise its Open Access Transmission Tariff to implement a regional transmission cost allocation proposal with regard to new transmission upgrades. SPP states that it also submitted its filing to comply with the Commission's February 10, 2004 order in Docket No. RT04–1–000. SPP seeks an effective date of May 5, 2005 for the cost allocation proposal.

SPP states it has served a copy of this filing on all parties to this proceeding, as well as upon each of its members and customers. SPP further 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 March 21, 2005.

8. Southwest Reserve Sharing Group

[Docket No. ER05–653–000]

Take notice that on February 28, 2005, Tucson Electric Power Company tendered for filing, on behalf of the members of the Southwest Reserve Sharing Group, an amendment to the Southwest Reserve Sharing Group Participation Agreement expanding membership to include New Harquahala Generating Company.

Comment Date: 5 p.m. eastern time on March 21, 2005.

9. Phoenix Energy Trading, LLC

[Docket No. ER05–654–000]

Take notice that on February 28, 2005, Phoenix Energy Trading, LLC. (PHOENIX) petitioned the Commission for acceptance of PHOENIX Rate Schedule FERC No. 1; the granting of certain blanket approvals, including the authority to sell electricity at market-based rates; and the waiver of certain Commission regulations.

PHOENIX states that it intends to engage in wholesale electric power and energy purchases and sales as a marketer. PHOENIX further states it is not in the business of generating or transmitting electric power.

Comment Date: 5 p.m. eastern time on March 21, 2005.

10. Midwest Independent Transmission System Operator, Inc.

[Docket No. ER05–656–000]

Take notice that, on February 28, 2005, the Midwest Independent Transmission System Operator, Inc. (Midwest ISO) submitted an agreement for compensation of generator-supplied services by and among White Pine Electric Power, LLC (Generator), American Transmission Company, LLC (Transmission Owner) and the Midwest ISO.

The Midwest ISO states it has served copies of this filing on the parties to this agreement. In addition, the Midwest ISO states it has electronically served a copy of this filing 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, 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.''

Comment Date: 5 p.m. eastern time March 21, 2005.

11. Ocean State Power I, Ocean State Power II

[Docket No. ER05–657–000]

Take notice that on February 28, 2005, Ocean State Power I and Ocean State Power II (collectively, Ocean State) tendered for filing revised tariff sheets to Rate Schedule FERC Nos. 1–8 to update Ocean State's rate of return on equity (ROE). Ocean State also tendered for filing changes to Rate Schedule FERC Nos. 1 and 5 reflecting a substitution of purchaser. Ocean State requested an effective date of April 29,

2005 for the ROE changes and December 21, 2004 for the substitution of purchaser.

Ocean State indicates that copies of the filing have been served on Ocean State's power purchasers, the Commonwealth of Massachusetts Department of Telecommunications and Energy and the Rhode Island Public Utilities Commission.

Comment Date: 5 p.m. eastern time on March 21, 2005.

12. Birchwood Power Partners, L.P.

[Docket Nos. QF93–126–004, EL05–69–000]

Take notice that on February 28, 2005, Birchwood Power Partners, L.P. (Birchwood) submitted a request for declaratory order and a petition for limited waiver of the operating standard for its cogeneration facility located in King George County, Virginia for the calendar year 2001 pursuant to section 292.205(c) of the Commission's regulations.

Comment Date: 5 p.m. eastern time on March 21, 2005.

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. E5–1095 Filed 3–14–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER99–1522–003, et al.]

Bangor Hydro-Electric Company, et al.; Electric Rate and Corporate Filings

March 8, 2005.

The following filings have been made with the Commission. The filings are listed in ascending order within each docket classification.

1. Bangor Hydro-Electric Company, Emera Energy Services, Inc., Emera Energy U.S. Subsidiary No. 1, Inc.

[Docket Nos. ER99–1522–003, ER02–723–002, and ER04–359–001]

Take notice that on March 1, 2005, Bangor Hydro-Electric Company (Bangor Hydro), Emera Energy Services, Inc. (EES) and Emera Energy U.S. Subsidiary No. 1, Inc. (Emera Energy Sub No. 1) tendered for filing a triennial market power analysis and tariff revisions in compliance with Order No. 652, *Reporting Requirements for Changes in Status for Public Utilities with Market-Based Rate Authority*, 110 FERC ¶ 61,097 (2005).

Bangor Hydro, EES and Emera Energy Sub No. 1 state that copies of the filing were served on the parties listed on the official service lists, their market-based rate tariff jurisdictional customers, the Maine Public Utilities Commission and Maine's Office of Public Advocate.

Comment Date: 5 p.m. eastern time on March 22, 2005.

2. Astoria Energy LLC

[Docket No. ER01–3103–007]

Take notice that on March 1, 2005, Astoria Energy LLC filed a triennial updated market power analysis and revised tariff sheets in compliance with Order No. 652, *Reporting Requirements for Changes in Status for Public Utilities with Market-Based Rate Authority*, 110 FERC ¶ 61,097 (2005).

Comment Date: 5 p.m. eastern time on March 22, 2005.

3. Devon Power LLC, Middletown Power LLC, Montville Power LLC, Norwalk Power LLC, NRG Power Marketing Inc.

[Docket No. ER04–23–009]

Take notice that on March 1, 2005, Devon Power LLC, Middletown Power LLC, Montville Power LLC and Norwalk Power LLC (collectively, NRG) tendered for filing a statement showing the C–1 and C–2 costs incurred during the period April 1, 2004, through December 31, 2004, in compliance with the Commission's order issued January 27, 2005, in *ISO New England., et al.*, 110 FERC ¶ 61,079 (2005).

Comment Date: 5 p.m. eastern time on March 22, 2005.

4. Midwest Independent Transmission System Operator, Inc.

[Docket No. ER05–662–000]

Take notice that on March 1, 2005, the Midwest Independent Transmission System Operator, Inc. (Midwest ISO) submitted a large generator interconnection agreement among Darlington Wind Farm, LLC, American Transmission Company LLC and the Midwest ISO.

Midwest ISO states that a copy of the filing was served on the parties to the interconnection agreement.

Comment Date: 5 p.m. eastern time on March 22, 2005.

5. New England Power Pool

[Docket No. ER05–663–000]

Take notice that on March 1, 2005, the New England Power Pool (NEPOOL) Participants Committee filed for acceptance materials to permit NEPOOL to expand its membership to include the Lincoln Paper and Tissue, Inc. (Lincoln Paper), PPM Energy, Inc. (PPM Energy) and Rentricity Inc. (Rentricity). The Participants Committee requests effective dates of March 1, 2005, for Lincoln Paper, April 1, 2005, for Rentricity and May 1, 2005, for PPM Energy.

The Participants Committee states that copies of the materials were sent to the New England state governors and regulatory commissions and the participants in NEPOOL.

Comment Date: 5 p.m. eastern time on March 22, 2005.

6. Southwest Power Pool, Inc.

[Docket No. ER05–666–000]

Take notice that on March 1, 2005, Southwest Power Pool, Inc. (SPP) submitted revisions to its regional Open Access Transmission Tariff (OATT or Tariff) proposing the following: (1) To revise Section 3 of its OATT to add a new Schedule 4–A to offer Generation

Imbalance Service as an ancillary service; (2) to revise Section 10 of its OATT in order to provide more extensive liability protection under its OATT; (3) to revise section 34 of its OATT in order to resolve the problem of associated with adjusting for point-to-point reservations when the reservations are on an RTO, not an individual Transmission Owner basis; (4) to modify Schedule 9 of its OATT to provide Transmission Owners taking Network Integration Transmission Service under the OATT the opportunity to not pay otherwise applicable monthly demand charges if such Transmission Owners would have received, pursuant to Attachment L of the OATT, the amount they seek not to pay; (5) to put in place a new Attachment AC providing for a one-year experimental process allowing customers requesting short-term firm point-to- point service to obtain service through redispatch which otherwise would have been rejected due to a lack of capacity; and (6) to modify several portions of its OATT in order to correct various zone name references. SPP requests an effective date of May 1, 2005 for the proposed revisions.

SPP states that it has served a copy of its transmittal letter upon each of its embers and customers. SPP further 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 March 22, 2005.

7. Commonwealth Edison Company

[Docket No. ER05–672–000]

Take notice that on March 1, 2005, Exelon Corporation, on behalf of its subsidiary Commonwealth Edison Company, submitted a notice of cancellation for Service Agreement No. C1055 under PJM Interconnection L.L.C.'s FERC Electric Tariff, Sixth Revised Volume No. 1, with Titan Land Development Company, L.L.C., to be effective March 1, 2005.

Exelon Corporation states that the filing has been served on Titan Land Development Company, L.L.C., PJM Interconnection, L.L.C. and the Illinois Commerce Commission.

Comment Date: 5 p.m. eastern time on March 22, 2005.

8. Commonwealth Edison Company

[Docket No. ER05–673–000]

Take notice that on March 1, 2005, Exelon Corporation, on behalf of its subsidiary Commonwealth Edison Company, submitted a notice of cancellation for Service Agreement No. C1054 under PJM Interconnection L.L.C.'s FERC Electric Tariff, Sixth Revised Volume No. 1, with Kendall New Century Development, L.L.C., to be effective March 1, 2005.

Exelon Corporation states that the filing has been served on Kendall New Century Development, L.L.C., PJM Interconnection, L.L.C. and the Illinois Commerce Commission.

Comment Date: 5 p.m. eastern time on March 22, 2005.

9. Southwest Power Pool, Inc.

[Docket Nos. RT04–1–010 and ER04–48–010]

Take notice that on March 1, 2005, Southwest Power Pool, Inc. (SPP) resubmitted the Independent Market Monitoring Services Agreement filed on November 1, 2004, and accepted by the Commission in an order issued January 24, 2005, in Docket Nos. RT04–1–006 and ER04–48–006. SPP states that the tariff revisions, with appropriate page designations pursuant to the Commission's Order No. 614, were resubmitted in accordance with the Commission staff's request.

Comment Date: 5 p.m. eastern time on March 22, 2005.

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. E5–1120 Filed 3–14–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 349–091]

Alabama Power Company; Notice of Availability of Environmental Assessment

March 8, 2005.

An environmental assessment (EA) is available for public review. The EA analyzes the environmental impacts of allowing Harbor Pointe Development to use Martin Dam Project lands for the expansion and renovation of the Harbor Pointe Marina. The project is located on Lake Martin, Tallapoosa River, Tallapoosa County, Alabama. The project is licensed to Alabama Power Company.

The EA was written by staff in the Office of Energy Projects, Federal Energy Regulatory Commission. Commission staff concludes that approving the expansion and renovations would not constitute a major Federal action significantly affecting the quality of the human environment. A copy of the EA is attached to a March 7, 2005 Commission order titled ''Order Modifying and Approving Non-Project Use of Project Lands and Waters,'' which is available for review at the Commission or 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.

If you have any questions regarding this notice, please call Jean Potvin at (202) 502–8928.

Linda Mitry,

Deputy Secretary.

[FR Doc. E5–1082 Filed 3–14–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. CP04–37–000, CP04–44–000, CP04–45–000, and CP04–46–000]

Corpus Christi LNG, L.P.; Cheniere Corpus Christi Pipeline Company; Notice of Availability of the Final Environmental Impact Statement for the Proposed Cheniere Corpus Christi Lng Project

March 7, 2005.

The staff of the Federal Energy Regulatory Commission (FERC or Commission) has prepared a final environmental impact statement (EIS) on the liquefied natural gas (LNG) import terminal and natural gas pipeline facilities in Nueces and San Patricio Counties, Texas proposed by Corpus Christi LNG, L.P. and Cheniere Corpus Christi Pipeline Company (collectively referred to as Cheniere) in the above-referenced dockets.

The final EIS was prepared to satisfy the requirements of the National Environmental Policy Act (NEPA). The staff concludes that approval of the proposed project with appropriate mitigating measures as recommended, would have limited adverse environmental impact. The final EIS also evaluates alternatives to the proposal, including system alternatives, alternative sites for the LNG import terminal, and pipeline alternatives.

Cheniere's proposed facilities would have a nominal output of about 2.6 billion cubic feet of imported natural gas per day to the U.S. market. In order to provide LNG import, storage, and pipeline transportation services, Cheniere requests Commission authorization to construct, install, and operate an LNG terminal and natural gas pipeline facilities.

The final EIS addresses the potential environmental effects of the construction and operation of the following LNG terminal and natural gas pipeline facilities in San Patricio and Nueces Counties, Texas:

- A new marine basin and dredged maneuvering area in La Quinta Channel on the northeast shore of Corpus Christi Bay;
- Two berths and unloading facilities for LNG carrier ships, and a third dock for tugs and line boats;
- Three LNG storage tanks, each with a nominal working volume of approximately 160,000 cubic meters (1,006,400 barrels equivalent);
- LNG vaporization and processing equipment;
- 23 miles of 48-inch-diameter natural gas pipeline; and
- 8 interconnects with existing intrastate and interstate pipelines, and related meter stations.

The final EIS has been placed in the public files of the FERC and is available for public inspection at: Federal Energy Regulatory Commission, Public Reference Room, 888 First Street, NE., Room 2A, Washington, DC 20426, (202) 502–8371.

A limited number of copies of the final EIS are available from the Public Reference Room identified above. In addition, copies of the final EIS have been mailed to federal, state, and local agencies; public interest groups; individuals and affected landowners who requested a copy of the final EIS; libraries; newspapers, and parties to this proceedings.

In accordance with the Council on Environmental Quality's (CEQ) regulations implementing NEPA, no agency decision on a proposed action may be made until 30 days after the U.S. Environmental Protection Agency publishes a notice of availability of a final EIS. However, the CEQ regulations provide an exception to this rule when an agency decision is subject to a formal internal appeal process which allows other agencies or the public to make their views known. In such cases, the agency decision may be made at the same time the notice of the final EIS is published, allowing both periods to run concurrently. The Commission decision for this proposed action is subject to a 30-day rehearing period.

Additional information about the project is available from the Commission's Office of External Affairs at 1–866–208–FERC or on the FERC Internet Web site (*http://www.ferc.gov*) using the ''eLibrary'' link. Click on the ''eLibrary'' link, click on ''General Search'' and enter the docket number excluding the last three digits in the Docket Number field. Be sure you have selected the appropriate date range. For assistance, please contact FERC Online Support at *FercOnlineSupport@ferc.gov* or toll free at 1–866–208–3676, or for TTY, contact 1–202–502–8659. The ''eLibrary'' link on the FERC Internet Web site also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rule makings.

In addition, the Commission now offers a free service called eSubscription which allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries, and direct links to the documents. Go to the ''eSubscription'' link on the FERC Internet Web site.

Linda Mitry,

Deputy Secretary.

[FR Doc. E5–1083 Filed 3–14–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. CP05–64–000]

Florida Gas Transmission Company; Notice of Intent To Prepare an Environmental Assessment for the Proposed Turkey Point Project and Request for Comments on Environmental Issues

March 8, 2005.

The staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare an environmental assessment (EA) that will discuss the environmental impacts of the Turkey Point Project involving abandonment, construction and operation of facilities by Florida Gas Transmission (FGT) in Miami-Dade County, Florida. These facilities would consist of the construction and operation of a new 17,000 horsepower Compressor Station, and the installation of a 24-inch Tee and Side Valve on the existing FGT lateral on the grounds of the Turkey Point Power Plant owned by Florida Power and Light (FPL). The EA will be used by the Commission in its decisionmaking process to determine whether the project is in the public convenience and necessity.

Summary of the Proposed Project

FGT is requesting authorization to abandon facilities and to construct, own, and operate facilities consisting of a new 17,000 horsepower (hp) electric Compressor Station No. 22 (CS 22) and appurtenant facilities located in Miami-Dade County, Florida, on the existing FGT 24-inch Turkey Point Lateral within the existing Turkey Point Power Plant owned by FPL. Specifically, FGT plans to:

- Construct a 1,600-foot extension of the existing 18-inch mainline at approximate milepost (MP) 907.7 to the proposed Compressor Station 22, and back to the 18-inch mainline tie in;
- Abandon approximately 50 feet of the existing 18-inch mainline at MP 907.7 near the intersection of NW., 72nd Avenue (Milam Dairy Road) and NW., 64th Street;

• Construct Compressor Station 22 with two 8,500 hp electric driven compressors designed for unmanned operation on the existing FGT 18-inch mainline located in unincorporated Miami-Dade County, Florida on FPL-owned property located northeast of the intersection of NW., 72nd Avenue (Milam Dairy Rd) and NW., 64th Street;

• Install a motor control center, gas after-cooling, an oily water storage tank, facility blowdown, a pipeline liquids storage tank, at the fully fenced Compressor Station 22; and

• Install a new 24-inch Tee and Side Valve on the existing FGT 24-inch Turkey Point Lateral at FPL's new 24-inch lateral to the FGT system.

The location of the proposed site is shown in Appendix 1.[1]

Land Requirements for Construction

Construction of the proposed facilities would require about 14.68 acres of land. Following construction, about 6.86 acres would be maintained as new aboveground facility sites and pipeline right-of-way. The remaining 0.92 acre of land would be restored and allowed to revert to its former use.

The EA Process

The National Environmental Policy Act (NEPA) requires the Commission to take into account the environmental impacts that could result from an action whenever it considers the issuance of a Certificate of Public Convenience and Necessity. NEPA also requires us to discover and address concerns the public may have about proposals. This process is referred to as ''scoping.'' The main goal of the scoping process is to focus the analysis in the EA on the important environmental issues. By this Notice of Intent, the Commission staff requests public comments on the scope of the issues to address in the EA. All comments received are considered during the preparation of the EA. State and local government representatives are encouraged to notify their constituents of this proposed action and encourage them to comment on their areas of concern.

Our independent analysis of the issues will be in the EA. Depending on the comments received during the scoping process, the EA may be published and mailed to Federal, state and local agencies, public interest groups, interested individuals, affected landowners, newspapers, libraries, and the Commission's official service list for this proceeding. A comment period will be allotted for review if the EA is published. We will consider all comments on the EA before we make our recommendations to the Commission.

In the EA we[2] will discuss impacts that could occur as a result of the construction and operation of the proposed project under these general headings:

• Geology and soils
• Land use
• Water resources, fisheries, and wetlands
• Cultural resources
• Vegetation and wildlife
• Air quality and noise
• Endangered and threatened species
• Reliability and safety

We will also evaluate reasonable alternatives to the proposed project or portions of the project, and make recommendations on how to lessen or avoid impacts on the various resource areas.

To ensure your comments are considered, please carefully follow the instructions in the public participation section below.

Public Participation

You can make a difference by providing us with your specific comments or concerns about the project. By becoming a commentor, your concerns will be addressed in the EA and considered by the Commission. You should focus on the potential environmental effects of the proposal, alternatives to the proposal (including alternative locations and routes), and measures to avoid or lessen environmental impact. The more specific your comments, the more useful they will be. Please carefully follow these instructions to ensure that your comments are received in time and properly recorded:

• Send an original and two copies of your letter to: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First St., NE., Room 1A, Washington, DC 20426.

• Label one copy of the comments for the attention of Gas Branch 3.

• Reference Docket No. CP05–64–000.

• Mail your comments so that they will be received in Washington, DC on or before April 8, 2005.

Please note that we are continuing to experience delays in mail deliveries from the U.S. Postal Service. As a result, we will include all comments that we receive within a reasonable time frame in our environmental analysis of this project. However, the Commission strongly encourages electronic filing of any comments or interventions or protests to this proceeding. 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 and the link to the User's Guide. Before you can file comments you will need to create a free account which can be created on-line.

We might mail the EA for comment. If you are interested in receiving it, please return the Information Request (Appendix 4). If you do not return the Information Request, you will be taken off the mailing list.

Becoming an Intervenor

In addition to involvement in the EA scoping process, you may want to become an official party to the proceeding known as an ''intervenor.'' Intervenors play a more formal role in the process. Among other things, intervenors have the right to receive copies of case-related Commission documents and filings by other intervenors. Likewise, each intervenor must send one electronic copy (using the Commission's eFiling system) or 14 paper copies of its filings to the Secretary of the Commission and must send a copy of its filings to all other parties on the Commission's service list for this proceeding. If you want to become an intervenor you must file a motion to intervene according to Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.214) (*see* Appendix 2).[3] Only intervenors have the right to seek rehearing of the Commission's decision.

Affected landowners and parties with environmental concerns may be granted intervenor status upon showing good cause by stating that they have a clear and direct interest in this proceeding which would not be adequately represented by any other parties. You do not need intervenor status to have your environmental comments considered.

Environmental Mailing List

An effort is being made to send this notice to all individuals, organizations, and government entities interested in and/or potentially affected by the proposed project. This includes all landowners who are potential right-of-

[1] The appendices referenced in this notice are not being printed in the **Federal Register.** Copies of all appendices, other than Appendix 1 (maps), are available on the Commission's Web site at the ''eLibrary'' link or from the Commission's Public Reference Room, 888 First Street, N.E., Washington, D.C. 20426, or call (202) 502–8371. For instructions on connecting to eLibrary refer to the last page of this notice. Copies of the appendices were sent to all those receiving this notice in the mail.

[2] ''We'', ''us'', and ''our'' refer to the environmental staff of the Office of Energy Projects (OEP).

[3] Interventions may also be filed electronically. See previous discussion on electronic filing.

way grantors, whose property may be used temporarily for project purposes, or who own homes within distances defined in the Commission's regulations of certain aboveground facilities. By this notice we are also asking governmental agencies, especially those in Appendix 3, to express their interest in becoming cooperating agencies for the preparation of the EA.

Additional Information

Additional information about the project is available from the Commission's Office of External Affairs, at 1–866–208–FERC or on the FERC Internet Web site (*http://www.ferc.gov*) using the eLibrary link. Click on the eLibrary link, click on ''General Search'' and enter the docket number excluding the last three digits in the Docket Number field. Be sure you have selected an appropriate date range. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at 1–866–208–3676, or for TTY, contact (202) 502–8659.

In addition, the Commission now offers a free service called eSubscription which allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries and direct links to the documents. Go to *http://www.ferc.gov/esubscribenow.htm.*

Finally, public meetings or site visits will be posted on the Commission's calendar located at *http://www.ferc.gov/EventCalendar/EventsList.aspx* along with other related information.

Linda Mitry,

Deputy Secretary.

[FR Doc. E5–1084 Filed 3–14–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

FEDERAL ENERGY REGULATORY COMMISSION

[Project No. 7758–004]

The City of Holyoke Gas & Electric Department; Notice of Application Tendered for Filing With the Commission, Soliciting Additional Study Requests and Establishing Procedural Schedule for Relicensing and a Deadline for Submission of Final Amendments

March 8, 2005.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* Subsequent Licensing.

b. *Project No.:* 7758–004.

c. *Date Filed:* February 25, 2005.

d. *Applicant:* The City of Holyoke Gas & Electric Department.

e. *Name of Project:* Holyoke No. 4 Hydro Project.

f. *Location:* On the Holyoke Canal (Connecticut River), Hampden County, Massachusetts. The project does not use lands of the United States.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791 (a)–825(r).

h. *Applicant Contact:* Nancy J. Skancke, Law Offices of GKRSE, 1500 K St. NW., Suite 330, Washington, DC 20005, (202) 408–5400.

i. *FERC Contact:* Jack Hannula, *john.hannula@ferc.gov*, (202) 502–8917.

j. *Cooperating Agencies:* We are asking Federal, state, and local agencies and Indian tribes with jurisdiction and/or special expertise with respect to environmental issues to cooperate with us in the preparation of the environmental document. Agencies who would like to request cooperating status should follow the instructions for filing comments described in item l. below.

k. Pursuant to section 4.32(b)(7) of 18 CFR of the Commission's regulations, if any resource agency, Indian tribe, or person believes that an additional scientific study should be conducted in order to form an adequate factual basis for a complete analysis of the application on its merit, the resource agency, Indian tribe, or person must file a request for a study with the Commission not later than 60 days from the date of filing of the application, and serve a copy of the request on the applicant.

l. *Deadline for Filing Additional Study Requests and Requests for Cooperating Agency Status:* April 25, 2005.

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.

The Commission's Rules of Practice require all intervenors filing documents with the Commission to serve a copy of that document on each person on 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.

Additional study requests and requests for cooperating agency status may be filed electronically via the Internet in lieu of paper. The Commission strongly encourages electronic filings. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site at (*http://www.ferc.gov*) under the ''e-Filing'' link.

m. This application is not ready for environmental analysis at this time.

n. *Description of Project:* The Holyoke No. 4 Project consists of: (a) Two 7-foot-diameter and 76-foot-long penstocks drawing water from the first level canal of the Holyoke Canal System; (b) a powerhouse with 2 turbine-generator units with a total rated capacity of 760 kW in the first floor of a 3-story brick building; (c) two 13-foot-wide and 300-foot-long tailraces discharging into the second level canal; (d) a 4.8-kV, 25-foot-long transmission line; (e) the 0.48-kV generator leads; (f) the 0.48/4.8-kV transformer; and (g) appurtenant facilities.

o. A copy of the application is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the three digits in the docket number field to access the document. For assistance, contact FERC Online Support at *FERCOnlineSupport@FERC.gov* or toll free at 1–866–208–3076 or for TTY, (202) 502–8659. A copy is also available for inspection and reproduction at the address in item h above.

You may also register online at *http://ferc.gov/docs-filing/esubscription.asp* to be notified via e-mail of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

p. With this notice, we are initiating consultation with the Massachusetts State Historic Preservation Officer (SHPO), as required by section 106, National Historic Preservation Act, and the regulations of the Advisory Council on Historic Preservation, 36, CFR., at § 800.4.

q. Procedural schedule and final amendments: The application will be processed according to the following Hydro Licensing Schedule. Revisions to the schedule will be made as appropriate.

Issue Acceptance or Deficiency Letter: April 2005.

Issue Scoping Document for Comments: May 2005.

Notice that application is ready for environmental analysis: August 2005.

Notice of the availability of the EA: February 2006.

Ready for Commission's decision on the Application: March 2006.

Final amendments to the application must be filed with the Commission no later than 30 days from the issuance date of the ready for environmental analysis notice.

Linda Mitry,

Deputy Secretary.

[FR Doc. E5–1096 Filed 3–14–05; 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

March 8, 2005.

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.:* 2304–006.

c. *Date Filed:* March 2, 2005.

d. *Applicants:* Phelps Dodge Morenci, Inc. (PDMI/Transferor) and Salt River Project Agricultural Improvement and Power District (SRP/Transferee).

e. *Name of Project:* Blue Ridge Hydro.

f. *Location of Project:* On East Clear Creek, a tributary of the Little Colorado River, and the East Verde River, a tributary of the Verde River, in Coconino and Gila Counties, Arizona.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicants Contacts:* Cynthia Chandley, Ryley Carlock & Applewhite, PA, One North Central Avenue, Suite 1200, Phoenix, Arizona 85004, (602) 258–7701 (Transferor). Joel L. Greene, Jennings, Strouss & Salmon, P.L.C., 1500 K Street, NW., Suite 330, Washington, DC 20005, (202) 371–9889 (Transferee).

i. *FERC Contact:* Regina Saizan, (202) 502–8765.

j. *Deadline for Filing Comments and Motions To Intervene:* March 31, 2005.

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–2304–006) 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 any intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the documents on that resource agency.

k. *Description of Application:* The Applicants jointly and severally seek Commission approval to transfer the license for the Blue Ridge Hydro Project from PDMI to SRP.

l. *Location 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 ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, call toll-free 1–866–208–3676 or e-mail *FERCOnlineSupport@ferc.gov.* For TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at the 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, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. *Filing and Service of Responsive Documents*—Any filings must bear in all capital letters the title ''COMMENTS'', ''PROTEST'', or ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and eight copies to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. A copy of any motion to intervene must also be served upon each representative of the Applicants 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 Applicants. 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 Applicants' representatives.

Linda Mitry,

Deputy Secretary.

[FR Doc. E5–1097 Filed 3–14–05; 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

March 8, 2005.

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:* 309–043.

c. *Date Filed:* March 1, 2005.

d. *Applicants:* Reliant Energy Mid-Atlantic Power Holdings, LLC and Brascan Power Piney & Deep Creek LLC.

e. *Name and Location of Project:* The Piney Hydroelectric Project is located on the Clarion River in Clarion County, Pennsylvania.

f. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)—825(r).

g. *Applicant Contacts:* For Brascan Power Piney & Deep Creek LLC: Amy S. Koch, Patton Boggs LLP, 2550 M Street, NW., Washington, DC 20037, (202) 457–5618; For Reliant Energy Mid-Atlantic Power Holdings, LLC: William J. Madden, Jr., Winston & Strawn, 1400 L Street, NW., Washington, DC 20005, (202) 371–5715.

h. *FERC Contact:* Lynn R. Miles (202) 502–8763.

i. *Deadline for Filing Comments, Protests, and Motions To Intervene:* March 31, 2005.

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–309–043) 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 documents on that resource agency.

j. *Description of Application:* Reliant Energy Mid-Atlantic Power Holdings, LLC (Transferor) licensee for the Piney Hydroelectric Project, and Brascan Power Piney & Deep Creek LLC, (Transferee) jointly and severally are applying to the Commission for approval to transfer the license from the Transferor to the Transferee.

k. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the project number excluding the last three digits (P–309–043) 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 g. above.

l. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

m. Comments, Protests, or Motions To Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

n. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''PROTEST'', OR ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

o. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Linda Mitry,

Deputy Secretary.

[FR Doc. E5–1098 Filed 3–14–05; 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

March 8, 2005.

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.:* 11291–017.

c. *Date Filed:* February 14, 2005.

d. *Applicants:* Star Mill, Inc. (Star Mill/Transferor) and Star Mill Hydro, LLC (Star Mill Hydro/Transferee).

e. *Name of Project:* Star Milling.

f. *Location:* On the Fawn River, in LaGrange County, Indiana. The project does not utilize Federal lands.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicants Contact:* Robert Shanak, Manager, Star Mill Hydro, LLC, 1325 Churchill Street, Waupaca, WI 54981.

i. *FERC Contact:* Regina Saizan, (202) 502–8765.

j. *Deadline for Filing Comments and or Motions:* April 8, 2005.

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–11291–017) 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:* The applicants jointly seek Commission approval to transfer the license for the Star Milling Project from Star Mill to Star Mill Hydro.

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 ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, call toll-free 1–866–208–3676 or e-mail *FERCOnlineSupport@ferc.gov.* For TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at the address in item h. above.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must

be received on or before the specified comment date for the particular application.

o. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''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 Applicants 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 Applicants. 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 Applicants' representatives.

Linda Mitry,

Deputy Secretary.

[FR Doc. E5–1099 Filed 3–14–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP03–80–001]

Eastern Shore Natural Gas Company; Notice of Site Visit

March 8, 2005.

On March 21 and 22, 2005, the Office of Energy Projects (OEP) staff will conduct a pre-certification site visit of Eastern Shore Natural Gas Company's (ESNG) planned expansion project. The project consists of 4 segments of loop.[1] Segment 1 consists of 1.4 miles of 16-inch-diameter loop in Chester County, Pennsylvania. Segment 2 consists of 3.2 miles of 16-inch-diameter loop in New Castle County, Delaware. Segment 3 consists of 10.3 miles of 6-inch-diameter loop and Segment 4 consists of 6.0 miles of 10-inch-diameter loop, both in Sussex County, Delaware. These loop segments were described in more detail in our *Notice of Intent To Prepare an Environmental Assessment for the Proposed Eastern Shore Natural Gas Company's Amended 2003–2005 Expansion Project.*

We will view the proposed route and variations that are being considered for the planned pipeline. Examination will be by automobile and on foot. Representatives of ESNG will be accompanying the OEP staff.

All interested parties may attend. Those planning to attend must provide their own transportation. ESNG will be holding a short Open House at the meeting sites in Delaware prior to the site visit for those landowners that may have questions about the project. Those interested in attending or speaking to an ESNG or FERC representative should meet at:

Segment 1

Monday—March 21, 2005, 9 a.m. (e.s.t.), Lenover Road in Parkesburg, PA (across the street from 552 Lenover Road at the pipeline crossings).

Segment 2

Monday—March 21, 2005, 1 p.m. (e.s.t.), Newark Free Library Meeting Room, 750 Library Avenue, Newark, DE 19711; (302) 731–7550.

Segment 3

Tuesday—March 22, 2005, 9 a.m. (e.s.t.), Milford Public Library Meeting Room, located at 11 Southeast Front Street, Milford, DE 11963; (302) 422–8996.

Segment 4

Tuesday—March 22, 2005, 1 p.m. (e.s.t.), Delmar Public Library Meeting Room, 101 N. Bi-State Blvd, Delmar, DE 19940; (302) 846–9894.

For additional information, please contact the Commission's Office of External Affairs at 1–866–208–FERC (3372).

Linda Mitry,

Deputy Secretary.

[FR Doc. E5–1093 Filed 3–14–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP05–164–000]

Equitrans, L.P.; Notice of Technical Conference

March 8, 2005.

Take a notice that the Commission will convene a technical conference on Tuesday, March 22, 2005, at 10 a.m., in a room to be designated at the offices of the Federal Energy Regulatory Commission, 888 First Street, NE., Washington DC 20426.

The purpose of the Commission is to discuss the issues raised by Equitrans' proposed Rate Schedule Appalachian Gathering Service (AGS), and the deletion of Rate Schedules Interruptible Gathering Service (IGS) and Appalachian Pooling Service (APS) and Equitrans' proposal's compliance with Order Nos. 637 and 587, as well as any other non-rate issues the parties raised with respect to Rate Schedule AGS. The Commission directed its staff to convene this technical conference in a February 28, 2005 Order establishing a technical conference.[1]

FERC conferences are accessible under section 508 of the Rehabilitation Act of 1973. For accessibility accommodations please send an e-mail to *accessibility@ferc.gov* or call toll free (866) 208–3372 (voice) or (202) 208–01659 (TTY), or send a FAX to (202) 208–2106 with the required accommodations.

All interested persons are permitted to attend. For further information please contact Christy Walsh at (202) 502–6523 or e-mail *christy.walsh@ferc.gov.*

Linda Mitry,

Deputy Secretary.

[FR Doc. E5–1071 Filed 3–14–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RM98–1–000]

Records Governing Off-the Record Communications; Public Notice

March 8, 2005.

This constitutes notice, in accordance with 18 CFR 385.2201(b), of the receipt of prohibited and exempt off-the-record communications.

Order No. 607 (64 FR 51222, September 22, 1999) requires Commission decisional employees, who make or receive a prohibited or exempt off-the-record communication relevant to the merits of a contested proceeding, to deliver to the Secretary, a copy of the communication, if written, or a summary of the substance of any oral communication.

Prohibited communications are included in a public, non-decisional file associated with, but not a part of, the decisional record of the proceeding. Unless the Commission determines that the prohibited communication and any responses thereto should become a part of the decisional record, the prohibited off-the-record communication will not be considered by the Commission in

[1] A loop is a segment of pipeline installed adjacent to an existing pipeline and which connects to the existing pipeline at both ends of the loop. The loop allows more gas to be moved through the system.

[1] Equitrans, L.P., 110 FERC ¶ 61,194 (2005).

reaching its decision. Parties to a proceeding may seek the opportunity to respond to any facts or contentions made in a prohibited off-the-record communication, and may request that the Commission place the prohibited communication and responses thereto in the decisional record. The Commission will grant such a request only when it determines that fairness so requires. Any person identified below as having made a prohibited off-the-record communication shall serve the document on all parties listed on the official service list for the applicable proceeding in accordance with Rule 2010, 18 CFR 385.2010.

Exempt off-the-record communications are included in the decisional record of the proceeding, unless the communication was with a cooperating agency as described by 40 CFR 1501.6, made under 18 CFR 385.2201(e)(1)(v).

The following is a list of off-the-record communications recently received in the Office of the Secretary. The communications listed are grouped by docket numbers in ascending order. These filings are available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the eLibrary (FERRIS) link. Enter the docket number, excluding the last three digits, in the docket number field to access the document. For assistance, please contact FERC, Online Support at *FERCOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or for TTY, contact (202) 502–8659.

Exempt:

Docket No.	Date filed	Presenter or requester
1. CP04–36–000, CP04–41–000, CP04–223–000, CP04–293–000.	2–18–05	Hon. Jack Reed.
2. CP04–36–000, CP04–223–000, CP04–293–000	2–28–05	Hon. Patrick C. Lynch.
3. CP04–36–000, CP04–223–000	3–4–05 (Memo to File—Workshop Summary).	Chris Zerby.
4. CP04–37–000	2–24–05	Hon. John Cornyn.
5. CP04–386–000, CP04–400–000	1–15–05 (Memo to File)	Jennifer Kerrigan.
6. CP04–386–000, CP04–400–000	2–24–05 (Memo to File)	Jennifer Kerrigan.
7. EL01–88–000	2–22–05	Hon. Mary L. Landrieu.
8. Project No. 2114–000	3–2–05	Laurel Heacock.

Magalie R. Salas,

Secretary.

[FR Doc. E5–1068 Filed 3–14–05; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7884–2]

Science Advisory Board Staff Office Notification of Advisory Meeting of the Science Advisory Board

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The chartered Science Advisory Board (SAB) will hold a public teleconference meeting to finalize its draft advisory report to the Agency on the EPA FY 2006 science and research program budgets.

DATES: April 1, 2005. The SAB will meet on April 1, 2005, via teleconference from 1 p.m. to 3 p.m. (eastern standard time).

ADDRESSES: This public teleconference meeting will take place via teleconference only.

FOR FURTHER INFORMATION CONTACT: Any member of the public who wishes to obtain the teleconference call-in numbers and access codes, would like to submit written or brief oral comments (3 minutes or less), or who wants further information concerning this public teleconference meeting should contact Mr. Thomas Miller, Designated Federal Officer (DFO), EPA SAB, 1200 Pennsylvania Avenue, NW., (MC 1400F), Washington, DC 20460; via telephone/voice mail: (202) 343–9982; fax: (202) 233–0643; or e-mail at: *miller.tom@epa.gov.* General information concerning the SAB can be found on the EPA Web site at: *http://www.epa.gov/sab.*

SUPPLEMENTARY INFORMATION:

Background: Pursuant to the Federal Advisory Committee Act, Pub. L. 92–463, the SAB Staff Office hereby gives notice of a public teleconference of the SAB SRB Advisory Panel. The Panel has conducted two public meetings to provide advice regarding EPA's overall science and research budget for Fiscal Year 2006. These public meetings were noticed in the **Federal Register**, 69 FR 65427 (November 12, 2004), and 70 FR. 4848 (January 31, 2005).

Purpose: The purpose of this public teleconference is to finalize the draft advisory report.

Availability of Meeting Materials: Copies of the agenda for the public teleconference described in this notice and the SAB draft advisory report will be posted on the SAB Web site at: *http://www.epa.gov/sab/agendas.htm* prior to the teleconference.

Providing Oral or Written Comments at SAB Meetings: It is the policy of the SAB Staff Office to accept written public comments of any length, and to accommodate oral public comments wherever possible. The SAB Staff Office expects the public statements presented at its meetings 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 public teleconference meeting will be limited to a total time of three minutes (unless otherwise indicated). Requests to provide oral comments must be *in writing* (e-mail, fax, or mail) and received by the DFO no later than noon eastern time five business days prior to the meeting in order to reserve time on the meeting agenda. *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 no later than noon eastern time five business days prior to the meeting so that the comments may be made available to the Panelists for their consideration. Comments should be supplied to the DFO (preferably by e-mail) 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 PDF, WordPerfect, Word, or Rich Text files (in IBM–PC/Windows 98/2000/XP format)).

Meeting Access: This is a meeting by teleconference. Individuals requiring special accommodation for this meeting should contact the DFO at least five business days prior to the meeting, so

that appropriate arrangements can be made.

Dated: March 9, 2005.

Vanessa Vu,

Director, EPA Science Advisory Board Staff Office.

[FR Doc. 05–5043 Filed 3–14–05; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7884–3]

Science Advisory Board Staff Office; Clean Air Scientific Advisory Committee (CASAC); Notification of Advisory Committee Meeting of the CASAC Particulate Matter Review Panel

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) Science Advisory Board (SAB) Staff Office announces a public meeting of the Clean Air Scientific Advisory Committee's (CASAC) Particulate Matter (PM) Review Panel (Panel) to conduct a peer review of the Review of the National Ambient Air Quality Standards for Particulate Matter: Policy Assessment of Scientific and Technical Information (second draft PM Staff Paper, January 2005); and a related draft technical support document, Particulate Matter Health Risk Assessment for Selected Urban Areas: Second Draft Report (second draft PM Risk Assessment, January 2005).

DATES: April 6–7, 2005. The meeting will be held Wednesday, April 6, 2005, from 8:30 a.m. to 5:30 p.m. (eastern time), and Thursday, April 7, 2005, from 8:30 a.m. to 3 p.m. (eastern time).

Location: The meeting will take place at the Marriott Durham Civic Center Hotel, 210 Foster Street, Durham North Carolina, 27701.

FOR FURTHER INFORMATION CONTACT: Any member of the public who wishes to submit written or brief oral comments (five minutes or less); or wants further information concerning this meeting, must contact Mr. Fred Butterfield, Designated Federal Officer (DFO), EPA Science Advisory Board (1400F), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; via telephone/voice mail: (202) 343–9994; fax: (202) 233–0643; or e-mail at: *butterfield.fred@epa.gov.* General information concerning the CASAC or the EPA Science Advisory Board can be found on the EPA Web Site at: *http://www.epa.gov/sab.*

SUPPLEMENTARY INFORMATION: *Summary:* The CASAC, which is comprised of seven members appointed by the EPA Administrator, was established under section 109(d)(2) of the Clean Air Act (CAA or Act) (42 U.S.C. 7409) as an independent scientific advisory committee, in part to provide advice, information and recommendations on the scientific and technical aspects of issues related to air quality criteria and national ambient air quality standards (NAAQS) under sections 108 and 109 of the Act. The CASAC is a Federal advisory committee chartered under the Federal Advisory Committee Act (FACA), as amended, 5 U.S.C., App. The CASAC PM Review Panel complies with the provisions of FACA and all appropriate SAB Staff Office procedural policies.

This meeting is a continuation of the CASAC PM Review Panel's peer review of the Review of the National Ambient Air Quality Standards for Particulate Matter: Policy Assessment of Scientific and Technical Information (first draft PM Staff Paper, August 2003), and a related draft technical report, Particulate Matter Health Risk Assessment for Selected Urban Areas (first draft PM Risk Assessment, August 2003). The report from the Panel's previous meeting to review these draft documents, held on November 12–13, 2003 in Research Triangle Park (RTP), NC, is posted on the SAB Web Site at: *http://www.epa.gov/sab/pdf/casac_04004.pdf.* The second draft PM Staff Paper and the second draft PM Risk Assessment were made available for public review and comment on January 31, 2005 by EPA's Office of Air Quality Planning and Standards (OAQPS), within the Office of Air and Radiation (OAR).

Background: Under section 108 of the CAA, the Agency is required to establish NAAQS for each pollutant for which EPA has issued criteria, including PM. Section 109(d) of the Act subsequently requires periodic review and, if appropriate, revision of existing air quality criteria to reflect advances in scientific knowledge on the effects of the pollutant on public health and welfare. EPA is also to revise the NAAQS, if appropriate, based on the revised criteria. The purpose of the second draft PM Staff Paper is to evaluate the policy implications of the key scientific and technical information contained in a related document, EPA's revised Air Quality Criteria Document (AQCD) for PM (October 2004), and to identify critical elements that EPA staff believes should be considered in the review of the PM NAAQS. The Staff Paper for PM is intended to ''bridge the gap'' between the scientific review contained in the PM AQCD and the public health and welfare policy judgments required of the Administrator in reviewing the PM NAAQS.

This second draft PM Staff Paper is based on the information in the final PM AQCD, which had been the subject of review by the CASAC PM Panel. The report from the Panel's final meeting to review the PM AQCD, held via teleconference on September 20, 2004, is posted on the SAB Web site at: *http://www.epa.gov/sab/pdf/casac05001.pdf*. The Agency subsequently announced the availability of a final document, Air Quality Criteria for Particulate Matter (EPA/600/P–99/002aF, EPA/600/P–99/002bF) in a previous **Federal Register** notice (69 FR 63111, October 29, 2004). In addition, the second draft PM Staff Paper builds upon the first draft PM Staff Paper, which was the subject of review by the CASAC PM Panel in November 2003.

Technical Contact: Any questions concerning the second draft Staff Paper and the second draft PM Risk Assessment should be directed to Dr. Mary Ross, OAQPS, at phone: (919) 541–5170, or e-mail: *ross.mary@epa.gov*. Detailed summary information on EPA's second draft PM Staff Paper and second draft PM Risk Assessment is contained in a previous EPA **Federal Register** notice (70 FR 5443, February 2, 2005).

Availability of Meeting Materials: The Review of the National Ambient Air Quality Standards for Particulate Matter: Policy Assessment of Scientific and Technical Information (second draft PM Staff Paper, January 2005); and the draft technical support document, Particulate Matter Health Risk Assessment for Selected Urban Areas: Second Draft Report (second draft PM Risk Assessment, January 2005) and several additional staff technical support memos referenced in the second draft PM Staff Paper can be accessed via the Agency's Technology Transfer Network (TTN) Web site at: *http://www.epa.gov/ttn/naaqs/standards/pm/s_pm_index.html* under ''Staff Papers'' and ''Technical Documents,'' respectively. In addition, a copy of the draft agenda for the CASAC PM Review Panel meeting will be posted on the SAB Web site at: *http://www.epa.gov/sab* (under the ''Agendas'' subheading) in advance of this meeting. Other meeting materials, including the charge to the CASAC PM Review Panel, will also be posted on the SAB Web site at: *http://www.epa.gov/sab/panels/*

casacpmpanel.html prior to this meeting.

Providing Oral or Written Comments at SAB Meetings: It is the policy of the SAB Staff Office 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 its face-to-face meetings and teleconferences 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 meeting or teleconference will be limited to a total time of five minutes (unless otherwise indicated). Requests to provide oral comments must be in writing (e-mail, fax or mail) and received by Mr. Butterfield no later than noon eastern time five business days prior to the meeting in order to reserve time on the meeting agenda. Speakers should bring at least 75 copies of their comments and presentation slides for distribution to the reviewers 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 no later than noon eastern time five business days prior to the meeting so that the comments may be made available to the CASAC PM Review Panel for their consideration. Comments should be supplied to Mr. Butterfield (preferably via e-mail) at the address/contact information noted above, as follows: one hard copy with original signature, and one electronic copy via e-mail (acceptable file format: Adobe Acrobat PDF, WordPerfect, MS Word, MS PowerPoint, or Rich Text files (in IBM–PC/Windows 98/2000/XP format)). Those providing written comments and who attend the meeting in person are also asked to bring 75 copies of their comments for public distribution.

Meeting Access: Individuals requiring special accommodation at this meeting, including telephone access to the meeting, or wheelchair access to the conference room, should contact Mr. Butterfield at the phone number or an e-mail address noted above at least at least five business days prior to the meeting so that appropriate arrangements can be made.

Dated: March 4, 2005.

Vanessa T. Vu,

Director, EPA Science Advisory Board Staff Office.

[FR Doc. 05–5044 Filed 3–14–05; 8:45 am]

BILLING CODE 6560–50–P

EXECUTIVE OFFICE OF THE PRESIDENT

Office of Administration; Notice of Meeting of the Commission on the Intelligence Capabilities of the United States Regarding Weapons of Mass Destruction

ACTION: Notice.

SUMMARY: The Commission on the Intelligence Capabilities of the United States Regarding Weapons of Mass Destruction (''Commission'') will meet in closed session on Wednesday, March 30, 2005, and Thursday, March 31, 2005, in its offices in Arlington, Virginia.

Executive Order 13328 established the Commission for the purpose of assessing whether the Intelligence Community is sufficiently authorized, organized, equipped, trained, and resourced to identify and warn in a timely manner of, and to support the United States Government's efforts to respond to, the development of Weapons of Mass Destruction, related means of delivery, and other related threats of the 21st Century. The March 30–31 meeting is expected to include Commission discussions about classified documents, and presentations from Commission staff that are based upon classified information. While the Commission does not concede that it is subject to the requirements of the Federal Advisory Committee Act (FACA), 5 United States Code Appendix 2, it has been determined that the March 30–31, 2005, meeting would fall within the scope of exceptions (c)(1) and (c)(9)(B) of the Sunshine Act, 5 United States Code, Sections 552b(c)(1) & (c)(9)(B), and thus could be closed to the public if FACA did apply to the Commission.

DATES: Wednesday, March 30, 2005 (9 a.m. to 5 p.m.), and Thursday, March 31, 2005. (9 a.m. to 2 p.m.).

ADDRESSES: Members of the public who wish to submit a written statement to the Commission are invited to do so by facsimile at (703) 414–1203, or by mail at the following address: Commission on the Intelligence Capabilities of the United States Regarding Weapons of Mass Destruction, Washington, DC, 20503. Comments also may be sent to the Commission by e-mail at *comments@wmd.gov*.

FOR FURTHER INFORMATION CONTACT: Brett C. Gerry, Associate General Counsel, Commission on the Intelligence Capabilities of the United States Regarding Weapons of Mass Destruction, by facsimile, or by telephone at (703) 414–1200.

Victor E. Bernson, Jr.,

Executive Office of the President, Office of Administration, General Counsel.

[FR Doc. 05–5025 Filed 3–14–05; 8:45 am]

BILLING CODE 3130–W5–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission for Extension Under Delegated Authority

March 7, 2005.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act of 1995, Pub. L. 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Persons wishing to comment on this information collection should submit comments by May 16, 2005. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all Paperwork Reduction Act (PRA) comments to Judith B. Herman, Federal Communications Commission, 445 12th Street, SW., Room 1–C804, Washington, DC 20554 or via the Internet to *Judith-B.Herman@fcc.gov*.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collections contact Judith B. Herman at (202) 418–0214 or via the Internet at *Judith-B.Herman@fcc.gov.*

SUPPLEMENTARY INFORMATION:

OMB Control No.: 3060–0995.

Title: Section 1.2105(c)(6), Bidding Applications and Certification Procedures; Prohibition of Collusion.

Form No.: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Individuals or households; business or other for profit; not-for-profit institutions; and state, local or tribal government.

Number of Respondents: 10.

Estimated Time per Response: 5 hours.

Frequency of Response: On occasion reporting requirement.

Total Annual Burden: 50 hours.

Annual Cost Burden: $6,000.

Privacy Act Impact Assessment: N/A.

Needs and Uses: This information collection requirement will enable the Commission to ensure that no bidder gains unfair advantage over other bidders in its spectrum auction and thus enhance the competitiveness and fairness of its auctions. Applicants for auction(s) must provide specific information and certifications with the Commission. The information collected will be reviewed and, if warranted, referred to the Commission's Enforcement Bureau for possible investigation and administrative action. The Commission may also refer allegations of anticompetitive auction conduct to the Department of Justice for investigation.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 05–5060 Filed 3–14–05; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission for Extension Under Delegated Authority

March 7, 2005.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act (PRA) of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written Paperwork Reduction Act (PRA) comments should be submitted on or before May 16, 2005. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all Paperwork Reduction Act (PRA) comments to Cathy Williams, Federal Communications Commission, Room 1–C823, 445 12th Street, SW., Washington, DC 20554 or via the Internet to *Cathy.Williams@fcc.gov*.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection(s), contact Cathy Williams at (202) 418–2918 or via the Internet at *Cathy.Williams@fcc.gov*.

SUPPLEMENTARY INFORMATION: *OMB Control Number:* 3060–0248.

Title: Section 74.751, Modification of Transmission Systems.

Form Number: Not applicable.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities; not-for-profit institutions; State, Local or Tribal Government.

Number of Respondents: 400.

Estimated Time per Response: 0.50 hours.

Frequency of Response: On occasion reporting requirement; Recordkeeping requirement.

Total Annual Burden: 200 hours.

Total Annual Cost: None.

Privacy Impact Assessment: No impact(s).

Needs and Uses: 47 CFR 74.751(c) requires licensees of low power TV or TV translator stations to send written notification to the FCC of equipment changes which may be made at licensee's discretion without the use of a formal application. Section 74.751(d) requires that licensees of low power TV or TV translator stations place in the station records a certification that the installation of new or replacement transmitting equipment complies in all respects with the technical requirements of this section and the station authorization. The notifications and certifications of equipment changes are used by FCC staff to assure that the equipment changes made are in full compliance with the technical requirements of this section and the station authorizations and will not cause interference to other authorized stations. 47 CFR 74.751(c) was amended as a result of the reorganization of the Cable Services Bureau and the Mass Media Bureau and the establishment of the Media Bureau. In the *Order,* DA 02–577, In the Matter of Establishment of the Media Bureau and Other Organizational Changes, released March 14, 2002, certain editorial changes were necessary to conform the rules in Part 74 of the Code of Federal Regulations with the new name of the Media Bureau. Other than the editorial changes to the new name, Media Bureau, there was no impact on the rule itself.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 05–5061 Filed 3–14–05; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission, Comments Requested

March 7, 2005.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act (PRA) of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act that does not display a valid control number. Comments are requested concerning (a)

whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written Paperwork Reduction Act (PRA) comments should be submitted on or before May 16, 2005. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all Paperwork Reduction Act (PRA) comments to Cathy Williams, Federal Communications Commission, Room 1–C823, 445 12th Street, SW., Washington, DC 20554 or via the Internet to *Cathy.Williams@fcc.gov*.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection(s), contact Cathy Williams at (202) 418–2918 or via the Internet at *Cathy.Williams@fcc.gov*.

SUPPLEMENTARY INFORMATION: *OMB Control Number:* 3060–0236.

Title: Section 74.703, Interference.

Form Number: Not applicable.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit entities; Not-for-profit institutions; State, local or tribal government.

Number of Respondents: 10.

Estimated Time per Response: 10 hours.

Frequency of Response: On occasion reporting requirement.

Total Annual Burden: 20 hours.

Total Annual Cost: None.

Privacy Impact Assessment: No impact(s).

Needs and Uses: 47 CFR 74.703(f) requires licensees of a Digital Low Power TV (LPTV) or TV translator station operating on a channel from channel 52–69 to eliminate at its expense any condition of interference caused to the operation of or services provided by existing and future commercial or public safety wireless licensees in the 700 MHz bands. The offending digital LPTV or translator station must cease operations immediately upon notification by any primary wireless licensee, once it has been established that the digital low power TV or translator station is causing the interference.

The Commission amended this rule on September 9, 2004, in the *Report and Order* (R&O), In the Matter of Amendment of parts 73 and 74 of the Commission's Rules to Establish Rules for Digital Low Power Television, Television Translator, and Television Booster Stations and to Amend Rules for Digital Class A Television Stations in MB Docket No. 03–185, FCC 04–220. This differs from the previous version of the rules by adding notification and coordination requirements for applicants of digital LPTV or TV translator station operations on channels 52–69. The *Report and Order* extended to digital LPTV and TV translator station operations of all the interference remediation provisions in Section 74.703 applicable to analog LPTV service stations.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 05–5062 Filed 3–14–05; 8:45 am]

BILLING CODE 6712–10–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Agency Meeting; Sunshine Act

Pursuant to the provisions of the ''Government in the Sunshine Act'' (5 U.S.C. 552b), notice is hereby given that at 10:30 a.m. on Friday, March 18, 2005, the Federal Deposit Insurance Corporation's Board of Directors will meet in closed session, pursuant to section 552b(c)(2), (c)(4), (c)(6), (c)(8), and (c)(9)(A)(ii) of Title 5, United States Code, to consider matters relating to the Corporations's corporate and supervisory 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 Ms. Valerie J. Best, Assistant Executive Secretary of the Corporation, at (202) 898–7043.

Dated: March 11, 2005.

Federal Deposit Insurance Corporation.

Valerie J. Best,

Assistant Executive Secretary.

[FR Doc. 05–5128 Filed 3–11–05; 10:09 am]

BILLING CODE 6714–01–M

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Agency Meeting; Sunshine Act

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 10 a.m. on Friday, March 18, 2005, 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: Interim Final Rule Amending FDIC Part 335 to Conform with Requirements of the Securities and Exchange Commission.

Memorandum and resolution re: CRA Technical Amendments: Joint Final Rule.

Discussion Agenda

Memorandum and resolution re: Final Rule: FDIC Part 347—International Banking and Part 303—Filing Procedures (Subpart J—International Banking).

Memorandum and resolution re: Notice and Request for Comment: Interagency Proposal on the Classification of Commercial Credit Exposures.

Memorandum and resolution re: Interagency Guidance on Response Programs for Unauthorized Access to Customer Information and Customer Notice.

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); or (202) 416–2007 (TTY), to make necessary arrangements.

Requests for further information concerning the meeting may be directed to Ms. Valerie J. Best, Assistant Executive Secretary of the Corporation, at (202) 898–7043.

Dated: March 11, 2005.

Federal Deposit Insurance Corporation.

Valerie J. Best,

Assistant Executive Secretary.

[FR Doc. 05–5129 Filed 3–11–05; 10:09 am]

BILLING CODE 6714–01–M

FEDERAL RESERVE SYSTEM

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Board of Governors of the Federal Reserve System.

TIME AND DATE: 12:00 p.m., Monday, March 21, 2005.

PLACE: Marriner S. Eccles Federal Reserve Board Building, 20th and C Streets, N.W., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any items carried forward from a previously announced meeting.

FOR FURTHER INFORMATION CONTACT: Michelle A. Smith, Director, Office of Board Members; 202–452–2955.

SUPPLEMENTARY INFORMATION: You may call 202–452–3206 beginning at approximately 5 p.m. two business days before the meeting for a recorded announcement of bank and bank holding company applications scheduled for the meeting; or you may contact the Board's Web site at *http://www.federalreserve.gov* for an electronic announcement that not only lists applications, but also indicates procedural and other information about the meeting.

Board of Governors of the Federal Reserve System, March 11, 2005.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 05–5199 Filed 3–11–05; 12:55 pm]

BILLING CODE 6210–01–S

FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

Sunshine Act Notice

TIME AND DATE: 9 a.m. (e.s.t.), March 21, 2005.

PLACE: 4th Floor Conference Room, 1250 H Street, NW., Washington, DC.

STATUS: Parts will be open to the public and parts closed to the public.

MATTERS TO BE CONSIDERED:

Parts Open to the Public

1. Approval of the minutes of the February 22, 2005, Board member meeting.

2. Thrift Savings Plan activity report by the Executive Director.

3. Review of audit reports:

Employee Benefits Security Administration Review of the Thrift Savings Plan Loan Operations at the United States Department of Agriculture National Finance Center, June 11, 2004.

Employee Benefits Security Administration Review of the Thrift Savings Plan Account Maintenance, Forfeiture, Forfeiture Restoration and Interfund Transfer Processes at the United States Department of Agriculture National Finance Center, June 11, 2004.

Employee Benefits Security Administration Review of the Thrift Savings Plan Annuity Operations at the Metropolitan Life Insurance Company, July 9, 2004.

Employee Benefits Security Administration Review of the Thrift Savings Plan Participant Support Process at the United States Department of Agriculture National Finance Center, June 11, 2004.

4. Status of audit recommendations.

5. Department of Labor review of FY 2004 audit activity and FY 2005 audit plan.

6. Presentation on life cycle funds by Mercer Investment Consulting, Inc.

Parts Closed to the Public

Procurement.

FOR FURTHER INFORMATION CONTACT: Thomas J. Trabucco, Director, Office of External Affairs, (202) 942–1640.

Elizabeth S. Woodruff,

Secretary to the Board, Federal Retirement Thrift Investment Board.

[FR Doc. 05–5178 Filed 3–11–05; 12:18 pm]

BILLING CODE 6760–01–P

GENERAL SERVICES ADMINISTRATION

[OMB Control No. 3090–0112]

Proposed Information Collection; Federal Management Regulation; GSA Form 3040, State Agency Monthly Donation Report of Surplus Property

AGENCY: Federal Supply Service, 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 GSA Form 3040, state agency monthly donation report of surplus property.

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: May 16, 2005.

FOR FURTHER INFORMATION CONTACT: Denise Thomas, Federal Supply Service, GSA at telephone (703) 308–0742 or via e-mail to denise.thomas@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 (VIR), General Services Administration, Room 4035, 1800 F Street, NW., Washington, DC 20405. Please cite OMB Control No. 3090–0112, GSA Form 3040, State Agency Monthly Donation Report of Surplus Personal Property, in all correspondence.

SUPPLEMENTARY INFORMATION:

A. Purpose

This report complies with Public Law 94–519, which requires annual reports of donations of personal property to public agencies for use in carrying out such purposes as conservation, economic development, education, parks and recreation, public health, and public safety.

B. Annual Reporting Burden

Respondents: 55
Responses Per Respondent: 4
Hours Per Response: 1.5
Total Burden Hours: 330
Obtaining Copies of Proposals:

Requesters may obtain a copy of the information collection documents from the General Services Administration, Regulatory Secretariat (VIR), 1800 F Street, NW., Room 4035, Washington, DC 20405, telephone (202) 208–7312. Please cite OMB Control No. 3090–0112, GSA Form 3040, State Agency Monthly Donation Report of Surplus Personal Property, in all correspondence.

Dated: March 3, 2005

Michael W. Carleton,

Chief Information Officer.

[FR Doc. 05–5086 Filed 3–14–05; 8:45 am]

BILLING CODE 6820–YT–S

GENERAL SERVICES ADMINISTRATION

OMB Control No. 3090–0014

Information Collection; Standard Form (SF) 123, Transfer Order-Surplus Personal Property and Continuation Sheet

AGENCY: Federal Supply Service, 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 transfer order-surplus personal property and continuation sheet.

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: May 16, 2005.

FOR FURTHER INFORMATION CONTACT: Denise Thomas, Federal Supply Services, GSA at telephone (703) 308–0742 or via e-mail to *denise.thomas@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 (VIR), General Services Administration, Room 4035, 1800 F Street, NW., Washington, DC 20405. Please cite OMB Control No. 3090–0014, Transfer Order-Surplus Personal Property and Continuation Sheet, in all correspondence.

SUPPLEMENTARY INFORMATION:

A. Purpose

Standard form (SF) 123, Transfer Order-Surplus Personal Property and Continuation Sheet is used by public agencies, nonprofit educational or public health activities, programs for the elderly, service educational activities, and public airports to apply for donation of Federal surplus personal property. The SF 123 serves as the transfer instrument and includes item descriptions, transportation instructions, nondiscrimination assurances, and approval signatures.

B. Annual Reporting Burden

Respondents: 63,000
Responses Per Respondent: 1
Hours Per Response: 0.3
Total Burden Hours: 18,900
Obtaining Copies of Proposals: Requesters may obtain a copy of the information collection documents from the General Services Administration, Regulatory Secretariat (VIR), 1800 F Street, NW., Room 4035, Washington, DC 20405, telephone (202) 208–7312. Please cite OMB Control No. 3090–0014, Transfer Order-Surplus Personal Property and Continuation Sheet, in all correspondence.

Dated: December 17, 2004

Michael W. Carleton,

Chief Information Officer.

[FR Doc. 05–5087 Filed 3–14–05; 8:45 am]

BILLING CODE 6820–YT–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

[Document Identifier: OS–0990–New]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Office of the Secretary.

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.

#1 Type of Information Collection Request: New Collection, Regular;

Title of Information Collection: Evaluation of HIV Prevention Program in Women;

Form/OMB No.: OS–0990–New;

Use: The Office on Women's Health (OWH) is seeking a new clearance to conduct data collection activities associated with the evaluation of funded programs. The evaluation is designed to determine best practices and clearly define the gender-centered approach to HIV/AIDS prevention. The HIV/AIDS programs to be evaluated are the Model Mentorship. Incarcerated/Newly released women and HIV prevention in the rural south. The program consists of individual community-based organizations from across the country. The evaluation results will assess the effectiveness of OWH reaching its overarching HIV program goals of increasing HIV prevention knowledge and reducing the risk of contacting HIV among young minority women.

Frequency: Reporting, Quarterly;

Affected Public: Individuals or households, business or other for-profit, not-for-profit institutions;

Annual Number of Respondents: 260;

Total Annual Responses: 260;

Average Burden Per Response: 1 hour;

Total Annual Hours: 147.5.

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 within 30 days of this notice directly to the Desk Officer at the address below: OMB Desk Officer: John Kraemer, OMB Human Resources and Housing Branch, Attention: (OMB #0990–NEW), New Executive Office Building, Room 10235, Washington, DC 20503.

Dated: March 4, 2005.

Robert E. Polson,

Office of the Secretary, Paperwork Reduction Act Reports Clearance Officer.

[FR Doc. 05–5005 Filed 3–14–05; 8:45 am]

BILLING CODE 4168–17–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–05BM)

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 404–371–5973 or send comments to Seleda Perryman, CDC Assistant Reports Clearance Officer, 1600 Clifton Road, MS–D74, Atlanta, GA 30333 or send an e-mail to *omb@cdc.gov.*

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Written comments should be received within 60 days of this notice.

Proposed Project

2005 Hispanic/Latino Adult Tobacco Survey (ATS)—New—National Center for Chronic Disease Prevention and Health Promotion (NCCDPHP), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

The purpose of this project is to conduct a culturally appropriate Adult Tobacco Survey questionnaire with Hispanic/Latino persons. The survey results will expand data and existing knowledge of tobacco use among Hispanics/Latinos in order to benefit tobacco use surveillance and prevention programming at the local, state, and regional levels. The questions will help to narrow existing gaps in knowledge concerning tobacco use in the Hispanic/Latino population and inform development of Hispanic/Latino-specific interventions.

The Hispanic/Latino population is fast growing in the United States. It is expected that the number of Hispanic/Latino persons residing in the U.S. will increase from 35.3 million in the year 2000 to 98.2 million in the year 2050, almost 3 times the current population. The large expected growth in the Hispanic/Latino population, especially in states that are not traditionally Hispanic/Latino, will have important implications for tobacco control activities in the years to come.

CDC is proposing a project that includes administering the Adult Tobacco Survey in three locations that have high concentrations of Hispanic/Latino persons, each location with a distinct Hispanic/Latino subpopulation. The locations are New York City (New York), Miami (Florida), and El Paso (Texas). Within each location, the survey will be conducted with approximately 1,500 participants, for a total of 4,500 participants. The survey will be conducted in both English and Spanish. There is no cost to respondents except for their time.

Annualized Burden Table:

Respondents	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden (in hours)
New York, NY	1,500	1	45/60	1,125
Miami, Fl	1,500	1	45/60	1,125
El Paso, TX	1,500	1	45/60	1,125
Total				3,375

Dated: March 7, 2005.

Betsey Dunaway,

Acting Reports Clearance Officer, Centers for Disease Control and Prevention.

[FR Doc. 05–4936 Filed 3–14–05; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–05BL]

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 404–371–5974 or send comments to Seleda Perryman, CDC Assistant Reports Clearance Officer, 1600 Clifton Road, MS–D74, Atlanta, GA 30333 or send an e-mail to *omb@cdc.gov*.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Written comments should be received within 60 days of this notice.

Proposed Project

Worksheet for Medical Conditions among Refugees and Immigrants—New—National Center for Infectious Diseases (NCID), Centers for Disease Control and Prevention (CDC). Clearance is being requested for a ''Worksheet for Medical Conditions among Refugees and Immigrants'' for state and local health refugee coordinators to identify specific medical conditions of public health importance in newly arrived refugees and immigrants. CDC requests notification of specific medical conditions listed on the worksheet, including Class A and B health conditions not recognized overseas, and substantial discrepancies in the overseas and U.S. based medical evaluations.

Section 412 of the Immigration and Nationality Act (INA) (8 U.S.C. 1522(b)(4)) authorizes the Secretary of Health and Human Services (DHHS) to: (A) assure that an adequate number of trained staff are available at the location at which the refugees enter the United States to assure that all necessary

medical records are available and in proper order; (B) provide for the identification of refugees who have been determined to have medical conditions affecting public health and requiring treatment; (C) assure that State or local health officials at the resettlement destination of each refugee within the United States are promptly notified of the refugee's arrival and provided with all applicable medical records; and (D) provide for such monitoring of refugees identified under subparagraph (B) as will insure that they receive appropriate and timely treatment. The Secretary, DHHS, shall develop and implement methods for monitoring and assessing the quality of medical screening and related health services provided to refugees awaiting resettlement in the United States.

On July 3, 2003, the Secretary, DHHS, delegated to the Director, CDC, the authority to re-delegate the authorities vested in the Secretary, DHHS, under section 412(b)(4) of the INA (8 U.S.C. 1522(b)(4)), as amended hereafter. The Division of Global Migration and Quarantine (DGMQ), CDC, is responsible for monitoring the performance and quality of the required overseas medical examinations of refugees and immigrants applying for permanent residence in the United States, and notifying state and local public health officials of the arrival of all refugees and immigrants who have Class A and B health conditions, (as defined in 42 CFR 34.2) to facilitate the recommended follow-up evaluation in the U.S. Currently, the Department of State uses medical examination forms DS 2053, 3024, 3025, and 3026, under OMB control number 1405–0113, to conduct the overseas medical evaluation of refugees and immigrants. This type of communication and data exchange with local partners has been critical in identifying medical conditions among refugees that require overseas interventions.

In 2004, several outbreaks of vaccine-preventable diseases among refugees in overseas refugee camps were identified and controlled because of rapid notification by U.S. state and local health departments of cases in resettled refugees. Since March 2004, DGMQ has been working with the U.S. Department of State, Bureau of Population, Refugees, and Migration and the International Organization for Migration (IOM) to resettle approximately 15,000 Laotian Hmong refugees accepted for U.S. resettlement. Approximately 8,800 refugees have arrived into the United States through early January 2005, and resettled to 27 states. DGMQ and the Division of Tuberculosis Elimination (DTBE) at CDC have recently received reports from one state of six active TB cases among Hmong refugees. Two of the three cultures confirmed TB cases were multi-drug resistant. In addition, IOM, the group performing overseas medical examinations has reported that since July, 2004 to present, 166 suspect active TB cases have been identified among U.S.-bound Hmong refugees. Completing the worksheet and furnishing the requested information is essential. Accurate information will allow important public health functions and follow-up of significant health events to be performed in preventing the spread of a disease. Respondents include state and local health departments. There is no cost to the respondents other than their time.

Annualized Burden Table:

Respondents	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden (in hrs.)
State and local health agencies	300	170	5/60	4,250
Total	300			4,250

Dated: March 7, 2005.

Betsey Dunaway,

Acting Reports Clearance Officer, Centers for Disease Control and Prevention.

[FR Doc. 05–4937 Filed 3–14–05; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

National Center for Injury Prevention and Control Initial Review Group

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announce the following meeting:

Name: National Center for Injury Prevention and Control (NCIPC), Initial Review Group (IRG).

Times and Dates: 6:30 p.m.–9:30 p.m., April 18, 2005. 8:30 a.m.–5 p.m., April 19, 2005. 8 a.m.–5 p.m., April 20, 2005.

Place: Hilton Atlanta Airport and Towers, 1031 Virginia Avenue, Atlanta, Georgia 30354.

Status: Closed: 6:30 p.m.–9:30 p.m., April 18, 2005. Closed: 8:30 a.m.–5 p.m., April 19, 2005. Closed: 8 a.m.–5 p.m., April 20, 2005.

Purpose: This group is charged with providing advice and guidance to the Secretary of Health and Human Services and the Director, CDC, concerning the scientific and technical merit of grant and cooperative agreement applications received from academic institutions and other public and private profit and nonprofit organizations, including State and local government agencies, to conduct specific injury research that focuses on prevention and control and supports Injury Control Research Centers (ICRCs).

Matters To Be Discussed: Agenda items include an overview of the injury program, discussion of the review process and panelists' responsibilities, and the review of and vote on applications. Beginning at 7 p.m., April 18, through 3 p.m., April 20, the Group will review individual research grant and cooperative agreement applications submitted in response to 10 Fiscal Year 2005 Request for Applications (RFAs) related to the following individual research announcements: #05012, Grants for Violence related Injury Prevention: Suicidal Behavior, Child Maltreatment, Youth Partner, Sexual Violence; #05017, Grants for Prevent Intimate Partner Violence; #05018, Cooperative Agreement National Academic Center of Excellence; #05020, Youth Violence through Community-Level Change; #05021, Grants for New Investigator; #05022, Grants to Prevent Unintentional Injury; #05023, Grants for Traumatic Injury Biomechanics Research; #05024, Alcohol impaired driving; #05025, Grants for Dissertation; #05029, Dissemination Research on Fall Prevention. In addition, the IRG will vote on the results of a mid-course site visit conducted on a current grantee in response to previous IRG recommendations in accordance to RFA #02043, pertaining to (ICRC). This portion of the meeting will be closed to the public in accordance with provisions set forth in section 552b(c)(4) and (6), title 5 U.S.C., and the Determination of the Director, Management Analysis and Services Office, CDC, pursuant to Pub. L. 92–463.

Agenda items are subject to change as priorities dictate.

Contact Person for More Information: Gwendolyn H. Cattledge, Ph.D., M.S.E.H., Executive Secretary, NCIPC IRG, CDC, 4770 Buford Highway, NE., M/S K02, Atlanta, Georgia 30341–3724, telephone (770) 488–1430.

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: February 23, 2005.

Alvin Hall,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 05–5019 Filed 3–14–05; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS–1269–N3]

Medicare Program; Emergency Medical Treatment and Labor Act (EMTALA) Technical Advisory Group (TAG) Meeting and Announcement of Members

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Notice of meeting.

SUMMARY: In accordance with section 10(a) of the Federal Advisory Committee Act (FACA) (5 U.S.C. Appendix 2), this notice announces the first meeting of the Emergency Medical Treatment and Labor Act (EMTALA) Technical Advisory Group (TAG). The purpose of the EMTALA TAG is to review regulations affecting hospital and physician responsibilities under EMTALA to individuals who come to a hospital seeking examination or treatment for medical conditions. This notice also announces the newly appointed members of the EMTALA TAG. Interested parties are invited to this meeting to present their comments on the EMTALA regulations and implementation.

DATES: *Meeting Date:* The meetings of the EMTALA TAG announced in this notice will be held on Wednesday, March 30, 2005 and Thursday, March 31, 2005, from 9 a.m. until 5 p.m. each day.

Registration Deadline for All Participants: All presenters must register by March 22, 2005.

Comment Deadline: Comments or statements must be received by March 22, 2005.

ADDRESSES: *Meeting Address:* The EMTALA TAG meeting will be held in Room 305 A at the Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201.

Mailing and E-mail Addresses for Inquiries or Comments: Inquiries or comments regarding this meeting may be sent to—Beverly J. Parker, Division of Acute Care, Centers for Medicare & Medicaid Services, Mail Stop C4–08–06, 7500 Security Boulevard, Baltimore, MD 21244–1850. Inquiries or comments may also be e-mailed to *EMTALATAG@cms.hhs.gov.*

Web Site Address for Additional Information: For additional information on the EMTALA TAG meeting agenda topics, updated activities, and to obtain Charter copies, please search our Internet Web site at: *http://www.cms.hhs.gov/faca/emtalatag/emtalatagpage.asp.*

Mailing Address for Copies of the EMTALA TAG Charter: Written requests for copies of the EMTALA TAG Charter should be sent to—Marianne M. Myers, Division of Acute Care, Centers for Medicare & Medicaid Services, Mailstop C4–08–06, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

Submission of Comments or Statements: Comments or statements regarding EMTALA may be sent by postal mail or e-mail to the inquiry/comment addresses listed above. We will accept written comments/statements of three single-spaced, typed pages or less that are received by March 22, 2005.

FOR FURTHER INFORMATION CONTACT: Beverly J. Parker, (410) 786–5320.

Press inquiries are handled through the CMS Press Office at (202) 690–6145.

SUPPLEMENTARY INFORMATION:

I. Background

Sections 1866(a)(1)(I), 1866(a)(1)(N), and 1867 of the Social Security Act (the Act) impose specific obligations on Medicare-participating hospitals that offer emergency services. These obligations concern individuals who come to a hospital emergency department and request or have a request made on their behalf for examination or treatment for a medical condition. EMTALA applies to all these individuals, regardless of whether or not they are beneficiaries of any program under the Act. Section 1867 of the Act sets forth requirements for medical screening examinations for emergency medical conditions, as well as necessary stabilizing treatment or appropriate transfer. In addition, section 1867(h) of the Act specifically prohibits a delay in providing required screening or stabilization services in order to inquire about the individual's payment method or insurance status. Section 1867(d) of the Act provides for the imposition of civil monetary penalties on hospitals and physicians responsible for negligently violating a requirement of that section.

These provisions, taken together, frequently referred to as the Emergency Medical Treatment and Labor Act (EMTALA), are also known as the patient antidumping statute. EMTALA was passed in 1986 as part of the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA). Congress enacted these antidumping provisions in the Social Security Act because of its concern with an ''increasing number of reports'' that hospital emergency rooms were refusing to accept or treat individuals with emergency conditions if the individuals did not have insurance.

Regulations implementing the EMTALA legislation are set forth at 42 CFR 489.20(l), (m), (q) and (r)(1), (r)(2), (r)(3), and 489.24. These regulations incorporate changes made by a final rule published in the September 9, 2003 **Federal Register** (68 FR 53222). We published a final rule to clarify policies relating to the responsibilities of Medicare-participating hospitals and physicians, under the provisions of EMTALA, in treating individuals with emergency medical conditions who present to a hospital.

Section 945 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (MMA) (P.L. 108–173), requires that the Secretary establish a Technical Advisory Group (TAG) for advice concerning issues related to EMTALA regulations and implementation.

Section 945 of the MMA specifies that the EMTALA TAG—

- Shall review the EMTALA regulations;
- May provide advice and recommendations to the Secretary concerning these regulations and their application to hospitals and physicians;
- Shall solicit comments and recommendations from hospitals, physicians, and the public regarding implementation of such regulations; and
- May disseminate information concerning the application of these regulations to hospitals, physicians and the public.

Section 945 of the MMA also specifies the structure of the EMTALA TAG. It states that the EMTALA TAG will be composed of 19 members including the Administrator of the Centers for Medicare & Medicaid Services (CMS) and the Inspector General of the Department of Health and Human Services (DHHS) in addition to the number and type of individuals as specified in each of the following categories:

• Four representatives of hospitals, including at least one public hospital, that have experience with the application of EMTALA and, at least, two hospitals that have not been cited for EMTALA violations;

• Seven practicing physicians drawn from the fields of emergency medicine, cardiology or cardio-thoracic surgery, orthopedic surgery, neurosurgery, pediatrics or a pediatric subspecialty, obstetrics-gynecology and psychiatry, with not more than one physician from any particular field;

• Two representatives of patients;

• Two staff persons involved in EMTALA investigations from different CMS regional offices;

• One representative from a State survey agency involved in EMTALA investigations and one representative from a Quality Improvement Organization, both of whom shall be from areas other than the regions represented by the CMS regional offices.

The EMTALA TAG, as chartered under the legal authority of section 945 of the MMA, is also governed by the provisions of the Federal Advisory Committee Act (FACA) (5 U.S.C. Appendix 2) for the selection of members and the conduct of all meetings.

In the May 28, 2004 **Federal Register** (69 FR 30654), we specified the statutory requirements regarding the charter, general responsibilities, and structure of the EMTALA TAG. That notice also solicited nominations for members based on the statutory requirements for the EMTALA TAG. In the August 27, 2004 **Federal Register** (69 FR 52699), we solicited nominations again for members in two categories (patient representatives and a State survey agency representative) for which no nominations were received in response to the May 28, 2004 **Federal Register** notice.

II. Membership Selection

The following individuals have been selected by the Secretary, to serve on the EMTALA TAG along with Mark McClellan, M.D., Adminstrator, CMS and Daniel R. Levinson, Acting Inspector General, DHHS:

• Hospital Representatives—Julie Mathis Nelson, J.D., Coopersmith, Gordon, Schnermer, Owens & Nelson, P.L.C.; Carlos Perez, South Manhattan Healthcare Network; Richard T. Perry, M.D., P.C., F.A.C.S.; and Brian C. Robinson, Hospital Corporation of America's Las Vegas Market/Sunrise Hospital and Medical Center.

• Physicians—Cesar A. Aristeguieta, M.D., Los Angeles County Paramedic Training Institute; Carol Lynn Bayer, M.D., East Jefferson General Hospital Metairie, Louisiana; James L. Biddle, M.D., Rio Grande Regional Hospital and McAllen Medical Center; John A. Kusske, M.D., University of California; James Nepola, M.D. Health Policy Committee Orthopedic Trauma Association; Michael J. Rosenberg, M.D., Assistant Professor/Private Practice; and David W. Tuggle, M.D., University Oklahoma College of Medicine

• Patient Representatives—Warren A. Jones, M.D., Office of the Governor, State of Mississippi; and Mark Pearlmutter, M.D., St. Elizabeth's Medical Center.

• CMS Regional Office Representatives—Gretchen A. Kane CMS, and Charlotte S. Yeh, M.D., FACEP.

• State Survey Agency Representative—Azzie Conley, RN, State of North Carolina.

• QIO Representative—David Siegel, M.D., J.D., FACEP, FACP, FCLM Senior Physician Consultant and Clinical Coordinator.

III. Meeting Format, Agenda, and Suggested Presentation Topics

A. Meeting Format

The initial portion of the meeting will involve opening remarks, introductions and the swearing in of the EMTALA TAG members by Michael O. Leavitt, Secretary, DHHS. After which and in accordance with section 945 of MMA, the EMTALA TAG members will elect their chairperson. The afternoon portion of the first day and the morning portion of the second day will be reserved for statements from registered presenters. The afternoon portion of the second day will be reserved for the EMTALA TAG members to ask questions, prioritize the topics presented, and to conduct other necessary business.

The time allotted for each presentation will be approximately 5 minutes but will be based on the number of registered presenters. Presenters will speak in their assigned order. If there are individuals who cannot attend the meeting, we will accept and present their comments/statements at the meeting if their comments/statements are received via postal mail or email at the address list in the **ADDRESSES** section of this notice by March 22, 2005. Comments from other participants (individuals that are not registered presenters) may be heard after the scheduled statements, if time permits.

B. Tentative Meeting Agenda

The tentative agenda for the EMTALA TAG meetings is as follows:

Day 1

• Welcome, call to order, introductions, and opening remarks

• Administrative and housekeeping issues

• Swearing in of members and self-introductions

• Comments from registered presenters

Day 2

• Comments from registered presenters

• Discussion of current business

C. Suggested Presentation Topics

The following are suggested presentation topics:

• Inpatient Transfers—Under current EMTALA regulations, if a hospital admits an individual in good faith for stabilizing treatment on an inpatient basis, the admission ends the hospital's EMTALA obligation to that individual. Does the fact that an individual no longer is covered by EMTALA at the time transfer is sought make it more difficult to find a suitable specialty hospital transfer?

• Specialty Hospitals and EMTALA—Some specialty hospitals apparently accept patients on an appointment basis only, and will accept patients only for treatment of particular medical conditions or for a narrow range of services. There are reports that such hospitals are refusing to accept transfers of patients from general or community hospitals, on the basis that because the specialty hospital does not have a dedicated emergency department as defined in the new regulations, it has no obligations under EMTALA.

• On-Call Issues—Some concerns have been expressed that the revised regulations regarding physician on-call responsibilities are reducing the willingness of physicians to take call, especially at receiving hospitals, thus leading to delays in arranging appropriate transfers and thereby delaying stabilization of patients.

• Psychiatric Patients—There continues to be much concern about determining stability for patients who have a psychiatric condition, even if the emergency medical condition is not based on a psychiatric disorder.

• Certified Nurse Midwives—Under current regulations, certified nurse midwives (CNMs) are not able to certify that a patient is in false labor. Current regulations state that only a physician may certify that a patient is in false labor. There is concern that this policy is not cost effective and is in conflict with the authority provided CNMs by state law.

IV. Registration Instructions

The Center for Medicare Management is coordinating meeting registration. While there is no registration fee, individuals must register to attend. As specified in the **DATES** section of this notice, individuals who wish to attend or make a presentation at the meeting or both must register by March 22, 2005. You may register by sending an e-mail to *EMTALATAG@cms.hhs.gov*, sending a fax to the attention of Ronda Allen at fax number (410) 786–0681 or (410) 786–0169, or calling (410) 786–4548. All registration requests must include your name, name of the organization (if applicable), address, telephone and fax numbers, e-mail address (if available), and topic to be addressed (if you want to do a presentation). You will receive a registration confirmation with instructions for your arrival at the Hubert H. Humphrey Building. If seating capacity has been reached, you will be notified that the meeting has reached capacity. All registered presenters must submit a hard copy of their presentation to the EMTALA TAG at the first meeting.

V. Security Information

Since this meeting will be held in a Federal government building, Federal security measures are applicable. In planning your arrival time, we recommend allowing additional time to clear security. In order to gain access to the building, participants must bring a government-issued photo identification (driver's license, passport, etc.) and a copy of your confirmation of registration for the meeting. Access may be denied to persons without proper identification.

All persons entering the building must pass through a metal detector. In addition, all items brought to HHS, whether personal or for the purpose of demonstration or to support a presentation, are subject to inspection. We cannot assume responsibility for coordinating the receipt, transfer, transport, storage, set-up, safety, or timely arrival of any personal belongings or items used for demonstration or to support a presentation.

Authority: Section 945 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (MMA).

(Catalog of Federal Domestic Assistance Program No. 93.773, Medicare—Hospital Insurance; and Program No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: March 10, 2005.

Mark B. McClellan,

Administrator, Centers for Medicare & Medicaid Services.

[FR Doc. 05–5028 Filed 3–14–05; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 2005N–0083]

Agency Information Collection Activities; Proposed Collection; Comment Request; General Licensing Provisions: Biologics License Application, Changes to an Approved Application, Labeling, Revocation and Suspension, and Forms FDA 356h and 2567

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act of 1995 (the PRA), Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on the information collection requirements relating to the general licensing provisions regarding biologics license application, changes to an approved application, labeling, and revocation and suspension, and the use of Forms FDA 356h and 2567.

DATES: Submit written or electronic comments on the collection of information by May 16, 2005.

ADDRESSES: Submit electronic comments on the collection of information to: *http://www.fda.gov/dockets/ecomments*. Submit written comments on the collection of information to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. All comments should be identified with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Jonna Capezzuto, Office of Management Programs (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–4659.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

General Licensing Provisions: Biologics License Application, Changes to an Approved Application, Labeling, Revocation and Suspension, and Forms FDA 356h and 2567 (OMB Control Number 0910–0338)—Extension

Under Section 351 of the Public Health Services Act (the PHS Act) (42 U.S.C. 262), manufacturers of biological products must submit a license application for FDA review and approval before marketing a biological product in interstate commerce. Licenses may be issued only upon showing that the establishment and the products for which a license is desired meets standards prescribed in regulations designed to insure the continued safety, purity, and potency of such products. All such licenses are issued, suspended, and revoked as prescribed by regulations in part 601 (21 CFR part 601).

Section 601.2(a) requires a manufacturer of a biological product to submit an application with accompanying information, including labeling information, to FDA for approval to market a product in interstate commerce. The container and package labeling requirements are provided under part 610 (21 CFR part 610) §§ 610.60, 610.61, and 610.62. The estimate for these regulations is included in the estimate under § 601.2(a) in table 1 of this document.

Section 601.5(a) requires a licensee to submit to FDA notice of its intention to discontinue manufacture of a product or all products. Section 601.6(a) requires the licensee to notify selling agents and distributors upon suspension of its license, and provide FDA of such notification.

Section 601.12 (a)(2) requires, generally, that the holder of an approved biologics license application must assess the effects of a manufacturing change before distributing a biological product made with the change. Section 601.12(a)(4) requires, generally, that the applicant must promptly review all promotional labeling and advertising to make it consistent with any labeling changes implemented. Section 601.12(a)(5) requires the applicant to include a list of all changes contained in the supplement or annual report; for supplements, this list must be provided in the cover letter. The burden estimates for § 601.12(a)(2) are included in the estimates for supplements (§ 601.12(b) and (c)) and annual reports (§ 601.12(d)). The burden estimates for § 601.12(a)(4) are included in the estimates under § 601.12(f)(4) in table 1 of this document or OMB control number 0910–0001 (expires March 31, 2005) because the required information is submitted with Forms FDA 2567 or 2253.

Section 601.12(b)(1) and (b)(3), (c)(1) and (c)(3), and (c)(5), and (d)(1) and (d)(3) require applicants to follow specific procedures to inform FDA of each change, in the product, production process, quality controls, equipment, facilities, responsible personnel or labeling established in an approved license application. The appropriate procedure depends on the potential for the change to have a substantial, moderate, or minimal adverse effect on the identity, strength, quality, purity, or potency of the products as they may relate to the safety or effectiveness of the product. Under § 601.12(b)(4), an applicant may ask FDA to expedite its review of a supplement for public health reasons or if a delay in making the change described in it would impose an extraordinary hardship of the applicant. The burden estimate for § 601.12(b)(4) is minimal and included in the estimate under § 601.12(b)(1) and (b)(3) in table 1 of this document.

Section 601.12(e) requires applicants to submit a protocol, or change to a protocol, as a supplement requiring FDA approval before distributing the product. Section 601.12(f)(1), (f)(2), and (f)(3) requires applicants to follow specific procedures to report labeling changes to FDA. Section 601.12(f)(4) requires applicants to report to FDA advertising and promotional labeling and any changes. Section 601.45 requires applicants of biological products for serious or life-threatening illnesses to submit to the agency for consideration, during the preapproval review period, copies of all promotional materials, including promotional labeling as well as advertisements.

In addition to §§ 601.2 and 601.12, there are other regulations in parts 640, 660, and 680 (21 CFR parts 640, 660, and 680) that relate to information to be submitted in a license application or supplement for certain blood or allergenic products: §§ 640.6, 640.17, 640.21(c), 640.22(c), 640.25(c), 640.56(c), 640.64(c), 640.74(a), and (b)(2); 660.51(a)(4), 680.1(b)(2)(iii), and 680.1(d). In the table 1 of this document, the burden associated with the information collection requirements in these regulations is included in the burden estimate for § 601.2 and/or § 601.12. A regulation may be listed under more than one paragraph of § 601.12 due to the type of category under which a change to an approved application may be submitted.

There are also additional container and/or package labeling requirements for certain licensed biological products: § 640.70(a) for Source Plasma; § 640.74(b)(3) and (b)(4) for Source Plasma Liquid; § 640.84(a) and (c) for Albumin; § 640.94(a) for Plasma Protein Fraction; § 660.2(c) for Antibody to Hepatitis B Surface Antigen; § 660.28(a) and (b) for Blood Grouping Reagent; § 660.35(a), (c) through (g), and (i) through (m) for Reagent Red Blood Cells; § 660.45 for Hepatitis B Surface Antigen; and § 660.55(a) and (b) for Anti-Human Globulin. The burden associated with the additional labeling requirements for submission of a license application for these certain biological products is minimal because the majority of the burden is associated with the requirements under §§ 610.60 through 610.62 or § 809.10 (21 CFR 809.10). Therefore, the burden estimates for these regulations is included in the estimate under §§ 610.60 through 610.62 in table 1 of this document. The burden estimates associated with § 809.10 are approved under OMB control number 0910–0485 (expires March 31, 2005).

Section 601.25(b) requests interested persons to submit, for review and evaluation by an advisory review panel, published and unpublished data and information pertinent to a designated category of biological products that have been licensed prior to July 1, 1972. Section 601.26(f) requests that licensees submit to FDA a written statement intended to show that studies adequate and appropriate to resolve questions raised about a biological product have been undertaken for a product if designated as requiring further study under the reclassification procedures. Under § 601.25(b)(3), FDA estimates no burden for this regulation because all requested data and information had been submitted by 1974. Under § 601.26(f), FDA estimates no burden for this regulation because there are no products designated to require further study and none are predicted in the future. However, based on the possible reclassification of a product, the labeling for the product may need to be revised, or a manufacturer, on its own initiative, may deem it necessary for further study. As a result, any changes to product labeling would be reported under § 601.12.

Section 601.27(a) requires that applications for new biological products contain data that are adequate to assess the safety and effectiveness of the biological product for the claimed indications in pediatric subpopulations, and to support dosing and administration information. Section 601.27(b) provides that an applicant may request a deferred submission of some or all assessments of safety and effectiveness required under § 601.27(a). Section 601.27(c) provides that an applicant may request a full or partial waiver of the requirements under § 601.27(a). The estimated for § 601.27(a) is included in the burden estimate under § 601.2(a) in table 1 of this document since these regulations deal with information to be provided in an application.

Section 601.28 requires sponsors of licensed biological products to submit the information in § 601.28(a), (b), and (c) to the Center for Biologics Evaluation and Research (CBER) or Center for Drugs Evaluation and Research (CDER) each year, within 60 days of the anniversary date of approval of the license. Section 601.28(a) requires sponsors to submit to FDA a brief summary stating whether labeling supplements for pediatric use have been submitted and whether new studies in the pediatric population to support appropriate labeling for the

pediatric population have been initiated. Section 601.28(b) requires sponsors to submit to FDA an analysis of available safety and efficacy data in the pediatric population and changes proposed in the labeling based on this information. Section 601.28(c) requires sponsors to submit to FDA a statement on the current status of any postmarketing studies in the pediatric population performed by, on or behalf of, the applicant.

Sections 601.33 through 601.35 clarify the information to be submitted in an application to FDA to evaluate the safety and effectiveness of in vivo radiopharmaceuticals. The burden estimates for §§ 601.33 through 601.35 are included in the burden estimate under § 601.2(a) in table 1 of this document since these regulations deal with information to be provided in an application.

Section 601.91(b)(3) requires applicants to prepare and provide labeling with relevant information to patient or potential patient for biological products approved under the subpart when human efficacy studies are not ethical or feasible (or based on evidence of effectiveness from studies in animals). Section 601.93 provides that biological products approved under this subpart are subject to the postmarketing recordkeeping and safety reporting applicable to all approved biological products. Section 601.94 requires applicants under this subpart to submit to the agency for consideration during preapproval review period copies of all promotional materials including promotional labeling as well as advertisements. Under § 601.93, any potential postmarketing reports and/or recordkeeping burdens would be included under the adverse experience reporting (AER) requirements under part 600 (21 CFR part 600) (OMB control number 0910–0308; expires May 31, 2005). Therefore, any burdens associated with these requirements would be reported under the AER information collection requirements (OMB control number 0910–0308).

Section 610.11(g)(2) provides a manufacturer of certain biological products may request an exemption from the general safety test (GST) requirements contained in this subpart. Under § 610.11(g)(2), FDA requires only those manufacturers of biological products requesting an exemption from the GST to submit additional information as part of a license application or supplement to an approved license application. Therefore, the burden estimate for § 610.11(g)(2) is included in the estimate under §§ 601.2(a) and 601.12(b) in table 1 of this document.

Section 610.67 requires certain biological products to comply with the bar code requirements at § 201.25 (21 CFR 201.25). Section 201.25 is approved under OMB control number 0910–0537 (expires February 28, 2007).

Section 680.1(c) requires manufacturers to update annually their license file with the list of source materials and the suppliers of the materials.

Sections 600.15(b) and 610.53(d) require the submission of a request for an exemption or modification regarding the temperature requirements during shipment and from dating periods, respectively, for certain biological products. Section 606.110(b) requires the submission of a request for approval to perform plasmapheresis of donors who do not meet certain donor requirements for the collection of plasma containing rare antibodies. Under §§ 600.15(b), 610.53(d), and 606.110(b), a request for an exemption or modification to the requirements would be submitted as a supplement. Therefore, the burden hours for any submissions under §§ 600.15(b), 610.53(d), and 606.110(b) are included in the estimates under § 601.12(b) in table 1 of this document.

In July 1997, FDA revised Form FDA 356h ''Application to Market a New Drug, Biologic, or an Antibiotic Drug for Human Use'' to harmonize application procedures between CBER and the CDER. The application form serves primarily as a checklist for firms to gather and submit certain information to FDA. The checklist helps to ensure that the application is complete and contains all the necessary information, so that delays due to lack of information may be eliminated. The form provides key information to FDA for efficient handling and distribution to the appropriate staff for review. The estimated burden hours for submissions to CDER using FDA Form 356h are reported under OMB control number 0910–0001.

Form FDA 2567 ''Transmittal of Labels and Circulars'' is used by manufacturers of licensed biological products to submit labeling (e.g., circulars, package labels, container labels, etc.) and labeling changes for FDA review and approval. The labeling information is submitted with the form for license applications, supplements, or as part of an annual report. Form FDA 2567 is also used for the transmission of advertisements and promotional labeling. Form FDA 2567 serves as an easy guide to assure that the manufacturer has provided the information required for expeditious handling of their labeling by CBER. For advertisements and promotional labeling, manufacturers of licensed biological products may submit to CBER either Form FDA 2567 or 2253. Form FDA 2253 was previously used only by drug manufacturers regulated by CDER. In August of 1998, FDA revised and harmonized Form FDA 2253 so the form may be used to transmit specimens of promotional labeling and advertisements for biological products as well as for prescription drugs and antibiotics. The revised, harmonized form updates the information about the types of promotional materials and the codes that are used to clarify the type of advertisement or labeling submitted; clarifies the intended audience for the advertisements or promotional labeling (e.g., consumers, professionals, news services); and helps ensure the submission is complete.

Under table 1 of this document, the number of respondents is based on the estimated annual number of manufacturers that submitted the required information to FDA or the number of submissions FDA received. Based on information obtained from CBER's database system, there are 306 licensed biologics manufacturers. However, not all manufacturers will have any submissions in a given year and some may have multiple submissions. The total annual responses are based on the estimated number of submissions (i.e., license applications, labeling and other supplements, protocols, advertising and promotional labeling, notifications) for a particular product received annually by FDA. Based on previous estimates, the rate of submissions is not expected to change significantly in the next few years. The hours per response are based on information provided by industry and past FDA experience with the various submissions or notifications. The hours per response include the time estimated to prepare the various submissions or notifications to FDA, and, as applicable, the time required to fill out the appropriate form and collate the documentation. Additional information regarding these estimates is provided below as necessary.

Under §§ 601.2 and 601.12, the estimated hours per response are based on the average number of hours to submit the various submissions. The estimated average number of hours is based on the range of hours to complete a very basic application or supplement and a complex application or supplement.

Under § 601.6(a), the total annual responses are based on FDA estimates

that establishments may notify an average of 20 selling agents and distributors of such suspension, and provide FDA of such notification. The number of respondents is based on the estimated annual number of suspensions of a biologic license.

Under §§ 601.12(f)(4) and 601.45, manufacturers of biological products may use either Form FDA 2567 or Form FDA 2253 to submit advertising and promotional labeling. Based on information obtained from CBER's database system, there were an estimated 3,600 submissions of advertising and promotional labeling in fiscal year 2004. FDA estimates that approximately 15 percent of those submissions were received with Form FDA 2567 resulting in an estimated 540 submissions. The burden hours for the remaining submissions received using Form FDA 2253 are reported under OMB control number 0910–0376.

Under §§ 601.91 through 601.94, FDA expects to receive very few applications of this nature; however, for calculation purposes, FDA is estimating the submission of one application annually. Under §§ 601.93(b)(3) and 601.94, FDA estimates 240 hours for a manufacturer of a new biological product to develop patient labeling, and to submit the appropriate information and promotional labeling to FDA. The majority of the burden for developing the patient labeling is included under the reporting requirements for § 601.94, therefore minimal burden is calculated for providing the guide to patients under § 601.91(b)(3).

There were also 3,540 amendments to an unapproved application or supplement and 23 resubmissions (total of 3,563 submissions) submitted using Form FDA 356h.

FDA estimates the burden of this collection of information as follows:

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN[1]

21 CFR Section	Form FDA No.	No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours
601.2(a), 610.60, 610.61, and 610.62	2567/356h	14	2	28	860	24,080
601.5(a)	NA	16	3.13	50	.33	17
601.6(a)	NA	1	21	21	.33	7
601.12(a)(5)	NA	190	15.7	2,983	1	2,983
601.12(b)(1) and (b)(3)	356h[2]	190	4.75	903	80	72,240
601.12(c)(1) and (c)(3)	356h[2]	98	2.60	255	50	12,750
601.12(c)(5)	356h[2]	34	1.38	47	50	2,350
601.12(d)(1) and (d)(3)	356h[2]	166	1.37	227	22.5	5,107.5
601.12(e)	356h[2]	14	1.43	20	120	2,400
601.12(f)(1)	2567	12	1	12	40	480
601.12(f)(2)	2567	10	1	10	20	200
601.12(f)(3)	2567	70	1.43	100	10	1,000
601.12(f)(4), 601.45	2567	15	36	540	10	5,400
601.25(b)(3)	NA	0	0	0	0	0
601.26(f)	NA	0	0	0	0	0
601.27(b)	NA	3	1	3	24	72
601.27(c)	NA	7	1	7	8	56
601.28(a)	NA	44	3.27	144	8	1,152
601.28(b)	NA	44	3.27	144	24	3,456
601.28(c)	NA	44	3.27	144	1.5	216
601.91(b)(3), 601.94	NA	1	1	1	240	240
610.67	NA	174	31	5,400	24	129,600
680.1(c)	NA	10	1	10	2	20
Amendments/resubmissions	356h	306	11.6	3,563	20	71,260
Total						335,086.5

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

[2] The reporting requirements under §§ 601.27(a), 601.33, 601.34, 601.35, 610.11(g)(2), 640.17, 640.25(c), 640.56(c), 640.74(b)(2), 660.51(a)(4), and 680.1(b)(2)(iii) are included in the estimate under § 601.2(a). The reporting requirements under § 600.15(b), 610.11(g)(2); 610.53(d), 606.110(b), 640.6, 640.17, 640.21(c), 640.22(c), 640.25(c), 640.56(c), 640.64(c), 640.74(a) and (b)(2), and 680.1(d) are included in the estimate under § 601.12(b). The reporting requirement under §§ 640.17, 640.25(c), 640.56(c), and 640.74(b)(2) is also included in the estimate under § 601.12(c). The reporting requirements under §§ 640.70(a), 640.74(b)(3) and (b)(4); 640.84(a) and (c); 640.94(a), 660.2(c), 660.28(a) and (b); 660.35(a), (c) through (g), and (i) through (m); 660.45, and 660.55(a) and (b) are included under §§ 610.60 through 610.62.

Under Table 2, the estimated recordkeeping burden of 1 hour is based on previous estimates for the recordkeeping requirements associated with the AER system.

TABLE 2.—ESTIMATED ANNUAL RECORDKEEPING BURDEN[1]

21 CFR Section	No. of Recordkeepers	Annual Frequency per Recordkeeping	Total Annual Records	Hours per Record	Total Hours
601.91(b)(2)(iii)	1	1	1	1	1

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Dated: March 9, 2005.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. 05–5026 Filed 3–14–05; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 2003D–0386]

Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Guidance for Industry on Formal Dispute Resolution: Scientific and Technical Issues Related to Pharmaceutical Current Good Manufacturing Practice

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

DATES: Fax written comments on the collection of information by April 14, 2005.

ADDRESSES: OMB is still experiencing significant delays in the regular mail, including first class and express mail, and messenger deliveries are not being accepted. To ensure that comments on the information collection are received, OMB recommends that written comments be faxed to the Office of Information and Regulatory Affairs, OMB, Attn: Fumie Yokota, Desk Officer for FDA, FAX: 202–395–6974.

FOR FURTHER INFORMATION CONTACT: Karen L. Nelson, Office of Management Programs (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1482.

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

FDA previously issued this proposed collection of information in the **Federal Register** of January 26, 2005 (70 FR 3712). On February 24, 2005 (70 FR 9083), FDA withdrew the proposed collection of information to correct the title from ''Draft Guidance for Industry on Formal Dispute Resolution: Scientific and Technical Issues Related to Pharmaceutical Current Good Manufacturing Practice'' to ''Guidance for Industry on Formal Dispute Resolution: Scientific and Technical Issues Related to Pharmaceutical Current Good Manufacturing Practice.''

Title: Guidance for Industry on Formal Dispute Resolution: Scientific and Technical Issues Related to Pharmaceutical Current Good Manufacturing Practice

Description: The guidance is intended to provide information to manufacturers of veterinary and human drugs, including human biological drug products, on how to resolve disputes of scientific and technical issues relating to current good manufacturing practices (CGMPs). Disputes related to scientific and technical issues may arise during FDA inspections of pharmaceutical manufacturers to determine compliance with CGMP requirements, or during FDA's assessment of corrective actions undertaken as a result of such inspections. The guidance provides procedures that will encourage open and prompt discussion of disputes and lead to their resolution. The guidance describes procedures for raising such disputes to the Office of Regulatory Affairs (ORA) and center levels and for requesting review by the Dispute Resolution Panel for Scientific and Technical Issues Related to Pharmaceutical CGMP (DR Panel).

When a scientific or technical issue arises during an FDA inspection, the manufacturer should initially attempt to reach agreement on the issue informally with the investigator. Certain scientific or technical issues may be too complex or time-consuming to resolve during the inspection. If resolution of a scientific or technical issue is not accomplished through informal mechanisms prior to the issuance of the FDA 483, the manufacturer can formally request dispute resolution and can use the formal two-tiered dispute resolution process described in the guidance.

Tier-one of the formal dispute resolution process involves scientific or technical issues raised by a manufacturer to the ORA and center levels. If a manufacturer disagrees with the tier-one decision, tier-two of the formal dispute resolution process would then be available for appealing that decision to the DR Panel.

If a manufacturer disagrees with the scientific or technical basis for an observation listed by an investigator on an FDA 483, the manufacturer can file a written request for formal dispute resolution with the appropriate ORA unit as described in the guidance. The request for formal dispute resolution should be made within 30 days of the completion of an inspection, and should include all supporting documentation and arguments for review, as described later in this document. If a manufacturer disagrees with the tier-one decision in the formal dispute resolution process, the manufacturer can file a written request for formal dispute resolution by

the DR Panel. The manufacturer should provide the written request for formal dispute resolution and all supporting documentation and arguments, as described in the following paragraphs, to the DR Panel within 60 days of receipt of the tier-one decision.

All requests for formal dispute resolution should be in writing and include adequate information to explain the nature of the dispute and to allow FDA to act quickly and efficiently. Each request should be sent to the appropriate address listed in the guidance and include the following:

1. Cover sheet that clearly identifies the submission as either a request for tier-one dispute resolution or a request for tier-two dispute resolution;
2. Name and address of manufacturer inspected (as listed on Form FDA 483);
3. Date of inspection (as listed on FDA 483);
4. Date the Form FDA 483 issued (from the Form FDA 483);
5. FEI Number, if available (from FDA 483);
6. FDA employee names and titles that conducted inspection (from FDA 483);
7. Office responsible for the inspection, e.g., district office, as listed on the Form FDA 483;
8. Application number if the inspection was a preapproval inspection;
9. Comprehensive statement of each issue to be resolved:
   - Identify the observation in dispute.
   - Clearly present the manufacturer's scientific position or rationale concerning the issue under dispute with any supporting data.
   - State the steps that have been taken to resolve the dispute, including any informal dispute resolution that may have occurred before the issuance of the FDA 483.
   - Identify possible solutions.
   - State expected outcome.
10. Name, title, telephone and fax number, and e-mail address (as available) of manufacturer contact.

Description of Respondents: Pharmaceutical manufacturers of veterinary and human drug products and human biological drug products.

Burden Estimate: FDA has reviewed the total number of informal disputes that currently arise between manufacturers and investigators (and FDA district offices) when a manufacturer disagrees with the scientific or technical basis for an observation listed on a Form FDA 483. FDA estimates that approximately 12 such disputes occur annually. FDA believes that the number of requests for formal dispute resolution under the guidance would be higher because manufacturers have expressed reluctance to dispute with the agency scientific or technical issues raised in an investigation in the absence of a formal mechanism to resolve the dispute. In addition, manufacturers have requested the formal mechanisms in the guidance to facilitate the review of such disagreements. Therefore, FDA estimates that approximately 25 manufacturers will submit approximately 25 requests annually for a tier-one dispute resolution. FDA also estimates that approximately 5 manufacturers will appeal approximately 5 of these requests to the DR Panel (request for tier-two dispute resolution).

Based on the time it currently takes manufacturers to prepare responses to FDA concerning issues raised in a Form FDA 483, FDA estimates that it will take manufacturers approximately 30 hours to prepare and submit each request for a tier-one dispute resolution and approximately 8 hours to prepare and submit each request for a tier-two dispute resolution.

Based on the methodology and assumptions in the previous paragraphs, table 1 of this document provides an estimate of the annual reporting burden for requests for a tier-one dispute resolution and requests for a tier-two dispute resolution under the guidance.

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN[1]

	No. of Respondents	No. of Responses per Respondent	Total Annual Responses	Hours per Response	Total Hours
Requests for Tier-One Dispute Resolution	25	1	25	30	750
Requests for Tier-Two Dispute Resolution	5	1	5	8	40
Total					790

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

In the **Federal Register** of September 5, 2003 (68 FR 52777), FDA announced the availability of a draft guidance for industry entitled ''Formal Dispute Resolution: Scientific and Technical Issues Related to Pharmaceutical CGMP.'' The document requested comments within 60 days on the information collection estimates. No comments were received on the information collection estimates. This document requests comments on the information collection burden that FDA estimates will result from the final guidance.

The guidance was drafted as part of the FDA initiative ''Pharmaceutical cGMPs for the 21st Century: A Risk-Based Approach,'' which was announced in August 2002. The initiative focuses on FDA's current CGMP program and covers the manufacture of veterinary and human drugs, including human biological drug products. The agency formed the Dispute Resolution Working Group comprising representatives from ORA, the Center for Drug Evaluation and Research, the Center for Biologics Evaluation and Research, and the Center for Veterinary Medicine. The working group met weekly on issues related to the dispute resolution process and met with stakeholders in December 2002 to seek their input.

The guidance was initiated in response to industry's request for a formal dispute resolution process to resolve differences related to scientific and technical issues that arise between investigators and pharmaceutical manufacturers during FDA inspections of foreign and domestic manufacturers. In addition to encouraging manufacturers to use currently available dispute resolution processes, the guidance describes a formal two-tiered dispute resolution process that provides a formal mechanism for requesting

review and decision on issues that arise during inspections:

- Tier-one of the dispute resolution process provides a mechanism to raise scientific or technical issues to the ORA and center levels,
- Tier-two of the dispute resolution process provides a mechanism to raise scientific or technical issues to the agency's DR Panel.

The guidance also covers the following topics:

- The suitability of certain issues for the formal dispute resolution process, including examples of some issues with a discussion of their appropriateness for the dispute resolution process,
- Instructions on how to submit requests for formal dispute resolution and a list of the supporting information that should accompany these requests, and
- Public availability of decisions reached during the dispute resolution process to promote consistent application and interpretation of drug quality-related regulations.

Dated: March 9, 2005.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. 05–5027 Filed 3–14–05; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 2003D–0167]

Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Final Guidance for Industry on Dispute Resolution Procedures for Science-Based Decisions on Products Regulated by the Center for Veterinary Medicine

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

DATES: Fax written comments on the collection of information by April 14, 2005.

ADDRESSES: OMB is still experiencing significant delays in the regular mail, including first class and express mail, and messenger deliveries are not being accepted. To ensure that comments on the information collection are received, OMB recommends that written comments be faxed to the Office of Information and Regulatory Affairs, OMB, Attn: Fumie Yokota, Desk Officer for FDA, FAX: 202–395–6974.

FOR FURTHER INFORMATION CONTACT: Denver Presley, Office of Management Programs (HFA–250), Food and Drug Administration, 5600 Fishers Lane, rm. 4B–41, Rockville, MD 20857, 301–827–1472.

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

Title: Dispute Resolution Procedures for Science-Based Decisions on Products Regulated by the Center for Veterinary Medicine

Description: FDA is issuing a final guidance on the Center for Veterinary Medicine (CVM) process for formally resolving disputes relating to scientific controversies. The final guidance describes procedures for formally appealing such disputes. The final guidance provides information on how the agency intends to interpret and apply provisions of the existing regulations regarding internal agency review of decisions (§ 10.75 (21 CFR 10.75)). In a final rule issued in the **Federal Register** of November 18, 1998 (63 FR 63978), FDA amended § 10.75 to reflect the provisions of FDAMA. This final guidance document outlines the recommended procedures for persons who are applicants for approval of animal drugs or other products regulated by CVM who wish to submit a request for review of a scientific dispute.

The final guidance recommends a procedure whereby applicants first seek review through the supervisory chain of command. If the issue is not resolved at the supervisor's level, the interested person may request in writing that the matter be reviewed at the next higher supervisory level. This process may continue throughout the agency's entire supervisory chain of command through CVM and up to the level of the Commissioner of Food and Drugs (Commissioner). At each level of review (Division, Office Director, Deputy Center Director, and Center Director levels) CVM recommends that the applicant identify the information in the administrative file upon which the request is based. If the appeal contains new information not previously contained in the administrative file, the matter will, in accordance with 21 CFR 10.75(d), be returned to the appropriate lower level in CVM for reevaluation based on that new information. After the applicant has appealed the decision through the supervisory chain of command, they may request review through an ad hoc appeals committee or review by the Veterinary Medicine Advisory Committee (VMAC) in writing to the CVM Ombudsman. If the applicant seeks review by the Ad Hoc Committee, the Chair should provide them the opportunity to submit written arguments to the Committee. The applicant may submit a letter appealing the Ad Hoc Committee's decision to the CVM Director and then to the Commissioner. CVM recommends that persons filing a request for review by VMAC provide the CVM Ombudsman with a concise summary of the scientific issue in dispute, including a summary of the particular FDA action or decision to which the requesting party objects, the results of all efforts that have been made to resolve the dispute to date, and a clear articulated summary of the arguments and relevant data and information.

The information collected will form the basis for resolving the dispute between the requester and FDA. The likely respondents to this collection of information are applicants for approval of animal drugs or other products regulated by CVM who have a scientific dispute with FDA and who request a review of the matter.

Based on FDA's experience with dispute resolution, the agency expects that most persons seeking formal dispute resolution will have gathered the materials during any previous efforts to resolve the dispute with the agency. CVM considered the number and substance of similar appeals made to FDA in recent years under Guide 1240.3130 to arrive at numbers reflected in table 1 of this document. Guidance #79 will supercede Guide 1240.3130 and CVM will eliminate the guide from the P & P Manual.

In the **Federal Register** of May 19, 2003 (68 FR 27094), FDA published a 60-day notice requesting public comment on the information collection provisions. No comments were received.

FDA estimates the burden of this collection of information as follows:

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN[1]

	No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Respondent	Total Hours
Guidance	1	2	2	30	60

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

The use of VMAC for resolving scientific disputes represents a new process for CVM. Although the procedures for requesting dispute resolution by a scientific advisory committee as set forth in the final guidance document are new, CVM estimates that the number of respondents who would submit requests would not increase. The number of hours per respondent (30) encompasses a wide range depending on the dispute involved. The estimate was based on discussions with industry and is an average of hours per respondent.

Dated: March 9, 2005.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. 05–5040 Filed 3–14–05; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Circulatory System Devices Panel of the Medical Devices Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). The meeting will be open to the public.

Name of Committee: Circulatory System Devices Panel of the Medical Devices Advisory Committee.

General Function of the Committee: To provide advice and recommendations to the agency on FDA's regulatory issues.

Date and Time: The meeting will be held on April 22, 2005, from 8 a.m. to 4:30 p.m.

Location: Holiday Inn, Walker/Whetstone Rooms, Two Montgomery Village Ave., Gaithersburg, MD.

Contact Person: Geretta Wood, Center for Devices and Radiological Health (HFZ–450), Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 301–443–8320, ext. 143, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), code 3014512625. Please call the Information Line for up-to-date information on this meeting.

Agenda: The committee will hear a presentation by the Office of Surveillance and Biometrics outlining their responsibility for the review of postmarket study design. The committee will also hear an update on the status of recent devices brought before the committee. The committee will discuss and make recommendations on a premarket notification submission for a coronary proximal anastomosis device. Background information for the topics, including the agenda and questions for the committee, will be available to the public 1 business day before the meeting on the Internet at *http://www.fda.gov/cdrh/panelmtg.html*.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person by April 7, 2005. Oral presentations from the public will be scheduled for approximately 30 minutes at the beginning of committee deliberations and for approximately 30 minutes near the end of the deliberations. Time allotted for each presentation may be limited. Those desiring to make formal oral presentations should notify the contact person before April 7, 2005, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation.

Persons attending FDA's advisory committee meetings are advised that the agency is not responsible for providing access to electrical outlets.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact AnnMarie Williams, Conference Management Staff, at 240–276–0450, ext. 113, at least 7 days in advance of the meeting.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: March 7, 2005.

Sheila Dearybury Walcoff,

Associate Commissioner for External Relations.

[FR Doc. 05–5039 Filed 3–14–05; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Government-Owned Inventions; Availability for Licensing

AGENCY: National Institutes of Health, Public Health Service, DHHS.

ACTION: Notice.

SUMMARY: The inventions listed below are owned by an agency of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally-funded research and development. Foreign patent applications are filed on selected inventions to extend market coverage for companies and may also be available for licensing.

ADDRESSES: Licensing information and copies of the U.S. patent applications listed below may be obtained by writing to the indicated licensing contact at the Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, Maryland 20852–3804; telephone: (301) 496–7057; fax: (301) 402–0220. A signed Confidential Disclosure Agreement will be required to receive copies of the patent applications.

Karyotypic Complexity as a Determinant of Anti-Cancer Drug Activity

Ilan R. Kirsch and Anna V. Roschke (NCI).

U.S. Provisional Patent Application filed 04 Feb 2005 (DHHS Reference No. E–101–2005/0–US–01).

Licensing Contact: Michelle A. Booden; 301/451–7337; *boodenm@mail.nih.gov*.

The recent clinical introduction of small molecule inhibitors that target single molecules as effective anticancer therapies underscores the potential of patient specific therapeutic interventions. However, the definition of a cancer specific target need not be a single transforming or survival-related gene or gene product. Another targetable and relatively irreversible cellular state might be the complexity and instability of the chromosomal complement of cancer cells. Structural and numerical chromosomal alterations are present in most neoplasms and karyotypic complexity is associated with a poor clinical prognosis as well as aggressive and distinctive histopathologic features.

The present invention describes methods for the selecting candidate compounds for evaluation for the treatment of cancer by defining the karyotypic complexity and heterogeneity in human cancer cells based on three components of genomic anatomy: ploidy, numerical chromosome changes, and structural chromosome rearrangements. Measures of complexity include the number of chromosomal rearrangements present in a cell line (structural complexity, SC) and the number of chromosome deviations from the ploidy level (numerical complexity, NC). Measures of cell-to-cell chromosomal variability, which reflect the degree of ongoing instability, include numerical heterogeneity (NH) and structural heterogeneity (SH). Utilizing the methods claimed in the this application, a number of chemical compounds were identified and later determined to have increased cytotoxicity toward cancer cell lines with a specific karyotypic complexity.

The positive correlations between drug sensitivity and karyotypic complexity and heterogeneity found in this analysis (122 statistically significant positive correlations) provide a distinct opportunity to identify agents that are more active against karyotypically complex and chromosomally unstable cancer cells. Such cells would typically be found in the epithelial cancers, which cause so much therapeutic concern and frustration.

Inhibition of Human Papillomavirus Type 16 and 18 E6 and E7 Oncogene Expression by E6 and E7-Specific siRNAs

Zhi-Ming Zheng (NCI).
DHHS Reference No. E–079–2005/0–US–01.
Licensing Contact: Michelle A. Booden; (301) 451–7337; *boodenm@mail.nih.gov*.

Cervical infection with human papillomaviruses (HPVs), such as HPV16 and HPV18, is strongly associated with development of cervical cancer. Integration of the viral genomes into the cervical cell genome is characteristic of infection with these HPVs. Thus, the majority of cervical cancer cells isolated from patients carry these viral genomes and express two viral oncoproteins, E6 and E7, which induce p53 and pRb degradation. Importantly, expression of both E6 and E7 oncogenes is essential for survival of cervical cancer cells.

Small interfering RNA (siRNA) is emerging as a powerful tool for gene silencing and has much potential for anticancer and antiviral applications. The present invention describes a method employing novel siRNA sequences for inhibiting expression of the E6 and E7 viral oncoproteins of HPV 16 and 18, which are required for development and progression of HPV mediated cervical cancer.

Since HPV 16 and HPV 18 are the most prevalent HPV types inducing cervical cancer in women, this discovery may have a significant impact on cervical cancer therapy. This technology could also have additional implications in variety of HPV-associated indications, such as anogenital warts, bladder, and head and neck carcinomas.

In addition to licensing, the technology is available for further development through collaborative research opportunities with the inventors.

Biomarkers for Osteoarthritis

Shari M. Ling *et al.* (NIA).
U.S. Provisional Application No. 60/602,334 filed 18 Aug 2004 (DHHS Reference No. E–354–2004/0–US–01).
Licensing Contact: Marlene Shinn-Astor; (301) 435–4426; *shinnm@mail.nih.gov*.

Osteoarthritis is chronic, often progressive and substantially disabling condition that becomes more common with advanced age. Osteoarthritis commonly involves the knees, hands, hips, neck and back resulting in pain and limitations of movement.

Unfortunately clinically available tests are neither capable of detecting osteoarthritis early in its development, nor sensitive enough to adequately assess disease progression. A better means of diagnosing early osteoarthritis and its progression that can be used to assess the response to therapeutic treatments is needed. The currently available laboratory techniques are highly sensitive but either lack specificity or require large volumes of sample. Rolling Circle Amplification (RCA) is new technology that precisely localizes unique signals arising from single reporter molecules. RCA has been incorporated into antibody-based microarray system protein chips that enable testing with high sensitivity and specificity for hundreds of proteins simultaneously, using small sample volumes.

This invention describes a method of using RCA technology for detecting the expression of serum proteins that are perturbed in osteoarthritis patients. The results of this testing can be used to identify proteins associated with osteoarthritis presence, prediction of osteoarthritis development and prognosis, predict response to osteoarthritis treatment and potentially also identify future anti-osteoarthritic drugs.

In addition to licensing, the technology is available for further development through collaborative research opportunities with the inventors.

Water-Soluble, Antineoplastic Derivatives of Taxol

Rudiger D. Haugwitz *et al.* (NCI).
U.S. Patent 4,942,184 issued 17 Jul 1990 (DHHS Reference No. E–090–1987/0–US–01).
Licensing Contact: John Stansberry; 301/435–5236; *stansbej@mail.nih.gov*.

A new class of taxol derivatives offer an improved method for treating certain cancers. The use of taxol as an antineoplastic agent has been limited due to poor solubility in aqueous solutions. These new taxol derivatives have improved water solubility while retaining the cytotoxic properties of the parent compounds. Their method of synthesis and use in treating cancer patients are provided.

Dated: March 7, 2005.

Steven M. Ferguson,

Director, Division of Technology Development and Transfer, Office of Technology Transfer, National Institutes of Health.

[FR Doc. 05–5081 Filed 3–14–05; 8:45 am]
BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Government-Owned Inventions; Availability for Licensing

AGENCY: National Institutes of Health, Public Health Service, DHHS.

ACTION: Notice.

SUMMARY: The inventions listed below are owned by an agency of the U.S.

Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally-funded research and development. Foreign patent applications are filed on selected inventions to extend market coverage for companies and may also be available for licensing.

ADDRESSES: Licensing information and copies of the U.S. patent applications listed below may be obtained by writing to the indicated licensing contact at the Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, Maryland 20852–3804; telephone: (301) 496–7057; fax: (301) 402–0220. A signed Confidential Disclosure Agreement will be required to receive copies of the patent applications.

CpG Oligonucleotide Prodrugs

Daniela Verthelyi, Serge Beaucage, Andrzej Grajkowski (FDA).

U.S. Provisional Patent Application filed 13 Dec 2004 (DHHS Reference No. E–215–2004/0–US–01).

Licensing Contact: Michael Shmilovich; (301) 435–5019; *shmilovm@mail.nih.gov.*

Available for licensing and commercial development into prodrugs and methods of synthesizing the same are CpG oligonucleotides that include thermolabile substituent on at least one nucleotide. The invention also provides compositions that include carriers and therapeutically effective amounts of at least one CpG oligonucleotide prodrug. Therapeutic methods of using such thermolabile CpG oligonucleotide prodrugs are also provided (*e.g.*, a prodrug that elicits an immune response). The thermolabile substituent is typically bonded to the non-bridging oxygen atom of at least one phosphate or phosphorothioate in the oligonucleotide.

The thermolabile CpG oligonucleotide prodrugs of the present invention can be administered to a patient as a prodrug of the parent CpG oligonucleotides *in vivo.* The thermolabile CpG oligonucleotide prodrugs of the present invention are rapidly internalized by immune cells (B cells, macrophages, dendritic cells, and monocytes) and localized in endocytic vesicles where they can interact with Toll-like receptor 9. This interaction triggers an immunostimulatory cascade characterized by B-cell proliferation, dendritic cell maturation, natural killer cell activation and the secretion of a variety of cytokines, chemokines and polyreactive immunoglobulins. Administration of the thermolabile CpG oligonucleotide prodrugs of the present invention to a host, for example, can improve the resistance of the host against infectious pathogenic microorganisms, *e.g.*, parasites, bacteria, and viruses.

Identification of Proteins in a Genome

James L. Hartley, Dominic Esposito, and Kelly Jeanne Stanard (SAIC/NCI).

U.S. Provisional Application No. 60/628,948 filed 19 Nov 2004 (DHHS Reference No. E–161–2004/0–US–01).

Licensing Contact: Cristina Thalhammer-Reyero; (301) 435–4507; *thalhamc@mail.nih.gov.*

Available for licensing and commercial development are methods for identifying soluble proteins in a sample. Identification and characterization of bioactive compounds is a critical step in drug discovery, and there is a need for improved methods for identifying soluble proteins. One method provided, which produces soluble deletion derivatives of a protein, includes the steps of incubating a vector with a nucleic acid sequence encoding the protein, flanked by a first and second site-specific recombination sites, in the presence of one or more transposons with a third and fourth site-specific recombination sites and a transposase protein, to insert the one or more transposons into the vector, followed by transfer to further vectors with additional site-specific recombination sites, which are propagated, isolated, combined and recombined in the presence of a recombinase. A second method is for identifying two or more soluble proteins and includes the steps of expressing two or more vectors with the nucleic acid sequence encoding a soluble protein operatively linked to a promoter in one or more cells, and identifying and quantifying the isolated two or more soluble proteins by mass spectroscopy. The above methods can be used alone or in combination. These methods will enable researchers to identify both individual protein targets of drugs, as well as protein families or protein signaling pathways, thereby enhancing drug development.

In addition to licensing, the technology is available for further development through collaborative research opportunities with the inventors.

An Epitope-Enhancement of Human CD4 HIV Epitope

Jay A. Berzofsky (NCI), Takahiro Okazaki (NCI).

U.S. Provisional Application No. 60/567,073 filed 30 Apr 2004 (DHHS Reference No. E–076–2004/0–US–01).

Licensing Contact: Robert M. Joynes; (301) 594–6565; *joynesr@mail.nih.gov.*

This invention relates to an epitope of the HIV–1 envelope protein recognized by a $CD4^+$ T cell line that was developed from immunization with canarypox vectors expressing gp120 of HIV–1. Virus-specific $CD4^+$ T cell help and $CD8^+$ cytotoxic T cell responses are critical for the maintenance of effective immunity in chronic viral infections. The importance of the $CD4^+$ T cell has been documented in HIV infection. A T1-specific $CD4^+$ T cell line from a healthy volunteer immunized with a canarypox vector expressing gpl20 has been developed. This T1-specific $CD4^+$ T cell line was restricted to DR13, which is common in the U.S. in both Caucasians and African-Americans and is one of the major haplotypes in Africans. The present invention provides isolated polypeptides comprising an enhanced T1 epitope. Amino acid substitutions in the T1 epitope were made to induce a stronger epitope-specific $CD4^+$ T cell response than the original epitope resulting in an improved CD4 epitope (also designated an epitope enhancement). A polypeptide comprising the enhanced CD4 epitope can be used as a component in composition either alone or in combination with other adjuvants and other immunogenic compositions to provide a more effective immune response to HIV infection.

In addition to licensing, the technology is available for further development through collaborative research opportunities with the inventors.

CC Chemokine Receptor 5 DNA, New Animal Models and Therapeutic Agents for HIV Infection

C. Combadiere, Y. Feng, E.A. Berger, G. Alkahatib, P.M. Murphy, C.C. Broder, P.E. Kennedy (NIAID);

U.S. Provisional Application No. 60/018,508 filed 28 May 1996 (DHHS Reference No. E–090–1996/0–US–01);

U.S. Patent Application No. 08/864,458 filed 28 May 1997 (DHHS Reference No. E–090–1996/0–US–04);

U.S. Patent Application No. 10/439,845 filed 15 May 2003 (DHHS Reference No. E–090–1996/0–US–05);

U.S. Patent Application No. 10/700,313 filed 31 Oct 2003 (DHHS Reference No. E–090–1996/0–US–06);

U.S. Patent Application No. 10/846,185 filed 14 May 2004 (DHHS Reference No. E–090–1996/0–US–07);

PCT Application No. PCT/US97/09586 filed 28 May 1997 (DHHS Reference No. E–090–1996/0–PCT–02);
European Patent Application No. 97929777.7 filed 28 May 1997 (DHHS Reference No. E–090–1996/0–EP–03).
Licensing Contact: Peter Soukas; (301) 435–4646; *soukasp@mail.nih.gov.*

Chemokine receptors are expressed by many cells, including lymphoid cells, and function to mediate cell trafficking and localization. CC chemokine receptor 5 (CCR5) is a seven-transmembrane, G protein-coupled receptor (GPCR) which regulates trafficking and effector functions of memory/effector T-lymphocytes, macrophages, and immature dendritic cells. Chemokine binding to CCR5 leads to cellular activation through pertussis toxin-sensitive heterotrimeric G proteins as well as G protein-independent signalling pathways. Like many other GPCR, CCR5 is regulated by agonist-dependent processes which involve G protein coupled receptor kinase (GRK)-dependent phosphorylation, beta-arrestin-mediated desensitization and internalization.

Human CCR5 also functions as the main coreceptor for the fusion and entry of many strains of human immunodeficiency virus (HIV–1, HIV–2). HIV–1 transmission almost invariably involves such CCR5-specific variants (designated R5); individuals lacking functional CCR5 (by virtue of homozygosity for a defective CCR5 allele) are almost completely resistant to HIV–1 infection. Specific blocking of CCR5 (*e.g.* with chemokine ligands, anti-CCR5 antibodies, CCR5-blocking low MW inhibitors, etc.) inhibits entry/infection of target cells by R5 HIV strains. Cells expressing CCR5 and CD4 are useful for screening for agents that inhibit HIV by binding to CCR5. Such agents represent potential new approaches to block HIV transmission and to treat infected people. A small animal expressing both human CCR5 along with human CD4 supports entry of HIV into target cells, a necessary hurdle that must be overcome for development of a small animal model (*e.g.* transgenic mouse, rat, rabbit, mink) to study HIV infection and its inhibition.

The invention embodies the CCR5 genetic sequence, cell lines and transgenic mice, the cells of which coexpress human CD4 and CCR5, and which may represent valuable tools for the study of HIV infection and for screening anti-HIV agents. The invention also embodies anti-CCR5 agents that block HIV env-mediated membrane fusion associated with HIV entry into human CD4-positive target cells or between HIV-infected cells and uninfected human CD4-positive target cells.

This technology was reported in Alkhatib *et al.*, ''CC CKR5: a RANTES, MIP–1alpha, MIP–1beta receptor as a fusion cofactor for macrophage-tropic HIV–1,'' Science 272:1955–1958 (1996). The technology is available for exclusive or nonexclusive licensing.

Dated: March 7, 2005.

Steven M. Ferguson,

Director, Division of Technology Development and Transfer, Office of Technology Transfer, National Institutes of Health.

[FR Doc. 05–5082 Filed 3–14–05; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and/or contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications and/or contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Special Emphasis Panel, Loan Repayment Program: OD04–060 (Clinical) & OD04–061 (Pediatric).

Date: April 4, 2005.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications and/or proposals.

Place: National Institutes of Health, 6116 Executive Boulevard, Rockville, MD 20852.

Contact Person: Bratin K. Saha, PhD, Program Coordination and Referral Branch, Division of Extramural Activities, National Cancer Institute, 6116 Executive Blvd., Bethesda, MD 20892, (301) 402–0371, *sashab@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS.)

Dated: March 8, 2005.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 05–5074 Filed 3–14–05; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Initial Review Group, Subcommittee D—Clinical Studies.

Date: April 6–8, 2005.

Time: 6 p.m. to 1 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Select Bethesda, 8120 Wisconsin Ave., Bethesda, MD 20814.

Contact Person: William D. Merritt, PhD, Scientific Review Administrator, Research Programs Review Branch, National Cancer Institute, Division of Extramural Activities, 6116 Executive Blvd., 8th Floor, Bethesda, MD 20892–8328, 301–496–9767, *wm63f@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: March 8, 2005.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 05–5075 Filed 3–14–05; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and/or contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications and/or contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Special Emphasis Panel, RFA: CA–05–003 and CA–05–007.

Date: March 29–30, 2005.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, MD 20814.

Contact Person: Sherwood Githens, PhD, Scientific Review Administrator, Special Review and Logistics Branch, National Cancer Institute, Division of Extramural Activities, 6116 Executive Blvd., Room 8068, Bethesda, MD 20892, 301/435–1822, *githenss@mail.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: March 8, 2005.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 05–5076 Filed 3–14–05; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Initial Review Group, Subcommittee C—Basic & Preclinical.

Date: April 6–7, 2005.

Time: 6 p.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Select Bethesda, 8120 Wisconsin Ave, Bethesda, MD 20814.

Contact Person: Michael B. Small, PhD, Scientific Review Administrator, Research Programs Review Branch, Division of Extramural Activities, National Cancer Institute, National Institutes of Health, 6116 Executive Boulevard, Room 8127, Bethesda, MD 20892, 301–402–0996, *smallm@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Programs Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower, 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: March 8, 2005.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 05–5077 Filed 3–14–05; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Child Health and Human Development; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel, Cooperative Contraceptive Research Center.

Date: April 8, 2005.

Time: 2 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6100 Executive Boulevard, Room 5B01, Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Jon M. Ranhand, PhD, Scientist Review Administrator, Division of Scientific Review, National Institute of Child Health and Human Development, NIH, 6100 Executive Boulevard, Room 5B01, Bethesda, MD 20892, (301) 435–6884, *ranhandj@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS.)

Dated: March 8, 2005.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 05–5078 Filed 3–14–05; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material,

and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel, Review of an Unsolicited R24 Application.

Date: April 7, 2005.

Time: 9 a.m. to 11 a.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge 6700, 6700B Rockledge Drive, Bethesda, MD 20817, (Telephone Conference Call).

Contact Person: Marc L. Lesnick, PhD, Scientific Review Administrator, Scientific Review Program, Division of Extramural Activities, NIAID/NIH/DHHS, Room 3264, 6700B Rockledge Drive, MSC 7616, Bethesda, MD 20892, (301) 594–6636, *ml436d@nih.gov.*

(Catalogue of Federal Domestic Assistance Programs Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Disease Research, National Institutes of Health, HHS.)

Dated: March 8, 2005.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 05–5079 Filed 3–14–05; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Adult Cognitive Development.

Date: March 18, 2005.

Time: 11 a.m. to 2 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Victoria S. Levin, MSW, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3172, MSC 7848, Bethesda, MD 20892, (301) 435–0912, *levinv@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Bioanalytical Chemistry.

Date: March 21, 2005.

Time: 11:30 a.m. to 2 p.m.

Agenda: To review and grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Noni Byrnes, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4180, MSC 7806, Bethesda, MD 20892, (301) 435–1217, *byrnesn@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Psychological Antecedents and Consequences of Transplants.

Date: March 22, 2005.

Time: 10 a.m. to 12 p.m.

Agenda: To review and grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Elisabeth Koss, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3028C, MSC 7759, Bethesda, MD 20892, (301) 435–1235, *kosses@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Nonconscious Social Processes.

Date: March 22, 2005.

Time: 1 p.m. to 3 p.m.

Agenda: To review and grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Victoria S. Levin, MSW, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3172, MSC 7848, Bethesda, MD 20892, 301–435–0912, *levinv@csr.nih.gov.*

This notice being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Psychosocial Intervention for Breast Cancer.

Date: March 23, 2005.

Time: 9 a.m. to 10 a.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Elisabeth Koss, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3028C, MSC 7759, Bethesda, MD 20892, (301) 435–1235, *kosse@csr.nih.gov.*

This notice being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Motor Processes.

Date: March 23, 2005.

Time: 1 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Lynn T. Nielsen-Bohlman, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3089F, MSC 7848, Bethesda, MD 20892, (301) 594–5287, *nielsenl@csr.nih.gov.*

This notice being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Psychosocial Interventions for IBD.

Date: March 23, 2005.

Time: 4:10 p.m. to 5:10 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Elisabeth Koss, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3028C, MSC 7759, Bethesda, MD 20892, (301) 435–1235, *kosse@csr.nih.gov.*

This notice being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Malaria.

Date: March 23, 2005.

Time: 5 p.m. to 6:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Alexander D. Politis, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3210, MSC 7808, Bethesda, MD 20892, (301) 435–1150, *politisa@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Behavioral Approaches to Obesity and Weight Management.

Date: March 24, 2005.
Time: 10 a.m. to 11 a.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).
Contact Person: Michael Micklin, PhD, Chief, RPHB IRG, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3136, MSC 7759, Bethesda, MD 20892, (301) 435–1258, *micklinm@csr.nih.gov*.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, SBIR–Conflict.
Date: March 25, 2005.
Time: 11 a.m. to 12 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).
Contact Person: Lee S. Mann, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3186, MSC 7848, Bethesda, MD 20892, (301) 435–0677, *mannl@csr.nih.gov*.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Adolescent Development.
Date: March 25, 2005.
Time: 2 p.m. to 3 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).
Contact Person: Karen Lechter, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3128, MSC 7759, Bethesda, MD 20892, (301) 496–0726, *lechterk@csr.nih.gov*.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, BSCH Member Conflicts.
Date: March 28, 2005.
Time: 11 a.m. to 2 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).
Contact Person: Ranga V. Srinivas, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5222, MSC 7852, Bethesda, MD 20892, (301) 435–1167, *srinivar@csr.nih.gov*.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, ZRG1 ICP–2 91S: Global Infectious Diseases.
Date: March 29, 2005.
Time: 8:30 a.m. to 4:30 p.m.
Agenda: To review and evaluate grant applications.
Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.
Contact Person: Dan D. Gerendasy, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5132, MSC 7843, Bethesda, MD 20892, (301) 594–6830, *gerendad@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel, AOIC Member Conflicts.
Date: March 29, 2005.
Time: 2 p.m. to 4 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).
Contact Person: Ranga V. Srinivas, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5222, MSC 7852, Bethesda, MD 20892, (301) 435–1167, *srinivar@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Member Conflict-Visual Psychophysics
Date: March 30, 2005.
Time: 1 p.m. to 4 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).
Contact Person: Christine L. Melchior, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5176, MSC 7844, Bethesda, MD 20892, (301) 435–1713, *melchioc@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel, NIDA AIDS-Related Program Projects.
Date: March 30, 2005.
Time: 2 p.m. to 4 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).
Contact Person: Ranga V. Srinivas, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5222, MSC 7852, Bethesda, MD 20892, (301) 435–1167, *srinivar@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel, NAED Member Conflicts.
Date: March 31, 2005.
Time: 2 p.m. to 4 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).
Contact Person: Ranga V. Srinivas, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5222, MSC 7852, Bethesda, MD 20892, (301) 435–1167, *srinivar@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel, AOIC and AMCB Member Conflicts.
Date: April 1, 2005.
Time: 11 a.m. to 1 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).
Contact Person: Ranga V. Srinivas, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5222, MSC 7852, Bethesda, MD 20892, (301) 435–1167, *srinivar@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel, BioAnalytical Chemistry, Chemistry and Biophysics.
Date: April 4–5, 2005.
Time: 8:30 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: The Watergate, 2650 Virginia Avenue, NW., Washington, DC 20037.
Contact Person: Vonda K. Smith, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4172, MSC 7806, Bethesda, MD 20892, (301) 435–1789, *smithvo@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Applications Addressing Special Topics Outside the Scope of ACE Panel.
Date: April 4, 2005.
Time: 3 p.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).
Contact Person: Ranga V. Srinivas, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5222, MSC 7852, Bethesda, MD 20892, (301) 435–1167, *srinivar@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Intercellular Signaling in Myxococcus Xanthus.
Date: April 5, 2005.
Time: 12 p.m. to 1 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).
Contact Person: Joseph D. Mosca, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5158, MSC 7808, Bethesda, MD 20892, (301) 435–2344, *moscajos@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Small Business Applications—HIV/AIDS.
Date: April 7, 2005.

Time: 1 p.m. to 4 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).
Contact Person: Mark P. Rubert, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5218, MSC 7852, Bethesda, MD 20892, 301–435–1775, *rubertm@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel, E coli Gene Regulation.
Date: April 7, 2005.
Time: 1 p.m. to 2 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).
Contact Person: Alexander D. Politis, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3210, MSC 7808, Bethesda, MD 20892, 301–435–1150, *politisa@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Innovations in Biomedical Computational Science and Technology.
Date: April 13, 2005.
Time: 10 a.m. to 1 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).
Contact Person: Christopher Sempos, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3146, MSC 7770, Bethesda, MD 20892, 301–451–1329, *semposch@csr.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: March 8, 2005.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 05–5080 Filed 3–14–05; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Toxicology Program (NTP); Center for the Evaluation of Risks to Human Reproduction (CERHR); Availability of the Expert Panel Reports on Amphetamines and Methylphenidate; Request for Public Comments

AGENCY: National Institute for Environmental Health Sciences (NIEHS); National Institutes of Health (NIH).

ACTION: Announcement of report availability and request for comment.

SUMMARY: The CERHR announces the availability of the final expert panel reports on amphetamines and on methylphenidate on March 21, 2005, from the CERHR Web site (*http://cerhr.niehs.nih.gov*) or in printed text from the CERHR (*see* **FOR FURTHER INFORMATION CONTACT** below). The CERHR invites the submission of public comments on these expert panel reports (*see* **SUPPLEMENTARY INFORMATION** below). The expert panel reports are evaluations on the reproductive and developmental toxicities of amphetamines and methylphenidate conducted by a 13-member expert panel composed of scientists from the Federal government, universities, and private companies. The CERHR previously solicited public comment on draft versions of each expert panel report (**Federal Register** volume 69, number 208, pages 62906–62907). Public deliberations by the panel took place on January 10–12, 2005, at the Holiday Inn Old Town Select Alexandria, Virginia to review and revise the draft expert panel reports and reach conclusions regarding whether exposure to amphetamines or methylphenidate is a hazard to human development or reproduction. The expert panel also identified data gaps and research needs. The final revisions on these reports have been reviewed for accuracy of content and presentation by the amphetamines and methylphenidate expert panel, NTP scientists, and CERHR personnel.

DATES: The final expert panel reports on amphetamines and methylphenidate will be available for public comment on March 21, 2005. Written public comments on these reports must be received by May 5, 2005.

ADDRESSES: Comments on the expert panel reports should be sent to Dr. Michael D. Shelby, CERHR Director, NIEHS, P.O. Box 12233, MD EC–32, Research Triangle Park, NC 27709 (mail), (919) 316–4511 (fax), or *shelby@niehs.nih.gov* (e-mail). Courier address: CERHR, 79 T.W. Alexander Drive, Building 4401, Room 103, Research Triangle Park, NC 27709.

FOR FURTHER INFORMATION CONTACT: Dr. Michael D. Shelby, CERHR Director, 919–541–3455, *shelby@niehs.nih.gov*.

SUPPLEMENTARY INFORMATION:

Background

The National Toxicology Program (NTP) Center for the Evaluation of Risks to Human Reproduction (CERHR) convened an expert panel on January 10–12, 2005. The purpose of this meeting was to evaluate the scientific evidence regarding the potential reproductive and/or developmental toxicities associated with exposure to the central nervous system stimulants, amphetamines and methylphenidate. Amphetamines evaluated were *d*- and *d*, *l*-amphetamine and methamphetamine. Amphetamine is indicated for the treatment of attention deficit hyperactivity disorder (ADHD) and narcolepsy and methamphetamine is indicated for the treatment of ADHD and for short-term treatment of obesity. Methylphenidate is a central nervous system stimulant approved by the Food and Drug Administration for the treatment of ADHD and narcolepsy in persons six years and older. The CERHR selected amphetamines and methylphenidate for expert panel evaluation because of widespread usage in children, availability of developmental studies in children and experimental animals, and public concern about the effect of these stimulants on child development.

Following receipt of public comments on the amphetamines and methylphenidate final expert panel reports, CERHR staff will prepare NTP–CERHR monographs for each of these compounds. NTP–CERHR monographs are divided into four major sections: (1) The NTP Brief which provides the NTP's interpretation of the potential for the chemical to cause adverse reproductive and/or developmental effects in exposed humans, (2) a roster of expert panel members, (3) the final expert panel report, and (4) any public comments received on that report. The NTP brief is based on the expert panel report, public comments on that report, and any new information that became available after the expert panel meeting.

Request for Comments

The CERHR invites written public comments on the amphetamines expert panel report and the methylphenidate expert panel report. The CERHR will post all comments received on the CERHR Web site and include them as an appendix in the NTP–CERHR monographs for these chemicals. All public comments will be considered by the NTP during preparation of the NTP Brief described above under ''Background.''

Written comments should be sent to Dr. Michael Shelby at the address provided above. Persons submitting written comments are asked to include their name and contact information (affiliation, mailing address, telephone

and facsimile numbers, e-mail, and sponsoring organization, if any).

Background Information on the CERHR

The NTP established the NTP CERHR in June 1998 (**Federal Register**, December 14, 1998 (volume 63, number 239, page 68782)). The CERHR is a publicly accessible resource for information about adverse reproductive and/or developmental health effects associated with exposure to environmental and/or occupational exposures. Expert panels conduct scientific evaluations of agents selected by the CERHR in public forums.

The CERHR invites the nomination of agents for review or scientists for its expert registry. Information about CERHR and the nomination process can be obtained from its home page (*http://cerhr.niehs.nih.gov*) or by contacting Dr. Shelby (*see* **FOR FURTHER INFORMATION CONTACT** above). The CERHR selects chemicals for evaluation based upon several factors including production volume, extent of human exposure, public concern, and published evidence of reproductive or developmental toxicity.

CERHR follows a formal, multi-step process for review and evaluation of selected chemicals. The formal evaluation process was published in the **Federal Register** notice July 16, 2001 (volume 66, number 136, pages 37047–37048), and is available on the CERHR Web site under ''About CERHR'' or in printed copy from the CERHR. NTP–CERHR monographs are available on the CERHR Web site or in hard copy or CD from the CERHR.

Dated: March 7, 2005.

Samuel H. Wilson,

Deputy Director, National Institute of Environmental Health Sciences.

[FR Doc. 05–5083 Filed 3–14–05; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[FEMA–1582–DR]

American Samoa; Amendment No. 2 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, Emergency Preparedness and Response Directorate, Department of Homeland Security.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the Territory of American Samoa (FEMA–1582-DR), dated February 18, 2005, and related determinations.

EFFECTIVE DATE: March 3, 2005.

FOR FURTHER INFORMATION CONTACT: Magda Ruiz, Recovery Division, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–2705.

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the Territory of American Samoa is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of February 18, 2005:

Manu'a Islands for Individual Assistance and Categories C through G under the Public Assistance program (already designated for debris removal (Category A) and emergency protective measures (Category B), including direct Federal assistance under the Public Assistance program.)

The Territory of American Samoa for Crisis Counseling under the Individual Assistance program (already designated for debris removal (Category A) and emergency protective measures (Category B), including direct Federal assistance under the Public Assistance program.)

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund Program; 97.032, Crisis Counseling; 97.033, Disaster Legal Services Program; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance; 97.048, Individuals and Households Housing; 97.049, Individuals and Households Disaster Housing Operations; 97.050 Individuals and Households Program-Other Needs, 97.036, Public Assistance Grants; 97.039, Hazard Mitigation Grant Program.)

Michael D. Brown,

Under Secretary, Emergency Preparedness and Response, Department of Homeland Security.

[FR Doc. 05–5050 Filed 3–14–05; 8:45 am]

BILLING CODE 9110–10–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[FEMA–1578–DR]

Kentucky; Amendment No. 1 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, Emergency Preparedness and Response Directorate, Department of Homeland Security.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the Commonwealth of Kentucky (FEMA–1578–DR), dated February 8, 2005, and related determinations.

EFFECTIVE DATE: March 7, 2005.

FOR FURTHER INFORMATION CONTACT: Magda Ruiz, Recovery Division, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–2705.

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the Commonwealth of Kentucky is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of February 8, 2005:

Marshall County for Public Assistance.

Marshall County for emergency protective measures (Category B) under the Public Assistance program for a period of 48 hours.

Lyon County for emergency protective measures (Category B) under the Public Assistance program for a period of 48 hours (already designated for Public Assistance).

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund Program; 97.032, Crisis Counseling; 97.033, Disaster Legal Services Program; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance; 97.048, Individual and Household Housing; 97.049, Individual and Household Disaster Housing Operations; 97.050 Individual and Household Program-Other Needs, 97.036, Public Assistance Grants; 97.039, Hazard Mitigation Grant Program.)

Michael D. Brown,

Under Secretary, Emergency Preparedness and Response, Department of Homeland Security.

[FR Doc. 05–5051 Filed 3–14–05; 8:45 am]

BILLING CODE 9110–10–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Proposed Low-Effect Habitat Conservation Plan for Southern California Edison Etiwanda-Miraloma Transmission Line Reconductor Project, Riverside and San Bernardino Counties, CA

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; receipt of application.

SUMMARY: Southern California Edison (applicant) has applied to the U.S. Fish and Wildlife Service (Service) for a 5-year incidental take permit for two

species pursuant to section 10(a)(1)(B) of the Endangered Species Act of 1973, as amended (Act). The application addresses the potential for ''take'' of the Delhi Sands flower-loving fly (*Rhaphiomidas terminatus abdominalis*), listed as endangered under the Act. It also addresses impacts to the burrowing owl (Athene cunicularia hypugea), a California State designated Species of Special Concern. Impacts to both species would occur from proposed upgrading of the existing Etiwanda-Miraloma Transmission Line in Riverside and San Bernardino counties, California. A conservation program to mitigate for the project activities would be implemented by the applicant as described in the proposed Southern California Edison (SCE) Low-Effect Habitat Conservation Plan (proposed plan), which is available for public review.

We are requesting comments on the proposed Plan and on the preliminary determination that the proposed Plan qualifies as a ''Low-effect'' Habitat Conservation Plan, eligible for a categorical exclusion under the National Environmental Policy Act (NEPA) of 1969, as amended. The basis for this determination is discussed in an Environmental Action Statement and the associated Low-Effect Screening Form (EAS/screening form), which are also available for public review.

DATES: Written comments should be received on or before April 14, 2005.

ADDRESSES: Comments should be addressed to Jim Bartel, Field Supervisor, Fish and Wildlife Service, Carlsbad Fish and Wildlife Office, 6010 Hidden Valley Road, Carlsbad, California 92008. Written comments may be sent by facsimile to (760) 918–0638.

FOR FURTHER INFORMATION CONTACT: Ms. Karen Goebel, Assistant Field Supervisor, Carlsbad Fish and Wildlife Office (*see* **ADDRESSES**); telephone: (760) 431–9440.

Availability of Documents

Individuals wishing copies of the application, proposed plan, and EAS/screening form should immediately contact the Service by telephone (*see* **FOR FURTHER INFORMATION CONTACT**) or by letter to the Carlsbad Fish and Wildlife Office (*see* **ADDRESSES**). Copies of the proposed plan and EAS/screening form also are available for public inspection during regular business hours at the Carlsbad Fish and Wildlife Office (*see* **ADDRESSES**).

Background

Section 9 of the Act and its implementing Federal regulations prohibit the take of animal species listed as endangered or threatened. The definition of take under the Act is to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture or collect listed animal species, or to attempt to engage in such conduct (16 U.S.C. 1538). However, under section 10(a) of the Act, the Service may issue permits to authorize incidental take of listed animal species. ''Incidental take'' is defined by the Act as take that is incidental to, and not the purpose of, carrying out an otherwise lawful activity. Regulations governing incidental take permits for threatened and endangered species, respectively, are found at 50 CFR 17.22 and 50 CFR 17.32.

The applicant is seeking a permit for take of the endangered Delhi Sands flower-loving fly (DSF), and for the burrowing owl should it become listed as threatened or endangered under the Act during the life of the proposed 5-year permit. DSF were observed on the proposed project site. No critical habitat for any listed species occurs on the project site. The project site does not contain any threatened or endangered species or habitat.

The proposed transmission line upgrade project would involve the one-time removal of existing transmission lines, replacing these lines with new, higher capacity lines, and replacing existing ground wire with fiber line. A structural modification of the existing support system (*i.e.*, the replacement of seven existing towers with taller towers) would be necessary to maintain adequate ground clearance.

Project implementation may result in take of the DSF. Although the project area covers 126 acres, total construction impacts that would result in habitat disturbance for the DSF and burrowing owl are limited to 4.17 acres. Within these 4.17 acres, a total of 0.88 acres of temporary and/or permanent disturbance of habitat for the DSF would occur.

The Applicant proposes to minimize and mitigate the effects to the DSF associated with the covered activities by fully implementing the Plan. The purpose of the proposed Plan's conservation program is to avoid and minimize impacts to the DSF during project construction and to mitigate unavoidable impacts from temporary habitat disturbance and permanent habitat loss. Unavoidable effects to the DSF would be mitigated either through the restoration of 1.25 acres of DSF habitat within Applicant-owned property or by the purchase of one acre of high-quality DSF habitat at the Colton Dunes Mitigation Bank, operated by the Vulcan Materials Company, in Colton, California.

Project implementation also may result in adverse effects to the burrowing owl. The Applicant proposes to minimize and mitigate the effects to the burrowing owl associated with covered activities by fully implementing the Plan. Unavoidable effects to the burrowing owl would be mitigated by relocating any nesting owls within the construction area in accordance with the guidelines and measures outlined in the proposed Plan. No critical habitat has been proposed or designated for the burrowing owl.

The Proposed Action consists of the issuance of an incidental take permit and implementation of the proposed Plan, which includes measures to minimize and mitigate impacts of the project on the DSF and burrowing owl. Alternatives to the taking of the DSF and burrowing owl are considered in the proposed Plan. Under the No Action Alternative, no permit would be issued, and no construction would occur. Under the Reduced Project Alternative, incidental take of DSF and burrowing owl would be authorized, but the applicant would reduce the area of impact. Under the ''Participate in Regional Planning'' Alternative, the Applicant could eventually receive incidental take authorization but the proposed project would be delayed until completion of a regional habitat conservation plan in San Bernardino County.

The Service has made a preliminary determination that approval of the proposed Plan qualifies for categorical exclusion under NEPA, as provided by the Department of the Interior Manual (516 DM 2, Appendix 1 and 516 DM 6, Appendix 1) and as a ''low-effect'' plan as defined by the Habitat Conservation Planning Handbook (November 1996). Determination of Low-effect Habitat Conservation Plans is based on the following three criteria: (1) Implementation of the proposed Plan would result in minor or negligible effects on federally listed, proposed, and candidate species and their habitats; (2) implementation of the proposed Plan would result in minor or negligible effects on other environmental values or resources; and (3) impacts of the proposed Plan, considered together with the impacts of other past, present and reasonably foreseeable similarly situated projects, would not result, over time, in cumulative effects to environmental

values or resources that would be considered significant.

Based upon this preliminary determination, we do not intend to prepare further NEPA documentation. We will consider public comments in making the final determination on whether to prepare such additional documentation.

This notice is provided pursuant to section 10(c) of the Act. We will evaluate the permit application, the proposed Plan, and comments submitted thereon to determine whether the application meets the requirements of section 10(a) of the Act. If the requirements are met, we will issue a permit to the Applicant for the incidental take of the DSF, and the burrowing owl should it be listed during the permit term. The permit would be contingent upon implementation of the Applicant's proposed Plan in Riverside and San Bernardino counties, California.

Dated: March 9, 2005.

Tom McCabe,

Acting Deputy Manager, California/Nevada Operations Office, Sacramento, California.

[FR Doc. 05–5017 Filed 3–14–05; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Final List of Bird Species to Which the Migratory Bird Treaty Act Does Not Apply

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability.

SUMMARY: We are publishing a final list of the nonnative bird species that have been introduced by humans into the United States or its territories and to which the Migratory Bird Treaty Act (MBTA) does not apply. This action is required by the Migratory Bird Treaty Reform Act (MBTRA) of 2004. The MBTRA amends the MBTA by stating that it applies only to migratory bird species that are native to the United States or its territories, and that a native migratory bird is one that is present as a result of natural biological or ecological processes. This notice identifies those species that are not protected by the MBTA, even though they belong to biological families referred to in treaties that the MBTA implements, as their presence in the United States and its territories is solely the result of intentional or unintentional human-assisted introductions.

ADDRESSES: The complete file for this notice is available for inspection, by appointment (contact John L. Trapp, (703) 358–1714), during normal business hours at U.S. Fish and Wildlife Service, 4501 North Fairfax Drive, Room 4107, Arlington, Virginia.

SUPPLEMENTARY INFORMATION:

What Is the Authority for This Notice?

Migratory Bird Treaty Reform Act of 2004 (Division E, Title I, Sec. 143 of the Consolidated Appropriations Act, 2005, Pub. L. 108–447).

What Is the Purpose of This Notice?

The purpose of this notice is to make the public aware of the final list of ''all nonnative, human-introduced bird species to which the Migratory Bird Treaty Act (16 U.S.C. 703 *et seq.*) does not apply,'' as required by the MBTRA of 2004.

This notice is strictly informational. It merely lists some of the bird species to which the MBTA does not apply. The presence or absence of a species on this list has no legal effect. This list does not change the protections that any of these species might receive under such agreements as CITES—the Convention on International Trade in Endangered Species of Wild Fauna and Flora (T.I.A.S. 8249), the Endangered Species Act of 1973 (16 U.S.C. 1531–1544, 87 Stat. 275), or the Wild Bird Conservation Act of 1992 (16 U.S.C. 4901–4916, 106 Stat. 2224). Regulations implementing the MBTA are found in parts 10, 20, and 21 of 50 CFR. The list of migratory birds covered by the MBTA is located at 50 CFR 10.13.

What Was the Response of the Public to the Draft List?

A notice announcing a draft list of the nonnative human-introduced bird species to which the MBTA does not apply was published on January 4, 2005 (70 FR 372), with a request for public comments. The notice generated approximately 826 nonduplicated comments from the public. The draft list was supported by 21 State wildlife agencies (Arizona Game and Fish Department; Connecticut Bureau of Natural Resources; Delaware Division of Fish and Wildlife; Florida Fish and Wildlife Conservation Commission; Maryland Department of Natural Resources; Massachusetts Division of Fisheries and Wildlife; Michigan Department of Natural Resources; Montana Fish, Wildlife, and Parks; New Hampshire Fish and Game Department; New Jersey Division of Fish and Wildlife; New York State Division of Fish, Wildlife, and Marine Resources; North Carolina Wildlife Resources Commission; North Dakota Game and Fish Department; Oklahoma Department of Wildlife Conservation; Pennsylvania Game Commission; Rhode Island Division of Fish and Wildlife; South Dakota Department of Game, Fish, and Parks; Vermont Department of Fish and Wildlife; Virginia Department of Game and Inland Fisheries; Wisconsin Department of Natural Resources; and Wyoming Game and Fish Department), 11 nonprofit organizations representing bird conservation and science interests (American Bird Conservancy—submitted on behalf of 10 constituent organizations; Atlantic Flyway Council—representing 17 States, 7 Provinces, Puerto Rico, and the U.S. Virgin Islands; California Partners in Flight; Environmental Studies at Airlie–Swan Research Program; Friends of Iroquois National Wildlife Refuge; National Audubon Society; National Wildlife Federation; Ornithological Council—representing 11 scientific societies of ornithology; Point Reyes Bird Observatory; Tennessee Ornithological Society; and The Nature Conservancy), 1 organization representing an extractive industry (National Mining Association), and 18 private citizens.

Opposition to the draft list came from 4 animal-rights organizations (Ecology Center of Southern California, Friends of Animals, Friends of Montgomery Village Wildlife, and Humane Society of the United States), 2 law firms (representing the Humane Society of the United States and MBTA Advocates—the litigant in an outstanding lawsuit involving the mute swan), and some 770 private citizens. The vast majority of the latter comments are directly traceable to a posting made on January 13 to a free, weekly e-mail subscription service maintained jointly by the Fund for Animals and the Humane Society of the United States to notify their members of ''hot issues in animal protection'' and encourage them to write to public officials. Nearly all of these comments repeat the four ''talking points'' included in the alert and exhibit other similarities indicative of a common origin. The ''talking points'' are addressed in the Service's responses to Issues 1, 2, 3, and 10.

Issue 1: One reviewer argued at length (and numerous others suggested) that the Service must prepare an Environmental Impact Statement (EIS) before publishing the final list of bird species to which the Migratory Bird Treaty Act does not apply.

Service Response: In requiring (a) that the Secretary ''provide adequate time for public comment'' on a draft list and (b) that a final list be published ''not later

than 90 days after the date of enactment'' of the MBTRA (December 8, 2004), Congress did not allow sufficient time for the Service to prepare an EIS. The preparation of an EIS would have been inconsistent with the Service's duty to comply with the statutory time period. Furthermore, NEPA does not apply, as this list, which has no legal effect, is not the result of agency decisionmaking; also, publication of the list is a ministerial duty based on factual determinations. To the extent that any change in the scope of the MBTA has occurred, that change occurred upon Public Law 108–447 going into effect.

Issue 2: One reviewer argued at length (and many others agreed) that the draft list was inconsistent with the conventions with Canada, Mexico, Japan, and Russia because it excluded nonnative species from the protection of the MBTA. In particular, the reviewer asserted that Article I of the treaty with Mexico, which states that ''it is right and proper to protect birds denominated as migratory, whatever may be their origin,'' demonstrates that the treaty parties intended to protect nonnative species.

Service Response: Congress explicitly stated its sense that the language of the MBTRA was ''consistent with the intent and language of the four bilateral treaties implemented by'' the MBTA.

The list is clearly not inconsistent with the conventions with Japan or Russia, as (a) those conventions list in an Annex (Japan) or Appendix (Russia) the individual species that are covered, (b) all of the species listed in the Annex or Appendix are native to both signatory countries, and (c) none of the species on this list appears in the Annex or Appendix.

In the case of the convention with Mexico, the language referred to by the reviewer must be read in the context of the entire sentence. The words ''whatever may be their origin'' are followed immediately by the words ''which in their movements live temporarily'' in the United States and Mexico. Therefore, the ''whatever may be their origin'' language is not inconsistent with the treaty applying only to species that are native to one or both countries. Although the treaty is admittedly silent on the issue, the families of migratory birds that the parties chose to protect strongly suggests that the intention was to protect only native migratory birds, as only families with species native to the United States and Mexico are included. None of the listed families are strictly nonnative to the United States or Mexico.

While the convention with Canada does not specifically make a distinction between native and nonnative or exotic species, the Service has traditionally and consistently interpreted and enforced the convention and the MBTA as applying only to native species. This approach is consistent with the historical fact that all of the contemporaneous concerns leading to enactment of the Canadian convention in 1916 and the MBTA in 1918 focused exclusively on imminent threats to native species, including (a) devastation of native waterfowl, dove and pigeon, and shorebird populations by market hunters; (b) the slaughter of native herons and egrets to supply the millinery trade with their plumes or aigrettes, and (c) the adornment of women's hats with the feathers of native songbirds (Dorsey 1998: 165–246). Moreover, like the treaty with Mexico, the list of bird groups covered by the treaty with Canada strongly suggests that the intent of the parties was to cover native species. Neither the families nor any of the other groupings or individual species mentioned are purely nonnative.

In any case, Congress has acted, and the Service now has no authority to enforce the prohibition of section 703 of the MBTA with respect to nonnative species.

Issue 3: One reviewer argued at length (and many others agreed) that, to avoid unintended consequences, the Service must go through the entire list and provide scientific justification for the inclusion of each individual species, conducting an exhaustive search of existing literature and consulting with ornithologists to ensure that no naturally occurring species have been included.

Service Response: Congress required only that the Service publish a list of species that we deemed to be not protected by the MBTA by virtue of their nonnative human-introduced status. Congress did not require that we publish the actual data on which the list was based. Nevertheless, we did conduct a comprehensive internal review of the relevant ornithological literature in making our determinations. That data was available for inspection during the public comment period as part of the administrative record. In making our determinations, we relied most prominently on the American Ornithologists' Union's (AOU 1998) *Check-list of North American birds.* The *Check-list* was supplemented, where necessary, by Phillips's (1928) *Wild birds introduced or transplanted in North America,* Long's (1981) *Introduced birds of the world,* Berger's (1981) *Hawaiian birdlife,* Stevenson and Anderson's (1994) *The birdlife of Florida,* and more than 200 other sources. The Ornithological Council concluded in their comments that ''the list appears to be entirely consistent with the best available ornithological science.'' The National Audubon Society and the National Wildlife Federation offered their joint opinion that the list is ''scientifically defensible,'' ''thoroughly researched,'' and ''in conformance with the decisions of the American Ornithologists' Union and other proper scientific authorities.'' The Tennessee Ornithological Society volunteered that, ''To the best of our knowledge, no species occur on the list that do not meet the criteria [and] * * * no species have been omitted.'' In the interest of full public disclosure, the Service has posted—at *http://www.migratorybirds.fws.gov—a* summary of the evidence that it evaluated in reaching its conclusion that all of the species included in the final list are nonnative to the United States and its territories and occur therein solely as a result of human-assisted introductions.

Issue 4: Citing (a) fossil records, (b) historical illustrations, and (c) claims of natural occurrence in western North America, one reviewer claimed that ''Under the definitions contained within the MBTRA, the mute swan is indeed a native species and hence entitled to continuing coverage under the Migratory Bird Treaty Act.''

Service Response: We disagree for the reasons set forth in the draft list (70 FR 372). To more specifically address this comment, we provide additional information and analysis below.

(a) *Fossil Records.* The relevant scientific literature (A[llen] 1893; Brodkorb 1958 1964; Howard 1936, 1964; Miller 1948; Parmalee 1961; Shufeldt 1892, 1913a, 1913b; Wetmore 1933, 1935, 1943, 1956, 1957, 1959) reveals that four species of swans are recognized in the prehistoric faunal record of the United States: *Cygnus paloregonus* (extinct), *C. hibbardi* (extinct), *C. columbianus* (tundra swan), and *C. buccinator* (trumpeter swan). Avian paleontologists who examined the remains of *paloregonus* recognized that its skeletal structure was more similar to that of a group of swans formerly lumped together in the subgenus *Sthenelides,* a group that includes *C. olor* (the mute swan), than it was to either the tundra or trumpeter swan. Although sometimes referring to it as ''mute-like'' in structure, authorities have always recognized *paloregonus* as totally distinct from the mute swan (Brodkorb 1964; Howard

1964; Wetmore 1959), with no evidence of any evolutionary lineage from *paloregonus* to *olor.* Fossil remains of mute swans are known only from present-day Azerbaijan, England, Germany, Ireland, Italy, and Portugal (Howard 1964). In light of the above evidence, Wilmore's (1974:32) unsupported statements regarding the supposed presence of mute swans in North America prior to human settlement (*i.e.*, ''From the discovery of swan fossils of the Pleistocene period it is believed the mute swan was indigenous to North America,'' and ''Further proof of the mute being a native of North America has been found'') are not scientifically credible.

(b) *Historical Illustrations.* We continue to conclude that none of the birds depicted in Harriot (1590) can be confidently identified to a particular species of swan, and the illustrations certainly do not provide evidence of the presence of mute swans in Pamlico Sound, North Carolina, in the late 16th century. John White (1537–1593), the Governor of the Roanoke colony and the artist whose illustrations grace Harriot (1590), produced a set of 27 portraits of North American birds that now resides in the British Museum; while the trumpeter swan is one of the 25 species illustrated by John White, the mute swan is not (White 2002).

A variety of paper products (such as blotters, calendars, calling cards, postcards, and trade cards) manufactured and sold in the United States in the late 19th and early 20th century often were adorned with fanciful illustrations of birds, and not infrequently the birds depicted were of European origin, including such species as mute swan, European robin, and European goldfinch. For this reason, commercial illustrations such as the Currier & Ives print purportedly depicting mute swans in the Chesapeake Bay in 1872 do not provide reliable evidence of the native occurrence of this species.

It is unreasonable to suggest that a species as large and distinctive as the mute swan—if it was truly a part of the native North American avifauna—would not have been encountered by reputable wildlife artists such as Alexander Wilson or John James Audubon and depicted in their artwork, or collected by any of the early naturalists such as Spencer Fullerton Baird, Charles Lucien Bonaparte, William Brewster, Elliott Coues, Thomas Nuttall, and Robert Ridgway during expeditions of exploration across the length and breadth of the American frontier. The absence of mute swans in the works of Wilson and Audubon, together with the absence of verifiable 18th or 19th century specimen records, is sufficient evidence for us to conclude that the mute swan is not native to the United States or its territories.

(c) *Claims of natural occurrence in the western United States.* Contrary to the reviewer's claim, the range map in Dement'ev and Gladkov (1952:303) does not depict a mute swan breeding population in extreme northwestern Alaska. In fact, there are no known natural occurrences of mute swans in Alaska (Ciaranca *et al.* 1992; Gabrielson and Lincoln 1959; Gibson 1997). Similarly, the suggestion of ''migration'' between northeast Siberia and northwest Alaska, ''with [mute] swans coming down from Alaska and taking up residence in Washington, Oregon, and parts of Canada in between'' is speculation, unsupported by evidence (Ciaranca *et al.* 1992).

All occurrences of the mute swan in British Columbia, Washington, Oregon, and California—including all known instances of breeding—can be confidently attributed to birds originating from human-assisted introductions or escapes (Campbell *et al.* 1990; Washington Ornithological Society 2004; Gilligan *et al.* 1994; Small 1994). The mute swans photographed on a lake in Del Monte, California, and published in the August 1904 issue of Country Life in America magazine undoubtedly represent an early introduction of domesticated or semidomesticated birds to the grounds of the luxurious Hotel Del Monte (opened in 1880) or the Old Del Monte golf course (opened in 1897), both located on the Monterey Peninsula. In short, there are no known natural occurrences of mute swans in any of these jurisdictions.

Issue 5: Several reviewers complained that we had not ruled out the possibility of natural occurrence in the United States or its territories for one or more of the species included on the draft list, with the following 19 being specifically mentioned by one or more respondents: bar-headed goose, red-breasted goose, mute swan, white-faced whistling duck, ruddy shelduck, common shelduck, white stork, king vulture, red-backed hawk, great black-hawk, southern lapwing, blue-headed quail-dove, black-throated mango, San Blas jay, great tit, greater Antillean bullfinch, Cuban bullfinch, Cuban grassquit, and European greenfinch.

Service Response: We again reviewed the scientific sources that were used to make a determination that these species are not native to the United States or its territories. We conclude that there is insufficient evidence to show that any of these species have occurred anywhere in the United States or its territories unaided by human assistance. In particular, the absence of any substantiated record of natural occurrence in the United States or its territories in the AOU Check-list (1998, as amended) or other competent authorities constitutes substantial evidence that none of these species is native to the United States or its territories. This decision does not preclude the addition of any of these species to the list of migratory birds protected by the MBTA (50 CFR 10.13) at some future date should substantive evidence (such as a specimen, identifiable photograph, or sound recording) become available confirming its natural occurrence in the United States or its territories.

Issue 6: Two reviewers questioned the omission of the muscovy duck and requested a clarification as to why this species is not on the list.

Service Response: The muscovy duck (*Cairina moschata*) has been domesticated for hundreds of years, with feral birds now being broadly distributed across the globe. In the United States, domesticated and semidomesticated birds are found in farms, parks, private collections, and zoos, and feral populations have been established in south Texas, Florida, and possibly elsewhere. It is native to the neotropics, where it is ''*Resident* in the lowlands from Sinaloa and Tamaulipas [Mexico], south through most of Middle America (including Cozumel Island) and South America south, west of the Andes to western Ecuador and east of the Andes to northern Argentina and Uruguay'' (AOU 1998:64). Through natural expansion, it is now a ''Rare visitor on the Rio Grande in Texas (Hildalgo, Starr, and Zapata counties), where breeding was reported in 1994'' (*ibid.* 64–65). On that basis, we believe that it now qualifies for protection under the MBTA, and will be making a formal proposal to that effect in a forthcoming revision to the list of migratory birds (50 CFR 10.13) to be published in the **Federal Register**.

Issue 7: The Service must continue to protect all migratory birds until it promulgates the final list of nonnative species.

Service Response: The Service can only enforce the prohibitions of the MBTA as they exist. To the extent that those prohibitions ever applied to nonnative species, they no longer applied as of December 8, 2004. As discussed above, the publication of this final list does not have any legal effect. Even if it did, this issue is now moot with publication of the final list.

Issue 8: One reviewer noted that the MBTRA does little to resolve the problems caused by nonnative birds in the Hawaiian Islands, where at least seven species native to the continental United States have been intentionally introduced and established, with some of them now being detrimental to native wildlife.

Service Response: The MBTA and the international migratory bird conventions do not allow the exemption of species on a geographic basis. If a species is native anywhere in the United States or its territories and belongs to a family covered by one or more of the four conventions, it is protected anywhere and everywhere that the MBTA applies. Federal regulations implementing the MBTA authorize mechanisms such as depredation permits or depredation orders that may be used to grant local authorities greater leeway in dealing with situations in which protected migratory birds are causing damage to agricultural crops, livestock, or wildlife, or when causing a health hazard or other nuisance.

Issue 9: One reviewer argued that nothing in the MBTA or the MBTRA prevents the Service from affording the protection of the MBTA to species that belong to families not covered by any of the underlying migratory bird treaties, and suggested biologically-based criteria that would consider the population status of a species and its need for conservation action rather than the inclusion or exclusion of a family in one or more of the treaties.

Service Response: We disagree. Neither the MBTA nor the MBTRA provide us the authority to grant MBTA protection to species that (a) don't belong to any of the 69 families covered by the Canadian, Mexican, or Russian conventions; or (b) aren't specifically listed in the Japanese or Russian conventions. The inclusion of species that belong to families not currently covered by any of the conventions (such as Psittacidae or Timaliidae, for example) would require an amendment to one of the conventions to expand the families to which it applies (this was done with respect to the treaty with Mexico in 1972), or an amendment to the MBTA applying its prohibitions to species not covered by any of the treaties.

Issue 10: Many of the 770 private citizens opposed to the Service's determination that these species are not subject to the protection of the MBTA expressed the view that publication of the list ''will declare an open season on the killing of over a hundred species of birds, and mark the beginning of a mass slaughter campaign against mute swans.''

Service Response: Of the 124 species included on the final list, only one, the mute swan, has ever been treated as Federally protected under the MBTA. *See Hill* v. *Norton,* 275 F. 3d 98 (D.C. Cir. 2001). By declaring that the MBTA does not apply to nonnative human-introduced species, the MBTRA merely restores the status quo that prevailed during the first 83 years of the MBTA. More than 100 species of nonnative migratory birds have been introduced into the United States or its territories since enactment of the MBTA in 1918. In the absence of Federal protection, 18 of those species successfully established self-sustaining breeding populations. Today, 16 of these 18 species continue to maintain thriving breeding populations and several have expanded their ranges dramatically, all in the continued absence of Federal protection. In publishing this list, we do not ''declare on open season'' or promote the killing of any species; we merely list the species that are not Federally protected under the MBTA because they are nonnative and human-introduced.

What Determination Did the Service Make Regarding the Mute Swan?

Because of the previous litigation regarding the mute swan, and because of the comments we received asserting that the mute swan is a native species, we have decided to treat the comments received from MBTA Advocates on the proposed list as a petition for rulemaking pursuant to the Administrative Procedure Act, 5 U.S.C. 553(e), to add the mute swan to the list of birds covered by the MBTA found at 50 CFR 10.13. As noted above, the list of nonnative species in this notice is published for information purposes, and does not constitute a binding factual determination by the agency with respect to any of the species listed. In contrast, we have made, in response to the mute swan petition, a factual determination that the mute swan is not native to the United States or its territories. In a separate letter, we have informed MBTA Advocates that we have denied their petition. Members of the public may at any time provide the Service with information concerning whether (a) birds currently listed in 50 CFR 10.13 are not covered by the MBTA, or (b) birds not listed in 50 CFR 10.13 are covered by the MBTA, for any reason, including their status as native or nonnative species. The public may also petition for specific rulemaking changes. In any case, 50 CFR 10.13, subject to any amendments, constitutes the Service's binding interpretation of the species covered by the MBTA.

How Does the Final List Differ From the Draft List?

Criteria. We revised the first sentence of criteria 3 by replacing ''confidently attributed solely to'' with ''best (or most reasonably) explained by.'' As revised, this sentence now reads as follows: ''All of its [each species] known occurrences in the United States can be best (or most reasonably) explained by intentional or unintentional human-assisted introductions to the wild.'' This change reflects the reality that there is sometimes a certain amount of uncertainty about the origin or provenance of individuals of some species that appear in the United States. For example, while it may be possible that an individual of a species with no known history of natural occurrence in the United States represents a natural vagrant, the most plausible or reasonable explanation is often that the individual involved represents an intentional introduction or escape from captivity. This criteria is thus consistent with the requirement for substantial evidence of natural occurrence before adding a species to the list of species protected by the MBTA at 50 CFR 10.13.

The List. After further review of the literature and the draft list, we removed 3 species and added 15.

Lanner falcon (*Falco biarmicus*), saker falcon (*F. cherrug*), and barbary falcon (*F. pelegrinoides*) are removed because of a lack of substantial evidence that they meet the criteria for inclusion.

Lanner and saker falcons are regularly imported into this country for use in recreational falconry or bird control at airports, and are believed to sometimes escape from their handlers, but we have found no literature documenting the presence of escapes in the United States.

The barbary falcon is currently protected under the MBTA as a subspecies of the peregrine falcon (*F. peregrinus*), in accordance with the taxonomic treatment of the AOU (1998) Check-list. Like the lanner and saker, barbary falcons are regularly imported into this country for use in recreational falconry or bird control at airports, and are believed to sometimes escape from their handlers, but we have found no literature documenting the presence of escapes in the United States.

The removal of these three species or subspecies from this list does not determine their qualification for protection under the MBTA.

The following 14 species were overlooked in the notice of January 4 but there is substantial evidence of nonnative human-introduced

occurrence in the United States or its territories, so we add them to the final list (the authorities upon which these determinations are based are noted parenthetically):

Nettapus coromandelianus, Cotton Pygmy-goose (Pranty 2004).

Pelecanus rufescens, Pink-backed Pelican (McKee and Erickson 2002; Pranty 2004).

Anhinga melanogaster, Oriental Darter (McKee and Erickson 2002).

Platalea leucorodia, Eurasian Spoonbill (Pranty 2004).

Threskiornis aethiopicus, Sacred Ibis (Pranty 2004).

Terathopius ecuadatus, Bateleur (Small 1994).

Grus virgo, Demoiselle Crane (Bull 1974; Cole and McCaskie 2004).

Vanellus spinosus, Spur-winged Lapwing (Bull 1974).

Corvus albicollis, White-necked Raven (Pranty 2004).

Corvus nasicus, Cuban Crow (Zeranski and Baptist 1990).

Pyrrhocorax pyrrhocorax, Red-billed Chough (Zeranski and Baptist 1990).

Dendrocitta vagabunda, Rufous Treepie (Bull 1974).

Saxicoloides fulicata, Indian Robin (Bull 1974).

Turdus ruficollis, Dark-throated Thrush (Bull 1974).

Cyanerpes cyaneus, Red-legged Honeycreeper (Pranty 2004).

What Criteria Did We Use To Identify Bird Species Not Protected by the MBTA?

In accordance with the language of the MBTRA, the Service relied on substantial evidence in the scientific record in making a determination as to which species qualified as nonnative and human-introduced. Thus, each species in the final list meets the following four criteria:

(1) It belongs to a family of birds covered by the MBTA by virtue of that family's inclusion in any of the migratory bird conventions with Canada, Mexico, Russia, or Japan. The Canadian and Mexican treaties list the families of birds that are protected. In the Russian treaty, the specific species covered are listed in an Appendix in which the species are arranged by family. Article VIII of the Russian treaty allows the parties to protect additional species that belong to the same family as a species listed in the Appendix. The treaty with Japan lists covered species in an Annex without reference to families, and contains no provision that would allow treaty parties to unilaterally add additional species.

(2) There is credible documented evidence that it has occurred at least once in an unconfined state in the United States or its territories.

(3) All of its known occurrences in the United States can be best (or most reasonably) explained by intentional or unintentional human-assisted introductions to the wild. An intentional introduction is one that was purposeful—for example, the person(s) or institution(s) involved intended for it to happen. An unintentional introduction is one that was unforeseen or unintended—for example, the establishment of self-sustaining populations following repeated escapes from captive facilities. Self-sustaining populations are able to maintain their viability from one generation to the next through natural reproduction without the introduction of additional individuals.

(4) There is no credible evidence of its natural occurrence in the United States unaided by direct or indirect human assistance. The native range and known migratory movements (if any) of the species combine to make such occurrence in the United States extremely unlikely, both historically and in the future. Migratory bird species with credible evidence of natural occurrence anywhere in the United States or its territories, even if introduced elsewhere within these jurisdictions, are listed in 50 CFR 10.13.

The Final List: What Are the Bird Species Not Protected by the MBTA?

We made this list as comprehensive as possible by including all nonnative, human-assisted species that belong to any of the families referred to in the treaties and whose occurrence(s) in the United States and its territories have been documented in the scientific literature. It is not, however, an exhaustive list of all the nonnative species that could potentially appear in the United States or its territories as a result of human assistance. New species of nonnative birds are being reported annually in the United States, and it is impossible to predict which species might appear in the near future.

The appearance of a species on this list does not preclude its addition to the list of migratory birds protected by the MBTA (50 CFR 10.13) at some later date should substantial evidence come to light confirming natural occurrence in the United States or its territories.

The 125 species on this list are arranged by family according to the American Ornithologists' Union (1998, as amended by Banks *et al.* 2003). Within families, species are arranged alphabetically by scientific name. Common and scientific names follow Monroe and Sibley (1993). Where the names adopted by the American Ornithologists' Union differ from those of Monroe and Sibley, they are given in parentheses. Species with established, self-sustaining populations are denoted with an asterisk (*).

Family Anatidae

Aix galericulata, Mandarin Duck
Alopochen aegyptiacus, Egyptian Goose
Anas hottentota, Hottentot Teal
Anas luzonica, Philippine Duck
Anser anser, Graylag Goose
Anser anser 'domesticus', Domestic Goose
Anser cygnoides, Swan Goose
Anser indicus, Bar-headed Goose
Branta ruficollis, Red-breasted Goose
Callonetta leucophrys, Ringed Teal
Chenonetta jubata, Maned Duck
Coscoroba coscoroba, Coscoroba Swan
Cygnus atratus, Black Swan
Cygnus melanocoryphus, Black-necked Swan
Cygnus olor, Mute Swan*
Dendrocygna viduata, White-faced Whistling-Duck
Neochen jubata, Orinoco Goose
Netta peposaca, Rosy-billed Pochard
Netta rufina, Red-crested Pochard
Nettapus coromandelianus, Cotton Pygmy-goose
Tadorna ferruginea, Ruddy Shelduck
Tadorna tadorna, Common Shelduck

Family Pelecanidae

Pelecanus onocroatalis, Great White Pelican
Pelecanus rufescens, Pink-backed Pelican

Family Phalacrocoracidae

Phalacrocorax gaimardi, Red-legged Cormorant

Family Anhingidae

Anhinga melanogaster, Oriental Darter

Family Threskiornithidae

Platalea leucorodia, Eurasian Spoonbill
Threskiornis aethiopicus, Sacred Ibis

Family Ciconiidae

Ciconia abdimii, Abdim's Stork
Ciconia ciconia, White Stork
Ciconia episcopus, Woolly-necked Stork
Ephippiorhynchus asiaticus, Black-necked Stork

Family Cathartidae

Sarcoramphus papa, King Vulture

Family Phoenicopteridae

Phoenicopterus chilensis, Chilean Flamingo
Phoenicopterus minor, Lesser Flamingo

Family Accipitridae

Buteo polyosoma, Red-backed Hawk
Buteogallus urubitinga, Great Black-Hawk
Gyps sp., Griffon-type Old World vulture
Terathopius ecuadatus, Bateleur

Family Rallidae

Aramides cajanea, Gray-necked Wood-Rail

Family Gruiidae

Balearica pavonina, Black Crowned-Crane
Balearica regulorum, Gray Crowned-Crane

Grus antigone, Sarus Crane
Grus virgo, Demoiselle Crane

Family Charadriidae

Vanellus chilensis, Southern Lapwing
Vanellus spinosus, Spur-winged Lapwing

Family Laridae

Larus novaehollandiae, Silver Gull

Family Columbidae

Caloenas nicobarica, Nicobar Pigeon
Chalcophaps indica, Emerald Dove
Columba livia, Rock Pigeon*
Columba palumbus, Common Wood-Pigeon
Gallicolumba luzonica, Luzon Bleeding-heart
Geopelia cuneata, Diamond Dove
Geopelia humeralis, Bar-shouldered Dove
Geopelia striata, Zebra Dove*
Geophaps lophotes, Crested Pigeon
Geophaps plumifera, Spinifex Pigeon
Geophaps smithii, Partridge Pigeon
Leucosarcia melanoleuca, Wonga Pigeon
Phaps chalcoptera, Common Bronzewing
Starnoenas cyanocephala, Blue-headed Quail-Dove
Streptopelia bitorquata, Island Collared-Dove*
Streptopelia chinensis, Spotted Dove*
Streptopelia decaocto, Eurasian Collared-Dove*
Streptopelia risoria, Ringed Turtle-Dove*

Family Strigidae

Pulsatrix perspicillata, Spectacled Owl

Family Trochilidae

Anthracothorax nigricollis, Black-throated Mango

Family Corvidae

Callocitta colliei, Black-throated Magpie-Jay
Corvus albicollis, White-necked Raven
Corvus corone, Carrion Crow
Corvus nasicus, Cuban Crow
Corvus splendens, House Crow
Cyanocorax caeruleus, Azure Jay
Cyanocorax sanblasianus, San Blas Jay
Dendrocitta vagabunda, Rufous Treepie
Garrulus glandarius, Eurasian Jay
Pyrrhocorax pyrrhocorax, Red-billed Chough
Urocissa erythrorhyncha, Blue Magpie (=Red-billed Blue-Magpie)

Family Alaudidae

Alauda japonica, Japanese Skylark
Lullula arborea, Wood Lark
Melanocorypha calandra, Calandra Lark
Melanocorypha mongolica, Mongolian Lark

Family Paridae

Parus caeruleus, Blue Tit
Parus major, Great Tit
Parus varius, Varied Tit

Family Cinclidae

Cinclus cinclus, White-throated (=Eurasian) Dipper

Family Sylviidae

Cettia diphone, Japanese Bush-Warbler*
Sylvia atricapilla, Blackcap

Family Turdidae

Copsychus malbaricus, White-rumped Shama*
Copsychus saularis, Oriental Magpie-Robin
Erithacus rubecula, European Robin
Luscinia akahige, Japanese Robin
Luscinia komadori, Ryukyu Robin
Luscinia megarhynchos, Common (=European) Nightingale
Saxicoloides fulicata, Indian Robin
Turdus philomelos, Song Thrush
Turdus ruficollis, Dark-throated Thrush

Family Prunellidae

Prunella modularis, Hedge Accentor (=Dunnock)

Family Thraupidae

Piranga rubriceps, Red-hooded Tanager
Thraupis episcopus, Blue-gray Tanager
Cyanerpes cyaneus, Red-legged Honeycreeper

Family Emberizidae

Emberiza citrinella, Yellowhammer
Gubernatrix cristata, Yellow Cardinal
Loxigilla violacea, Greater Antillean Bullfinch
Melopyrrha nigra, Cuban Bullfinch
Paroaria capitata, Yellow-billed Cardinal*
Paroaria coronata, Red-crested Cardinal*
Paroaria dominicana, Red-cowled Cardinal
Paroaria gularis, Red-capped Cardinal
Sicalis flaveola, Saffron Finch*
Tiaris canora, Cuban Grassquit

Family Cardinalidae

Passerina leclacherii, Orange-breasted Bunting

Family Icteridae

Gymnostinops montezuma, Montezuma Oropendola
Icterus icterus, Troupial*
Icterus pectoralis, Spot-breasted Oriole*
Leistes (=Sturnella) militaris, Red-breasted Blackbird (=Greater Red-breasted Meadowlark)

Family Fringillidae

Carduelis cannabina, Eurasian Linnet
Carduelis carduelis, European Goldfinch
Carduelis chloris, European Greenfinch
Carduelis cucullata, Red Siskin*
Carduelis magellanica, Hooded Siskin
Loxia pysopsittacus, Parrot Crossbill
Serinus canaria, Island (=Common) Canary*
Serinus leucopygius, White-rumped Seedeater
Serinus mozambicus, Yellow-fronted Canary*

The MBTA also does not apply to many other bird species, including (1) nonnative species that have not been introduced into the U.S. or its territories, and (2) species (native or nonnative) that belong to the families not referred to in any of the four treaties underlying the MBTA. The second category includes the Tinamidae (tinamous), Cracidae (chachalacas), Phasianidae (grouse, ptarmigan, and turkeys), Odontophoridae (New World quail), Burhinidae (thick-knees), Glareolidae (pratincoles), Pteroclididae (sandgrouse), Psittacidae (parrots), Todidae (todies), Dicruridae (drongos), Meliphagidae (honeyeaters), Monarchidae (monarchs), Pycnonotidae (bulbuls), Sylviinae (Old World warblers, except as listed in Russian treaty), Muscicapidae (Old World flycatchers, except as listed in Russian treaty), Timaliidae (wrentits), Zosteropidae (white-eyes), Sturnidae (starlings, except as listed in Japanese treaty), Coerebidae (bananaquits), Drepanidinae (Hawaiian honeycreepers), Passeridae (Old World sparrows, including house or English sparrow), Ploceidae (weavers), and Estrildidae (estrildid finches), as well as numerous other families not represented in the United States or its territories. A partial list of the nonnative human-introduced species included in category 2 is available at *http://migratorybirds.fws.gov.*

Author

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Other Sources

A list of other sources used to compile this list is available upon request from any of the **ADDRESSES** listed above. It has also been posted online at *http://migratorybirds.fws.gov.*

Dated: March 3, 2005.

Steve Williams,

Director, U.S. Fish and Wildlife Service.

[FR Doc. 05–5127 Filed 3–11–05; 11:37 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–100–05–1310–DB]

Notice of Meeting of the Pinedale Anticline Working Group's Transportation Task Group

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of public meeting.

SUMMARY: In accordance with the Federal Land Policy and Management Act (1976) and the Federal Advisory Committee Act (1972), the U.S. Department of the Interior, Bureau of Land Management (BLM) Pinedale Anticline Working Group (PAWG) Transportation Task Group (subcommittee) will meet in Pinedale, Wyoming, for a business meeting. Task Group meetings are open to the public.

DATES: PAWG Transportation Task Group meetings are scheduled for March 29, 2005 and April 5, 2005. Each meeting will be held from 1 p.m. until 5 p.m.

ADDRESSES: Both meetings of the PAWG Transportation Task Group will be held in the Board Room of the Pinedale Library at 155 S. Tyler Ave., Pinedale, WY.

FOR FURTHER INFORMATION CONTACT: Bill Wadsworth, BLM/Transportation TG Liaison, Bureau of Land Management, Pinedale Field Office, 432 E. Mills St., P.O. Box 738, Pinedale, WY 82941; 307–367–5341.

SUPPLEMENTARY INFORMATION: The Pinedale Anticline Working Group (PAWG) was authorized and established with release of the Record of Decision (ROD) for the Pinedale Anticline Oil and Gas Exploration and Development Project on July 27, 2000. The PAWG advises the BLM on the development and implementation of monitoring plans and adaptive management decisions as development of the Pinedale Anticline Natural Gas Field (PAPA) proceeds for the life of the field. The agenda for these meetings will include discussion and

refinement of the transportation monitoring plan to assess impacts of development in the Pinedale Anticline gas field. Final Task Group recommendations are due to the PAWG in April 2005. At a minimum, public comments will be heard just prior to adjournment of the meeting.

Dated: March 7, 2005.

Bill Wadsworth,

Acting Field Office Manager.

[FR Doc. 05–5099 Filed 3–14–05; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–100–05–1310–DB]

Notice of Meeting of the Pinedale Anticline Working Group's Cultural and Historic Task Group

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of public meeting and cancellation.

SUMMARY: In accordance with the Federal Land Policy and Management Act (1976) and the Federal Advisory Committee Act (1972), the U.S. Department of the Interior, Bureau of Land Management (BLM) Pinedale Anticline Working Group (PAWG) Cultural and Historic Task Group (subcommittee) will meet in Pinedale, Wyoming, for a business meeting. Task Group meetings are open to the public.

DATES: A PAWG Cultural and Historic Task Group meeting is scheduled for April 12, 2005, from 5 p.m. until 9 p.m.

ADDRESSES: The PAWG Cultural and Historic Task Group meeting will be held in the BLM Pinedale Field Office conference room at 432 E. Mill St., Pinedale, WY.

FOR FURTHER INFORMATION CONTACT: Dave Vlcek at 307–367–5327 or Kierson Crume at 307–367–5343, BLM/Cultural and Historic TG Liaisons, Bureau of Land Management, Pinedale Field Office, 432 E Mills St., P.O. Box 768, Pinedale, WY 82941.

SUPPLEMENTARY INFORMATION: The Pinedale Anticline Working Group (PAWG) was authorized and established with release of the Record of Decision (ROD) for the Pinedale Anticline Oil and Gas Exploration and Development Project on July 27, 2000. The PAWG advises the BLM on the development and implementation of monitoring plans and adaptive management decisions as development of the Pinedale Anticline Natural Gas Field (PAPA) proceeds for the life of the field. The agenda for these meetings will include information gathering and discussion related to developing a reclamation monitoring plan to assess the impacts of development in the Pinedale Anticline gas field, and identifying who will do and who will pay for the monitoring. Task Group recommendations are due to the PAWG in February 2005. At a minimum, public comments will be heard just prior to adjournment of the meeting.

Dated: March 8, 2005.

Bill Wadsworth,

Acting Field Office Manager.

[FR Doc. 05–5100 Filed 3–14–05; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–100–05–1310–DB]

Notice of Meeting of the Pinedale Anticline Working Group's Socioeconomic Task Group

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of public meeting.

SUMMARY: In accordance with the Federal Land Policy and Management Act (1976) and the Federal Advisory Committee Act (1972), the U.S. Department of the Interior, Bureau of Land Management (BLM) Pinedale Anticline Working Group (PAWG) Socioeconomic Task Group (subcommittee) will meet in Big Piney, Wyoming, for a business meeting. Task Group meetings are open to the public.

DATES: The PAWG Socioeconomic Task Group will meet April 12, 2005 from 10 a.m. until 2 p.m.

ADDRESSES: The meeting of the PAWG Socioeconomic Task Group will be held at the Big Piney Library at 106 S. Fish, Big Piney, WY.

FOR FURTHER INFORMATION CONTACT: Roy Allen, BLM/Socioeconomic TG Liaison, Bureau of Land Management, Wyoming State Office, 5353 Yellowstone Rd., Cheyenne, WY 82009, or P.O. Box 1828, Cheyenne, WY 82003; 307–775–6031.

SUPPLEMENTARY INFORMATION: The Pinedale Anticline Working Group (PAWG) was authorized and established with release of the Record of Decision (ROD) for the Pinedale Anticline Oil and Gas Exploration and Development Project on July 27, 2000. The PAWG advises the BLM on the development and implementation of monitoring plans and adaptive management decisions as development of the Pinedale Anticline Natural Gas Field proceeds for the life of the field. The agenda for these meetings will include discussion and refinement of the socioeconomic monitoring plan to assess impacts of development in the Pinedale Anticline gas field. Final Task Group recommendations are due to the PAWG in April, 2005. At a minimum, public comments will be heard just prior to adjournment of the meeting.

Dated: March 8, 2005.

Bill Wadsworth,

Acting Field Office Manager.

[FR Doc. 05–5101 Filed 3–14–05; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–100–05–1310–DB]

Notice of Meeting of the Pinedale Anticline Working Group

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of public meeting.

SUMMARY: In accordance with the Federal Land Policy and Management Act (1976) and the Federal Advisory Committee Act (1972), the U.S. Department of the Interior, Bureau of Land Management (BLM) Pinedale Anticline Working Group (PAWG) will meet in Pinedale, Wyoming, for a business meeting. Group meetings are open to the public.

DATES: The PAWG will meet April 22, 2005, from 9 a.m. until 5 p.m.

ADDRESSES: The meeting of the PAWG will be held in the Lovatt room of the Pinedale Library, 155 S. Tyler Ave., Pinedale, WY.

FOR FURTHER INFORMATION CONTACT: Carol Kruse, BLM/PAWG Liaison, Bureau of Land Management, Pinedale Field Office, 432 E. Mills St., P.O. Box 738, Pinedale, WY 82941; 307–367–5352.

SUPPLEMENTARY INFORMATION: The Pinedale Anticline Working Group (PAWG) was authorized and established with release of the Record of Decision (ROD) for the Pinedale Anticline Oil and Gas Exploration and Development Project on July 27, 2000. The PAWG advises the BLM on the development and implementation of monitoring plans and adaptive management decisions as development of the Pinedale Anticline Natural Gas Field proceeds for the life of the field. The agenda for this meeting will include follow-up discussions and recommendations on proposed monitoring plans submitted by

individual task groups. At a minimum, public comments will be heard prior to lunch and adjournment of the meeting.

Dated: March 7, 2005.

Bill Wadsworth,

Field Office Manager.

[FR Doc. 05–5102 Filed 3–14–05; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–100–05–1310–DB]

Notice of Meeting of the Pinedale Anticline Working Group's Reclamation Task Group

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of public meeting.

SUMMARY: In accordance with the Federal Land Policy and Management Act (1976) and the Federal Advisory Committee Act (1972), the U.S. Department of the Interior, Bureau of Land Management (BLM) Pinedale Anticline Working Group (PAWG) Reclamation Task Group (subcommittee) will meet in Pinedale, Wyoming, for a business meeting. Task Group meetings are open to the public.

DATES: The PAWG Reclamation Task Group will meet April 6, 2005, from 6 p.m. until 8 p.m.

ADDRESSES: The meetings of the PAWG Reclamation Task Group will be held in the Lovatt Room at the Sublette County Library. The Sublette County Library is located at 155 South Tyler Ave., in Pinedale.

FOR FURTHER INFORMATION CONTACT: Dessa Dale, BLM/Reclamation TG Liaison, Bureau of Land Management, Pinedale FO, 432 E. Mill Street, P.O. Box 768, Pinedale WY 82941; 307–367–5321.

SUPPLEMENTARY INFORMATION: The Pinedale Anticline Working Group (PAWG) was authorized and established with release of the Record of Decision (ROD) for the Pinedale Anticline Oil and Gas Exploration and Development Project on July 27, 2000. The PAWG advises the BLM on the development and implementation of monitoring plans and adaptive management decisions as development of the Pinedale Anticline Natural Gas Field (PAPA) proceeds for the life of the field. The agenda for this meeting will be discussion related to revision of the draft reclamation monitoring plan into a new format. The meeting will address concurrence on the revised plan, nomination of a new chairperson, and other items of concern within the Reclamation Task Group. Public comments will be accepted.

Dated: March 7, 2005.

Bill Wadsworth,

Acting Field Office Manager.

[FR Doc. 05–5103 Filed 3–14–05; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–100–05–1310–DB]

Notice of Meeting of the Pinedale Anticline Working Group's Water Resources Task Group

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of public meeting.

SUMMARY: In accordance with the Federal Land Policy and Management Act (1976) and the Federal Advisory Committee Act (1972), the U.S. Department of the Interior, Bureau of Land Management (BLM) Pinedale Anticline Working Group (PAWG) Water Resources Task Group (subcommittee) will meet in Pinedale, Wyoming, for a business meeting. Task Group meetings are open to the public.

DATES: PAWG Water Resources Task Group meetings are scheduled for April 6, 2005 and May 12, 2005. Each meeting will be held from 9 a.m. until 5 p.m.

ADDRESSES: Both meetings of the PAWG Water Resources Task Group will be held in the Lovatt Room of the Pinedale Library at 155 S. Tyler Ave., Pinedale, WY.

FOR FURTHER INFORMATION CONTACT: Catherine Woodfield, BLM/Water Resources TG Co-Liaison, Bureau of Land Management, Pinedale Field Office, 432 E. Mills St., P.O. Box 738, Pinedale, WY 82941; (307) 367–5360 or Dennis Doncaster, BLM/Water Resources TG Co-Liaison, Bureau of Land Management, Rock Springs Field Office, 280 Hwy 191 North, Rock Springs, Wyoming, 82901; (307) 352–0207.

SUPPLEMENTARY INFORMATION: The Pinedale Anticline Working Group (PAWG) was authorized and established with release of the Record of Decision (ROD) for the Pinedale Anticline Oil and Gas Exploration and Development Project on July 27, 2000. The PAWG advises the BLM on the development and implementation of monitoring plans and adaptive management decisions as development of the Pinedale Anticline Natural Gas Field proceeds for the life of the field.

The agenda for these meetings will include discussion and refinement of the water resources monitoring plan to assess impacts of development in the Pinedale Anticline gas field. Final Task Group recommendations are due to the PAWG in April, 2005. At a minimum, public comments will be heard just prior to adjournment of the meeting.

Dated: March 7, 2005.

Bill Wadsworth,

Acting Field Office Manager.

[FR Doc. 05–5104 Filed 3–14–05; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AK–024–05–1610–DU–WMRA]

Notice of Intent To Prepare Plan Amendment for the 1986 White Mountains National Recreation Area Resource Management Plan (RMP)

AGENCY: Northern Field Office, Bureau of Land Management, Fairbanks, Alaska.

ACTION: Notice of intent.

SUMMARY: This document provides notice that the Bureau of Land Management (BLM) intends to prepare an RMP amendment for the White Mountains National Recreation Area. The amendment will fulfill the needs and obligations set forth by the National Environmental Policy Act (NEPA), the Federal Land Policy and Management Act (FLPMA), and BLM management priorities. The BLM will work closely with interested parties to identify the management decisions that are best suited to local, regional and national needs and concerns. The public scoping will be used to identify planning issues and develop planning criteria.

DATES: The scoping comment period will commence with the publication of this notice. Formal scoping will end 60 days after publication of this notice.

Public Participation: Comments on issues and planning criteria should be submitted in writing and should be received on or before the end of the scoping period at the address listed below. One public meeting will be held in Fairbanks during the scoping and preparation period. The meeting will be announced through local news media and the BLM Web site (*http://aurora.ak.blm.gov/*) at least 15 days prior to the meeting.

ADDRESSES: Written comments should be sent to: Northern Field Office, Bureau of Land Management, 1150 University Avenue, Fairbanks, Alaska 99709–3844, attention Lon Kelly.

FOR FURTHER INFORMATION CONTACT: For further information and/or to have your name added to our mailing list, contact Lon Kelly, telephone (907) 474–2368.

SUPPLEMENTARY INFORMATION: The RMP for the White Mountains National Recreation Area was signed in 1986. The planning area is approximately 60 miles northwest of Fairbanks, Alaska, and encompasses approximately 1,000,000 acres of public lands within the recreation area and approximately 20,000 acres of public lands outside of the Recreation Area. There are approximately 160 acres of private lands within the Recreation Area. A recent evaluation of the RMP found issues related to several existing land use plan allocations that will require an amendment to the RPM in order to be changed. These resource use allocations include: (1) Areas designated for off-highway vehicle use are not meeting RMP objectives and need to be reevaluated, (2) two transportation corridors were prescribed in the RMP but only one corridor was established. The second corridor was replaced by the Nome Creek Gateway project. The plan should be updated to reflect the change, (3) there are other issues affecting this planning area including, (a) federally managed lands exist within the planning area boundaries but were not included in or covered by the RMP, (b) there has been a change in Federal subsistence regulations since the RMP was completed, (c) ownership patterns in the area have changed due to the completion of State and native selections, and (d) fire management policy. Other issues may be considered depending on public input. Additional issues to be addressed in this amendment can be submitted to the BLM by interested agencies, groups, and individuals throughout the planning process. Documents pertinent to this amendment may be examined at the Northern Field Office located in Fairbanks, Alaska. Comments, including names and street addresses of respondents, will be available for public review at the Northern Field Office during regular business hours 7:45 a.m. to 4:30 p.m., Monday through Friday, except holidays, and may be published as part of the EA. Individual respondents may request confidentiality.

If you wish BLM to withhold your name or street address from public review or from disclosure under the Freedom of Information Act, you must state this prominently at the beginning or your written comment. Such requests will be honored to the extent allowed by law. All submissions from organizations and businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be available for public inspection in their entirety.

Robert Schneider,

Field Manager.

[FR Doc. 05–5018 Filed 3–14–05; 8:45 am]

BILLING CODE 4310–JA–P

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Outer Continental Shelf (OCS) Civil Penalties

AGENCY: Minerals Management Service (MMS).

ACTION: Notice summarizing OCS civil penalties paid, January 1, 2004, through December 31, 2004.

SUMMARY: This notice provides a listing of civil penalties paid January 1, 2004, through December 31, 2004, for violations of the OCS Lands Act (OCSLA). The goal of the MMS OCS Civil Penalties Program is to assure safe and clean operations on the OCS. Through the pursuit, assessment, and collection of civil penalties and referrals for the consideration of criminal penalties, the program is designed to encourage compliance with OCS statutes and regulations. The purpose of publishing the penalties summary is to provide information to the public on violations of special concern in OCS operations and to provide an additional incentive for safe and environmentally sound operations.

FOR FURTHER INFORMATION CONTACT: Joanne McCammon (Acting Program Coordinator), 703–787–1292.

SUPPLEMENTARY INFORMATION: The Oil Pollution Act of 1990 (OPA 90) strengthened section 24 of the OCSLA Amendments of 1978. Subtitle B of OPA 90, titled ''Penalties,'' increased the amount of the civil penalty from a maximum of $10,000 to a maximum of $20,000 per violation for each day of noncompliance. More importantly, in cases where a failure to comply with applicable regulations constitutes or constituted a threat of serious, irreparable, or immediate harm or damage to life (including fish and other aquatic life); property; any mineral deposit; or the marine, coastal, or human environment; OPA 90 provided the Secretary of the Interior (Secretary) with the authority to assess a civil penalty without regard to the requirement of expiration of a period of time allowed for corrective action.

On August 8, 1997, MMS published new regulations (62 FR 42668) implementing the civil penalty provisions of the OCSLA. Written in ''plain English,'' the new question-and-answer format provides a better understanding of the OCS civil penalty process. In addition, the provisions of OPA 90 require the Secretary to adjust the maximum civil penalty to reflect any increases in the Consumer Price Index. The new rule increased the maximum civil penalty to $25,000 per violation, per day. Please note, subsequent to publishing the new regulations, MMS made several corrections and amendments, including the appeals procedures. These were published at 63 FR 42711, 8/11/98; 64 FR 9066, 2/24/99; 62 FR 9065, 2/24/99, and 64 FR 26257, 5/13/99.

On November 28, 2003, MMS published a new regulation (68 FR 61622) adjusting the maximum civil penalty assessment to comply with the Department of Labor's Consumer Price Index. The maximum amount is now $30,000 per violation per day.

Between August 18, 1990, and January 2005, MMS initiated 504 civil penalty reviews. Operators have paid 397 civil penalties for a total of $13,234,792 in fines. Seventy cases were dismissed; 5 cases were merged; and 32 cases are under review.

On September 1, 1997, the Associate Director of Offshore Minerals Management issued a notice informing lessees and operators of Federal oil, gas, and sulphur leases on the OCS that MMS will annually publish a summary of OCS civil penalties paid. The annual summary will highlight the identity of the party, the regulation violated, and the amount paid. The following table provides a listing of the penalties paid between January 1, 2004, and December 31, 2004.

2004 CIVIL/CRIMINAL PENALTIES—SUMMARY ALL PENALTIES PAID IN CALENDAR 2004 (1/1/2004–12/31/2004)

[The following acronyms are used in this table: SCSSV (surface controlled subsurface safety valve); SSV (surface safety valve); PSHL (pressure safety high/low); LSH (level safety high); INC (incident of non-compliance); ESD (emergency shutdown device); H_2S (Hydrogen Sulfide)]

Operator name and Case No.	Violation and date(s)	Penalty paid and date paid	Regulation(s) violated (30 CFR)
Dominion Exploration & Production, Inc., G–2002–049.	A fire resulted during a welding operation when operator failed to properly protect equipment containing hydrocarbons. Equipment was located on a lower deck immediately beneath welding site.	$28,000 2/11/04	
	8/14/02–8/14/02		250.107
	8/15/02–8/15/02		250.113
TDC Energy LLC (Island Operators Co., Inc.), G–2003–005.	The operating company was conducting operations without an H_2S Contingency Plan and with a confirmed presence of H_2S in concentrations and volumes that could potentially result in atmospheric concentrations of 20 ppm or more of H_2S.	$25,000 5/7/04	
	10/29/02–10/29/02		250.417(f)
Pogo Producing Company, G–2003–007.	The sump pump ABH–1460 was isolated from the sump tank by a closed valve, rendering the pump inoperable.	$10,000 3/12/04	
	1/29/03–1/29/03		250.300(b)
Murphy Exploration & Production Company, G–2003–009.	Relay for the departing gas pipeline (KAH–0056) PSHL pilots was found pinned out of service.	$10,000 6/29/04	
	3/17/03–3/17/03		250.1004
BP America Production Company (Diamond Offshore Drilling, Inc.), G–2003–010.	The Rig's Gas Detection System was bypassed with ongoing drilling operations being conducted.	$25,000 2/3/04	
	3/1/03–3/18/03		250.410(e)(3)
Chevron U.S.A. Inc., G–2003–011	Gas detector protecting the generator building was found in the by-pass position.	$20,000 1/15/04	
	3/7/03–3/10/03		250.803(c)
Devon Louisiana Corporation, G–2003–012.	The production process group by-pass selector valve was found in the by-pass mode.	$30,000 4/1/04	
	9/13/02–9/13/02		250.803(c)
Helis Oil & Gas Company, LLC, G–2003–014.	Surface-controlled subsurface safety valve for Well B–1 was blocked out of service.	$10,000 2/4/04	
	5/29/03–5/30/03		250.803(c)
El Paso Production GOM Inc., G–2003–015.	The LSH on the 3rd stage suction scrubber was bypassed and was not flagged or monitored.	$12,000 1/9/04	
	6/12/03–6/13/03		250.803(c)
GOM Shelf LLC (Production Systems, Inc.), G–2003–017.	Pollution resulted due to an inoperable drain sump system	$35,000 3/4/04	
	6/19/03–6/24/03		250.300(b)
	6/24/03–6/24/03		250.300(a)
BP Exploration & Production Inc., G–2003–018.	A fire occurred involving the as-built diverter system leading to damage to property and the environment. The diverter system was not installed as in the approved plan, had inadequate supports, added right angle turns at the ends, and did not provide for downwind diversion.	$190,000 7/6/04	
	8/6/02–8/9/02		250.409(d)(1)
	8/6/02–8/9/02		250.415
Chevron U.S.A. Inc. (Production Management Industries, LLC), G–2004–001.	While cleaning a low pressure separator, the Confined Space Entry policy was not completely followed which resulted in an explosion and flash fire that injured four employees.	$50,000 8/2/04	
	6/14/02–6/15/02		250.107(a)
Union Oil Company of California (Coastal Production Services, Inc.), G–2004–002.	Rusted out hole in grating and missing toe (kick) plates in two locations.	$35,000 7/26/04	
	5/9/03–5/9/03		250.107
Comstock Offshore, LLC, G–2004–004.	Tubing plugs for Well 01 and Well 01D were found leaking on March 31, 2002. Not repaired until September 18, 2002.	$172,000 7/9/04	
	3/31/02–9/18/02		250.804(a)(1)
Anadarko E&P Company LP (Island Operators Co. Inc.), G–2004–006.	Subsurface safety valve in Well C–21 was found leaking and left in service without being repaired or replaced for 129 days.	$96,750 8/20/04	
	7/29/02–12/4/02		250.804(a)(1)
Walter Oil & Gas Corporation, G–2004–007.	The Operator failed to implement the H_2S Contingency Plan while performing operations on a well with a confirmed presence of H_2S in concentrations and volumes that could potentially result in atmospheric concentrations of 20 ppm or more of H_2S.	$40,000 9/1/04	
	12/3/03–12/4/03		250.490(f)(1–13)
Murphy Exploration & Production Company—USA, G–2004–008.	The SCSSV, which was being used as a tubing plug, was found in the open position with the hydraulic control line pressured up.	$15,000 10/22/04	
	3/30/04–3/31/04		250.801(f)
Newfield Exploration Company, G–2004–009.	The LSH on the 2nd stage scrubber was found in the bypassed mode rendering it inoperable. It was not flagged or being monitored.	$12,000 11/8/04	
	3/29/04–4/1/04		250.803(c)

2004 CIVIL/CRIMINAL PENALTIES—SUMMARY ALL PENALTIES PAID IN CALENDAR 2004 (1/1/2004–12/31/2004)—Continued

[The following acronyms are used in this table: SCSSV (surface controlled subsurface safety valve); SSV (surface safety valve); PSHL (pressure safety high/low); LSH (level safety high); INC (incident of non-compliance); ESD (emergency shutdown device); H_2S (Hydrogen Sulfide)]

Operator name and Case No.	Violation and date(s)	Penalty paid and date paid	Regulation(s) violated (30 CFR)
Murphy Exploration & Production Company—USA, G–2004–010.	The required surface safety valve (SSV–2) for Well CA–7 was found capped in the open position and inadvertently left bypassed for 8 days.	$40,000 10/21/04	
	3/25/04–4/1/04	.....	250.803(c)
Apache Corporation (Island Operators Co. Inc.), G–2004–015.	The main safety panel for the Water Bath Heater, the Fired Component, and the Water Bath Pump was found in the bypassed position and it was not flagged or being monitored by personnel.	$5,000 12/22/04	
	6/21/04–6/21/04	.....	250.803(c)
Aera Energy LLC., P–2004–001	Aera was issued INC G–110 on 7/12/02 after a pipeline riser leak and oil spill. Aera appealed to IBLA. Through the DOI Solicitor, Aera proposed to settle the appeal with a payment of $25,000. MMS accepted Aera's offer on 1/22/04. The INC was not withdrawn and Aera paid $25,000 as a civil penalty.	$25,000 2/4/04	
			250.107(a)

Total Penalties Paid: 1/1/04–12/31/04
21 Cases: $885,750

The purpose of publishing the penalties summary is to provide information to the public on violations of special concern in OCS operations and to provide an additional incentive for safe and environmentally sound operations.

Dated: February 15, 2005.

Thomas A. Readinger,

Associate Director for Offshore Minerals Management.

[FR Doc. 05–4994 Filed 3–14–05; 8:45 am]

BILLING CODE 4310–MR–P

DEPARTMENT OF JUSTICE

Office of the Attorney General

[Docket No. OAG 107; A.G. Order No. 2760–2005]

RIN 1105–AB08

Guidelines for the PROTECT Act Amendments to the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act

AGENCY: Department of Justice.

ACTION: Notice; Proposed guidelines.

SUMMARY: The United States Department of Justice is publishing Proposed Guidelines to implement amendments to the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act enacted by the PROTECT Act.

DATES: Comments must be received by May 16, 2005.

ADDRESSES: Comments may be mailed to David J. Karp, Senior Counsel, Office of Legal Policy, Room 4509, Main Justice Building, 950 Pennsylvania Avenue, NW., Washington, DC 20530. Comments may also be submitted by the Internet at *OLPREGS@USDOJ.GOV*. Electronically submitted comments must include Docket No. OAG 107 in the subject box.

SUPPLEMENTARY INFORMATION: Section 170101 of the Violent Crime Control and Law Enforcement Act of 1994, Pub. L. 103–322, 108 Stat. 1796, 2038 (codified at 42 U.S.C. 14071) contains the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act (the ''Wetterling Act''). The Wetterling Act provides standards for state sex offender registration and community notification programs, and directs the Attorney General to issue guidelines for such programs. The main set of current Wetterling Act guidelines was published on January 5, 1999, in the **Federal Register** (64 FR 572, with corrections at 64 FR 3590), and a supplementary set of guidelines for the Campus Sex Crimes Prevention Act amendment to the Wetterling Act was published on October 25, 2002, in the **Federal Register** (67 FR 65598). States that fail to comply with the Wetterling Act's standards (as implemented and explained in the Attorney General's guidelines) are subject to a mandatory 10% reduction of the formula grant funding available under the Edward Byrne Memorial State and Local Law Enforcement Assistance Program (42 U.S.C. 3756), which is administered by the Bureau of Justice Assistance of the Department of Justice.

Subsequent to the publication of the current Wetterling Act guidelines, the Wetterling Act was amended by sections 604 and 605 of the Prosecutorial Remedies and Other Tools to end the Exploitation of Children Today Act of 2003, or PROTECT Act, Pub. L. 108–21, 117 Stat. 650, 688 (2003). These amendments provide that the means by which a State provides information to the public concerning registered sex offenders must include an Internet site, and add child pornography production and distribution offenses to the list of crimes against children for which registration is required under the Wetterling Act's standards. Supplementary guidelines are necessary to take account of the PROTECT Act amendments to the Wetterling Act.

Section 604 of the PROTECT Act, relating to Internet sites for sex offender information, states that ''[e]ach State shall implement the amendment made by this section within 3 years after the date of enactment of this Act''—*i.e.*, by April 29, 2006—''except that the Attorney General may grant an additional 2 years to a State that is making a good faith effort to implement the amendment.'' The amendment in section 605 of the PROTECT Act, relating to registration for child pornography production and distribution offenses, took effect at the time of its enactment, *i.e.*, on April 30, 2003.

Proposed Guidelines

I. Internet Sites for Sex Offender Information

The community notification provisions of the Wetterling Act that predate the PROTECT Act—paragraph (1) and the first sentence of paragraph (2) of 42 U.S.C. 14071(e)—have both permissive and mandatory aspects. The permissive aspect appears in paragraph (1), which makes it clear that the Act

does not place any ceiling on the states' disclosure of registration information. *See* 64 FR at 581 (''there is no requirement [] under the Act that registration information be treated as private or confidential to any greater extent than the state may wish'').

The mandatory aspect appears in the first sentence of paragraph (2), which generally requires States to release relevant information that is necessary to protect the public from registered offenders: ''The State * * * shall release relevant information that is necessary to protect the public concerning a specific person required to register under this section * * *.'' 42 U.S.C. 14071(e)(2). This creates a floor for the disclosure of registration information—States that wish to comply with the Wetterling Act's standards must release, by some means, information concerning registered offenders to the public as necessary for public safety. Section 604 of the PROTECT Act added a second sentence to paragraph (2), which provides that the means used to effectuate the required public disclosure of registration information must include an Internet site: ''The release of information under this paragraph shall include the maintenance of an Internet site containing such information that is available to the public and instructions on the process for correcting information that a person alleges to be erroneous.''

In greater detail, the pre-existing community notification requirement of section 14071(e)(2), and its supplementation by the PROTECT Act amendment, are as follows:

With respect to the first sentence of section 14071(e)(2), the Attorney General's guidelines explain that the principal objective is to ensure that registration programs will include means for members of the public to obtain information concerning registered offenders that is necessary for the protection of themselves or their families. Hence, it is not sufficient to release registration information only to law enforcement agencies, to other (public or private) agencies or organizations, to prospective employers, or to the victims of registrants' offenses. Nor are purely permissive or discretionary information release programs sufficient. Rather, the release of information concerning registrants to members of the public is required as necessary to protect the public, both with respect to offenders required to register because of conviction for ''a criminal offense against a victim who is a minor'' and those required to register because of conviction for a ''sexually violent offense.'' *See* 64 FR at 581–82.

Under the first sentence of section 14071(e)(2), however, ''[s]tates do * * * retain discretion to make judgments concerning the circumstances in which, and the extent to which, the disclosure of registration information to the public is necessary for public safety purposes and to specify standards and procedures for making these determinations.'' 64 FR at 582. The guidelines accordingly note that, consistent with the Wetterling Act, states may adopt different approaches concerning the class or classes of registrants on whom information will be made available to the public, and the particular means by which the information will be made publicly available. *See* 64 FR at 582.

The amendment enacted by section 604 of the PROTECT Act added a second sentence to section 14071(e)(2), which requires that the means by which a State releases to the public ''such information''—*i.e.*, information concerning ''specific person[s] required to register''—must include the maintenance of an Internet site that contains this information. 42 U.S.C. 14072(e)(2) (as amended). In other words, states must protect the public by posting on-line information concerning specific registrants that the public can access. Prior to the enactment of the PROTECT Act, most States had already established publicly accessible Web sites containing information on registered sex offenders, and the Supreme Court rejected challenges to the constitutionality of State programs including such sites in *Connecticut Department of Public Safety* v. *Doe,* 538 U.S. 1 (2003), and *Smith* v. *Doe,* 538 U.S. 84 (2003).

While the new language added by section 604 of the PROTECT Act states that the means of disclosing to the public information concerning registered sex offenders ''shall include the maintenance of an Internet site,'' 42 U.S.C. 14071(e)(2), it does not otherwise alter the general principles of the Wetterling Act's community notification provisions. Thus, States retain discretion to make judgments concerning the necessary extent of such disclosure for public safety purposes, in conformity with the understanding of the pre-existing provision (first sentence) in section 14071(e)(2). States accordingly may make judgments concerning which class or classes of their registrants will be subject to disclosure of information through the Internet, what specific information will be included on the site concerning these registrants, and the means by which this information can be searched.

Existing sex offender Web sites show variations on these points, which do not create any problem concerning compliance with section 14071(e)(2) as amended: Some States include information on all (or nearly all) of their registrants on the Internet, while others limit the registrants subject to Internet disclosure based on risk classifications or other criteria. In addition to registrants' names, the information included on sex offender Web sites commonly includes photographs of registrants, information about registrants' offenses, and information about registrants' locations, but states differ on particulars. States commonly set up their Web sites to allow searches by name and by geographic area (such as zip code), but State-to-State variations occur in this area as well. Links to existing state Web sites may be found at: *http://www.usdoj.gov/criminal/ceos/statesexoffender.html* and *http://www.fbi.gov/hq/cid/cac/states.htm.*

Beyond the general requirement—appearing already in the first sentence of section 14071(e)(2)—that the information included on the Internet site must include relevant information necessary to protect the public, the new language added by the PROTECT Act requires that the site include ''instructions on the process for correcting information that a person alleges to be erroneous.'' A State could comply with this requirement, for example, by including on its Web site information identifying the state agency responsible for correcting erroneous information, and advising persons that they can contact this agency if they believe that information on the site is erroneous. The language added by the PROTECT Act does not attempt to prescribe in any greater detail the specific standards or procedures that States will use to determine whether information on their sex offender Web sites is accurate. These standards and procedures accordingly remain a matter of State discretion, subject to compliance with other aspects of the Wetterling Act, such as section 14071(b)(3)'s provision for periodic verification of address information.

The first sentence of section 14071(e)(2) provides that the identity of the victims of registration offenses is not to be released, and this constraint applies to Internet disclosure as well as to disclosure through other forms of community notification. The existing guidelines explain the meaning and application of this limitation. *See* 64 FR at 582 (middle column). Otherwise, the Wetterling Act does not impose any ceiling on the release of registration

information or other information concerning registrants, and no compliance problems arise from including more (rather than less) information on sex offender Web sites.

II. Registration for Child Pornography Production and Distribution Offenses

Section 14071(a)(3)(A) sets out the list of ''criminal offense[s] against a victim who is a minor'' for which registration is required under the Wetterling Act's standards. Section 605 of the PROTECT Act added to this list a new clause (viii) as follows: ''production or distribution of child pornography, as described in section 2251, 2252, or 2252A of Title 18.'' The cross-referenced provisions are key statutes proscribing conduct related to child pornography in the chapter of the federal criminal code entitled ''Sexual Exploitation and Other Abuse of Children.''

The Wetterling Act's standards already encompassed registration for child pornography production offenses in some measure prior to the PROTECT Act amendment. Specifically, 42 U.S.C. 14071(a)(3)(A)(v) referred to ''use of a minor in a sexual performance,'' and the Attorney General's guidelines explained that this includes ''both live performances and using minors in the production of pornography.'' 64 FR at 577. However, there was nothing comparable to the PROTECT Act amendment's coverage of child pornography distribution (as opposed to production) offenses in the previous Wetterling Act provisions.

These guidelines interpret the new language relating to child pornography production and distribution offenses in section 14071(a)(3)(viii) to mean that registration is required for offenses whose gravamen is: (i) Creating or participating in the creation of sexually explicit visual depictions of minors, or (ii) making such depictions available to others. In greater detail, the principles governing state compliance with this provision are as follows:

A. Coverage Based on Substance Rather Than Terminology

Under section 14071(a)(3)(viii), States must require registration for offenses that substantively cover child pornography production or distribution, even if those offenses do not specifically use the words ''produce'' or ''distribute'' in defining their elements. This understanding is consistent with the interpretation of all other Wetterling Act offense coverage requirements as relating to substance, not terminology. For example, section 14071(a)(3)(A)(i) and (ii) generally include in the offense coverage list ''kidnapping of a minor'' and ''false imprisonment of a minor.'' This does not mean that registration is required only when the statute defining an offense explicitly uses the words ''kidnapping'' or ''false imprisonment.'' Rather, the Attorney General's guidelines explain: ''All states have statutes that define offenses—going by such names as 'kidnapping,' 'criminal restraint,' or 'false imprisonment'—whose gravamen is abduction or unlawful restraint of a person. States can comply with these clauses by requiring registration for persons convicted of these statutory offenses whose victims were below the age of 18.'' 64 FR at 577.

The same principle—offense coverage based on substance rather than terminology—applies to the PROTECT Act provision for child pornography offenses. For example, if a State has an offense that prohibits ''selling, transferring, or disseminating'' child pornography, that is substantively a distribution offense, and States must require registration for persons convicted of such offenses to comply with the Wetterling Act's standards.

B. Relationship to the Federal Child Pornography Offenses

Section 14071(a)(3)(A)(viii) refers to ''production or distribution of child pornography, as described in section 2251, 2252, or 2252A of Title 18.'' The offense elements in the referenced Federal statutes involve some complexity, including complications resulting from their intermixture with the statutes' specifications of the grounds supporting Federal jurisdiction, and from the related technical definitions in 18 U.S.C. 2256. In identifying State offenses for which registration is required, it is not sufficient for States to apply the exact specifications of these Federal offenses and definitions, and to require registration only for State offenses that are defined in the same way. Reading section 14071(a)(3)(A)(viii) to require registration only for State offenses that are fully congruent with the referenced Federal crimes would effectively nullify it, because there are unlikely to be any State offenses whose elements exactly mirror all the definitional particulars and elements (especially jurisdictional elements) of these Federal crimes.

Section 14071(a)(3)(A)(viii) also cannot properly be understood to mean that States need to parse through the underlying facts of particular convictions, and to match them up to the elements of the referenced Federal crimes to determine whether registration is required. The prefatory language in section 14071(a)(3)(A) does not require coverage of offense conduct that exactly matches the Federal law categories listed in that provision. Rather, it refers to coverage of a range of offenses which is ''comparable to'' the listed categories. This statutory standard was adopted in part to obviate compliance problems resulting from ''the degree of detail in the Act's definitions and * * * variations among different jurisdictions in the terminology and categorizations used in defining sex offenses.'' 64 FR at 578.

Hence, the interpretation and application of section 14071(a)(3)(A) must effectuate the legislative intent to ensure registration for child pornography production and distribution offenses in a meaningful way, while also respecting the legislative policy to avoid unnecessary impediments to State compliance that would result from requiring the direct application of detailed Federal law definitions. These guidelines implement these policies by providing that a State covers a comparable range of offenses with respect to the new clause (viii) if it requires registration for the State offenses that are directed against substantially the types of production or distribution activities addressed in 18 U.S.C. 2251, 2252, or 2252A, even though the State's definition of these offenses will not be exactly congruent with the corresponding Federal crimes. Considering the nature of the conduct proscribed by the referenced Federal crimes, this means that a State achieves compliance by requiring registration for all State offenses whose gravamen is: (i) Creating or participating in the creation of sexually explicit visual depictions of minors, or (ii) making such depictions available to others.

As noted above, production offenses of this type, which involve using minors in making pornography, were at least partially included in the Wetterling Act's offense coverage categories even before the PROTECT Act, as one form of ''use of a minor in a sexual performance'' under 42 U.S.C. 14071(a)(3)(A)(v). However, in light of the PROTECT Act's addition of an express reference to child pornography production offenses, States should review their statutes to ensure that they consistently require registration for offenses whose gravamen is creating or participating in the creation of sexually explicit visual depictions of minors. Federal offenses of this type appear in 18 U.S.C. 2251(a)–(c).

With respect to distribution offenses, there are generally two sorts of offenses that may satisfy the criterion for coverage under the new clause (viii)—*i.e.*, offenses whose gravamen is making

sexually explicit visual depictions of minors available to others.

First, the Supreme Court has held that proscribing the distribution of sexually explicit visual depictions of actual minors does not violate the First Amendment, even if the depictions do not meet the general legal definition of obscenity. *See Ashcroft* v. *Free Speech Coalition,* 535 U.S. 234, 249–50 (2002); *New York* v. *Ferber,* 458 U.S. 747 (1982). An example of a Federal offense of this type appears in 18 U.S.C. 2252A(a)(3)(B)(ii), which generally proscribes distribution of material containing ''a visual depiction of an actual minor engaging in sexually explicit conduct.'' States whose laws define comparable offenses must require registration by persons convicted of these offenses in order to comply with the Wetterling Act's standards following the PROTECT Act amendment.

Second, States may define offenses that specially proscribe or punish the distribution of obscene material depicting a minor. An example of a Federal offense of this type appears in 18 U.S.C. 2252A(a)(3)(B)(i), which generally proscribes distribution of material containing ''an obscene visual depiction of a minor engaging in sexually explicit conduct.'' States whose laws define comparable offenses must likewise require registration by persons convicted of these offenses in order to comply with the Wetterling Act's standards following the PROTECT Act amendment.

The distribution offenses for which registration must be required include offenses that are defined in terms of advertising or otherwise offering to provide to others sexually explicit visual depictions of minors, as well as offenses defined in terms of the actual transfer of such depictions. *See* 18 U.S.C. 2251(d), 2252A(a)(3)(B) (distribution offenses under the Federal statutes defined to include advertisements and offers).

The application of the foregoing principles does not require States to undertake further inquiry concerning the underlying facts in cases involving offenses whose statutory definitions are not concerned with child pornography. For example, if a person is convicted under a statute that generally proscribes the distribution of obscene material, without distinctions based on the age of the individual or individuals portrayed in the material, registration for such a conviction is not necessary to satisfy the offense coverage specification of section 14071(a)(3)(A)(viii), though it may be possible factually that an individual portrayed in the material is a minor. Rather, it is sufficient if a State requires registration for its statutory offenses that are defined in terms of the production or distribution of child pornography, as explained above.

C. Coverage of All Relevant Offenses

If a State has several offenses that satisfy the criteria for coverage under 42 U.S.C. 14071(a)(3)(A)(viii), as explained above, it must include all of them as registration offenses to comply with the Wetterling Act's standards. For example, if a State has a general child pornography distribution offense, and a separate offense of distributing child pornography through the Internet, a conforming State program must include registration by persons convicted of either offense.

This understanding is consistent with the application of the Wetterling Act's offense coverage requirements in relation to other categories. For example, if a State has a number of offenses of soliciting a minor to practice prostitution (section 14071(a)(3)(A)(vi))—*e.g.*, a general one, and a more specific one concerned with solicitation through the Internet—the Wetterling Act's standards would not be satisfied unless both were included as registration offenses. The same principle applies to offenses that fall under section 14071(a)(3)(A)(viii).

D. Production and Distribution Versus Possession

The Federal child pornography statutes that are cross-referenced in 42 U.S.C. 14071(a)(3)(A)(viii) include possession offenses—*see* 18 U.S.C. 2252(a)(4), 2252A(a)(5)—but section 14071(a)(3)(A)(viii) only refers to child pornography ''production or distribution'' as described in those statutes. Hence, States do not have to require registration for offenses that involve only possession, as opposed to production or distribution, of child pornography.

E. A Floor Rather Than a Ceiling for Offense Coverage

Like the other features of the Wetterling Act, 42 U.S.C. 14071(a)(3)(A)(viii) is part of a set of minimum standards for State sex offender registration programs, and does not limit State discretion to prescribe more stringent or extensive registration requirements. Hence, for example, though the Act does not require registration for child pornography possession offenses, a State may choose to require registration for such offenses, as well as for child pornography production and distribution offenses. Going beyond the Wetterling Act's minimum standards does not adversely affect compliance with the Act's standards or eligibility for full Byrne Formula Grant funding.

III. Application of the Requirements

As with other standards of the Wetterling Act, a State must apply the new standards under sections 604 and 605 of the PROTECT Act to offenders who are convicted after the State updates its registration program to comply with these standards. States are free to apply the new standards as well to offenders who were convicted prior to the establishment of a conforming registration program, but a State's decision on this point does not affect compliance with the Wetterling Act. *See* the Attorney General's guidelines, 64 FR at 575 (middle column, third full paragraph).

IV. Procedure for Compliance

Section 604 of the PROTECT Act, relating to Internet sites for sex offender information, provides that each State ''shall implement the amendment made by this section within 3 years after the date of enactment of this Act, except that the Attorney General may grant an additional 2 years to a State that is making a good faith effort to implement the amendment made by this section.'' 42 U.S.C. 14071 note. Since the PROTECT Act was enacted on April 30, 2003, the compliance deadline for States in relation to the establishment of Internet sites that comply with the second sentence of section 14071(e)(2) is April 29, 2006, subject to a possible extension until April 29, 2008, based on good faith efforts. Byrne Formula Grant awards to States that are not in compliance by the applicable deadline are subject to a mandatory 10% reduction in light of section 14071(f)(2).

States are encouraged to submit information concerning existing or contemplated Internet sites that comply with section 14071(e)(2) with as much lead-time as possible. This will enable the reviewing authority to assess the status of State compliance and to suggest any necessary changes to achieve compliance before the funding reduction goes into effect. At the latest, to maintain eligibility for full Byrne Formula Grant funding following April 29, 2006, States must submit to the Bureau of Justice Assistance by February 29, 2006, information that shows compliance, in the reviewing authority's judgment, with the Internet site requirement of section 14071(e)(2), or a written explanation of why compliance cannot be achieved within that period and a description of the good faith efforts that justify an

extension of time (but not more than two years) for achieving compliance.

Section 605 of the PROTECT Act, relating to the inclusion of child pornography production and distribution offenses as registration offenses under section 14071(a)(3)(A), went into effect at the time of its enactment on April 30, 2003. Byrne Formula Grant awards to States that are not in compliance with this requirement are subject to a mandatory 10% reduction in light of section 14071(f)(2). States are encouraged to submit information concerning existing or proposed provisions that comply with this requirement as soon as possible, if they have not already done so, in order to enable the reviewing authority to assess the status of State compliance and to suggest any necessary changes to achieve compliance.

In some instances, States have already submitted information bearing on their registration program's compliance with the offense coverage requirements of section 605 of the PROTECT Act, and the reviewing authority may already have reviewed such submissions in order to assist the States as promptly as possible, even prior to the issuance of formal guidelines. While these earlier reviews must be understood as provisional in character, and subject to further review under these guidelines as necessary or appropriate, no further submission may be needed from States which already provided information to the reviewing authority for purposes of review. However, in light of the articulation of standards in these guidelines, such States should review offense coverage under their existing or proposed registration provisions, and should supplement their previous submissions if necessary. As noted above, States which have not yet submitted information to the reviewing authority bearing on compliance with section 605 of the PROTECT Act should do so as soon as possible.

If a State's Byrne Formula Grant funding is reduced because of a failure to comply with the amendments enacted by section 604 or 605 of the PROTECT Act, the State may regain eligibility for full funding in later program years by establishing compliance with all applicable standards of the Wetterling Act in such later years. As noted above, the general guidelines for the Wetterling Act were published on January 5, 1999, and appear at 64 FR 572 (with corrections at 64 FR 3590, January 22, 1999), and supplementary guidelines for the Campus Sex Crimes Prevention Act amendment to the Wetterling Act were published on October 25, 2002, and appear at 67 FR 65598. The PROTECT Act amendments which these supplementary guidelines address are only parts of the Wetterling Act's standards. To maintain eligibility for full Byrne Formula Grant funding, States must comply with all of the Wetterling Act's standards.

After the reviewing authority has determined that a State is in compliance with the Wetterling Act, the State has a continuing obligation to maintain its system's consistency with the Wetterling Act's standards, and will be required as part of the Byrne Formula Grant application process in subsequent program years to certify that the State remains in compliance with the Wetterling Act.

Dated: March 7, 2005.

Alberto R. Gonzales,

Attorney General.

[FR Doc. 05–5021 Filed 3–14–05; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 04–65]

Glenn Anthony Routhouska, D.O.; Denial of Registration

On April 29, 2004, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Glenn Anthony Routhouska, D.O. (Respondent), proposing to deny his application for a DEA Certificate of Registration as a practitioner pursuant to 21 U.S.C. 823(f) as being inconsistent with public interest. The Order to Show Cause also notified Respondent that should no request for a hearing be filed within 30 days, his hearing right would be waived.

The Order to Show Cause was sent by certified mail to Respondent at his address of record at 106 North Keech, Fairfield, Texas 75840. According to the return receipt, it was received on Respondent's behalf on May 5, 2004. After more than 30 days had passed without a request for a hearing or other response from Respondent or anyone acting on his behalf, the investigative file was forwarded to the DEA Deputy Administrator for final agency action pursuant to 21 CFR 1301.43(d) and (e).

Prior to final action being completed, Respondent, unrepresented by counsel, filed a belated request for a hearing in a letter which was received by the DEA Office of Administrative Law Judges on August 20, 2004. In it he stated he was on probation with the Texas State Board of Medical Examiners and that upon initially reading the Order to Show Cause, he thought ''that a hearing was useless until I was off probation.'' On September 8, 2004, at the Government's request, the investigative file was returned to the Office of Chief Counsel for further action.

On August 30, 2004, because Respondent's request for a hearing was filed nearly four months after the Order to Show Cause had been issued, Administrative Law Judge Mary Ellen Bittner issued a Memorandum to the Parties affording the Government an opportunity to object to Respondent's request for a hearing.

On September 9, 2004, the Government filed a motion to deny Respondent request for a hearing and on September 24, 2004, Judge Bittner issued her Memorandum to the Parties, Ruling, and Order Terminating the Proceedings. In that Order, she concluded Respondent had failed to show good cause for the belated filing and granted the Government's motion, terminating proceedings before the Administrative Law Judge and ordering the matter transmitted to the Deputy Administrator for issuance of a final order pursuant to 21 CFR 1316.67. On January 10, 2005, the investigative file and related documents were returned by the Chief Counsel to the Deputy Administrator for final agency action.

The Deputy Administrator finds as follows: (1) Respondent was properly served with the Order to Show Cause and notified that if no request for a hearing was filed within 30 days of its receipt, his hearing right would be deemed waived and a final order entered, without a hearing, based upon the investigative file and record as it then appeared; (2) respondent's request for a hearing was not filed until August 20, 2004, almost two and one-half months after expiration of the 30 day filing deadline; and (3) the Administrative Law Judge granted the Government's motion to deny a hearing and ordered the proceeding terminated. The Deputy Administrator therefore concludes Respondent is deemed to have waived his hearing right and after considering material from the investigative file and record in this matter, now enters her final order without a hearing, pursuant to 21 CFR 1301.43(d) and (e) and 1316.67.

According to information in the investigative file, Respondent, who practiced family medicine out of his office in Fairfield, Texas, was previously registered with DEA as a practitioner under Certificate of Registration BR206348, authorized to handle Schedule II through V controlled

substances. On February 21, 2002, he surrendered that registration, for cause. Less than a year later, on January 27, 2003, Respondent submitted the application which is the subject of these proceedings.

In February 2002, based on information provided by a local pharmacy that was suspicious of his activities, the Texas Department of Public Safety (DPS) and DEA began investigating Respondent for diverting hydrocodone, a Schedule III controlled narcotic substance. The inquiry uncovered the following facts.

On an undetermined date prior to February 14, 2002, Respondent prescribed Vicodin, a form of hydrocodone, to patient M.H. After the Vicodin was dispensed, Respondent asked the patient to bring the prescription to his office, which she did. Asking to ''see'' the prescription, he took the vial out of the examining room and replaced the Vicodin with a non-controlled medication without telling the patient what he had done.

On February 14, 2002, Respondent prescribed Vicodin to patient T.S., who was 89 years old. After the Vicodin had been dispensed by a local pharmacy, Respondent visited the patient at his home, ostensibly to check on the medication. He then surreptiously replaced the Vicodin in the vial with Tylenol, non-controlled generic acetaminophen caplets, diverting the Vicodin for his own unauthorized use.

On February 20, 2002, Respondent was interviewed by a DEA diversion investigator and a DPS officer about the incident at patient T.S.'s home. During the interview Respondent falsely told investigators the patient's wife and daughter had asked him to switch the hydrocodone to Tylenol because they feared T.S. was taking too much hydrocodone. Respondent also falsely told officers that he had disposed of the hydrocodone by flushing it down a toilet in his medical office.

Between May 15, 2000, and July 10, 2000, Respondent purchased at least 1,000 dosage units of hydrocodone. When questioned, he initially told investigators they were provided as samples but later admitted buying them. He could only provide investigators an incomplete dispensing log and was unable to account for about half of the total dosage units. Respondent claimed that some had been stolen, but conceded not reporting the purported thefts. He also did not have purchase receipts for the hydrocodone, nor did he conduct a required a biennial inventory of controlled substances.

On February 21, 2002, as a result of the foregoing, Respondent surrendered his DEA registration and his Texas DPS controlled substance registration.

Two weeks later, on March 8, 2002, Respondent advised an elderly patient that he needed to stop by her home, ostensibly to check on some hydrocodone he had prescribed before surrendering his DEA and State registrations. However, the patient had become suspicious of Respondent because when he made house calls, large amounts of her prescribed pain medications would disappear. On one occasion her daughter saw him transferring Vicodin from its prescription vial to some sample bottles he brought to the home and took with him.

Officers were contacted and they set up an operation to monitor the visit. Respondent arrived at the patient's home and while there, he surreptitiously removed 32 of the 92 dosage units of hydrocodone which were in her prescription vial. He was then arrested by State authorities shortly after leaving the residence with the 32 units in his possession. During questioning, Respondent admitted stealing the drugs and divulged being addicted to hydrocodone. He was initially charged in State court with a felony count of obtaining a controlled substance by fraud.

On March 24, 2002, while awaiting disposition of his case, Respondent entered a one-month residential drug treatment program. He was discharged on April 24, 2002, and the program's discharge summary indicated Respondent's treatment was ''satisfactory'' and his prognosis ''fair.''

On July 3, 2002, Respondent entered a plea agreement in the 87th District Court of Freestone County, Texas, in which he pled guilty to one count of unlawful possession of a controlled substance, a Class A misdemeanor. He was eventually sentenced to three years probation and fined $4,000.

On August 15, 2003, Respondent entered into an Agreed Order with the Texas State Board of Medical Examiners which publicly reprimanded him for unprofessional conduct and placed him on probation. However, the Board did not suspend or revoke his license to practice medicine. On July 2, 2003, Texas DPS reissued Respondent a State controlled substance registration for Schedules IIN, IIIN, IV and V.

Pursuant to 21 U.S.C. 823(f), the Deputy Administrator may deny an application for a DEA Certificate of Registration if she determines that registration would be inconsistent with the public interest. Section 823(f) requires the following factors be considered in determining the public interest:

(1) The recommendation of the appropriate State licensing board or professional disciplinary authority.

(2) The applicant's experience in dispensing, or conducting research with respect to controlled substances.

(3) the applicant's conviction record under Federal or State laws relating to the manufacture, distribution, or dispensing of controlled substances.

(4) Compliance with the applicable State, Federal, or local laws relating to controlled substances.

(5) Such other conduct which may threaten the public health or safety.

These factors are to be considered in the disjunctive; the Deputy Administrator may relay on any one or a combination of factors and may give each factor the weight she deems appropriate in determining whether a registration should be revoked or an application for registration denied. *See* Henry J. Schwartz, Jr., M.D., 54 FR 16,422 (1989).

In this case, the Deputy Administrator finds factors two, three, four and five relevant in determining whether or not granting Respondent's application would be consistent with the public interest.

As to factor one, the recommendation of the appropriate State licensing board or professional disciplinary authority, there is evidence in the investigative file of adverse action being taken against respondent's professional license and at one point he surrendered his State controlled substances registration. However, he is currently licensed to practice medicine in Texas and his registration to handle controlled substances under State law was reinstated, which weight in favor of registration. However, inasmuch as State license is a necessary but not sufficient condition for DEA registration, this factor is not determinative. *See* Dan E. Hale, D.O., 69 FR 69402 (2004); Edson W. Redard, M.D., 65 FR 30616, 30619 (2000); James C. LaJevic, D.M.D., 64 FR 55962, 55964 (1999).

With respect to factors two, three, four and five, the Deputy Administrator finds respondent flagrantly abused his responsibilities as a registrant and physician. On multiple occasions he prescribed controlled substances to his elderly patients and used his position of trust and authority to gain physical access to their medications after they were dispensed by local pharmacies. He would steal his patients' controlled substances, often by leaving non-controlled caplets in their prescription bottles and would use the stolen drugs

for self-abuse. On multiple occasions, Respondent gained access to patients' homes in order to accomplish the thefts, a particularly heinous modus operandi for a trusted family physician.

Respondent also failed to maintain adequate records of controlled substances as required by DEA regulations and finally, was convicted pursuant to his plea agreement of a State misdemeanor involving controlled substances.

While the investigative file reflects Respondent sought treatment for his addiction, albeit while criminal charges were pending, and he has undergone successful follow-up random drug testing, the egregious nature of his misconduct bears directly upon his fitness to posses a DEA registration. In sum, applying factors two through five above, Respondent's abandonment of his patients' medical interests and flaunting of their personal trust to divert controlled substances to his personal use, coupled with his flagrant violations of law and regulation, all lead to the inevitable conclusion that granting this application would be inconsistent with the public interest.

Accordingly, the Deputy Administrator of the Drug Enforcement Administration, pursuant to the authority vested in her by 21 U.S.C. 823 and 28 CFR 0.100(b) and 0.104, hereby orders that the application of Glenn Anthony Routhouska, D.O., for a DEA Certificate of Registration, be, and it hereby is denied. This order is effective April 14, 2005.

Dated: February 14, 2005.

Michele M. Leonhart,

Deputy Administrator.

[FR Doc. 05–5071 Filed 3–14–05; 8:45 am]

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DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Margaret Melinda Sprague, M.D.; Revocation of Registration

On September 8, 2004, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Margaret Melinda Sprague, M.D. (Dr. Sprague) who was notified of an opportunity to show cause as to why DEA should not revoke her DEA Certificate of Registration BS1464089, pursuant to 21 U.S.C. 824(a)(3) and deny any pending applications under 21 U.S.C. 823(f), on the ground that she lacks State authority to handle controlled substances in the State of California. The Order to Show Cause also notified Dr. Sprague that should no request for a hearing be filed within 30 days, her hearing right would be deemed waived.

The Order to Show Cause was sent by certified mail to Dr. Sprague at her registered address in La Jolla, California. However that letter was unclaimed. It was then forwarded by the United States Postal Service to 7934 La Jolla Shores Drive, La Jolla, California 92037, an address Dr. Sprague had provided postal authorities as a forwarding address. She had also previously advised DEA investigators to use that address when sending correspondence related to her registration. However, the forwarded letter was also unclaimed and postal authorities returned it to DEA stamped ''Notice Left—No Response.'' Additional efforts by DEA investigators to locate Dr. Sprague's current address were also unsuccessful. DEA has not received a request for hearing or any other reply from Dr. Sprague or anyone purporting to represent her in this matter.

Therefore, the Deputy Administrator of DEA, finding that: (1) Thirty days having passed since the attempted deliveries of the order to Show Cause to the Registrant's address of record and her forwarding address; (2) reasonable and good faith efforts to locate her have been unsuccessful; and (3) no request for hearing having been received, concludes that Dr. Sprague is deemed to have waived her hearing right. *See* James E. Thomas, M.D., 70 FR 3564 (2005); Steven A. Barnes, M.D., 69 FR 51474 (2004); David W. Linder, 67 FR 12579 (2002). After considering material from the investigative file in this matter, the Deputy Administrator now enters her final order without a hearing pursuant to 21 CFR 1301.43(d) and (e) and 1301.46.

The Deputy Administrator finds that Dr. Sprague is currently registered with DEA as a practitioner authorized to handle controlled substances in Schedules II through V under Certificate of Registration BS1464089, expiring on February 28, 2006. According to information in the investigative file on December 3, 2003, the Medical Board of California (Board) issued an Order immediately suspending Dr. Sprague's Physician and Surgeon's Certificate. The suspension was based in part, on the Board's conclusion that Dr. Sprague was unable to safely practice medicine due to a mental or physical condition.

There is no evidence before the Deputy Administrator to rebut a finding that Dr. Sprague's California medical license has been suspended. Therefore, The Deputy Administrator finds Dr. Sprague is currently not authorized to practice medicine in the State of California. As a result, it is reasonable to infer that she is also without authorization to handle controlled substances in that State.

DEA does not have statutory authority under the Controlled substances Act to issue or maintain a registration if the applicant or registrant is without State authority to handle controlled substances in the State in which she conducts business. *See* 21 U.S.C. 802(21), 823(f) and 824(a)(3). This prerequisite has been consistently upheld. *See* Richard J. Clement, M.D., 68 FR 12103 (2003); Dominick A. Ricci, M.D., 58 FR 51104 (1993); Bobby Watts, M.D., 53 FR 11919 (1988).

Here, it is clear that Dr. Sprague's State medical license was suspended and there is no information before the Deputy Administrator which points to that suspension having been lifted or stayed. As a result, Dr. Sprague is not authorized to practice medicine or handle controlled substances in California, where she is registered with DEA. Therefore, she is not entitled to maintain that registration.

Accordingly, the Deputy Administrator of the Drug Enforcement Administration, pursuant to the authority vested in her by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b) and 0.104, hereby orders that DEA Certificate of Registration, BS1464089, issued to Margaret Melinda Sprague, M.D., be, and it hereby is, revoked. The Deputy Administrator further orders that any pending applications for renewal or modification of the aforementioned registration be, and hereby are, denied. This order is effective April 14, 2005.

Dated: February 14, 2005.

Michele M. Leonhart,

Deputy Administrator.

[FR Doc. 05–5073 Filed 3–14–05; 8:45 am]

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DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Titan Wholesale, Inc.; Denial of Registration

On October 13, 2004, the Deputy Assistant Administrator, Office of Division Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Titan Wholesale, Inc. (Titan) proposing to deny its August 14, 2003, application for DEA Certificate of Registration as a distributor of list I chemicals. The Order to Show Cause alleged that granting Titan's application would be inconsistent with the public interest, as that term is used in 21 U.S.C. 823(h). The order also notified Titan

that should no request for a hearing be filed within 30 days, its hearing right would be deemed waived.

According to the DEA investigative file, the Order to Show Cause was sent by certified mail to Titan at its proposed registered location at 4995 Outland Center Drive, Building E, Suite 107, Memphis, Tennessee 37075. It was received on October 18, 2004, and DEA has not received a request for a hearing or any other reply from Titan or anyone purporting to represent the company in this matter.

Therefore, the Deputy Administrator of DEA, finding that (1) thirty days have passed since delivery of the Order to Show Cause, and (2) no request for a hearing having been received, concludes that Titan has waived its hearing right. See Aqui Enterprises, 67 FR 12,576 (2002). After considering relevant material from the investigative file, the Deputy Administrator now enters her final order without a hearing pursuant to 21 CFR 1309.53(c) and (d) and 1316.67. The Deputy Administrator finds as follows.

List I chemicals are those that may be used in the manufacture of a controlled substance in violation of the Controlled Substances Act. 21 U.S.C. 802(34); 21 CFR 1310.02(a). Pseudoephedrine and ephedrine are list I chemicals commonly used to illegally manufacture methamphetamine, a Schedule II controlled substance. As noted in previous DEA final orders, methamphetamine is an extremely potent central nervous system stimulant and its abuse is a persistent and growing problem in the United States. See *e.g.*, Direct Wholesale, 69 FR 11,654 (2004); Branex, Inc., 69 FR 8,682 (2004); Yemen Wholesale Tobacco and Candy Supply, Inc., 67 FR 9,997 (2002); Denver Wholesale, 67 FR 99,986 (2002).

The Deputy Administrator's review of the investigative file reveals that on or about August 18, 2003, an application was submitted by Mr. Chris Pelt, owner and operator of Titan, seeking registration to distribute ephedrine and pseudoephedrine list I chemical products.

In connection with the pending application, a pre-registration investigation was conducted by investigators for DEA's Nashville, Tennessee District Office. It was determined Titan was incorporated in Tennessee on February 2, 2000. The company's stock is owned entirely by Mr. Pelt and Titan has a total of seven employees, including its owner. There is no evidence that any of Titan's employees or owner had experience in distributing list I chemicals.

Mr. Pelt advised investigators that Titan was a wholesale grocery broker which engaged in nationwide searches for opportunities to purchase in-transit shipments of grocery products which were not needed by their intended recipients, usually because of over-stocking or over-supply. The shipments would be purchased at a discount and resold, ideally, while still in transit to another purchaser at a higher price. Titan had no fixed customer list, but apparently dealt with sellers and purchasers as opportunities presented themselves.

According to Mr. Pelt, if Titan was registered, it would acquire and distribute listed chemicals in the same manner as its grocery products, *i.e.,* they would not necessarily be stored at the registered premises but could be ''diverted in-transit'' to locations wherever prospective purchasers might be. The products might be shipped from a point of purchase to a point of sale without Titan ever physically handling or possessing them and it is unknown whether or not the distributions would take place among and between DEA registrants.

When Mr. Pelt was advised by investigators that Titan's proposed business methods apparently ran counter to DEA regulations intended to prevent diversion and ensure safe handling of listed chemicals, he rejected that suggestion. He also represented that two specific DEA registrants were already operating in the manner he proposed. However, inquiries by investigators refuted that claim.

DEA has previously found there is a substantial methamphetamine abuse problem and history of trafficking in precursors in the area covered by DEA's Atlanta Field Division, which includes Tennessee, Georgia, North Carolina and South Carolina. DEA is aware distributors or retailers serving in the illicit methamphetamine business observe no borders and trade across state lines. In fact, where precursor laws are stringent, out-of-state distributors often make direct shipments to retailers without observing state requirements.

DEA is also aware that small illicit laboratories operate with listed chemical products often procured, legally or illegally, from non-traditional retailers of over-the-counter drug products, such as gas stations and convenience stores. Some retailers acquire product from multiple distributors to mask their acquisition of large amounts of listed chemicals. In addition, some individuals utilize sham corporations or fraudulent records to establish a commercial identity in order to acquire listed chemicals.

In Tennessee, there has been a consistent increase in the number of illicit laboratories and enforcement teams have noted a trend toward smaller capacity laboratories. This is likely due to the ease of concealment associated with smaller laboratories, which continue to dominate seizures and cleanup responses in that state. In the second quarter of 2002, Tennessee led in the number of clandestine laboratories seized in the area, accounting for approximately 50 percent of these seizures. See CWK Enterprises, Inc., 69 FR 69,400 (2004).

DEA has found there exists a ''gray market'' in which certain high strength, high quantity pseudoephedrine and ephedrine products are distributed to convenience stores and gas stations, from where they have a high incidence of diversion. These grey market products are not sold in large discount stores, retail pharmacies or grocery stores, where sales of therapeutic over-the-counter drugs predominate. DEA also knows from industry data, market studies and statistical analysis that over 90% of over-the-counter drug remedies are sold in drug stores, supermarket chains and ''big box'' discount retailers. Less that one percent of cough and cold remedies are sold in gas station or convenience stores. The expected sales of ephedrine products are known to be even smaller. Furthermore, convenience stores handling gray market products often order more product than what is required for the legitimate market and obtain chemical products from multiple distributors. See Prachi Enterprises, Inc., 69 FR 69,407 (2004); Volusia Wholesale, 69 FR 69,409 (2004), CWK Enterprises, Inc., supra, 69 FR 69,400.

Pursuant to 21 U.S.C. 823(h), the Deputy Administrator may deny an application for a Certificate of Registration if she determines that granting the registration would be inconsistent with the public interest. Section 823(h) requires the following factors be considered in determining the public interest:

(1) Maintenance of effective controls against diversion of listed chemicals into other than legitimate channels;

(2) Compliance with applicable Federal, State and local law;

(3) Any prior conviction record under Federal or State laws relating to controlled substances or to chemicals controlled under Federal or State law;

(4) Any past experience of the applicant in the manufacture and distribution of chemicals; and

(5) Such other factors as are relevant to and consistent with the public health and safety.

As with the public interest analysis for practitioners and pharmacies

pursuant to subsection (f) of section 823, these factors are considered in the disjunctive; the Deputy Administrator may rely on any one or a combination of factors and may give each factor the weight she deems appropriate in determining whether a registration should be revoked or an application for registration denied. See, *e.g.,* Energy Outlet, 64 FR 14,269 (1999). See also, Henry J. Schwartz, Jr., M.D., 54 FR 16,422 (1989).

The Deputy Administrator finds factors one, four and five relevant to the pending application for registration.

As to factor one, maintenance of effective controls against diversion of listed chemicals into other than legitimate channels, the Deputy Administrator has previously held that this factor and 21 CFR 1309 71(b)(8) encompass more than mere physical security of listed chemicals while in storage or transit. See *e.g.,* Al-Alousi, Inc., 70 FR 3,561 (2005) [inability of applicant to adequately verify location and identities of prospective customers considered under factor one]; OTC Distribution Company, 68 FR 70,538, 70,542 (2003); see also Aqui Enterprises, supra 67 FR 12,276; Alfred Khalily, Inc., 64 FR 31,289 (1999).

Titan's proposed process of purchasing in-transit shipments of listed chemicals and redirecting them to other buyers fails to provide adequate protection and safeguards for preventing listed chemicals from diversion into other than legitimate channels. The company's methods would not require it to ever have physical control of the chemicals, nor would it ensure compilation of adequate inventories or complete and accurate records. It also fails to provide for the consistent and accurate verification of identities of the persons and entities which would ultimately be receiving the listed chemicals.

In sum, Titan's proposed methods run counter to the distribution and accountability safeguards envisioned under the Controlled Substances Act and its implementing regulations and fail to provide effective controls against diversion of listed chemicals. Accordingly, factor one weighs against granting the pending application.

With regard to factor four, the applicant's past experience in the distribution of chemicals, the Deputy Administrator finds this factor relevant based on the applicant's lack of knowledge and experience regarding the laws and regulations governing handling of list I chemical products. In prior DEA decisions, this lack of experience in handling list I chemical has been a factor in denying pending applications for registration. See, *e.g.,* Direct Wholesale, supra, 69 FR 11,654; ANM Wholesale, 69 FR 11,652 (2004); Extreme Enterprises, Inc., 67 FR 76,195 (2002).

With regard to factor five, other factors relevant to and consistent with the public safety, the Deputy Administrator finds this factor also weighs against granting the application.

Unlawful methamphetamine use is a growing public health and safety concern throughout the United States and Southeast. Ephedrine and pseudoephedrine are precursor products needed to manufacture methamphetamine and operators of illicit methamphetamine laboratories regularly acquire the precursor products needed to manufacture the drug from convenience stores and gas stations which, in prior DEA decision, have been identified as constituting the grey market for list I chemical products. While there are no specific prohibitions under the Controlled Substances Act regarding the sale of listed chemical products to these entitles, DEA has nevertheless found these establishments serve as sources for the diversion of large amounts of listed chemical products. See, *e.g.,* ANM Wholesale, supra, 69 FR 11,652; Xtreme Enterprises, Inc., supra, 67 FR 76,195; Sinbad Distributing, 67 FR 10,232 (2002); K.V.M. Enterprises, 67 FR 70,968 (2002).

The Deputy Administrator has previously found that many considerations weighed heavily against registering a distributor of list I chemicals because, ''[v]irtually all of the Respondent's customers, consisting of gas station and convenience stores, are considered part of the grey market, in which large amounts of listed chemicals are diverted to the illicit manufacture of amphetamine and methamphetamine.'' Xtreme Enterprises, Inc., supra, 67 FR at 76,197.

Because of its proposed methods, Titan could not identify the specific ephedrine and pseudoephedrine products it intended to distribute or their quantities and strengths. It also could not identify any specific customers or suppliers. While Titan did not state whether or not it would enter the gray market, it is reasonable to infer its business practices would invite eventual participation in that sector. The company intends to search nationwide for bulk quantities of chemicals becoming available for sale while in-shipment. It would buy them at a discount and redirect them to new purchasers, ideally without ever exercising physical possession of the product. Titan would thus be engaging in apparently random transactions, occurring whenever it discovers an opportunity to buy low and resell at a profit.

Mr. Pelt did tell investigators that if Titan's application was granted, he would try to develop business relationships with large chain drug stores. However, given his company's lack of specific prospective buyers and suppliers, its inability to identify products, quantities and strengths and its aggressive business practices, coupled with the absence of effective controls described under factor one above, the Deputy Administrator views the risk of Titan entering the gray market as real and significant, once it discovers buyers from that sector willing to purchase listed chemicals at prices yielding Titan large profits.

The Deputy Administrator is also concerned with Mr. Pelt's refusal to consider alternative business methods and his inaccurate representations regarding the purportedly similar business practices of two other registrants. This suggests that Mr. Pelt and Titan would either be unwilling or unable to successfully fulfill the significant responsibilities of a registrant.

Based on the foregoing, the Deputy Administrator concludes that granting the pending application would be inconsistent with the public interest.

Accordingly, the Deputy Administrator of the Drug Enforcement Administration, pursuant to the authority vested in her by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b) and 0.104, hereby orders the pending application for DEA Certificate of Registration, previously submitted by Titan Enterprises, Inc., be, and it is hereby is, denied. This order is effective April 14, 2005.

Dated: February 14, 2005.

Michele M. Leonhart,

Deputy Administrator.

[FR Doc. 05–5070 Filed 3–14–05; 8:45 am]

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DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 03–24]

TNT Distributors, Inc., Denial of Application

On March 31, 2003, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to TNT Distributors, Inc., (Respondent/TNT) proposing to deny its

application for a DEA Certificate of Registration as a distributors of list I chemicals. The Order to Show Cause alleged in substance that granting Respondent's application to distribute list I chemicals to what DEA has identified as the ''gray market,'' would be inconsistent with the public interest, as that term is used in 21 U.S.C. 823(h) and 824(a).

Respondent, through counsel, requested a hearing on the issues raised by the Order to Show Cause and the matter was docketed before Administrative Law Judge Mary Ellen Bittner. Following prehearing procedures, a hearing was held in Nashville, Tennessee on April 20, 2004. At the hearing, both parties called witnesses to testify and introduced documentary evidence. Subsequently, both parties field Proposed Findings of Fact, Conclusions of Law, and Argument.

On December 3, 2004, Judge Bittner issued her Opinion and Recommended Ruling, Findings of Fact, Conclusions of Law, and Decision of the Administrative Law Judge (Opinion and Recommended Ruling), recommending that Respondent's application for a Certificate of Registration as a distributor of listed chemical products be denied. Neither party filed exceptions to the Opinion and Recommended Ruling and on January 11, 2005, Judge Bittner transmitted the record of these proceedings to the Deputy Administrator.

The Deputy Administrator has considered the record in its entirety and pursuant to 21 CFR 1316.67, hereby issues her final order based upon findings of fact and conclusions of law hereinafter set forth. The Deputy Administrator adopts, in full, the Opinion and Recommended Ruling of the Administrative Law Judge. Her adoption is in no manner diminished by any recitation of facts, issues and conclusions herein, or any failure to mention a matter of fact or law.

On September 11, 2002, Respondent, a Tennessee corporation solely owned by Ms. Mary Blackard, submitted an application for DEA Certificate of Registration as a distributor of list I chemicals, seeking authority to distribute pseudoephedrine, ephedrine and phenylpropanolamine. Later, Respondent withdrew it request to distribute phenylpropanolamine.

List I chemicals are those that may be used in the manufacture of a controlled substance in violation of the Controlled Substances Act. 21 U.S.C. 802(34); 21 CFR 1310.02(a). Pseudoephedrine and ephedrine are list I chemicals which are legitimately manufactured and distributed in single entity and combination forms as decongestants and bronchodilators, respectively. Both are used as precursor chemicals in the illicit manufacture of methamphetamine and amphetamine. As testified to by government witnesses at the hearing and as addressed in previous DEA final orders, methamphetamine is an extremely potent central nervous system stimulant and its abuse is a persistent and growing problem in the United States. See e.g., Direct Wholesale, 69 FR 11,654 (2004); Branex, Inc., 69 FR 8,682 (2004); Yemen Wholesale Tobacco and Candy Supply, Inc., 67 FR 9,997 (2002); Denver Wholesale, 67 FR 99,986 (2002).

A Special Agent from DEA's Chattanooga, Tennessee Resident Office testified regarding the rapid proliferation of clandestine methamphetamine laboratories in Tennessee and its adjoining states and described prevalent methods of local production. He estimated that 80 to 90 percent of ephedrine and pseudoephedrine being used locally to manufacture methamphetamine was being obtained from convenience stores and described the multiple health hazards and social costs stemming from the production and abuse of methamphetamine. He characterized the local methamphetamine addiction problem as ''epidemic.''

In the Special Agent's opinion, the bulk of pseudoephedrine and ephedrine products distributed through local conveniences stores were being obtained for illicit purposes. While listed chemicals were also available from local chain drug and discount stores, in his opinion, when manufacturers obtained precursor products from those establishments, it was usually done by shoplifting.

Ms. Blackard has worked in a North Carolina veterinary practice for 14 years, where she was responsible for ordering, recordkeeping, disposal and inventorying controlled substances commonly used by veterinarians. She then moved to Tennessee and filed incorporation papers for TNT, which began selling merchandise to independent convenience stores. As of the date of the DEA hearing, TNT had 66 customers, about 20 of which were in the metropolitan Nashville area. It primarily sold and distributed tobacco products, some over-the-counter medications, toys, air fresheners and novelty items.

Ms. Blackard testified she decided to apply for a DEA registration because her customers wanted listed chemicals and she believed her company could not compete successfully without offering that product line. At the hearing she initially testified that list I chemicals would account for about 15 to 20 percent of TNT's total sales. On cross-examination she later conceded that ''was just a number I threw out here.''

In November/December 2002, DEA investigators conducted a preregistration investigation of Respondent's proposed registered location, her residence, which was located in a rural area. The agent conducting the investigation testified Ms. Blackard did not know at the time that list I chemical products could be used to manufacture methamphetamine and she thought Mini-Thins, an ephedrine 25 mg, combination product which she desired to distribute, were used for ''dietary reasons.'' She told the agent that she had no experience with listed chemicals but did have experience maintaining controlled substance records. Ms. Blackard provided investigators a list of about 20 proposed customers, most of which were area convenience stores.

The agent who conducted the preregistration investigation testified Ms. Blackard appeared reasonable and receptive to the information he provided regarding the dangers of diversion and responsibilities of a registrant. He also acknowledged that her proposed storage arrangement complied with DEA regulations.

At the hearing, Ms. Blackard testified she was willing to comply with DEA requirements and that her recordkeeping practices would be more stringent than required by regulations. She testified TNT would maintain a small customer base of around 100 stores, that she would closely monitor sales and stop selling to any suspicious customers. She would also take action to enhance the security of products stored at her residence. While she originally listed Mini Thins among her intended products, at the hearing Ms. Blackard indicated that if registration was approved, she would not carry that item and limit TNT's line to such name brands as Advil Cold and Sinus and Nyquil.

A Supervisory Diversion Investigator from DEA's Nashville office testified that diversion was a major problem in Tennessee and DEA had ordered immediate suspensions of several wholesalers who were selling gray market products to area convenience stores and gas stations. He observed that once a distributor becomes registered to handle list I chemicals, it can order whatever chemicals are included in its registration, including gray market products. In the supervisory investigator's opinion, once registered, Respondent would likely seek to

increase its customer base and, considering the methamphetamine problem in Tennessee, ''we don't need any more people handling these products.''

By declaration, the Government introduced evidence regarding pseudoephedrine sale and the convenience store market from Mr. Jonathan Robbin, a consultant in marketing information systems and databases, who is an expert in statistical analysis and quantitative marketing research.

Using the 1997 United States Economic Census of Retail Trade, Mr. Robbin tabulated data indicating that over 97% of all sales of non-prescription drug products, including non-prescription cough, cold and nasal congestion remedies, occur in drug stores and pharmacies, supermarkets, large discount merchandisers, mail-order houses and through electronic shopping. He characterized these five retail industries as the traditional marketplace where such goods are purchased by ordinary customers.

Analyzing national sales data specific to over-the-counter, non-prescription drugs contain pseudoephedrine, Mr. Robbin's research and analysis showed that a very small percentage of the sales of such goods occur in convenience stores—only about 2.6% of the HABC [Health and Beauty Care] category of merchandise or 0.05% of total in-store (non-gasoline) sales. He determined that the normal expected retail sails of pseudoephedrine tablets in a convenience store would range between $10.00 and $30.00 per month, with an average monthly sales figure of about $20.00 and that sales of more than $100.00 in a month would be expected to occur in a random sampling about once in one million to the tenth power, a number he characterized as nearly equivalent to the number of atoms in the universe. He further stated that the current convenience store gross margin in the health and beauty care category is about 40 percent, so that such a store would be expected to spend an average of $12.00 per month acquiring its inventory of pseudoephedrine products from a distributor.

Pursuant to 21 U.S.C. 823(h), the Deputy Administrator may deny an application for a Certificate of Registration if she determines that granting the registration would be inconsistent with the public interest as determined under that section. Section 823(h) requires the following factors be considered in determining the public interest:

(1) Maintenance of effective controls against diversion of listed chemicals into other than legitimate channels;

(2) Compliance with applicable Federal, State, and local law;

(3) Any prior conviction record under Federal or State laws relating to controlled substances or to chemicals controlled under Federal or State law;

(4) Any past experience in the manufacture and distribution of chemicals; and

(5) Such other factors as are relevant to and consistent with the public health and safety.

As with the public interest analysis for practitioners and pharmacies pursuant to subsection (f) of section 823, these factors are to be considered in the disjunctive; the Deputy Administrator may rely on any one or combination of factors, and may give each factor the weight she deems appropriate in determining whether a registration should be revoked or an application for registration denied. See, e.g., Direct Whole, 69 FR 11,654; Energy Outlet, 64 FR 14,269 (1999); Henry J. Schwartz, Jr., M.D., 54 FR 16,422 (1989).

As to factor one, maintenance by the applicant of effective controls against diversion, the Deputy Administrator agrees with Judge Bittner that TNT's proposed physical security arrangements were adequate and that Ms. Blackard had the ability and willingness to maintain accurate records of the handling of listed chemicals. Judge Bittner also found Ms. Blackard to be a credible witness and believed her explanation that she sought registration because other distributors holding registrations had a competitive advantage over her company and that Ms. Blackard knew her customers and would not handle products DEA told her to avoid.

However, Judge Bittner acknowledged existence of a previously published DEA final order denying registration to an applicant much like Respondent. Judge Bittner concluded that she was restrained by that precedent, Xtreme Enterprises, Inc., 67 FR 76,195 (2002). See also Shop It for Profit, 69 FR 1,311 (2003); William E. ''Bill'' Smith d/b/a B & B Wholesale, 69 FR 22,559 (2004); Shani Distributors, 68 FR 62,324 (2003) and Branex Incorporated, 69 FR 8,682 (2004). Specifically, Judge Bittner found Xtreme Enterprises ''virtually indistinguishable'' from the instant case.

In Xtreme Enterprises, the Deputy Administrator found many considerations weighed heavily against registering a distributor of list I chemicals because, ''[v]irtually all of the Respondent's customers, consisting of gas station and convenience stores, are considered part of the gray market, in which large amounts of listed chemicals are diverted to the illicit manufacture of amphetamine and methamphetamine.'' Xtreme Enterprises, Inc., *supra,* 67 FR at 76,197. Based on that case, Judge Bittner concluded that factors one (maintenance of controls against diversion) and five (other factors relevant to and consistent with public health and safety), weighed against granting Respondent's application.

Judge Bittner also concluded Respondent had complied with applicable Federal, State and local law and had never been convicted of a crime relating to controlled substances or listed chemicals, thus finding that factors two and three weighed in favor of registration. With regard to factor four, the applicant's past experience in distributing listed chemicals, Judge Bittner found Ms. Blackard had no previous experience distributing list I chemicals. However, her prior experience in handling and maintaining records of controlled substances rendered that factor essentially neutral. The Deputy Administrator agrees with these conclusions.

Judge Bittner summarized that, ''in light of the decision in Xtreme Enterprises, Inc., *supra,* which I regard as controlling, I conclude that I have no choice but to recommend against granting Respondent's application.'' However, she went on to state that if the Deputy Administrator were to decide Xtreme Enterprises was not controlling, she would recommend that Respondent's application be granted, with restrictions as to the quantities of ephedrine and pseudoephedrine it could purchase and sell. The Deputy Administrator declines this invitation to deviate from sound agency precedent.

Unlawful methamphetamine production and use is a growing public health and safety concern throughout the United States and specifically in the State of Tennessee. Pseudoephedrine and ephedrine are the precursor products used to manufacture methamphetamine and operators of illicit laboratories in Tennessee predominantly acquire their precursor chemicals from Respondent's intended customer base. While Ms. Blackard demonstrated sincerity and intent to avoid contributing to this scourge, the risks of diversion once listed chemicals leave her control and enter the gray market are real, substantial and compelling.

The Deputy Administrator therefore concludes Judge Bittner correctly applied DEA precedent. As in Xtreme Enterprises, Inc., Ms. Blackard's lack of a criminal record, her previous

compliance with the law and expressed willingness to comply with regulations and attempt to guard against diversion are far outweighed by her intent to sell ephedrine and pseudoephedrine almost exclusively, in the gray market.

This reasoning has been consistently applied by the Deputy Administrator in a series of recently published final orders denying registration to potential gray market distributors. See, Volusia Wholesale, 69 FR 69,409 (2004); CWK Enterprises, Inc., 69 FR 69,400 (2004); J & S Distributors, 69 FR 62,089 (2004); Express Wholesale, *supra,* 69 FR 62,086; Absolute Distributing, Inc., 69 FR 62,078 (2004); Value Wholesale, 69 FR 58,548 (2004); John E. McRae d/b/a J & H Wholesale, 69 FR 51,480 (2004).

Based on the foregoing, the Deputy Administrator concludes that granting Respondent's pending application would be inconsistent with the public interest.

Accordingly, the Deputy Administrator of the Drug Enforcement Administration, pursuant to the authority vested in her by 21 U.S.C. 823 and 28 CFR 0.100(b) and 0.104, hereby orders that the pending application for a DEA Certificate of Registration, previously submitted by TNT Distributors, Inc., be, and it hereby is, denied. This order is effective April 14, 2005.

Dated: February 14, 2005.

Michele M. Leonhart,

Deputy Administrator.

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DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Tysa Management, d/b/a Osmani Lucky Wholesale; Denial of Application

On July 23, 2004, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Mr. Ty Osmani, President, Tysa Management, d.b.a. Osmani Lucky Wholesale (hereinafter referred to as ''OLW'') proposing to deny its application executed on October 15, 2003, for DEA Certificate of Registration as a distributor of list I chemicals. The Order to Show Cause alleged that granting the application of OLW would be inconsistent with the public interest as that term is used in 21 U.S.C. 823(h).

According to the DEA investigative file, the Order to Show Cause was sent by certified mail to OLW at its proposed registered location in Denison, Texas and was received on August 2, 2004. According to the investigative file, DEA received a letter from Tysa Osmani (Mr. Osmani) dated August 20, 2004, waiving the applicant's right to a hearing and requesting that the firm be issued a registration to distribute ephedrine.

Accordingly, the Deputy Administrator finds that OLW has waived its hearing right. See, Aqui Enterprises, 67 Fed. Reg. 12567 (2002). After considering relevant material from the investigative file in this matter, the Deputy Administrator now enters her final order without a hearing pursuant to 21 CFR 1309.53(b) and (d). The Deputy Administrator finds as follows:

List I chemicals are those that may be used in the manufacture of a controlled substance in violation of the Controlled Substances Act. 21 U.S.C. 802(34); 21 CFR 1310.02(a). As noted in previous DEA final orders, Pseudoephedrine and ephedrine are list I chemicals commonly used to illegally manufacture methamphetamine, a Schedule II controlled substance . Methamphetamine is an extremely potent central nervous system stimulant and its illicit manufacture and abuse are ongoing public health concerns in the United States. *See e.g.,* Direct Wholesale, 67 FR 11, 654 (2004); Yemen Wholesale Tobacco and Candy Supply, Inc., 67 FR 9,997 (2002); Denver Wholesale, 67 FR 99,986 (2002).

On April 6, 2004, the State of Oklahoma enacted House Bill 2176. Among its provisions, the newly enacted legislation has designated pseudoephedrine tables as a Schedule V controlled substance under Oklahoma law. This provision further mandates that pseudoephedrine tablets sold only from licensed pharmacies and requires customers seeking to purchase this product to present photo identifications and sign for their purchases. As a result, it is presently prohibited under Oklahoma law for persons to sell pseudoephedrine tables from convenience stores or other non-pharmacy locations.

The Deputy Administrator's review of the investigative file reveals that on October 15, 2003, Mr. Osmani submitted an application for DEA Registration on behalf of OLW. OLW sought DEA registration as a distributor of the list I chemicals ephedrine and pseudoephedrine. OLW is a Limited Liability Corporation which became incorporated in Texas on October 23, 2003, and Mr. Osmani and his wife are the company's only employees.

On November 13, 2003, DEA diversion investigators conducted an on-site preregistration inspection at OLW's proposed registered location in Denison, Texas. The location requested by OLW as a DEA-registered premise was a former gas station establishment. DEA's investigation revealed that in addition to its proposed registered location, Mr. Osmani owns the following Denison-area convenience stores. Lucky Liquor & Discount Tobacco; Lucky Stop #2; and, Lucky Stop #4. Mr. Osmani is also the owner of two Lucky Stop convenience stores located in Cartwright and Durant, Oklahoma. DEA's investigation revealed that as of January 2004, Cartwirght, Oklahoma had an estimated population of 13,549. Each of Mr. Osmani's stores sell typical convenience store items including tobacco products, candy, automobile maintenance products and T-shirts.

Mr. Owmani informed DEA investigators that he would operate as a wholesale distributor to his five convenience stores, which he identified as his only customers. He further discussed plans to distribute certain listed chemical products, including Mini-Thin ephedrine tablets in six-count packets and 60-count bottles, as well as Max Brand pseudoephedrine products, also in six-count packets and 60-count bottles. Mr. Osmani estimated that these products would make up five to fifteen percent of OLW's total sales. Mr. Osmani further informed DEA investigators that OLW did not own any deliver trucks and employees from the two Oklahoma convenience stores would drive to OLW's Denison location to pick up list I chemical products for delivery to the Oklahoma business establishment.

According to the investigative file, as of July 1, 2003, distributors of pseudoephedrine products conducting business in Oklahoma were required to obtain a registration with the Director of the Oklahoma Bureau of Narcotics and Dangerous Drugs Control (the Bureau). 63 O.S. 2001, Section 2–302. DEA's investigation has revealed that as of January 7, 2004, neither Mr. Osmani nor OLW were registered with the Bureau to handle pseudoephedrine.

During the aforementioned onsite inspection by DEA, Mr. Osmani also informed investigators that his suppliers for listed chemicals were Silver Star and Import Warehouse, Incorporated, both of Dallas, Texas. However, when DEA investigators conducted verification checks with OLW's proposed suppliers on November 17, 2003, the owner of Import Warehouse stated that he would not be supplying listed chemicals products to OLW; and, the owner of Silver Star informed DEA personnel that he had planned to supply only

ephedrine to OLW and not pseudoephedrine.

On November 19, 2003, DEA investigators requested purchase records from the two aforementioned establishments. The owner of Import Warehouse provided purchase records dating from May 23, 1998 to September 27, 2000, for sales of listed chemicals to two of Mr. Osmani's Denison-area convenience stores (Lucky Stop #2 and Lucky Stop #4). The records revealed that with the exception of July and August, 1998, Mr. Osmani ordered forty-eight, 60-count bottles of Mini 2 Way 200mg. Guaifenesin nearly every month during the above time period. In addition, Mr. Osmani ordered four cases (144 bottles per case) of Max Alert Pseudo (pseudoephedrine) 60-count in July 1998. One month later, Mr. Osmani ordered an additional 192 bottles of Max Alert Pseudo.

The owner of Silver Star also provided purchase records dating from April 24, 2001 to August 28, 2003, for the sale of listed chemical products to two of Mr. Osmani's Denison-area convenience stores (Lucky Liquor & discount Tobacco and Lucky Stop #4). The records revealed that on eleven separate occasions from November 8, 2001 to August 28, 2003, Mr. Osmani ordered a case (144 bottles per case) of 200-count Guaifensin 12.5mg; in April 2001 and again in November 2002, Mr. Osmani purchased 288 bottles of this product; on April 19, 2003, Mr. Osmani purchased 72 (60-count) bottles of Max Brand 2-Way ephedrine.

Pursuant to 21 U.S.C. 823(h), the Deputy Administrator may deny an application for Certificate of Registration if she determines that granting the registration would be inconsistent with the public interest as determined under that section. Section 823(h) requires the following factors be considered in determining the public interest:

(1) Maintenance of effective controls against diversion of listed chemicals into other than legitimate channels;

(2) Compliance with applicable Federal, State, and local law;

(3) Any prior conviction record under Federal or State laws relating to controlled substances or to chemicals controlled under Federal or State law;

(4) Any past experience in the manufacture and distribution of chemicals; and

(5) Such other factors as are relevant to and consistent with the public health and safety.

As with the public interest analysis for practitioners and pharmacies pursuant to subsection (f) of section 823, these factors are to be considered in the disjunctive; the Deputy Administrator may rely on any one or combination of factors, and may give each factor the weight she deems appropriate in determining whether a registration should be revoked or an application for registration denied. *See, e.g.,* ANM Wholesale, 69 FR 11,652 (2004); Energy Outlet, 64 FR 14269 (1999). See also Henry J. Schwartz, Jr., M.D., 54 FR 16,422 (1989).

The Deputy Administrator finds factors one, two, four and five relevant to OLW's pending registration application.

With regard to factor one, maintenance of effective controls against diversion of listed chemicals into other than legitimate channels, the Deputy Administrator finds substantial evidence in the investigative file that OLW, through its owner Ty Osmani, has participated in the unlawful diversion of pseudoephedrine having reasonable cause to believe that it would be used to manufacture illicit methamphetamine. Mr. Osmani has purchased large quantities of pseudoephedrine and ephedrine products and distributed these products through his convenience stores located in Texas and Oklahoma. Prior to 2004, these areas have been known for their numerous seizures involving clandestine methamphetamine laboratories. In most instances, the primary sources for the diversion of these products are convenience stores and other ''non-traditional retailers of over-the-counter drug products.'' Al-Alousi, Inc., 70 FR 3561 (2005). *See*, Sinbad Distribution, 67 FR 10232, 10233 (2002). Therefore, factor one weights against the granting of OLW's pending application for registration.

With regard to factor two, compliance with applicable Federal, State, and local law, DEA's pre-registrant inspection revealed that as of July 1, 2003, distributors of pseudoephedrine products conducting business in Oklahoma were required to register with the state Bureau of Narcotics and Dangerous Drugs Control (the Bureau) pursuant to 63 O.S. 2001, Section 2–302. Mr. Osmani and OLW's failure to obtain state registration to handle listed chemicals is relevant under factor two, and also weighs against the granting of the pending application for registration.

With regard to factor four, past experience in the manufacture and distribution of chemicals, and factor five, such other factors relevant to and consistent with the public safety, the Deputy Administrator finds these factors relevant to Mr. Osmani and OLW's purchase of quantities of listed chemical products for distribution to, and sale by his convenience stores in Texas and Oklahoma. These listed chemical products were for the most part, purchased by OLW on a monthly basis and appeared to be far in excess of the expected demand for such products. As noted in previous final orders, while there are no specific prohibitions under the Controlled Substance Act regarding the sale of listed chemical products to these entities, DEA has nevertheless found that convenience stores constitute sources for the diversion of listed chemical products. Sinbad Distributing, supra at 10233; K.V.M. Enterprises, 67 FR 70968 (2002) (denial of application based in part upon information developed by DEA that the applicant proposed to sell listed chemicals to gas stations, and the fact that these establishments in turn have sold listed chemical products to individuals engaged in the illicit manufacture of methamphetamine).

DEA has found persuasive, expert testimony in the area of statistical analysis of convenience stores and their sale of pseudoephedrine. Branex, Inc., 69 FR 8,682 (2004); Express Wholesale, 69 FR 62086, 62088 (2004). In analyzing the expected sale of listed chemical products in the State of Oklahoma, a consultant in marketing information and databases offered expert testimony through the use of the 1997 United States Economic Census of Retail Trade and tabulated data which indicated that ''over 97% of all sales of non-prescription drug products,'' including non-prescription cough, cold and nasal congestion remedies, occur in drug stores and pharmacies, supermarkets, large discount merchandisers, mail-order houses and through electronic shopping. The markeing consultant characterized these five retail industries as ''the traditional marketplace where such goods are purchased by ordinary customers.'' Express Wholesale, *supra*.

The market consultant also analyzed national data specific to the sale of over-the-counter, non-prescription drugs containing pseudoephedrine by convenience stores which he characterized as a ''nontraditional market'' for the sale of listed chemical products. He further determined ''* * * that a very small percentage of the sales of such goods occur in convenience stores—only about 2.6% of the HABC [Health and Beauty Care] category of merchandise or 0.05% of total in-store (non-gasoline) sales.'' The marketing consultant concluded that ''[c]onveniece stores, therefore, definitely constitute a 'non-traditional' market for the sale of over-the-counter, non-prescription drug pesudoephedrine products.''

The marketing consultant further explained that this information support's DEA's conclusion that pseudoephedrine products distributed to this nontraditional market greatly exceeded the normal demand for such products at such retail outlets. He agreed that such excessive sales could be purchases of listed chemical products that were diverted to illicit uses. With respect to Oklahoma wholesale pseudoephedrine sales of several distributors and over 300 of their retail customers, all of which were convenience stores, a July 2002 analysis by the marketing consultant led to the conclusion ''that without evidence of the existence of immense numbers of legitimate customers, it was likely that the massive inventories of pseudoephedrine products purchased by these Oklahoma stores were being turned to illegal uses.'' Express Wholesale, *supra*.

With respect to the instant matter, Mr. Osmani and OLW have similarly amassed large quantities of pseudoephedrine and ephedrine products. The frequency and quantity of listed chemicals purchased by OLW from 1998 to 2003 defined all available and conventional marketing data for the expected sale of these products. Given the demonstrated lack of legitimate demand for these products when sold from convenience stores, the Deputy Administrator is left with the conclusion that Mr. Osmani and OLW purchased pseudoephedrine and ephedrine products for sale to individuals involved in the illicit manufacture of methamphetamine.

As noted above, effective April 6, 2004, Oklahoma enacted House Bill 2176, titled the ''Oklahoma Methamphetamine Reduction Act of 2004.'' This provision includes the requirement that the sale of pseudoephedrine tablets are now restricted to licensed pharmacies. As in a prior DEA final order, the Deputy Administrator finds in the instant matter that OLW's proposed distribution of listed chemicals through its convenience stores is no longer legally viable in Oklahoma. See, *Express Wholesale, supra* at 62089.

A review of early data for 2004 reveals that the newly enacted laws have resulted in an apparent reduction in the number of seizures involving clandestine methamphetamine labs in Oklahoma. These developments in Oklahoma are encouraging and represent another important step in the ongoing battle to curb methamphetamine abuse in the United States. In keeping with this positive trend, DEA must also act in an appropriate fashion to ensure that listed chemicals are not diverted. The Deputy Administrator notes that while Mr. Osmani and OLW seek DEA registration in the State of Texas, the company also seeks to distribute listed chemicals from convenience stores located in Oklahoma. Based solely on the population statistics of Cartwright and Durant, Oklahoma, it would appear at first glance that the market for over-the-counter drug products in these cities is relatively insignificant. However, as the record before the Deputy Administrator clearly demonstrates, the relatively small size of the Oklahoma markets serviced by OLW is not a significant factor since Mr. Osmani appears intent on purchasing extraordinarily large quantities of listed chemical products without regard to market size. These purchasing practices indicate that OLW would willingly accommodate persons involved in the illicit methamphetamine trade. Based on the foregoing, the Deputy Administrator concludes that granting the pending application of OLW would be inconsistent with the public interest.

Accordingly, the Deputy Administrator of the Drug Enforcement Administration, pursuant to the authority vested in her by 21 U.S.C. 823 and 28 CFR 0.100(b) and 0.104, hereby orders that the pending application for DEA Certificate of Registration, previously submitted by Tysa Management, d.b.a. Osmani Lucky Wholesale be, and it hereby is, denied. This order is effective April 14, 2005.

Dated: February 24, 2005.

Michele M. Leonhart,

Deputy Administrator.

[FR Doc. 05–5068 Filed 3–14–05; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

James S. Bischoff, M.D.; Revocation of Registration

On June 28, 2004, the Deputy Administrator, Drug Enforcement Administration (DEA), issued an Order to Show Cause/Immediate Suspension of Registration to James S. Bischoff, M.D. (Dr. Bischoff) who was notified of an opportunity to show cause as to why DEA should not revoke his DEA Certificate of Registration BB0377247 under 21 U.S.C. 824(a)(4) and deny any pending applications for renewal or modification of that registration under 21 U.S.C. 823(f). Dr. Bischoff was further notified that his registration was being immediately suspended under 21 U.S.C. 824(d) as an imminent danger to the public health and safety.

The Order to Show Cause alleged in relevant part, that Dr. Bischoff diverted controlled substances through larceny and fraudulent prescriptions, failed to maintain required records, could not account for 32,000 dosage units of controlled substances and dispensed controlled substances to individuals without a bona fide doctor-patient relationship or legitimate medical purpose. The Order to Show Cause also notified Dr. Bischoff that should no request for a hearing be filed within 30 days, his hearing right would be deemed waived.

On July 14, 2004, a DEA investigator personally served the Order to Show Cause/Immediate Suspension of Registration on Dr. Bischoff at the offices of the Ennis, Montana Police Department. Since that date, DEA has not received a request for a hearing or any other reply from Dr. Bischoff or anyone purporting to represent him in this matter.

Therefore, the Deputy Administrator of DEA, finding that (1) thirty days having passed since personal delivery of the Order to Show Cause/Immediate Suspension of Registration to the registrant and (2) no request for hearing having been received, concludes that Dr. Bischoff is deemed to have waived his hearing right. *See* David W. Linder, 67 FR 12579 (2002). After considering material from the investigative file in this matter, the Deputy Administrator now enters her final order without a hearing pursuant to 21 CFR 1301.43(d) and (e) and 1301.46.

The Deputy Administrator finds that Dr. Bischoff is registered with DEA as a practitioner under Certificate of Registration BB0377247. Dr. Bischoff's registered location is also his residence, which is located in Ennis, Montana.

In April 2003, Dr. Bischoff took ''Patient B,'' a 16-year-old high school student, to an out of town physician specialist for emergency treatment after the boy's had was cut in an accident. Dr. Bischoff was a friend of the boy's father and step-mother and would come to their home for social visits/dinners. They were both out of town at the time of the accident and Dr. Bischoff volunteered to take the boy to the specialist. While the specialist did not recommend any treatment with controlled substances, Dr. Bischoff wrote the boy a prescription for 100 tablets of Oxycontin, a Schedule II narcotic controlled substance, which he personally picked up a local pharmacy. However, he delivered only 20 tablets to the boy, unlawfully diverting the

remaining 80 tables to his own use or that of someone else.

Around the same time Dr. Bischoff wrote a second prescription in the name of Patient B, for 120 tablets of the Schedule II controlled substance Adderall. He also picked that prescription up at a local pharmacy, supposedly on behalf of the boy, but never delivered it to the boy or his parents, diverting the controlled substance to his personal use or for that of another.

In September 2003, Dr. Bischoff wrote the boy another prescription for 120 tablets of Adderall, which was picked up by the boy's sister. However, the father and step-mother were unaware Dr. Bischoff had prescribed the medication, which the boy began taking, thinking he was supposed to. When his step-mother discovered the bottle a couple of weeks later, she found out for the first time that Dr. Bischoff was prescribing Adderall to the boy. After checking with the regular family physician, she was advised the dosage instructions and strength of the medication were excessive. Fortunately, the boy only took 12 of the tablets and stopped using them because of their effect.

She then checked with the pharmacy where the prescription was filled and discovered Dr. Bischoff had issued multiple fraudulent prescriptions for controlled substances in the names of family members, which he personally picked up, telling pharmacists he was a close friend and the purported patients were too busy to get to the pharmacy. She also discovered Dr. Bischoff had falsely told the pharmacy her stepson, then 16 years old, was 18, thus avoiding a requirement for a parent to sign when prescriptions were picked up.

Investigators subsequently determined Dr. Bischoff had written and filled seven prescriptions for controlled substances in the name of Patient B, along with multiple prescriptions in the names of other family members who were not his patients, all without their knowledge.

During the period January 2001 through January 2003, Dr. Bischoff ordered approximately 46,000 doses of Schedule III and IV controlled substances from a supplier, including various anti-depressants, anti-anxiety, sleep medications, amphetamines and narcotics. After Dr. Bischoff was served with a Notice of Inspection at his registered premises, he declined to permit an inspection or provide investigators with any of the records he was required to keep.

On March 10, 2004, Dr. Bischoff was served with an Administrative Inspection Warrant. Controlled substances were found in the basement of his home/registered location, but he had very few actual patient records and no records of receipt, inventory, dispensation or accountability for controlled substances, violating 21 U.S.C. 827(a) and 842(a)(5). Dr. Bischoff was unable to account for 32,000 dosage units of controlled substances and refused to provide any records or otherwise account for their distribution or whereabouts.

Additional investigation determined Dr. Bischoff had written fraudulent prescriptions for controlled substances to several other area pharmacies during 2003. Interviews with professionals at some of his previous clinic and hospital affiliations also indicated he was known to be involved in inappropriate dispensation and prescribing of controlled substances.

On February 29, 2004, Dr. Bischoff gave a Schedule II controlled substance to a woman he was having dinner with. She was on probation at the time for a controlled substance offense. This distribution was done without a legitimate medical purpose and was outside the usual course of professional practice.

Under Federal and Montana law, for a doctor to be acting in the usual course of professional practice, there must be a *bona fide* doctor/patient relationship. Investigative review of Dr. Bischoff's computer records indicated he was not maintaining patient records, yet was prescribing controlled substances for individuals, both inside and outside Montana. He prescribed drugs directly to individuals without the benefit of examination or clinical determination of a valid medical purpose and in many cases, there was no evidence Dr. Bischoff had established any actual doctor-patient relationship with these individuals. These controlled substances were dispensed either directly or by prescription, in violation of 21 CFR 1306.04.

Pursuant to 21 U.S.C. 823(f) and 824(a)(4), the Deputy Administrator may revoke a DEA Certificate of Registration and deny any pending applications for renewal of such registration, if she determines that the continued registration would be inconsistent with the public interest. Section 823(f) requires that the following factors be considered in determining the public interest:

(1) The recommendation of the appropriate state licensing board or professional disciplinary authority.

(2) The applicant's experience in dispensing, or conducting research with respect to controlled substances.

(3) The applicant's conviction record under Federal or State laws relating to the manufacture, distribution, or dispensing of controlled substances.

(4) Compliance with applicable State, Federal, or local laws relating to controlled substances.

(5) Such other conduct which may threaten the public health or safety.

These factors are considered in the disjunctive; the Deputy Administrator may rely on any one or a combination of factors and may give each factor the weight she deems appropriate in determining whether a registration should be revoked or an application for registration denied. *See* Henry J. Schwartz, Jr., M.D., 54 FR 16,422 (1989).

As to factor one, the recommendation of the appropriate state licensing board or professional disciplinary authority, there is no evidence in the investigative file that the State of Montana has yet taken adverse action against Respondent's medical license. However, ''inasmuch as State licensure is a necessary but not sufficient condition for a DEA registration * * * this factor is not dispositive.'' *See* Edson W. Redard, M.D., 65 FR 30,616, 30,619 (2000).

With regard to factors two and four, Respondent's experience in handling controlled substances and his compliance with applicable controlled substance laws, the investigative file contains ample evidence Dr. Bischoff unlawfully distributed, prescribed and diverted controlled substances over an extensive period. He grossly failed to comply with accountability record keeping requirements or maintain minimally acceptable patient files documenting medical necessity for controlled substance prescriptions. He could not account for 32,000 dosage units of controlled substances delivered to his residence/office and wrote fraudulent prescriptions for controlled substances for non-patients, which he personally picked up and never delivered to their purported recipients. He also prescribed controlled substances to individuals without *bona fide* doctor-patient relationships and dispensed medically unnecessary or inappropriate drugs to a minor without his parents' knowledge.

While the evidence does not reveal whether Dr. Bischoff diverted controlled substances for personal use or for others, it is clear he failed abysmally to meet the rudimentary responsibilities of a physician and registrant. Thus, factors two and four weigh in favor of a finding that continued registration would be inconsistent with the public interest.

Factor three, the applicant's conviction record under Federal or State

laws relating to the manufacture, distribution, or dispensing of controlled substances, is not relevant for consideration, as there is no evidence Dr. Bischoff has yet been convicted of any crime related to controlled substances. However, it is noted the investigation has been provided to local authorities for possible initiation of criminal charges.

With respect to factor five, other conduct that many threaten the public health and safety, Respondent's actions discussed above are also relevant under this factor. The Deputy Administrator is particularly troubled by Dr. Bischoff's abuse of the trust placed in him as a family friend and physician, both by the minor and his parents and by Dr. Bischoff's calculated efforts to obtain controlled substances through fraud and misrepresentation.

In sum, Dr. Bischoff's cavalier disregard for the law and regulations governing controlled substances and the abandonment of his responsibilities as a physician and registrant cannot be tolerated. They weigh heavily in favor of a finding that his continued registration would not be in the public interest.

Accordingly, the Deputy Administrator of the Drug Enforcement Administration, pursuant to the authority vested in her by 21 U.S.C. 823 and 28 CFR 0.100(b), and 0.104, hereby orders that DEA Certificate of Registration BB0377247, issued to James S. Bischoff, M.D., be, and it hereby is, revoked. The Deputy Administrator further orders that any pending applications for renewal or modification of such registration be, and they hereby are, denied. This order is effective April 14, 2005.

Dated: February 24, 2005.

Michele M. Leonhart,

Deputy Administrator.

[FR Doc. 05–5072 Filed 3–14–05; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF LABOR

Office of the Secretary

All Items Consumer Price Index for All Urban Consumers—United States City Average

Pursuant to section 33105(c) of Title 49, United States Code, and the delegation of the Secretary of Transportation's responsibilities under that Act to the Administrator of the Federal Highway Administration (49 CFR 501.2(a)(9)), the Secretary of Labor has certified to the Administrator and published this notice in the **Federal Register** that the United States City Average All Items Consumer Price Index for All Urban Consumers (1967–100) increased 81.9 percent from its 1984 base period annual average of 311.1 to its 2004 annual average of 565.8.

Signed in Washington, DC, on the 3rd day of March, 2005.

Elaine L. Chao,

Secretary of Labor.

[FR Doc. 05–4989 Filed 3–14–05; 8:45 am]

BILLING CODE 4510–24–M

DEPARTMENT OF LABOR

Office of the Secretary

Child Labor Education Initiative

AGENCY: Bureau of International Labor Affairs, U.S. Department of Labor.

Announcement Type: Notice of intent to solicit cooperative agreement applications.

SUMMARY: The U.S. Department of Labor (USDOL), Bureau of International Labor Affairs (ILAB), intends to award approximately U.S. $17 million to organizations to develop and implement formal, non-formal, and vocational education programs as a means to combat exploitive child labor in the following countries: Mozambique, Angola, Sierra Leone, Liberia, Ecuador, Bolivia, and Guyana. ILAB intends to solicit cooperative agreement applications from qualified organizations (*i.e.*, any commercial, international, educational, or non-profit organization capable of successfully developing and implementing education programs) to implement programs that promote school attendance and provide educational opportunities for working children or children at risk of starting to work. The programs should focus on innovative ways to provide educational services to children engaged, or at risk of engaging, in exploitive labor and should address the many gaps and challenges to basic education found in the countries mentioned above. Please refer to *http://www.dol.gov/ILAB/grants/main.htm* for examples of previous notices of availability of funds and solicitations for cooperative agreement applications.

Information on the specific sectors, geographical regions, and funding levels on the potential projects in the countries listed above will be addressed in solicitations for cooperative agreement applications to be published prior to September 30, 2005. Thus, we request that inquiries to USDOL for such information be limited until publication of the solicitations. For a list of frequently asked questions on Child Labor Education Initiative Solicitations for Cooperative Agreement Applications, please visit *http://www.dol.gov/ILAB/faq/faq36.htm.*

USDOL will hold a bidder's meeting on Tuesday, April 12, 2005 to answer any questions potential applicants may have on Child Labor Education Initiative Solicitations for Cooperative Agreement Applications. Please see below for more information on the bidder's meeting.

DATES: Specific solicitations for cooperative agreement applications will be published in the **Federal Register** and remain open for at least 30 days from the date of publication. All cooperative agreement awards will be made on or before September 30, 2005.

ADDRESSES: Once solicitations are published in the **Federal Register**, applications must be delivered to: U.S. Department of Labor, Procurement Services Center, 200 Constitution Avenue, NW., Room N–5416, Attention: Lisa Harvey, Washington, DC 20210.

FOR FURTHER INFORMATION CONTACT: Ms. Lisa Harvey. E-mail address: *harvey.lisa@dol.gov.* All inquiries should make reference to the USDOL Child Labor Education Initiative—Solicitations for Cooperative Agreement Applications.

Bidder's Meeting: A bidder's meeting will be held in Washington, DC, on Tuesday, April 12, 2005. The purpose of this meeting is to provide potential applicants the opportunity to ask questions concerning the Child Labor Education Initiative Solicitation for Cooperative Agreement process. Specific details on the time and location of the meeting will be sent to interested parties in early April 2005. To register for the meeting please call or e-mail Ms. Alexa Gunter (Phone: 202–693–4829; e-mail: *gunter-alexa@dol.gov*) by Thursday, March 31, 2005. Please provide Ms. Gunter with the name, organization, address, phone number, and e-mail address of the attendees.

Background Information: Since 1995, USDOL has supported a worldwide technical assistance program implemented by the International Labor Organization's International Program on the Elimination of Child Labor (ILO-IPEC). ILAB has provided over U.S. $400 million to ILO-IPEC and other organizations for international technical assistance to combat abusive child labor around the world.

In its FY 2005 appropriations, in addition to funds earmarked for ILO-IPEC, USDOL received U.S. $34 million to provide bilateral assistance to improve access to basic education in international areas with a high rate of abusive and exploitive child labor. All

such FY 2005 funds will be obligated on or before September 30, 2005.

USDOL's Child Labor Education Initiative nurtures the development, health, safety, and enhanced future employability of children around the world by increasing access to basic education for children removed from child labor or at risk of entering it. Eliminating child labor will depend in part on improving access to, quality of, and relevance of education. Without improving educational access, quality, and relevance, children withdrawn from child labor may not have viable alternatives and may return to work or resort to other hazardous means of subsistence.

In addition to increasing access to education and eliminating exploitive child labor, the Child Labor Education Initiative has the following four strategic goals:

1. Raise awareness of the importance of education for all children and mobilize a wide array of actors to improve and expand education infrastructures;

2. Strengthen formal and transitional education systems that encourage working children and those at risk of working to attend school;

3. Strengthen national institutions and policies on education and child labor; and

4. Ensure the long-term sustainability of these efforts.

When working to increase access to quality basic education, USDOL strives to complement existing efforts to eradicate the worst forms of child labor, to build on the achievements of and lessons learned from these efforts, to expand impact and build synergies among actors, and to avoid duplication of resources and efforts.

Signed in Washington, DC, this 9th day of March, 2005.

Lisa Harvey,

Grant Officer.

[FR Doc. 05–4990 Filed 3–14–05; 8:45 am]

BILLING CODE 4510–28–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–55,907]

Glaxosmithkline, Bristol, TN; Notice of Affirmative Determination Regarding Application for Reconsideration

By letter of January 7, 2005 a company official 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 Department's determination notice was signed on December 9, 2004 and published in the **Federal Register** on January 24, 2005 (70 FR 3390).

The Department reviewed the request for reconsideration and has determined that the petitioner has provided additional information regarding products produced by the subject firm. Therefore, the Department will conduct further investigation to determine if the workers meet the eligibility requirements of the Trade Act of 1974.

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 23rd day of February, 2005.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E5–1107 Filed 3–14–05; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–56,149]

Honeywell International, Transportation Systems/Friction Materials Division, Cleveland, TN; Notice of Affirmative Determination Regarding Application for Reconsideration

By application of February 9, 2005, a representative of the Tennessee AFL–CIO requested administrative reconsideration of the Department of Labor's Notice of negative determination regarding workers' eligibility to apply for Alternative Trade Adjustment Assistance (ATAA), applicable to workers of the subject firm.

The Department's negative determination was issued on December 20, 2004. The Notice of determination was published in the **Federal Register** on January 24, 2005 (70 FR 3392).

The petitioner asserts that the workers of the subject firm possess skills which are not easily transferable to other jobs in the local commuting area and has provided information in support of its position.

The Department has carefully reviewed the petitioner's request for reconsideration and has determined that the Department will conduct further investigation based on the new information provided by the petitioner and the company official.

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 1st day of March 2005

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E5–1108 Filed 3–14–05; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–55,745]

Liz Claiborne, Inc., North Bergen, NJ; Notice of Affirmative Determination Regarding Application for Reconsideration

By application of December 10, 2004, a representative of the New York Metropolitan Area Joint Board, UNITE HERE requested administrative reconsideration of the Department of Labor's negative determination regarding workers' eligibility to apply for Trade Adjustment Assistance (TAA) and Alternative Trade Adjustment Assistance (ATAA), applicable to workers of the subject firm. The Department's negative determination was issued on November 9, 2004.

The Notice of determination was published in the **Federal Register** on December 9, 2004 (69 FR 71429).

In the request for reconsideration, the petitioner asserts that, contrary to the Department's findings, the subject worker group's separation from the subject firm was due to the shift of sample production abroad.

The Department has carefully reviewed the petitioner's request for reconsideration as well as the subject firm's response, and has determined that the Department will conduct further investigation based on the new information provided by the petitioner and the company official.

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 1st day of March 2005.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E5–1106 Filed 3–14–05; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–56,402]

Metalforming Technologies, Inc., Safety Systems Division Including Leased Workers of Addecco, Burton, MI; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, as amended, an investigation was initiated on January 27, 2005 in response to a petition filed on behalf of workers of Metalforming Technologies, Inc., Safety Systems Division, Burton, Michigan.

The petitioning group of workers is covered by an active certification issued on January 10, 2005, which remains in effect (TA–W–56,402). Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed at Washington, DC, this 2nd day of February 2005.

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E5–1111 Filed 3–14–05; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–56,282]

Nova Trading, Monroe, NC; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, as amended, an investigation was initiated on January 4, 2005 in response to a worker petition filed on behalf of workers at Nova Trading, Monroe, North Carolina.

The petitioners have requested that the petition be withdrawn. Consequently, the investigation has been terminated.

Signed at Washington, DC, this 3rd day of February 2005.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E5–1109 Filed 3–14–05; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–56,415]

Osram Sylvania Company, Lake Zurich, IL; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, as amended, an investigation was initiated on January 27, 2005 in response to a petition filed by a company official on behalf of workers at Osram Sylvania Company, Lake Zurich, Illinois.

The petitioner has requested that the petition be withdrawn. Consequently, the investigation has been terminated.

Signed at Washington, DC this 4th day of February 2005.

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E5–1112 Filed 3–14–05; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

EMPLOYMENT AND TRAINING ADMINISTRATION

[TA–W–52,564 and TA–W–52,564H]

Prewett Mills Distribution Center, a Division of Prewett Hosiery Sales Corporation, Fort Payne, AL; Including an Employee of Prewett Mills Distribution Center, Fort Payne, AL, Located in Brielle, NJ; Amended Notice of 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 USC 2273) the Department of Labor issued a Notice of Certification Regarding Eligibility to Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance on October 14, 2003, applicable to workers of Prewett Mills Distribution Center, a division of Prewett Hosiery Sales Corporation, Fort Payne, Alabama. The notice was published in the **Federal Register** on November 6, 2003 (68 FR 62833).

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. New information shows that a worker separation occurred involving an employee of the Fort Payne, Alabama facility of Prewett Mills Distribution Center who was located in Brielle, New Jersey. Mr. Brian T. Reilly provided sales support services for the production of cotton socks at the Fort Payne, Alabama location of the subject firm.

Based on these findings, the Department is amending this certification to include employees of the Fort Payne, Alabama facility of Prewett Mills Distribution Center, located in Brielle, New Jersey. Since workers of the Fort Payne, Alabama location of the subject firm were certified eligible to apply for alternative trade adjustment assistance, the Department is extending this eligibility to Mr. Brian Reilly in Brielle, New Jersey.

The intent of the Department's certification is to include all workers of Prewett Mills Distribution Center, Fort Payne, Alabama, who were adversely affected by increased imports.

The amended notice applicable to TA–W–52,564 is hereby issued as follows:

All workers of Prewett Mills Distribution Center, a division of Prewett Hosiery Sales Corporation, Fort Payne, Alabama (TA–W–52,564), including an employee located in Brielle, New Jersey (TA–W–52,564H), who became totally or partially separated from employment on or after August 12, 2002, through October 14, 2005, 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 7th day of March 2005.

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E5–1105 Filed 3–14–05; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–56,465]

Inmed Corporation, d/b/a Rusch, Including On-Site Leased Workers of Axiom and Partners in Staffing, Duluth, GA; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, as amended, an investigation was initiated on February

2, 2005 in response to a petition filed on behalf of workers of Inmed Corporation, d/b/a Rusch, Duluth, Georgia.

The subject firm also leased some workers from Axiom and Partners in Staffing.

The petitioning group of workers is covered by an active certification issued on October 20, 2004 and which remains in effect (TA–W–55,756). Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed at Washington, DC this 3rd day of February, 2005.

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E5–1114 Filed 3–14–05; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–56,323]

Springs Industries, Anderson, SC; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, as amended, an investigation was initiated on January 12, 2005 in response to a petition filed by a company official on behalf of workers at Springs Industries, Anderson, South Carolina.

The petitioning group of workers is covered by an earlier petition instituted on January 5, 2005 (TA–W–56,295) that is the subject of an ongoing investigation for which a determination has not yet been issued. Further investigation in this case would duplicate efforts and serve no purpose; therefore the investigation under this petition has been terminated.

Signed at Washington, DC this 4th day of February 2005.

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E5–1110 Filed 3–14–05; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 (''the Act'') and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Division of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Division of Trade Adjustment Assistance, at the address shown below, not later than March 25, 2005.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Division of Trade Adjustment Assistance, at the address shown below, not later than March 25, 2005.

The petitions filed in this case are available for inspection at the Office of the Director, Division of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, Room C–5311, 200 Constitution Avenue, NW., Washington, DC 20210.

Signed at Washington, DC this 4th day of March 2005.

Timothy Sullivan,

Director, Division of Trade Adjustment Assistance.

Appendix

PETITIONS INSTITUTED BETWEEN 02/02/2005 AND 02/11/2005

TA–W	Subject firm (petitioners)	Location	Date of institution	Date of petition
56,461	Teradyne, Inc. (Comp)	Nashua, NH	02/02/2005	01/31/2005.
56,462	Nakanishi Manufacturing Corp. (Comp)	Winterville, GA	02/02/2005	01/31/2005.
56,463	Santa's Best (Comp)	Lubbock, TX	02/02/2005	01/21/2005.
56,464	Imerys Pigments and Additives (State)	Dry Branch, GA	02/02/2005	01/31/2005.
56,465	INMED Corporation (Wkrs)	Duluth, GA	02/02/2005	01/26/2005.
56,466	Information Resources, Inc. (NPW)	Chicago, IL	02/02/2005	02/01/2005.
56,467	Kimberly-Clark Corp. (State)	Conway, AR	02/02/2005	01/20/2005.
56,468	Alexander Technologies USA, Inc. (Comp)	Mason City, IA	02/02/2005	02/01/2005.
56,469	Blackstone Manufacturing (Wkrs)	Blackstone, VA	02/02/2005	02/01/2005.
56,470	Unique Garment Manufacturing, Inc. (State)	Daly City, CA	02/02/2005	01/20/2005.
56,471	Noffsinger Manufacturing Co., Inc. (Comp)	Hermiston, OR	02/02/2005	02/01/2005.
56,472	Armstrong World Industries (USWA)	Oneida, TN	02/02/2005	02/01/2005.
56,473	Glenoit LLC/Excell Home Fashions, Inc. (Comp)	New York, NY	02/02/2005	01/12/2005.
56,474	Rexam Beverage Can Americas (Wkrs)	San Leandro, CA	02/02/2005	02/01/2005.
56,475	Neocare (Comp)	San Antonio, TX	02/02/2005	01/31/2005.
56,476	Miss Elaine, Inc. (UNITE)	Ste. Genevieve, MO	02/02/2005	01/28/2005.
56,477	Gardner Shoe Company (Wkrs)	West Plains, MO	02/02/2005	01/17/2005.
56,478	Peerless Premier Appliance (IBB)	Belleville, IL	02/02/2005	02/01/2005.
56,479	Solo Cup Company (Wkrs)	Green Bay, WI	02/02/2005	02/01/2005.
56,480	Tyco Electronics (State)	Dallas, OR	02/02/2005	02/01/2005.
56,481	Morton Metalcraft Co. of SC (Comp)	Honea Path, SC	02/02/2005	01/24/2005.
56,482	Sidel (State)	Bradenton, FL	02/02/2005	02/01/2005.
56,483	Knowles Electronics (Wkrs)	Elgin, IL	02/03/2005	01/27/2005.
56,484	Renees Manufacturing, Inc. (Wkrs)	San Francisco, CA	02/03/2005	02/02/2005.
56,485	Anchor Hocking Company (USWA)	Monaca, PA	02/03/2005	01/31/2005.
56,486	Lucent Technology (State)	Phoenix, AZ	02/03/2005	01/24/2005.
56,487	Fraser Papers (Wkrs)	Park Falls, WI	02/03/2005	01/24/2005.

PETITIONS INSTITUTED BETWEEN 02/02/2005 AND 02/11/2005—Continued

TA–W	Subject firm (petitioners)	Location	Date of institution	Date of petition
56,488	Reed Manufacturing Co., Inc. (Comp)	Tupelo, MS	02/03/2005	01/21/2005.
56,489	Printing Developments, Inc. (Comp)	Racine, WI	02/03/2005	02/03/2005.
56,490	Shell Oil (State)	Bakersfield, CA	02/03/2005	01/20/2005.
56,491	Newcor Bay City (UAW)	Bay City, MI	02/03/2005	01/28/2005.
56,492	Stabilus (Wkrs)	Gastonia, NC	02/03/2005	01/31/2005.
56,493	Koepplingers Baker, Inc (BCTGM)	Oak Park, MI	02/03/2005	02/02/2005.
56,494	Kimberly Clark (State)	Draper, UT	02/04/2005	02/03/2005.
56,495	Aurafin Oroamerica, LLC (Wkrs)	Providence, RI	02/04/2005	01/05/2005.
56,496	KBA North America (USWA)	York, PA	02/04/2005	02/04/2005.
56,497	Johnson Controls, Inc. (Comp)	Anderson, SC	02/04/2005	02/01/2005.
56,498	Marsh Advantgage America (Wkrs)	Spartanburg, SC	02/04/2005	01/10/2005.
56,499	Wallace Packaging (Wkrs)	Bay Shore, NY	02/04/2005	02/04/2005.
56,500	Burlington Rug Corp. (State)	Monticello, AR	02/04/2005	02/04/2005.
56,501	Decra Mold (Wkrs)	Oklahoma City, OK	02/04/2005	01/31/2005.
56,502	Gertrude Davenport, Inc. (Comp)	Americus, GA	02/04/2005	02/04/2005.
56,503	Anthra Textile Company (Wkrs)	Shamokin, PA	02/04/2005	01/06/2005.
56,504	England Furniture (Wkrs)	Booneville, MS	02/04/2005	01/31/2005.
56,505	FB Johnston Group (Wkrs)	Hillsborough, NC	02/04/2005	02/01/2005.
56,506	Futuresmart (Wkrs)	Draper, UT	02/04/2005	01/13/2005.
56,507	Augusta Sportswear (State)	Grovetown, GA	02/04/2005	02/03/2005.
56,508	Cannon County Knitting Mills (Wkrs)	Smithville, TN	02/04/2005	02/02/2005.
56,509	Barrow Manufacturing Co. (Comp)	Winder, GA	02/04/2005	02/03/2005.
56,510	Shafer Electronics (State)	Shafer, MN	02/04/2005	02/03/2005.
56,511	Quantegy (Wkrs)	Opelia, AL	02/04/2005	01/11/2005.
56,512	Pride Manufacturing Co., LLC (Comp)	Tampa, FL	02/07/2005	01/19/2005.
56,513	Cannon Equipment (Comp)	Passaic, NJ	02/07/2005	02/07/2005.
56,514	IKKA Technology, Inc. (Comp)	Villa Rica, GA	02/07/2005	01/25/2005.
56,515	Interstate Iron Works (State)	Whitehouse, NJ	02/07/2005	02/04/2005.
56,516	Weil-McLain (Wkrs)	Michigan City, IN	02/07/2005	02/04/2005.
56,517	Shirley's SewVac (State)	Hermiston, OR	02/07/2005	02/04/2005.
56,518	Standard Textiles (Wkrs)	Thomaston, GA	02/07/2005	01/10/2005.
56,519	Weyerhaeuser Company (State)	Lebanon, OR	02/07/2005	02/03/2005.
56,520	Orgo-Thermitt (State)	Manchester, NJ	02/07/2005	02/07/2005.
56,521	Lear Corporation (Comp)	Grand Rapids, MI	02/07/2005	02/07/2005.
56,522	Clayton-Marcus Company, Inc. (State)	Hickory, NC	02/07/2005	02/07/2005.
56,523	Hunter Technologies, Inc. (Comp)	Montross, VA	02/07/2005	02/01/2005.
56,524	Jamaica Buick, LLC (NPW)	Jamaica, NY	02/07/2005	02/07/2005.
56,525	Tyco Healthcare (Comp)	Waco, TX	02/07/2005	02/04/2005.
56,526	M and F Western Product, Inc. (Wkrs)	Nocona, TX	02/07/2005	01/10/2005.
56,527	SET Enterprises (Comp)	Warren, MI	02/08/2005	02/07/2005.
56,528	Hussman Corporation (USWA)	Bridgeton, MO	02/08/2005	02/07/2005.
56,529	CTS Corporation (Wkrs)	Berne, IN	02/08/2005	02/07/2005.
56,530	United Engine and Machine Co., Inc. (Comp)	Carson City, NV	02/08/2005	02/03/2005.
56,531	Facility Management Engineering (State)	St. George, UT	02/08/2005	02/08/2005.
56,532	Stant Manufacturing, Inc., (UAW)	Conerville, IN	02/08/2005	02/01/2005.
56,533	Owens and Hurst Lumber Co. (Comp)	Eureka, MT	02/08/2005	02/07/2005.
56,534	Anchor Glass Container (USWA)	Zanesville, OH	02/08/2005	02/07/2005.
56,535	Kanthal Corporation (Comp)	Niagara Falls, NY	02/08/2005	01/25/2005.
56,536A	Butler Manufacturing Company (Wkrs)	Galesburg, IL	02/08/2005	02/07/2005.
56,536B	Butler Manufacturing Company (Wkrs)	Galesburg, IL	02/08/2005	02/07/2005.
56,536	Butler Manufacturing Company (Wkrs)	Galesburg, IL	02/08/2005	02/07/2005.
56,537	Polar Fabe (State)	Bloomington, MN	02/08/2005	02/07/2005.
56,538	Prudential Overall Supply (Wkrs)	Cerritos, CA	02/09/2005	01/28/2005.
56,539	SCA Tissue North America LLC (Comp)	Neenah, WI	02/09/2005	02/03/2005.
56,540	C & H Machine Co., Inc. (Wkrs)	Kinzer, PA	02/09/2005	01/28/2005.
56,541	Osram Sylvania, Inc. (IUE)	St Marys, PA	02/09/2005	02/09/2005.
56,542	Temple Industries (State)	Hot Springs, AR	02/09/2005	01/28/2005.
56,543	Evans Rule Co., Inc. (Comp)	Charleston, SC	02/10/2005	02/07/2005.
56,544	Furst Staffing Temp. (Wkrs)	Rockford, IL	02/10/2005	01/11/2005.
56,545	Avail Staff and Chase Staffing (State)	Gainesville, GA	02/10/2005	02/05/2005.
56,546	WestPoint Stevens (Comp)	Wagram, NC	02/11/2005	02/09/2005.
56,547	Seton Company (Wkrs)	Saxton, PA	02/11/2005	02/03/2005.
56,548	Reed City Tool and Die (Comp)	Reed City, MI	02/11/2005	02/09/2005.
56,549	Finisar Corp. (Comp)	Sunnyvale, CA	02/11/2005	01/26/2005.
56,550	Cyprus Semiconductor (State)	Bloomington, MN	02/11/2005	02/08/2005.
56,551	National Oil Well (State)	St. Paul, MN	02/11/2005	02/08/2005.
56,552	Northern Pure Ice, LLC (State)	Grayling, MI	02/11/2005	02/01/2005.
56,553	SJP Corp. (Comp)	New London, WI	02/11/2005	02/02/2005.
56,554	Boling Furniture Co. (Comp)	Mount Olive, NC	02/11/2005	02/10/2005.
56,555	American Flange and Mfg. Co., Inc. (Wkrs)	Carol Stream, IL	02/11/2005	01/28/2005.
56,556	Pitt Services, Ltd. (Comp)	Kinston, NC	02/11/2005	02/08/2005.

PETITIONS INSTITUTED BETWEEN 02/02/2005 AND 02/11/2005—Continued

TA–W	Subject firm (petitioners)	Location	Date of institution	Date of petition
56,557	Phoenix Millwork (State)	Beaumont, TX	02/11/2005	02/08/2005.
56,558	Ben Mar Hosiery (Comp)	Ft. Payne, AL	02/11/2005	02/08/2005.
56,559	Flexible Technologies (Wkrs)	Honea Path, SC	02/11/2005	02/08/2005.
56,560	Interstate Tool and Die Company (Wkrs)	Madison Heights, MI	02/11/2005	02/02/2005.
56,561	Citi Group Credit Services (Wkrs)	Middleburg Hgts, OH	02/11/2005	01/30/2005.
56,562	Plastic Source, Inc. (Wkrs)	El Paso, TX	02/11/2005	01/28/2005.
56,563	Brocade Communications (State)	San Jose, CA	02/11/2005	01/27/2005.
56,564	Lab-Line instruments, Inc. (Comp)	Melrose Park, IL	02/11/2005	02/03/2005.
56,565	Kraft Foods Global (Wkrs)	New Berline, NY	02/11/2005	01/27/2005.

[FR Doc. E5–1113 Filed 3–14–05; 8:45 am]

BILLING CODE 4510–30–P

NATIONAL AERONAUTICS AND SPACE ADMINSTRATION

[Notice (05–043)]

Return to Flight Task Group; Meeting

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended, the National Aeronautics and Space Administration announces a meeting of the Return to Flight Task Group (RTF TG).

DATES: Thursday, March 31, 2005, from 7:30 a.m. until noon, central standard time.

ADDRESSES: Webster Civic Center, 311 Pennsylvania, Webster, TX 77598.

FOR FURTHER INFORMATION CONTACT: Mr. Vincent D. Watkins at (281) 792–7523.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the seating capacity of the meeting room. Attendees will be requested to sign a register. Audio of the meeting will be distributed via the Internet at *http://returntoflight.org.*

The agenda for the meeting is as follows:

—Welcome remarks from Co-Chair.

—Discussion of status of NASA's implementation of selected Columbia Accident Investigation Board return to flight recommendations.

—Action item summary from Executive Secretary.

—Closing remarks from Co-Chair.

It is imperative that the meeting be held on this date to accommodate the scheduling priorities of the key participants.

Michael F. O'Brien,

Assistant Administrator for External Relations.

[FR Doc. 05–5090 Filed 3–14–05; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (05–044)]

NASA Advisory Council, Task Force on International Space Station Operational Readiness; Meeting

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Notice of meeting.

SUMMARY: The National Aeronautics and Space Administration announces an open meeting of the NASA Advisory Council (NAC), Task Force on International Space Station Operational Readiness (IOR).

DATES: Tuesday, April 12, 2005, 1 p.m.–2 p.m. eastern standard time.

ADDRESSES: NASA Headquarters, 300 E Street, SW., Room 7U22, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Mr. Todd F. McIntyre, Office of External Relations, (202) 358–4621, National Aeronautics and Space Administration, Washington, DC 20546–0001.

SUPPLEMENTARY INFORMATION: This meeting will be open to the public up to the seating capacity of the room. Five seats will be reserved for members of the press. The agenda for the meeting is as follows:

—To assess the operational readiness of the International Space Station to support a new crew.

—To assess the Russian flight team's preparedness to accomplish the Expedition Eleven mission.

—To assess the health and flight readiness of the Expedition Eleven crew.

Attendees will be requested to sign a register and to comply with NASA security requirements, including the presentation of a valid picture ID, before receiving an access badge. Foreign nationals attending this meeting will be required to provide the following information: full name; gender; date/place of birth; citizenship; visa/green card information (number, type, expiration date); passport information (number, country, expiration date); employer/affiliation information (name of institution, address, country, phone); title/position of attendee. To expedite admittance, attendees should provide identifying information in advance by contacting Todd F. McIntyre via e-mail at *Todd.McIntyre-1@nasa.gov* or by telephone at (202) 358–4621 by March 30, 2005.

It is imperative that the meeting be held on this date to accommodate the scheduling priorities of the key participants.

Michael F. O'Brien,

Assistant Administrator for External Relations.

[FR Doc. 05–5091 Filed 3–14–05; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL CREDIT UNION ADMINISTRATION

Agency Information Collection Activities: Submission to OMB for Extension of a Currently Approved Collection; Comment Request

AGENCY: National Credit Union Administration (NCUA).

ACTION: Request for comment.

SUMMARY: The NCUA is submitting the following information collection to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). This information collection is published to obtain comments from the public.

DATES: Comments will be accepted until May 16, 2005.

ADDRESSES: Interested parties are invited to submit written comments to the NCUA Clearance Officer listed below:

Clearance Officer: Mr. Neil McNamara, National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314–3428, Fax No. 703–518–6669, E-mail: *mcnamara@ncua.gov*.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or a copy of the information collection request, should be directed to Tracy Sumpter at the National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314–3428, or at (703) 518–6444.

SUPPLEMENTARY INFORMATION: Proposal for the following collection of information:

Title: 12 CFR 712, Credit Union Service Organizations.

OMB Number: 3133–0149.

Form Number: None.

Type of Review: Reinstatement, with change, of a previously approved collection for which approval has expired.

Description: This rule helps ensure that relationships that credit unions have with credit union service organizations are adequately and properly documented.

Respondents: Credit unions.

Estimated No. of Respondents/Record keepers: 271.

Estimated Burden Hours Per Response: 2 hours.

Frequency of Response: Recordkeeping, reporting and on occasion.

Estimated Total Annual Burden Hours: 560 hours.

Estimated Total Annual Cost: 0.

By the National Credit Union Administration Board on March 8, 2005.

Mary Rupp,

Secretary of the Board.

[FR Doc. 05–4991 Filed 3–14–05; 8:45 am]

BILLING CODE 7535–01–P

NATIONAL CREDIT UNION ADMINISTRATION

Notice of Meeting; Sunshine Act

TIME AND DATE: 10 a.m., Thursday, March 17, 2005.

PLACE: Board Room, 7th Floor, Room 7047, 1775 Duke Street, Alexandria, VA 22314–3428.

STATUS: Open.

MATTERS TO BE CONSIDERED: 1. Notice of Proposed Rulemaking: Part 712 of NCUA's Rules and Regulations, Credit Union Service Organizations.

RECESS: 10:30 a.m.

TIME AND DATE: 11 a.m., Thursday, March 17, 2005.

PLACE: Board Room, 7th Floor, Room 7047, 1775 Duke Street, Alexandria, VA 22314–3428.

STATUS: Closed.

MATTERS TO BE CONSIDERED: 1. Part 703 of NCUA's Rules and Regulations, Pilot Program Request. Closed pursuant to exemption (4).

FOR FURTHER INFORMATION CONTACT: Mary Rupp, Secretary of the Board, telephone: 703–518–6304.

Hattie Ulan,

Acting Board Secretary.

[FR Doc. 05–5117 Filed 3–10–05; 4:16 pm]

BILLING CODE 7535–01–M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards; Meeting of the Subcommittee on Plant License Renewal

The ACRS Subcommittee on Plant License Renewal will hold a meeting on April 6, 2005, Room T–2B3, 11545 Rockville Pike, Rockville, Maryland.

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows:

Wednesday, April 6, 2005—1:30 p.m. until 5 p.m.

The purpose of this meeting is to discuss the License Renewal Application for Millstone Power Station Units 2 and 3 and the related Safety Evaluation Report (SER) with Open Items prepared by the NRC staff. The Subcommittee will hear presentations by and hold discussions with representatives of the NRC staff, Dominion Nuclear Connecticut, Inc., and other interested persons regarding this matter. The Subcommittee will gather information, analyze relevant issues and facts, and formulate proposed positions and actions, as appropriate, for deliberation by the full Committee.

Members of the public desiring to provide oral statements and/or written comments should notify the Designated Federal Official, Mr. Cayetano Santos (telephone 301/415–7270) five days prior to the meeting, if possible, so that appropriate arrangements can be made. Electronic recordings will be permitted.

Further information regarding this meeting can be obtained by contacting the Designated Federal Official between 7:30 a.m. and 4:15 p.m. (ET). Persons planning to attend this meeting are urged to contact the above named individual at least two working days prior to the meeting to be advised of any potential changes to the agenda.

Dated: March 9, 2005.

Michael L. Scott,

Branch Chief, ACRS/ACNW.

[FR Doc. 05–5006 Filed 3–14–05; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Sunshine Act; Meeting

DATE: Weeks of March 14, 21, 28; April 4, 11, 18, 2005.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and closed.

MATTERS TO BE CONSIDERED:

Week of March 14, 2005

Wednesday, March 16, 2005

9:30 a.m. Meeting with Advisory Committee on Nuclear Waste (ACNW) (Public Meeting). (Contact: John Larkins, (301) 415–7360.)

This meeting will be webcast live at the Web address—*http://www.nrc.gov.*

Week of March 21, 2005—Tentative

There are no meetings scheduled for the Week of March 21, 2005.

Week of March 28, 2005—Tentative

Tuesday, March 29, 2005

9:30 a.m. Briefing on Office of Nuclear Security and Incident Response (NSIR) Programs, Performance, and Plans (Public Meeting). (Contact: Robert Caldwell, (301) 415–1243.)

This meeting will be webcast live at the Web address—*http://www.nrc.gov.*

1 p.m. Discussion of Security Issues (Closed—Ex.1).

Week of April 4, 2005—Tentative

Tuesday, April 5, 2005

9:30 a.m. Briefing on Office on Research (RES) Programs, Performance, and Plans (Public Meeting). (Contact: Alix Dvorak, (301) 415–6601.)

This meeting will be webcast live at the Web address—*http://www.nrc.gov.*

Wednesday, April 6, 2005

9:30 a.m. Briefing on Status on New Site and Reactor Licensing (Public Meeting). (Contact: Steven Bloom, (301) 415–1313.)

This meeting will be webcast live at the Web address—*http://www.nrc.gov.*

Thursday, April 7, 2005

1:30 p.m. Meeting with Advisory Committee on Reactor Safeguards (ACRS) (Public Meeting). (Contact: John Larkins, (301) 415–7360.)

This meeting will be webcast live at the Web address—*http://www.nrc.gov.*

Week of April 11, 2005—Tentative

There are no meetings scheduled for the Week of April 11, 2005.

Week of April 18, 2005—Tentative

Wednesday, April 20, 2005

1:30 p.m. Briefing on Office of Nuclear Reactor Regulation (NRR) Programs, Performance, and Plans (Public Meeting). (Contact: Laura Gerke, (301) 415–4099.)

This meeting will be webcast live at the Web address—*http://www.nrc.gov.*

* The schedule for Commission meetings is subject to change on short notice. To verify the status of meetings call (recording)—(301) 415–1292. Contact person for more information: Dave Gamberoni, (301) 415–1651.

The NRC Commission Meeting Schedule can be found on the Internet at: *http://www.nrc.gov/what-we-do/policy-making/schedule.html.*

The NRC provides reasonable accommodation to individuals with disabilities where appropriate. If you need a reasonable accommodation to participate in these public meetings, or need this meeting notice or the transcript or other information from the public meetings in another format (*e.g.,* braille, large print), please notify the NRC's Disability Program Coordinator, August Spector, at (301) 415–7080, TDD: (301) 415–2100, or by e-mail at *aks@nrc.gov*. Determinations on requests for reasonable accommodation will be made on a case-by-case basis.

This notice is distributed by mail to several hundred subscribers; if you no longer wish to receive it, or would like to be added to the distribution, please contact the Office of the Secretary, Washington, DC. 20555 (301) 415–1969. In addition, distribution of this meeting notice over the Internet system is available. If you are interested in receiving this Commission meeting schedule electronically, please send an electronic message to *dkw@nrc.gov.*

Dated: March 10, 2005.

Dave Gamberoni,

Office of the Secretary.

[FR Doc. 05–5120 Filed 3–11–05; 9:19 am]

BILLING CODE 7590–01–M

NUCLEAR REGULATORY COMMISSION

Biweekly Notice; Applications and Amendments to Facility Operating Licenses Involving No Significant Hazards Considerations

I. Background

Pursuant to section 189a. (2) of the Atomic Energy Act of 1954, as amended (the Act), the U.S. Nuclear Regulatory Commission (the Commission or NRC staff) is publishing this regular biweekly notice. The Act requires the Commission publish notice of any amendments issued, or proposed to be issued and grants the Commission the authority to issue and make immediately effective any amendment to an operating license upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This biweekly notice includes all notices of amendments issued, or proposed to be issued from February 18, 2005, through March 3, 2005. The last biweekly notice was published on March 1, 2005 (70 FR 9986).

Notice of Consideration of Issuance of Amendments to Facility Operating Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. Within 60 days after the date of publication of this notice, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene.

Normally, the Commission will not issue the amendment until the expiration of 60 days after the date of publication of this notice. The Commission may issue the license amendment before expiration of the 60-day period provided that its final determination is that the amendment involves no significant hazards consideration. In addition, the Commission may issue the amendment prior to the expiration of the 30-day comment period should circumstances change during the 30-day comment period such that failure to act in a timely way would result, for example in derating or shutdown of the facility. Should the Commission take action prior to the expiration of either the comment period or the notice period, it will publish in the **Federal Register** a notice of issuance. Should the Commission make a final No Significant Hazards Consideration Determination, any hearing will take place after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D22, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the Commission's Public Document Room (PDR), located at One White Flint North, Public File Area O1F21, 11555 Rockville Pike (first floor), Rockville, Maryland. The filing of requests for a hearing and petitions for leave to intervene is discussed below.

Within 60 days after the date of publication of this notice, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's ''Rules of Practice for Domestic Licensing Proceedings'' in 10 CFR part 2. Interested persons should

consult a current copy of 10 CFR 2.309, which is available at the Commission's PDR, located at One White Flint North, Public File Area 01F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible from the Agencywide Documents Access and Management System's (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, *http://www.nrc.gov/reading-rm/doc-collections/cfr/.* If a request for a hearing or petition for leave to intervene is filed within 60 days, the Commission or a presiding officer designated by the Commission or by the Chief Administrative Judge of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the Chief Administrative Judge of the Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order.

As required by 10 CFR 2.309, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following general requirements: (1) The name, address, and telephone number of the requestor or petitioner; (2) the nature of the requestor's/petitioner's right under the Act to be made a party to the proceeding; (3) the nature and extent of the requestor's/petitioner's property, financial, or other interest in the proceeding; and (4) the possible effect of any decision or order which may be entered in the proceeding on the requestor's/petitioner's interest. The petition must also set forth the specific contentions which the petitioner/requestor seeks to have litigated at the proceeding.

Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner/requestor shall provide a brief explanation of the bases for the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner/requestor intends to rely in proving the contention at the hearing. The petitioner/requestor must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner/requestor intends to rely to establish those facts or expert opinion. The petition must include sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner/requestor to relief. A petitioner/requestor who fails to satisfy these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing.

If a hearing is requested, and the Commission has not made a final determination on the issue of no significant hazards consideration, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held. If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment. If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed by: (1) First class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Staff; (2) courier, express mail, and expedited delivery services: Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland, 20852, Attention: Rulemaking and Adjudications Staff; (3) e-mail addressed to the Office of the Secretary, U.S. Nuclear Regulatory Commission, *HearingDocket@nrc.gov;* or (4) facsimile transmission addressed to the Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC, Attention: Rulemakings and Adjudications Staff at (301) 415–1101, verification number is (301) 415–1966. A copy of the request for hearing and petition for leave to intervene should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and it is requested that copies be transmitted either by means of facsimile transmission to (301) 415–3725 or by e-mail to *OGCMailCenter@nrc.gov.* A copy of the request for hearing and petition for leave to intervene should also be sent to the attorney for the licensee.

Nontimely requests and/or petitions and contentions will not be entertained absent a determination by the Commission or the presiding officer of the Atomic Safety and Licensing Board that the petition, request and/or the contentions should be granted based on a balancing of the factors specified in 10 CFR 2.309(a)(1)(i)–(viii).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's PDR, located at One White Flint North, Public File Area 01F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible from the ADAMS Public Electronic Reading Room on the Internet at the NRC Web site, *http://www.nrc.gov/reading-rm/adams.html.* If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the PDR Reference staff at 1 (800) 397–4209, (301) 415–4737 or by e-mail to *pdr@nrc.gov.*

AmerGen Energy Company, LLC, et al., Docket No. 50–219, Oyster Creek Nuclear Generating Station, Ocean County, New Jersey

Date of amendment request: February 2, 2005.

Description of amendment request: The amendment would revise Tables 3.1.1 and 4.1.1 of the Technical Specifications (TSs) to incorporate the isolation trip setting and the instrumentation surveillance requirements of the reactor water cleanup (RWCU) system high energy line break (HELB) detection and isolation equipment.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration. The NRC staff's analysis is presented below:

The first standard requires that operation of the unit in accordance with the proposed amendment will not involve a significant increase in the probability or consequences of an accident previously evaluated. The equipment modification, which is the subject of the proposed amendment, had been installed by the licensee in 1998 using the provisions of 10 CFR 50.59, and the licensee had been performing the surveillance requirement as is now proposed for this amendment. The purpose of the modification was to

ensure that the RWCU system can be isolated on an HELB downstream of the RWCU system isolation valves. The proposed addition of the RWCU HELB detection/isolation equipment setpoints and surveillance requirements to the TSs satisfies the 10 CFR 50.36 requirements for limiting conditions for operation (LCOs) and surveillance requirements (SRs) that should be included in the TSs. Thus, the proposed amendment would not alter the physical design or operational procedures associated with any plant structure, system, or component (*i.e.*, the RWCU system will be isolated by existing equipment, in case there is an HELB, in the same way as before the amendment). Consequently, the proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The second standard requires that operation of the unit in accordance with the proposed amendment will not create the possibility of a new or different kind of accident from any accident previously evaluated. The proposed amendment does not lead to any changes in the physical design, safety limits, or safety analysis assumptions associated with the operation of the plant. The proposed amendment would only add requirements to the TSs for the operability and surveillance testing of the RWCU system HELB detection/isolation equipment. Accordingly, the proposed amendment does not introduce any new accident initiators, nor does it reduce or adversely affect the capabilities of any plant structure or system in the performance of their safety function. Therefore, the proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The third standard requires that operation of the unit in accordance with the proposed amendment will not involve a significant reduction in a margin of safety. The proposed amendment will not affect any margin of safety as defined in the Oyster Creek Nuclear Generating Station Final Safety Analysis Report. The amendment only adds LCOs and SRs to assure that the RWCU system HELB detection/isolation equipment is operable under the plant operating conditions when an RWCU system HELB is possible. The amendment does not change the RWCU system isolation time as compared to original plant design. Therefore, the proposed amendment does not involve a significant reduction in a margin of safety.

Based on the NRC staff's analysis, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the proposed amendment involves no significant hazards consideration.

Attorney for licensee: Thomas S. O'Neill, Associate General Counsel, Exelon Generation Company, LCC, 4300 Winfield Road, Warrenville, IL 60555.

NRC Section Chief: Richard J. Laufer.

Carolina Power & Light Company, Docket Nos. 50–325 and 50–324, Brunswick Steam Electric Plant, Units 1 and 2, Brunswick County, North Carolina

Date of amendment request: January 27, 2005.

Description of amendment request: The proposed amendments would revise the Technical Specifications (TS) testing frequency for the surveillance requirement (SR) in TS 3.1.4, ''Control Rod Scram Times.'' The proposed change would revise the test frequency of SR 3.1.4.2, control rod scram time testing, from ''120 days cumulative operation in MODE 1'' to ''200 days cumulative operation in MODE 1.''

The NRC staff issued a notice of availability of a model no significant hazards consideration (NSHC) determination for referencing in licensing amendment applications in the **Federal Register** on August 23, 2004 (69 FR 51864). The licensee affirmed the applicability of the model NSHC determination in its application dated January 27, 2005.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), an analysis of the issue of NSHC is presented below:

1. Does the change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed change extends the frequency for testing control rod scram time testing from every 120 days of cumulative Mode 1 operation to 200 days of cumulative Mode 1 operation. The frequency of surveillance testing is not an initiator of any accident previously evaluated. The frequency of surveillance testing does not affect the ability to mitigate any accident previously evaluated, as the tested component is still required to be operable. Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed change extends the frequency for testing control rod scram time testing from every 120 days of cumulative Mode 1 operation to 200 days of cumulative Mode 1 operation. The proposed change does not result in any new or different modes of plant operation. Therefore, the proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

The proposed change extends the frequency for testing control rod scram time testing from every 120 days of cumulative Mode 1 operation to 200 days of cumulative Mode 1 operation. The proposed change continues to test the control rod scram time to ensure the assumptions in the safety analysis are protected. Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: David T. Conley, Associate General Counsel II—Legal Department, Progress Energy Service Company, LLC, Post Office Box 1551, Raleigh, North Carolina 27602.

NRC Section Chief: Michael L. Marshall, Jr.

Duke Energy Corporation, Docket Nos. 50–269, 50–270, and 50–287, Oconee Nuclear Station, Units 1, 2, and 3, Oconee County, South Carolina

Date of amendment request: February 14, 2005.

Description of amendment request: The proposed amendments would revise Technical Specification Surveillance Requirement (SR) 3.3.7.1 to extend the frequency of the channel functional test to once every 31 days to once every 92 days.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

(1) *Involve a significant increase in the probability or consequences of an accident previously evaluated:*

The proposed LAR [license amendment request] extends the current 31 day surveillance frequency to a 92 day surveillance frequency. The proposed LAR does not alter the method of operating or configuration for any structure, system, or component. Extension of the surveillance interval will not affect any accident analysis or the plant safety system response to the accident. The extension of the surveillance interval will not affect the ability of ES [engineered safeguards] to actuate Engineered Safeguards Protective System (ESPS) equipment. Therefore, the proposed LAR does not involve a significant increase in the probability or consequences of an accident previously evaluated.

(2) *Create the possibility of a new or different kind of accident from any kind of accident previously evaluated:*

The proposed change does not necessitate a change in parameters governing plant operation. Consequently, the proposed LAR does not alter the nature of events postulated in the UFSAR [Updated Final Safety Analysis Report] nor does the LAR introduce any unique precursor mechanisms. Therefore, the proposed amendment will not create the possibility of a new or different kind of accident from any accident previously evaluated.

(3) *Involve a significant reduction in the margin of Safety*

The proposed change does not adversely affect any plant safety limits, setpoints, or design parameters. The changes will not adversely affect the fuel, fuel cladding, RCS [reactor coolant system], or containment integrity. The proposed change to the frequency for SR [surveillance requirement] 3.3.7.1 will not impact the operation of the ESPS Digital Automatic Actuation Logic Channels nor the actuation of ESPS equipment. Additionally, the channel functional testing of the ESPS Digital Channels will continue to be performed within an acceptable timeframe following implementation of the proposed change. As such, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Anne W. Cottingham, Winston and Strawn LPP, 1400 L Street, NW., Washington, DC 20005.

NRC Section Chief: John A. Nakoski.

Entergy Operations Inc., Docket No. 50–382, Waterford Steam Electric Station, Unit 3, St. Charles Parish, Louisiana

Date of amendment request: December 22, 2004.

Description of amendment request: The requested change would delete Technical Specification (TS) 6.9.1.5, ''Occupational Radiation Exposure Report,'' and 6.9.1.6, ''Monthly Operating Reports,'' as described in the Notice of Availability published in the **Federal Register** on June 23, 2004 (69 FR 35067).

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), an analysis of the issue of no significant hazards consideration is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed change eliminates the Technical Specifications (TSs) reporting requirements to provide a monthly operating report of shutdown experience and operating statistics if the equivalent data is submitted using an industry electronic database. It also eliminates the TS reporting requirement for an annual occupational radiation exposure report, which provides information beyond that specified in NRC regulations. The proposed change involves no changes to plant systems or accident analyses. As such, the change is administrative in nature and does not affect initiators of analyzed events or assumed mitigation of accidents or transients. Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed change does not involve a physical alteration of the plant, add any new equipment, or require any existing equipment to be operated in a manner different from the present design. Therefore, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

This is an administrative change to reporting requirements of plant operating information and occupational radiation exposure data, and has no effect on plant equipment, operating practices or safety analyses assumptions. For these reasons, the proposed change does not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: N. S. Reynolds, Esquire, Winston & Strawn 1400 L Street, NW., Washington, DC 20005–3502.

NRC Section Chief: Allen G. Howe.

Florida Power Corporation, et al., Docket No. 50–302, Crystal River Unit 3 Nuclear Generating Plant, Citrus County, Florida

Date of amendment request: January 27, 2005.

Description of amendment request: The proposed License Amendment Request (LAR) would allow the licensee to utilize a probabilistic methodology to determine the contribution to main streamline break (MSLB) leakage rates for the once-through steam generator (OTSG) from the tube end crack (TEC) alternate repair criteria (ARC) described in Crystal River Unit 3 (CR–3) Improved Technical Specification (ITS) 5.6.2.10.2.f. This LAR involves no change to the CR–3 ITS.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does not involve a significant increase in the probability or consequences of an accident previously evaluated.

This LAR proposes to change the method to determine the projected MSLB leakage rates for TEC. Potential leakage from OTSG tubes, including leakage contribution from TEC, is bounded by the MSLB evaluation presented in the Final Safety Analysis Report (FSAR). The inspection required by the ARC will continue being performed as required by CR–3 ITS 5.6.2.10. This inspection provides continuous monitoring of tubes with TEC indications remaining in service, and ensures that degradation of new tubes containing TEC indications is detected. The proposed change in method to determine MSLB leakage rates for TEC does not change any accident initiators.

Therefore, granting this LAR does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does not create the possibility of a new or different type of accident from any accident previously evaluated.

This LAR proposes to change the method to determine the projected MSLB leakage rates for TEC. The change introduces no new failure modes or accident scenarios. The proposed change does not change the assumptions made in Topical Report BAW–2346P, Revision 0, which demonstrated structural and leakage integrity for all normal operating and accident conditions for CR–3. The design and operational characteristics of the OTSGs are not impacted by the use of a probabilistic methodology to determine MSLB leakage rates.

Therefore, the proposed change will not create the possibility of a new or different kind of accident from any previously evaluated.

3. Does not involve a significant reduction in the margin of safety.

This LAR proposes to change the method to determine the projected MSLB leakage rates for TEC. The resulting leakage estimates will be lower than the estimates from the old method. However, the estimates from the proposed method will be more realistic and do not impact the acceptance criteria. The methodology relies on the same accident analyses described in Topical Report BAW–2346P, Revision 0, and License Amendment Request #249, Revision 0, and utilizes the same leakage test data and leakage limit. The FSAR analyzed accident scenarios are not affected by the change and remain bounding. The limits established in CR–3 ITS 3.4.12, and 5.6.2.10.2.f have not been changed. Therefore, the proposed change does not reduce the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this

review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: David T. Conley, Associate General Counsel II—Legal Department, Progress Energy Service Company, LLC, Post Office Box 1551, Raleigh, North Carolina 27602.

NRC Section Chief: Michael L. Marshall, Jr.

Florida Power and Light Company, Docket Nos. 50–250 and 50–251, Turkey Point Plant, Units 3 and 4, Miami-Dade County, Florida

Date of amendment request: January 20, 2005.

Description of amendment request: The submittal requests revision to several Technical Specifications (TSs) using eight TS Task Force (TSTF) generic changes. The eight TSTFs (nos. 5, 93, 95, 101, 258, 299, 308, and 361) delete redundant safety limit violation notification requirements; extend the pressurizer heater surveillance frequency from 92 days to 18 months; extend the completion time for reducing the Power Range High trip setpoint from 8 to 72 hours; change the auxiliary feedwater pump test frequency to be consistent with the inservice test program frequency; remove redundant requirements and add other requirements to Section 5.0, Administrative Controls; clarify the requirements regarding the frequency of testing for cumulative and projected dose contributions from radioactive effluents; and add a note to the residual heat removal requirements during Mode 6 low water level operations that allows one required residual heat removal (RHR) loop to be inoperable for up to 2 hours for surveillance testing provided the other RHR loop is operable and in operation.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

(1) Operation of the facility in accordance with the proposed amendment would not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed changes revise administrative requirements, actions, action times, surveillance requirements and surveillance frequencies. The revised requirements are not an initiator of any accident previously evaluated. As a result, the probability of any accident previously evaluated is not significantly increased by the proposed changes. The Technical Specifications continue to require the systems, structures, and components associated with the revised requirements to be operable. Therefore, any mitigation functions assumed in the accident analyses will continue to be performed. As a result, the consequences of any accident previously evaluated are not significantly increased. Therefore, the proposed amendments do not involve a significant increase in the probability or consequences of any accident previously evaluated.

(2) Operation of the facility in accordance with the proposed amendments would not create the possibility of a new or different kind of accident from any previously evaluated.

The proposed changes do not alter the design or physical configuration of the plant. No changes are being made to the plant that would introduce any new accident causal mechanisms. The proposed changes do not affect any other plant equipment. Therefore, operation of the facility in accordance with the proposed amendments does not create the possibility of a new or different kind of accident from any previously evaluated.

(3) Operation of the facility in accordance with the proposed amendments would not involve a significant reduction in a margin of safety.

The proposed changes do not change the design or function of plant equipment. The proposed changes do not significantly reduce the level of assurance that any associated plant equipment will be available to perform its function. The proposed changes provide operating flexibility without significantly affecting plant operation. Therefore, operation of the facility in accordance with the proposed amendments would not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92©) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: M.S. Ross, Attorney, Florida Power & Light, P.O. Box 14000, Juno Beach, Florida 33408–0420.

NRC Section Chief: Michael L. Marshall, Jr.

National Aeronautics and Space Administration, Docket No. 50–30, the Plum Brook Test Reactor, Sandusky, Ohio

Date of amendment request: January 14, 2005.

Description of amendment request: The proposed amendment will clarify the license requirements for confirmation of Final Status Survey results prior to backfilling or covering of excavated areas. The amendment will allow performance of the Final Status Survey for an area that has been excavated and allow backfilling of the area without the performance of confirmatory surveys by the NRC. Backfilling without the performance of a confirmatory survey would be allowed only when the NRC Staff has determined that there is appropriate safety or technical justification for backfilling and that, based on the NRC Staff review of the completed Final Status Survey for the affected area, there is reasonable assurance that the Licensee's surveys have demonstrated that the affected area satisfies the unrestricted release criteria.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

The proposed amendment to License TR–3 is necessary to assure that, in limited situations, areas excavated for the performance of dismantlement and remediation activities do not result in unnecessary industrial safety hazards. The proposed changes do not involve a significant hazard as shown in the following:

A. The proposed amendment to License TR–3 does not involve a significant increase in the probability or consequences of an accident previously analyzed.

The accident scenarios applicable to the decommissioning of the Plum Brook Reactor Facility are described in section 3.3 of the Decommissioning Plan for the Plum Brook Reactor. The Decommissioning Plan describes postulated events that could result in a release of radioactive materials from the site and analyzes the radiation dose consequences of these events and demonstrates that no adverse public health and safety impacts are expected from these events. Performance of Final Status Surveys is a continuation of decommissioning and is an activity that involves measurements and analysis of residual radioactivity in areas in which decommissioning has already been performed. It is a process used to confirm that radioactivity has been removed to achieve the acceptance criteria specified in 10 CFR 20, Subpart E. These surveys are subjected to NRC review, and in some instances NRC confirmatory surveys. These surveys are performed in areas where other decommissioning activities are already complete and where there is no credible event that could initiate the analyzed accidents. Backfilling an excavated area, or otherwise rendering it inaccessible, will have no impact on other decommissioning activities, or on postulated accidents from other decommissioning activities. Therefore, the proposed amendment will have no affect on the probability or consequences of accidents previously analyzed.

B. The proposed amendment to License TR–3 will not create the possibility of a new or different kind of accident from any accident previously evaluated.

Accidents previously analyzed in the Decommissioning Plan assess different

scenarios that could cause the dispersion of radioactive material to the environment. These scenarios arise from dismantlement activities associated with the decommissioning. Excavation of areas to support dismantlement and remediation is an activity that is described in the Decommissioning Plan. Excavated areas will be surveyed in accordance with the Final Status Survey Plan to verify that they have been radiologically remediated to the unrestricted release criteria. These areas may be backfilled without the performance of confirmatory surveys performed by the NRC or their Contractor. However, this will only be permitted after NRC review of the Licensee's survey results and a determination that there is reasonable assurance that no residual radioactivity in excess of the release criteria remains. Therefore, there will be adequate verification by the regulatory agency that there is reasonable assurance that there is no potential for the dispersion of radioactive material to the environment from the backfilled area. The methods and processes used for control of work activities and for control and monitoring of radioactivity will remain the same as those used prior to this amendment. Therefore, no new or different types of accidents are created by this proposed amendment.

C. The proposed amendment to License TR–3 will not involve a significant reduction in a margin of safety.

As discussed previously, the activities that will be performed at the facility are as previously described and evaluated in the accident analyses presented in the Decommissioning Plan. The radiological criteria to be used in applying for termination of the NRC Licenses will remain the same as originally proposed and are consistent with the criteria of 10 CFR 20 Subpart E. The results of Final Status Surveys performed by the Licensee will remain subject to review by the U.S. NRC for adequate implementation of the Final Status Survey Plan. Therefore, the margins of safety applicable to assessing the long term dose to members of the public from exposure to the facility after termination of the license remain unchanged. In addition, since this amendment does not impact any previously reviewed accident analyses as previously discussed, no margins of safety are affected by this proposed amendment.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for the Licensee: J. William Sikora, Esquire, 21000 Brookpark Road, Mail Stop 500–118, Cleveland, Ohio 44135.

NRC Section Chief: Patrick M. Madden.

Nuclear Management Company, LLC, Docket Nos. 50–282 and 50–306, Prairie Island Nuclear Generating Plant, Units 1 and 2, Goodhue County, Minnesota

Date of amendment request: October 15, 2004.

Description of amendment request: The proposed amendment revises Technical Specification 5.5.6, ''Reactor Coolant Pump Flywheel Inspection Program,'' to extend the allowable inspection interval to 20 years.

The Nuclear Regulatory Commission (NRC) staff issued a notice of availability of a model safety evaluation and model no significant hazards consideration (NSHC) determination for referencing in license amendment applications in the **Federal Register** on October 22, 2003 (68 FR 60422). The licensee affirmed the applicability of the model NSHC determination in its application dated October 15, 2004.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), an analysis of the issue of no significant hazards consideration is presented below:

Criterion 1—The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed change to the RCP flywheel examination frequency does not change the response of the plant to any accidents. The RCP will remain highly reliable and the proposed change will not result in a significant increase in the risk of plant operation. Given the extremely low failure probabilities for the RCP motor flywheel during normal and accident conditions, the extremely low probability of a loss-of-coolant accident (LOCA) with loss of offsite power (LOOP), and assuming a conditional core damage probability (CCDP) of 1.0 (complete failure of safety systems), the core damage frequency (CDF) and change in risk would still not exceed the NRC's acceptance guidelines contained in Regulatory Guide (RG) 1.174 (<1.0E–6 per year). Moreover, considering the uncertainties involved in this evaluation, the risk associated with the postulated failure of an RCP motor flywheel is significantly low. Even if all four RCP motor flywheels are considered in the bounding plant configuration case, the risk is still acceptably low.

The proposed change does not adversely affect accident initiators or precursors, nor alter the design assumptions, conditions, or configuration of the facility, or the manner in which the plant is operated and maintained; alter or prevent the ability of structures, systems, components (SSCs) from performing their intended function to mitigate the consequences of an initiating event within the assumed acceptance limits; or affect the source term, containment isolation, or radiological release assumptions used in evaluating the radiological consequences of an accident previously evaluated. Further, the proposed change does not increase the type or amount of radioactive effluent that may be released offsite, nor significantly increase individual or cumulative occupational/public radiation exposure. The proposed change is consistent with the safety analysis assumptions and resultant consequences. Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

Criterion 2—The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed change in flywheel inspection frequency does not involve any change in the design or operation of the RCP. Nor does the change to examination frequency affect any existing accident scenarios, or create any new or different accident scenarios. Further, the change does not involve a physical alteration of the plant (*i.e.*, no new or different type of equipment will be installed) or alter the methods governing normal plant operation. In addition, the change does not impose any new or different requirements or eliminate any existing requirements, and does not alter any assumptions made in the safety analysis. The proposed change is consistent with the safety analysis assumptions and current plant operating practice. Therefore, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

Criterion 3—The proposed change does not involve a significant reduction in a margin of safety.

The proposed change does not alter the manner in which safety limits, limiting safety system settings, or limiting conditions for operation are determined. The safety analysis acceptance criteria are not impacted by this change. The proposed change will not result in plant operation in a configuration outside of the design basis. The calculated impact on risk is insignificant and meets the acceptance criteria contained in RG 1.174. There are no significant mechanisms for inservice degradation of the RCP flywheel. Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Jonathan Rogoff, Esquire, Vice President, Counsel & Secretary, Nuclear Management Company, LLC, 700 First Street, Hudson, WI 54016.

NRC Section Chief: L. Raghavan.

Nuclear Management Company, LLC, Docket Nos. 50–282 and 50–306, Prairie Island Nuclear Generating Plant, Units 1 and 2, Goodhue County, Minnesota

Date of amendment request: February 1, 2005.

Description of amendment request: The proposed amendments would revise Technical Specification (TS) 3.7.17, ''Spent Fuel Pool Storage,'' Technical Specification 4.3, ''Fuel

Storage'' and the corresponding TS bases, using revised spent fuel pool (SFP) criticality analysis methodology which takes credit for soluble boron in the spent fuel pool.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Do the proposed changes involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

This license amendment proposes to revise the plant licensing basis by: (1) Replacing the spent fuel pool criticality analyses; and (2) revising the spent fuel storage Technical Specifications 3.7.17, ''Spent Fuel Pool Storage'' and 4.3, ''Fuel Storage'' utilizing the proposed analyses. The proposed Technical Specification revisions allow spent fuel to be stored in different configurations.

The proposed changes relate to prevention of criticality accidents in the spent fuel pool. Since the current spent fuel pool criticality analyses and Technical Specifications ensure that a criticality accident does not occur, criticality accidents have not been previously evaluated. Likewise the proposed spent fuel pool criticality analyses and Technical Specifications ensure that a criticality accident does not occur. Thus the proposed changes do not involve a significant increase in the consequences of an accident previously evaluated.

Events that could cause a criticality accident were evaluated and analyses demonstrated that the current Technical Specification required soluble boron is more than adequate to assure that a criticality accident does not occur. Thus the proposed changes do not involve a significant increase in the probability of an accident previously evaluated.

Therefore, the proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Do the proposed changes create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

This license amendment proposes to revise the plant licensing basis by: (1) Replacing the spent fuel pool criticality analyses; and (2) revising the spent fuel storage Technical Specifications 3.7.17, ''Spent Fuel Pool Storage'' and 4.3, ''Fuel Storage'' utilizing the proposed analyses. The proposed Technical Specification revisions allow spent fuel to be stored in different configurations.

The proposed licensing basis changes do not involve a change in system operation, or procedures involved with the fuel storage system. It does revise the allowable storage configurations. The proposed changes provide a conservative basis for evaluating spent fuel pool criticality and storage of fuel assemblies in a safe configuration which meets criticality evaluation acceptance criteria. There are no new failure modes or mechanisms created through use of the proposed analyses or proposed Technical Specifications. Use of these licensing basis changes for storage of fuel assemblies does not involve any modification in the operational limits of plant systems. There are no new accident precursors generated with use of these licensing basis changes.

Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any previously evaluated.

3. Do the proposed changes involve a significant reduction in a margin of safety?

Response: No.

This license amendment proposes to revise the plant licensing basis by: (1) Replacing the spent fuel pool criticality analyses; and (2) revising the spent fuel storage Technical Specifications 3.7.17, ''Spent Fuel Pool Storage'' and 4.3, ''Fuel Storage'' utilizing the proposed analyses. The proposed Technical Specification revisions allow spent fuel to be stored in different configurations.

The proposed licensing basis change will result in a conservative calculation of the required spent fuel pool soluble boron concentration for the proposed fuel storage configurations. The current Technical Specification required spent fuel pool boron concentration significantly exceeds the proposed criticality analyses required boron concentration. The proposed analyses demonstrate that the criticality analysis acceptance criteria for the proposed fuel storage configurations are met. The proposed analyses utilize industry accepted analysis codes which have been benchmarked for the spent fuel pool criticality analyses proposed for the Prairie Island Nuclear Generating Plant. Therefore, the proposed changes do not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment requests involve no significant hazards consideration.

Attorney for licensee: Jonathan Rogoff, Esquire, Vice President, Counsel & Secretary, Nuclear Management Company, LLC, 700 First Street, Hudson, WI 54016.

NRC Section Chief: L. Raghavan.

PSEG Nuclear LLC, Docket No. 50–354, Hope Creek Generating Station, Salem County, New Jersey

Date of amendment request: October 1, 2004.

Description of amendment request: The proposed amendment would delete requirements from the Technical Specifications (TSs) to maintain hydrogen recombiners and hydrogen and oxygen monitors. A notice of availability for this TS improvement using the consolidated line item improvement process was published in the **Federal Register** on September 25, 2003 (68 FR 55416). Licensees were generally required to implement upgrades as described in NUREG–0737, ''Clarification of TMI [Three Mile Island] Action Plan Requirements,'' and Regulatory Guide (RG) 1.97, ''Instrumentation for Light-Water-Cooled Nuclear Power Plants to Assess Plant and Environs Conditions During and Following an Accident.'' Implementation of these upgrades was an outcome of the lessons learned from the accident that occurred at TMI, Unit 2 in 1979. Requirements related to combustible gas control were imposed by order for many facilities and were added to, or included in, the TSs for nuclear power reactors currently licensed to operate. The revised Title 10 of the Code of Federal Regulations (10 CFR) Section 50.44, ''Standards for Combustible Gas Control System in Light-Water-Cooled Power Reactors,'' eliminated the requirements for hydrogen recombiners and relaxed safety classifications and licensee commitments to certain design and qualification criteria for hydrogen and oxygen monitors.

The Nuclear Regulatory Commission (NRC) staff issued a notice of availability of a model no significant hazards consideration (NSHC) determination for referencing license amendment applications in the **Federal Register** on September 25, 2003 (68 FR 55416). The licensee affirmed the applicability of the model NSHC determination in its application dated October 1, 2004.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), an analysis of the issue of NSHC is presented below:

Criterion 1—The Proposed Change Does Not Involve a Significant Increase in the Probability or Consequences of an Accident Previously Evaluated.

The revised 10 CFR 50.44 no longer defines a design-basis loss-of-coolant accident (LOCA) hydrogen release, and eliminates requirements for hydrogen control systems to mitigate such a release. The installation of hydrogen recombiners and/or vent and purge systems required by 10 CFR 50.44(b)(3) was intended to address the limited quantity and rate of hydrogen generation that was postulated from a design-basis LOCA. The NRC has found that this hydrogen release is not risk-significant because the design-basis LOCA hydrogen release does not contribute to the conditional probability of a large release up to approximately 24 hours after the onset of core damage. In addition, these systems were ineffective at mitigating hydrogen releases from risk-significant accident sequences that could threaten containment integrity.

With the elimination of the design-basis LOCA hydrogen release, hydrogen and oxygen monitors are no longer required to mitigate design-basis accidents and, therefore, the hydrogen monitors do not meet the definition of a safety-related component as defined in 10 CFR 50.2. RG 1.97 Category 1, is intended for key variables that most directly indicate the accomplishment of a safety function for design-basis accident events. The hydrogen and oxygen monitors no longer meet the definition of Category 1 in RG 1.97. As part of the rulemaking to revise 10 CFR 50.44, the NRC found that Category 3, as defined in RG 1.97, is an appropriate categorization for the hydrogen monitors because the monitors are required to diagnose the course of beyond design-basis accidents. Also, as part of the rulemaking to revise 10 CFR 50.44, the NRC found that Category 2, as defined in RG 1.97, is an appropriate categorization for the oxygen monitors, because the monitors are required to verify the status of the inert containment.

The regulatory requirements for the hydrogen and oxygen monitors can be relaxed without degrading the plant emergency response. The emergency response, in this sense, refers to the methodologies used in ascertaining the condition of the reactor core, mitigating the consequences of an accident, assessing and projecting offsite releases of radioactivity, and establishing protective action recommendations to be communicated to offsite authorities. Classification of the hydrogen monitors as Category 3, [classification of the oxygen monitors as Category 2,] and removal of the hydrogen and oxygen monitors from TSs will not prevent an accident management strategy through the use of the severe accident management guidelines, the emergency plan, the emergency operating procedures, and site survey monitoring that support modification of emergency plan protective action recommendations.

Therefore, the elimination of the hydrogen recombiner requirements and relaxation of the hydrogen and oxygen monitor requirements, including removal of these requirements from TSs, does not involve a significant increase in the probability or the consequences of any accident previously evaluated.

Criterion 2—The Proposed Change Does Not Create the Possibility of a New or Different Kind of Accident from any Previously Evaluated.

The elimination of the hydrogen recombiner requirements and relaxation of the hydrogen and oxygen monitor requirements, including removal of these requirements from TSs, will not result in any failure mode not previously analyzed.

The hydrogen recombiner and hydrogen and oxygen monitor equipment was intended to mitigate a design-basis hydrogen release. The hydrogen recombiner and hydrogen and oxygen monitor equipment are not considered accident precursors, nor does their existence or elimination have any adverse impact on the pre-accident state of the reactor core or post accident confinement of radionuclides within the containment building.

Therefore, this change does not create the possibility of a new or different kind of accident from any previously evaluated.

Criterion 3—The Proposed Change Does Not Involve a Significant Reduction in the Margin of Safety.

The elimination of the hydrogen recombiner requirements and relaxation of the hydrogen and oxygen monitor requirements, including removal of these requirements from TSs, in light of existing plant equipment, instrumentation, procedures, and programs that provide effective mitigation of and recovery from reactor accidents, results in a neutral impact to the margin of safety.

The installation of hydrogen recombiners and/or vent and purge systems required by 10 CFR 50.44(b)(3) was intended to address the limited quantity and rate of hydrogen generation that was postulated from a design-basis LOCA. The NRC has found that this hydrogen release is not risk-significant because the design-basis LOCA hydrogen release does not contribute to the conditional probability of a large release up to approximately 24 hours after the onset of core damage.

Category 3 hydrogen monitors are adequate to provide rapid assessment of current reactor core conditions and the direction of degradation while effectively responding to the event in order to mitigate the consequences of the accident. The intent of the requirements established as a result of the TMI, Unit 2 accident can be adequately met without reliance on safety-related hydrogen monitors.

Category 2 oxygen monitors are adequate to verify the status of an inerted containment.

Therefore, this change does not involve a significant reduction in the margin of safety. The intent of the requirements established as a result of the TMI, Unit 2 accident can be adequately met without reliance on safety-related oxygen monitors. Removal of hydrogen and oxygen monitoring from TSs will not result in a significant reduction in their functionality, reliability, and availability.

The NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Jeffrie J. Keenan, Esquire, Nuclear Business Unit—N21, P.O. Box 236, Hancocks Bridge, NJ 08038.

NRC Section Chief: Darrell Roberts.

PSEG Nuclear LLC, Docket No. 50–354, Hope Creek Generating Station, Salem County, New Jersey

Date of amendment request: February 4, 2005.

Description of amendment request: The proposed change will relocate Technical Specification (TS) requirements regarding the Traversing In-core Probe (TIP) System to the Hope Creek Updated Final Safety Analysis Report (UFSAR). Additionally, the associated TS Bases would be deleted. Formatting changes would also be made, as required, in order to incorporate these changes.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed change will relocate the requirements from the Technical Specifications (TS) to the Hope Creek Updated Final Safety Analysis Report (UFSAR) a licensee-controlled document. The relocated requirements will be retained in licensee-controlled documents, which will be maintained under the requirements of the provisions of 10 CFR 50.59. Since any changes to licensee-controlled documents are required to be evaluated per 10 CFR 50.59, no increase in the probability or consequences of an accident previously evaluated is allowed.

In addition, the proposed change will not affect any equipment important to safety, in structure or operation. This change will not alter operation of process variables[,] Structures, systems or components as described in the UFSAR or licensing basis. Therefore, the proposed change does not involve a significant increase in the probability or radiological consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed change does not change the design function or operation of any plant equipment. No new failure mechanisms, malfunctions, or accident initiators are being introduced by the proposed changes. Therefore, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

The proposed change will not reduce the margin of safety since they have no impact on safety analysis assumptions. Any future changes to the TIP system requirements will be evaluated under 10CFR50.59. Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Jeffrie J. Keenan, Esquire, Nuclear Business Unit—N21, P.O. Box 236, Hancocks Bridge, NJ 08038.

NRC Section Chief: Darrell J. Roberts.

TXU Generation Company LP, Docket Nos. 50–445 and 50–446, Comanche Peak Steam Electric Station, Units 1 and 2, Somervell County, Texas

Date of amendment request: October 6, 2004.

Brief description of amendments: The proposed amendments will (1) Revise Technical Specification (TS) 3.8.1, ''AC Sources-Operating,'' to allow surveillance requirement (SR) testing of the onsite standby diesel generators (DGs) during power operation, by removing specific surveillance test MODE restrictions, (2) incorporate changes based on industry approval TSs Task Force (TSTF) standard TS change traveler, TSTF–283, Revision 3, (3) add a new note to TS 3.8.1 Limiting Condition for Operation (LCO) that permits one DG to be connected in parallel with offsite power in order to conduct the required surveillance testing, and (4) delete the expired TS LCO 3.8.1, Required Action A.3 one time 21 day completion time allowance for Startup Transformer XST2 preventive maintenance.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration by focusing on the three standards set forth in 10 CFR 50.92. The licensee's analysis of the issue of no significant hazards consideration is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The design of plant equipment is not being modified by the proposed changes. In addition, the DGs and their associated emergency loads are accident mitigating features. As such, testing of the diesel generators (DGs) themselves is not associated with any potential accident-initiating mechanism. Therefore, there will be no significant impact on any accident probabilities by the approval of the requested changes.

The changes include an increase in the online time that a DG under test will be paralleled to the grid (for SRs 3.8.1.10 and 3.8.1.14) or unavailable due to testing (per SR 3.8.1.13). However, the overall time that the DG is paralleled in all modes (outage /non-outage) should remain unchanged. As such, the ability of the tested DG to respond to a design basis accident [(DBA)] could be adversely impacted by the proposed changes. However, the impacts are not considered significant based, in part, on the ability of the remaining DG to mitigate a DBA or provide safe shutdown. With regard to SR 3.8.1.10 and SR 3.8.1.14, experience shows that testing per these SRs typically does not perturb the electrical distribution system and share[s] the same electrical configuration alignment as the current monthly surveillance. In addition, operating experience and qualitative evaluation of the probability of the DG or bus loads being adversely affected concurrent with or due to a significant grid disturbance, while the DG is being tested, support the conclusion that the proposed changes do not involve any significant increase in the likelihood of a safety-related bus blackout or damage to plant loads.

The SR changes that are consistent with TSTF–283 have been approved generically and for individual licensees. The on-line tests allowed by the TSTF are only to be performed for the purpose of establishing OPERABILITY. Performance of these SRs during restricted MODES will require an assessment to assure plant safety is maintained or enhanced.

Deletion of expired TS LCO 3.8.1 Required Action A.3 one time 21 day Completion Time allowance for Startup Transformer XST2 preventive maintenance is an administrative change only.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different accident from any accident previously evaluated?

Response: No.

The proposed changes would not create any new accidents since no changes are being made to the plant that would introduce any new accident causal mechanisms. Equipment will be operated in the same configuration as currently allowed for other DG SRs that allow testing during at-power operation. Deletion of expired TS LCO 3.8.1 Required Action A.3 one time 21 day Completion Time allowance for Startup Transformer XST2 preventive maintenance is an administrative change only. This license amendment request does not impact any plant systems that are accident initiators; neither does it adversely impact any accident mitigating systems.

Therefore, the proposed change does not create the possibility of a new or different accident from any accident previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

The proposed changes do not involve a significant reduction in the margin of safety. The margin of safety is related to the confidence in the ability of the fission product barriers to perform their design functions during and following an accident situation. These barriers include the fuel cladding, the reactor coolant system, and the containment system. The proposed changes do not directly affect these barriers, nor do they involve any significant adverse impact on the DGs which serve to support these barriers in the event of an accident concurrent with a loss of offsite power. The proposed changes to the testing requirements for the plant DGs do not affect the OPERABILITY requirements for the DGs, as verification of such OPERABILITY will continue to be performed as required (except during different allowed MODES). The changes have an insignificant impact on DG availability, as continued verification of OPERABILITY supports the capability of the DGs to perform their required function of providing emergency power to plant equipment that supports or constitutes the fission product barriers. Only one DG is to be tested at a time, so that the remaining DG will be available to safely shut down the plant if required. Consequently, performance of the fission product barriers will not be impacted by implementation of the proposed amendment.

In addition, the proposed changes involve no changes to setpoints or limits established or assumed by the accident analysis. On this and the above basis, no safety margins will be impacted.

Deletion of expired TS LCO 3.8.1 Required Action A.3 one time 21 day Completion Time allowance for Startup Transformer XST2 preventive maintenance is an administrative change only.

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on that review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendments request involves no significant hazards consideration.

Attorney for licensee: George L. Edgar, Esq., Morgan, Lewis and Bockius, 1800 M Street, NW., Washington, DC 20036.

NRC Section Chief: Allen G. Howe.

Virginia Electric and Power Company, Docket Nos. 50–338 and 50–339, North Anna Power Station, Units No. 1 and No. 2, Louisa County, Virginia; Docket Nos. 50–280 and 50–281, Surry Power Station, Units No. 1 and No. 2, Surry County, Virginia

Date of amendment request: August 30, 2004.

Description of amendment request: The proposed amendment revises the Reactor Coolant Pump (RCP) Flywheel Inspection Programs to extend the allowable inspection interval to 20 years.

The NRC staff issued a model safety evaluation and model no significant hazards consideration (NSHC) determination for referencing in license amendment applications in the **Federal Register** on June 24, 2003 (68 FR 37590). The notice of availability of the model application was issued on October 22, 2003 (68 FR 60422). The licensee affirmed the applicability of the model NSHC determination in its application dated August 30, 2004.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), an

analysis of the issue of no significant hazards consideration is presented below:

Criterion 1—The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed change to the RCP flywheel examination frequency does not change the response of the plant to any accidents. The RCP will remain highly reliable and the proposed change will not result in a significant increase in the risk of plant operation. Given the extremely low failure probabilities for the RCP motor flywheel during normal and accident conditions, the extremely low probability of a loss-of-coolant accident (LOCA) with loss of offsite power (LOOP), and assuming a conditional core damage probability (CCDP) of 1.0 (complete failure of safety systems), the core damage frequency (CDF) and change in risk would still not exceed the NRC's acceptance guidelines [contained] in RG [Regulatory Guide] 1.174 (<1.0E–6 per year). Moreover, considering the uncertainties involved in this evaluation, the risk associated with the postulated failure of an RCP motor flywheel is significantly low. Even if all four RCP motor flywheels are considered in the bounding plant configuration case, the risk is still acceptably low.

The proposed change does not adversely affect accident initiators or precursors, nor alter the design assumptions, conditions, or configuration of the facility, or the manner in which the plant is operated and maintained; alter or prevent the ability of structures, systems, components (SSCs) from performing their intended function to mitigate the consequences of an initiating event within the assumed acceptance limits; or affect the source term, containment isolation, or radiological release assumptions used in evaluating the radiological consequences of an accident previously evaluated. Further, the proposed change does not increase the type or amount of radioactive effluent that may be released offsite, nor significantly increase individual or cumulative occupational/public radiation exposure. The proposed change is consistent with the safety analysis assumptions and resultant consequences. Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

Criterion 2—The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed change in flywheel inspection frequency does not involve any change in the design or operation of the RCP. Nor does the change to examination frequency affect any existing accident scenarios, or create any new or different accident scenarios. Further, the change does not involve a physical alteration of the plant (*i.e.*, no new or different type of equipment will be installed) or alter the methods governing normal plant operation. In addition, the change does not impose any new or different requirements or eliminate any existing requirements, and does not alter any assumptions made in the safety analysis. The proposed change is consistent with the safety analysis assumptions and current plant operating practice. Therefore, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

Criterion 3—The proposed change does not involve a significant reduction in a margin of safety.

The proposed change does not alter the manner in which safety limits, limiting safety system settings, or limiting conditions for operation are determined. The safety analysis acceptance criteria are not impacted by this change. The proposed change will not result in plant operation in a configuration outside of the design basis. The calculated impact on risk is insignificant and meets the acceptance criteria contained in RG 1.174. There are no significant mechanisms for inservice degradation of the RCP flywheel. Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Ms. Lillian M. Cuoco, Esq., Senior Counsel, Dominion Resources Services, Inc., Millstone Power Station, Building 475, 5th Floor, Rope Ferry Road, Rt. 156, Waterford, Connecticut 06385.

NRC Section Chief: John A. Nakoski.

Previously Published Notices of Consideration of Issuance of Amendments to Facility Operating Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The following notices were previously published as separate individual notices. The notice content was the same as above. They were published as individual notices either because time did not allow the Commission to wait for this biweekly notice or because the action involved exigent circumstances. They are repeated here because the biweekly notice lists all amendments issued or proposed to be issued involving no significant hazards consideration.

For details, see the individual notice in the **Federal Register** on the day and page cited. This notice does not extend the notice period of the original notice.

FirstEnergy Nuclear Operating Company, et al., Docket Nos. 50–334 and 50–412, Beaver Valley Power Station, Unit Nos. 1 and 2 (BVPS–1 and 2), Beaver County, Pennsylvania

Date of amendment request: June 1, 2004, as supplemented July 23, 2004, and February 18, 2005.

Description of amendment request: These amendments would lower the BVPS–2 overpressure protection system enable temperature, allow one inoperable residual heat removal loop during surveillance testing, remove the BVPS–1 list of figures and list of tables from the Index of the BVPS–1 Technical Specifications (TSs), and make minor changes to achieve consistency between the units and with the Standard TSs for Westinghouse plants and with some TS Task Force changes.

Date of publication of individual notice in ***Federal Register*** *:* February 25, 2005 (70 FR 9391).

Expiration date of individual notice: March 11, 2005, for comments; April 26, 2005, for hearing.

Notice of Issuance of Amendments to Facility Operating Licenses

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing in connection with these actions was published in the **Federal Register** as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the applications for amendment, (2) the amendment, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment as indicated. All of these items are available for public inspection at the Commission's Public Document Room (PDR), located at One White Flint North, Public File Area 01F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible from the Agencywide Documents Access and Management

Systems (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, *http://www.nrc.gov/reading-rm/adams.html*. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the PDR Reference staff at 1 (800) 397–4209, (301) 415–4737 or by e-mail to *pdr@nrc.gov*.

AmerGen Energy Company, LLC, et al., Docket No. 50–219, Oyster Creek Nuclear Generating Station, Ocean County, New Jersey

Date of application for amendment: May 20, 2004, as supplemented by letter dated October 19, 2004.

Brief description of amendment: The amendment revised the Technical Specifications, Section 3.2.B.4, regarding control rod operability requirements for inoperable control rods, clarifying the application of the action requirements for inoperable control rods.

Date of issuance: February 25, 2005.

Effective date: February 25, 2005, and shall be implemented within 30 days of issuance.

Amendment No.: 253.

Facility Operating License No. DPR–16: Amendment revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** July 6, 2004 (69 FR 40671).

The October 19, 2004, letter provided clarifying information within the scope of the original application and did not change the staff's initial proposed no significant hazards consideration determination. The Commission's related evaluation of this amendment is contained in a Safety Evaluation dated February 25, 2005.

No significant hazards consideration comments received: No.

Calvert Cliffs Nuclear Power Plant, Inc., Docket Nos. 50–317 and 50–318, Calvert Cliffs Nuclear Power Plant, Unit Nos. 1 and 2, Calvert County, Maryland

Date of application for amendments: July 15, 2004 as supplemented on January 31, 2005.

Brief description of amendments: The amendment adds references to the list of approved core operating limits analytical methods in Technical Specification 5.6.5.b for Calvert Cliffs, Unit Nos. 1 and 2.

Date of issuance: February 24, 2005.

Effective date: As of the date of issuance to be implemented within 30 days.

Amendment Nos.: 271 and 248.

Renewed Facility Operating License Nos. DPR–53 and DPR–69: Amendments revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** December 29, 2004 (69 FR 78056). The supplement dated January 31, 2005, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the staff's original proposed no significant hazards consideration determination. The Commission's related evaluation of these amendments is contained in a Safety Evaluation dated February 24, 2005.

No significant hazards consideration comments received: No.

Carolina Power & Light Company, Docket No. 50–261, H. B. Robinson Steam Electric Plant, Unit No. 2, Darlington County, South Carolina

Date of application for amendment: December 19, 2003, as supplemented by letter dated January 14, 2004.

Brief description of amendment: The amendment modified Technical Specifications to adopt the provisions of Industry/TS Task Force (TSTF) change TSTF–359, ''Increased Flexibility in Mode Restraints.'' The availability of TSTF–359 for adoption by licensees was announced in the **Federal Register** on April 4, 2003 (68 FR 16579).

Date of issuance: February 14, 2005.

Effective date: As of the date if issuance and shall be implemented within 180 days.

Amendment No.: 203.

Renewed Facility Operating License No. DPR–23: Amendment revises the Technical Specifications.

Date of initial notice in ***Federal Register:*** February 17, 2004 (69 FR 7519).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated February 14, 2005.

No significant hazards consideration comments received: No.

Energy Northwest, Docket No. 50–397, Columbia Generating Station, Benton County, Washington

Date of application for amendment: September 21, 2004.

Brief description of amendment: This amendment deletes the technical specification requirements associated with hydrogen recombiners, and hydrogen and oxygen monitors.

Date of issuance: March 3, 2005.

Effective date: March 3, 2005, and shall be implemented within 120 days from the date of issuance.

Amendment No.: 189.

Facility Operating License No. NPF–21: The amendment revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** December 21, 2004 (69 FR 76488).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 3, 2005.

No significant hazards consideration comments received: No.

FPL Energy Seabrook, LLC, Docket No. 50–443, Seabrook Station, Unit No. 1, Rockingham County, New Hampshire

Date of amendment request: June 28, 2004.

Description of amendment request: The amendment revised the Seabrook Station, Unit No. 1 Technical Specifications (TSs) by eliminating the requirements associated with hydrogen recombiners and hydrogen monitors.

Date of issuance: February 22, 2005.

Effective date: As of its date of issuance, and shall be implemented within 90 days.

Amendment No.: 99.

Facility Operating License No. NPF–86: The amendment revised the TSs.

Date of initial notice in ***Federal Register:*** September 14, 2004 (69 FR 55471).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated February 22, 2005.

No significant hazards consideration comments received: No.

FPL Energy Seabrook, LLC, Docket No. 50–443, Seabrook Station, Unit No. 1, Rockingham County, New Hampshire

Date of amendment request: October 6, 2003, as supplemented by letters dated May 5, May 24, July 8, September 13, 2004, and January 13, 2005.

Description of amendment request: The amendment revised the Seabrook Station, Unit No. 1 licensing basis to incorporate a full-scope application of an alternative source term methodology in accordance with 10 CFR 50.67.

Date of issuance: February 24, 2005.

Effective date: As of its date of issuance, and shall be implemented within 60 days.

Amendment No.: 100.

Facility Operating License No. NPF–86: The amendment revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** December 9, 2003 (68 FR 68670).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated February 24, 2005.

No significant hazards consideration comments received: No.

FPL Energy Seabrook, LLC, Docket No. 50–443, Seabrook Station, Unit No. 1, Rockingham County, New Hampshire

Date of amendment request: March 17, 2004, as supplemented by letters dated March 17, 2004, April 1, 2004, May 26, 2004, September 13, 2004 (2 letters), October 12, 2004, October 28, 2004, December 3, 2004, December 28, 2004, and January 28, 2005.

Description of amendment request: The amendment revised the Seabrook Station, Unit No. 1 operating license to increase the licensed rated power by 5.2 percent from 3411 megawatts thermal to 3587 megawatts thermal.

Date of issuance: February 28, 2005.

Effective date: As of its date of issuance, and shall be implemented within 12 months.

Amendment No.: 101.

Facility Operating License No. NPF–86: The amendment revised the Technical Specifications and the operating license.

Date of initial notice in ***Federal Register:*** June 22, 2004 (69 FR 34701).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated February 28, 2005.

No significant hazards consideration comments received: No.

Nebraska Public Power District, Docket No. 50–298, Cooper Nuclear Station, Nemaha County, Nebraska

Date of amendment request: October 25, 2004, as supplemented by letters dated December 29, 2004, and January 26, 2005.

Brief description of amendment: The amendment revises Technical Specification 2.1.1.2 for the dual recirculation loop and single recirculation loop Safety Limit Minimum Critical Power Ratio values to reflect results of a cycle-specific calculation.

Date of issuance: February 1, 2005.

Effective date: As of the date of issuance and shall be implemented within 30 days of issuance.

Amendment No.: 210.

Facility Operating License No. DPR–46: Amendment revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** November 23, 2004 (69 FR 68183).

The supplements dated December 29, 2004, and January 26, 2005, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the staff's original proposed no significant hazards consideration determination as published in the **Federal Register**.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated February 1, 2005.

No significant hazards consideration comments received: No.

Nine Mile Point Nuclear Station, LLC, Docket No. 50–220, Nine Mile Point Nuclear Station, Unit No. 1, Oswego County, New York

Date of application for amendment: October 15, 2004.

Brief description of amendment: The amendment revised Section 1.7, which defines the term ''Instrument Channel Calibration,'' by adding two new sentences pertaining to calibration of resistance temperature detector or thermocouple sensors.

Date of issuance: February 17, 2005.

Effective date: As of the date of issuance, to be implemented within 30 days.

Amendment No.: 187.

Facility Operating License No. DPR–63: Amendment revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** December 7, 2004 (69 FR 70719).

The Commission's related evaluation of this amendment is contained in a Safety Evaluation dated February 17, 2005.

No significant hazards consideration comments received: No.

Omaha Public Power District, Docket No. 50–285, Fort Calhoun Station, Unit No. 1, Washington County, Nebraska

Date of amendment request: September 7, 2004.

Brief description of amendment: The amendment deleted the technical specification requirements to submit a monthly operating report and an annual occupational radiation exposure report.

Date of issuance: February 18, 2005.

Effective date: February 18, 2005, and shall be implemented within 60 days from the date of issuance.

Amendment No.: 231.

Renewed Facility Operating License No. DPR–40: The amendment revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** October 26, 2004 (69 FR 62477).

The Commission's related evaluation of the amendment is contained in a safety evaluation dated February 18, 2005.

No significant hazards consideration comments received: No.

Omaha Public Power District, Docket No. 50–285, Fort Calhoun Station, Unit No. 1, Washington County, Nebraska

Date of amendment request: May 21, 2004, as supplemented on October 29, and December 16, 2004.

Brief description of amendment: The amendment revised Technical Specifications (TSs) Section 2.3(4), ''Emergency Core Cooling System—Trisodium Phosphate (TSP),'' regarding the volume and the form of the TSP; and TS Section 3.6(2)d.(i), ''Safety Injection and Containment Cooling Systems Tests,'' the surveillance requirement for the TSP volume.

Date of issuance: March 1, 2005.

Effective date: March 1, 2005, and shall be implemented within 60 days from the date of issuance.

Amendment No.: 232.

Renewed Facility Operating License No. DPR–40: The amendment revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** The October 29, and December 16, 2004, supplemental letters provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the staff's original proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendment is contained in a safety evaluation dated March 1, 2005.

No significant hazards consideration comments received: No.

PPL Susquehanna, LLC, Docket No. 50–388, Susquehanna Steam Electric Station, Unit 2, (SSES–2) Luzerne County, Pennsylvania

Date of application for amendment: September 8, 2004, as supplemented by letter dated February 1 and 14, 2005.

Brief description of amendments: The amendment changed the SSES–2 Technical Specifications by revising the Unit 2 Cycle 13 Minimum Critical Power Ratio Safety Limits in Section 2.1.1.2 and the references listed in Section 5.6.5.b.

Date of issuance: February 28, 2005.

Effective date: As of the date of issuance and shall be implemented within 30 days.

Amendment No.: 194.

Facility Operating License No. NPF–22: The amendment revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** January 4, 2005 (69 FR 698). The supplements dated February 1 and 14, 2005, provided additional information that clarified the application, did not expand the scope of the application as originally noticed,

and did not change the staff's original proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated February 28, 2005.

No significant hazards consideration comments received: No.

R.E. Ginna Nuclear Power Plant, LLC, Docket No. 50–244, R. E. Ginna Nuclear Power Plant, Wayne County, New York

Date of application for amendment: May 21, 2003, as supplemented December 1, 2003 (two letters), February 16, March 1 and 8, April 22, May 21, July 8 and 14, August 6 and 18, September 10, October 14 and 18, December 3 and 6, 2004, and January 27, 2005.

Brief description of amendment: The amendment revises the Technical Specifications to reflect design modifications to the Control Room Emergency Air Treatment System and elimination of the requirements for the Containment Post Accident Charcoal Filters. The amendment also changes the source term for the Dose Calculation Methodology to the Alternate Source Term, and revises both the reactor coolant dose equivalent I–131 specific activity limit and the containment spray NaOH concentration limit.

Date of issuance: February 25, 2005.

Effective date: As of the date of issuance to be implemented upon completion of the installation and testing of the new Control Room Emergency Air Treatment System.

Amendment No.: 87.

Renewed Facility Operating License No. DPR–18: Amendment revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** July 8, 2003 (68 FR 40718). The supplemental letters provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the staff's original proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated February 25, 2005.

No significant hazards consideration comments received: No.

R.E. Ginna Nuclear Power Plant, LLC, Docket No. 50–244, R. E. Ginna Nuclear Power Plant, Wayne County, New York

Date of application for amendment: March 1, 2004.

Brief description of amendment: The amendment modifies Technical Specification requirements to adopt the provisions of Industry/TS Task Force (TSTF) change TSTF–359, ''Increased Flexibility in Mode Restraints.''

Date of issuance: March 1, 2005.

Effective date: As of the date of issuance to be implemented within 60 days.

Amendment No.: 88.

Renewed Facility Operating License No. DPR–18: Amendment revised the Technical Specifications and/or License.

Date of initial notice in ***Federal Register:*** June 22, 2004 (69 FR 34706).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 1, 2005.

No significant hazards consideration comments received: No.

Southern Nuclear Operating Company, Inc., Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, City of Dalton, Georgia, Docket Nos. 50–321 and 50–366, Edwin I. Hatch Nuclear Plant, Units 1 and 2, Appling County, Georgia

Date of application for amendments: May 21, 2004.

Brief description of amendments: The amendments revised the Technical Specifications to delete the requirements to maintain hydrogen recombiners and hydrogen monitors and oxygen monitors.

Date of issuance: February 23, 2005.

Effective date: As of the date of issuance and shall be implemented within 60 days from the date of issuance.

Amendment Nos.: 244 and 188.

Renewed Facility Operating License Nos. DPR–57 and NPF–5: Amendments revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** September 28, 2004 (69 FR 57992).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated February 23, 2005.

No significant hazards consideration comments received: No.

TXU Generation Company LP, Docket Nos. 50–445 and 50–446, Comanche Peak Steam Electric Station, Unit Nos. 1 and 2, Somervell County, Texas

Date of amendment request: September 10, 2004.

Brief description of amendments: The amendments delete the technical specification requirements to submit monthly operating reports and annual occupational radiation exposure reports.

Date of issuance: March 2, 2005.

Effective date: As of the date of issuance and shall be implemented within 60 days from the date of issuance.

Amendment Nos.: 115/115.

Facility Operating License Nos. NPF–87 and NPF–89: The amendments revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** October 26, 2004 (69 FR 62479).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated March 2, 2005.

No significant hazards consideration comments received: No.

Dated in Rockville, Maryland, this 4th day of March 2005.

For the Nuclear Regulatory Commission.

James E. Lyons,

Acting Director, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 05–4792 Filed 3–14–05; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Final Regulatory Guide: Issuance, Availability

The U.S. Nuclear Regulatory Commission (NRC) has issued a revision to an existing guide in the agency's Regulatory Guide Series. This series has been developed to describe and make available to the public such information as methods that are acceptable to the NRC staff for implementing specific parts of the NRC's regulations, techniques that the staff uses in evaluating specific problems or postulated accidents, and data that the staff needs in its review of applications for permits and licenses.

Revision 2 of Regulatory Guide 7.9, ''Standard Format and Content of Part 71 Applications for Approval of Packages for Radioactive Material,'' provides guidance for use in preparing applications for NRC approval of packaging to be used in shipping Type B and fissile radioactive materials. This guidance describes a method that is acceptable to the NRC staff for complying with the NRC's related regulatory requirements in title 10, part 71, of the *Code of Federal Regulations* (10 CFR part 71), ''Packaging and Transportation of Radioactive Material.''

In December 2003, the NRC staff published a draft of this guide as Draft Regulatory Guide DG–7003. Following the closure of the public comment period on March 9, 2004, the staff resolved all stakeholder comments in the course of preparing Revision 2 of Regulatory Guide 7.9.

The NRC staff encourages and welcomes comments and suggestions in connection with improvements to published regulatory guides, as well as items for inclusion in regulatory guides that are currently being developed. You may submit comments by any of the following methods.

Mail comments to: Rules and Directives Branch, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

Hand-deliver comments to: Rules and Directives Branch, Office of Administration, U.S. Nuclear Regulatory Commission, 11555 Rockville Pike, Rockville, Maryland 20852, between 7:30 a.m. and 4:15 p.m. on Federal workdays.

Fax comments to: Rules and Directives Branch, Office of Administration, U.S. Nuclear Regulatory Commission at (301) 415–5144.

Requests for technical information about Revision 2 of Regulatory Guide 7.9 may be directed to Nancy L. Osgood at (301) 415–8513 or via e-mail to *NLO@nrc.gov*.

Regulatory guides are available for inspection or downloading through the NRC's public Web site in the Regulatory Guides document collection of the NRC's Electronic Reading Room at *http://www.nrc.gov/reading-rm/doc-collections/*. Electronic copies of Revision 2 of Regulatory Guide 7.9 are also available in the NRC's Agencywide Documents Access and Management System (ADAMS) at *http://www.nrc.gov/reading-rm/adams.html*, under Accession No. ML050540321. Note, however, that the NRC has temporarily limited public access to ADAMS so that the agency can complete security reviews of publicly available documents and remove potentially sensitive information. Please check the NRC's Web site for updates concerning the resumption of public access to ADAMS.

In addition, regulatory guides are available for inspection at the NRC's Public Document Room (PDR), which is located at 11555 Rockville Pike, Rockville, Maryland; the PDR's mailing address is USNRC PDR, Washington, DC 20555–0001. The PDR can also be reached by telephone at (301) 415–4737 or (800) 397–4205, by fax at (301) 415–3548, and by e-mail to *PDR@nrc.gov*. Requests for single copies of draft or final guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future draft guides in specific divisions should be made in writing to the U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Reproduction and Distribution Services Section; by e-mail to *DISTRIBUTION@nrc.gov*; or by fax to (301) 415–2289. Telephone requests cannot be accommodated.

Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them.

(5 U.S.C. 552(a))

Dated at Rockville, Maryland, this 4th day of March, 2005.

For the U.S. Nuclear Regulatory Commission.

Carl J. Paperiello,

Director, Office of Nuclear Regulatory Research.

[FR Doc. 05–5008 Filed 3–14–05; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Final Regulatory Guide; Issuance, Availability

The U.S. Nuclear Regulatory Commission (NRC) has issued a revision to an existing guide in the agency's Regulatory Guide Series. This series has been developed to describe and make available to the public such information as methods that are acceptable to the NRC staff for implementing specific parts of the NRC's regulations, techniques that the staff uses in evaluating specific problems or postulated accidents, and data that the staff needs in its review of applications for permits and licenses.

Revision 2 of Regulatory Guide 7.10, ''Establishing Quality Assurance Programs for Packaging Used in Transport of Radioactive Material,'' provides guidance for use in developing quality assurance programs for packaging to be used in shipping Type B and fissile radioactive materials. This guidance describes a method that is acceptable to the NRC staff for complying with the related regulatory requirements in Title 10, Part 71, of the *Code of Federal Regulations* (10 CFR Part 71), ''Packaging and Transportation of Radioactive Material.''

In February 2004, the NRC staff published a draft of this guide as Draft Regulatory Guide DG–7004. Following the closure of the public comment period on April 25, 2004, the staff resolved all stakeholder comments in the course of preparing Revision 2 of Regulatory Guide 7.10.

The NRC staff encourages and welcomes comments and suggestions in connection with improvements to published regulatory guides, as well as items for inclusion in regulatory guides that are currently being developed. You may submit comments by any of the following methods.

Mail comments to: Rules and Directives Branch, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

Hand-deliver comments to: Rules and Directives Branch, Office of Administration, U.S. Nuclear Regulatory Commission, 11555 Rockville Pike, Rockville, Maryland 20852, between 7:30 a.m. and 4:15 p.m. on Federal workdays.

Fax comments to: Rules and Directives Branch, Office of Administration, U.S. Nuclear Regulatory Commission at (301) 415–5144.

Requests for technical information about Revision 2 of Regulatory Guide 7.10 may be directed to James J. Pearson at (301) 415–1985 or via e-mail to *JJP@nrc.gov.*

Regulatory guides are available for inspection or downloading through the NRC's public Web site in the Regulatory Guides document collection of the NRC's Electronic Reading Room at *http://www.nrc.gov/reading-rm/doc-collections/*. Electronic copies of Revision 2 of Regulatory Guide 7.10 are also available in the NRC's Agencywide Documents Access and Management System (ADAMS) at *http://www.nrc.gov/reading-rm/adams.html,* under Accession No. ML050540330. Note, however, that the NRC has temporarily limited public access to ADAMS so that the agency can complete security reviews of publicly available documents and remove potentially sensitive information. Please check the NRC's Web site for updates concerning the resumption of public access to ADAMS.

In addition, regulatory guides are available for inspection at the NRC's Public Document Room (PDR), which is located at 11555 Rockville Pike, Rockville, Maryland; the PDR's mailing address is USNRC PDR, Washington, DC 20555–0001. The PDR can also be reached by telephone at (301) 415–4737 or (800) 397–4205, by fax at (301) 415–3548, and by e-mail to *PDR@nrc.gov.* Requests for single copies of draft or final guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future draft guides in specific divisions should be made in writing to the U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Reproduction and Distribution Services Section; by email to *DISTRIBUTION@nrc.gov;* or by fax to (301) 415–2289. Telephone requests cannot be accommodated.

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(5 U.S.C. 552(a))

Dated at Rockville, Maryland, this 4th day of March, 2005.

For the U.S. Nuclear Regulatory Commission.

Carl J. Paperiello,

Director, Office of Nuclear Regulatory Research.

[FR Doc. 05–5007 Filed 3–14–05; 8:45 am]

BILLING CODE 7590–01–P

PACIFIC NORTHWEST ELECTRIC POWER AND CONSERVATION PLANNING COUNCIL

Fifth Northwest Electric Power and Conservation Plan

AGENCY: Pacific Northwest Electric Power and Conservation Planning Council (Northwest Power and Conservation Council; the Council).

ACTION: Notice of adoption of the Fifth Northwest Electric Power and Conservation Plan.

SUMMARY: The Pacific Northwest Electric Power Planning and Conservation Act of 1980 (16 U.S.C. 839 *et.*) (the Power Act) requires the Council to adopt and periodically review and revise a regional power plan, the Northwest Electric Power and Conservation Plan (the power plan). The Council first adopted the power plan in 1983, with significant amendments or complete revisions adopted in 1986, 1991 and 1998. The Council began a review of the power plan in 2002, and in September 2004, the Council released for public review and comment the Draft Fifth Power Plan. During the comment period, the Council held public hearings in each of four Northwest states, as required by the Power Act, engaged in consultations about the power plan with various governments, entities and individuals in the region, and accepted and considered substantial written and oral comments.

At the Council public meeting in December 2004 in Portland, Oregon, the Council formally adopted the revised power plan, called the Fifth Northwest Electric Power and Conservation Plan. The revised power plan meets the requirements of the Power Act, which specifies the components the power plan is to have. The Power Act requires the power plan to include among other elements, an energy conservation program, a recommendation for research and development; a methodology for determining quantifiable environmental costs and benefits; a 20-year demand forecast; a forecast of power resources that the Bonneville Power Administration will need to meet its obligations; an analysis of reserve and reserve reliability requirements; and a surcharge methodology. The plan also includes the Council's Columbia River Basin Fish and Wildlife Program, developed pursuant to other procedural requirements under the Power Act.

The Council followed the adoption of the power plan with a decision at its February 2005 meeting, also in Portland, Oregon, to adopt a Response to Comments and Statement of Basis and Purpose to accompany the final power plan. A pre-publication version of the final power plan is available on the Council's Web site, at *http://www.nwcouncil.org/energy/powerplan/draftplan/Default.htm*. A formal version will be published in the near future.

FOR FURTHER INFORMATION CONTACT: If you would like more information, or assistance in obtaining a copy of the Fifth Power Plan, please contact the Council's central office. The Council's address is 851 SW Sixth Avenue, Suite 1100, Portland, Oregon 97204. The Council's telephone numbers are 503–222–5161, and 800–452–5161; the Council's FAX is 503–820–2370, and the Council's Web site is: *http://www.nwcouncil.org*.

Stephen L. Crow,

Executive Director.

[FR Doc. 05–5096 Filed 3–14–05; 8:45 am]

BILLING CODE 7905–01–M

PENSION BENEFIT GUARANTY CORPORATION

Agency Information Collection Activities; OMB Approval Received; Annual Financial and Actuarial Information Reporting

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act, this notice announces the Office of Management and Budget's approval of a collection of information contained in the Pension Benefit Guaranty Corporation's final rule on Annual Financial and Actuarial Information Reporting.

FOR FURTHER INFORMATION CONTACT: James L. Beller, Attorney, Legislative & Regulatory Department, PBGC, 1200 K Street, NW., Washington, DC 20005–4026; (202) 326–4024. (TTY/TDD users may call the Federal relay service toll-free at 1–800–877–8339 and ask to be connected to (202) 326–4024.)

SUPPLEMENTARY INFORMATION: On March 9, 2005, the PBGC published in the **Federal Register** (70 FR 11540) a final rule amending its regulation on Annual Financial and Actuarial Information Reporting. This rule contains information collection requirements. 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. On March 9, 2005, OMB approved the collection of information requirements with respect to this final rule under OMB control number 1212–0049 (expires February 29, 2008).

Issued in Washington, DC, this 10th day of March, 2005.

James J. Armbruster,

Acting Director, Legislative & Regulatory Department, Pension Benefit Guaranty Corporation.

[FR Doc. 05–5066 Filed 3–14–05; 8:45 am]

BILLING CODE 7708–01–P

PENSION BENEFIT GUARANTY CORPORATION

Required Interest Rate Assumption for Determining Variable-Rate Premium; Interest Assumptions for Multiemployer Plan Valuations Following Mass Withdrawal

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice of interest rates and assumptions.

SUMMARY: This notice informs the public of the interest rates and assumptions to be used under certain Pension Benefit Guaranty Corporation regulations. These rates and assumptions are published elsewhere (or can be derived from rates published elsewhere), but are collected and published in this notice for the convenience of the public. Interest rates are also published on the PBGC's Web site (*http://www.pbgc.gov*).

DATES: The required interest rate for determining the variable-rate premium under part 4006 applies to premium payment years beginning in March 2005. The interest assumptions for performing multiemployer plan valuations following mass withdrawal under part 4281 apply to valuation dates occurring in April 2005.

FOR FURTHER INFORMATION CONTACT: Catherine B. Klion, Attorney, Legislative and Regulatory Department, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005, (202) 326–4024. (TTY/TDD users may call the Federal relay service toll-free at

1–800–877–8339 and ask to be connected to (202) 326–4024.)

SUPPLEMENTARY INFORMATION:

Variable-Rate Premiums

Section 4006(a)(3)(E)(iii)(II) of the Employee Retirement Income Security Act of 1974 (ERISA) and § 4006.4(b)(1) of the PBGC's regulation on Premium Rates (29 CFR part 4006) prescribe use of an assumed interest rate (the ''required interest rate'') in determining a single-employer plan's variable-rate premium. Pursuant to the Pension Funding Equity Act of 2004, for premium payment years beginning in 2004 or 2005, the required interest rate is the ''applicable percentage'' (currently 85 percent) of the annual rate of interest determined by the Secretary of the Treasury on amounts invested conservatively in long-term investment grade corporate bonds for the month preceding the beginning of the plan year for which premiums are being paid. Thus, the required interest rate to be used in determining variable-rate premiums for premium payment years beginning in March 2005 is 4.56 percent (*i.e.*, 85 percent of the 5.36 percent composite corporate bond rate for February 2005 as determined by the Treasury).

The following table lists the required interest rates to be used in determining variable-rate premiums for premium payment years beginning between April 2004 and March 2005.

For premium payment years beginning in:	The required interest rate is:
April 2004	4.62
May 2004	4.98
June 2004	5.26
July 2004	5.25
August 2004	5.10
September 2004	4.95
October 2004	4.79
November 2004	4.73
December 2004	4.75
January 2005	4.73
February 2005	4.66
March 2005	4.56

Multiemployer Plan Valuations Following Mass Withdrawal

The PBGC's regulation on Duties of Plan Sponsor Following Mass Withdrawal (29 CFR part 4281) prescribes the use of interest assumptions under the PBGC's regulation on Allocation of Assets in Single-Employer Plans (29 CFR part 4044). The interest assumptions applicable to valuation dates in April 2005 under part 4044 are contained in an amendment to part 4044 published elsewhere in today's **Federal Register**. Tables showing the assumptions applicable to prior periods are codified in appendix B to 29 CFR part 4044.

Issued in Washington, DC, on this 9th day of March 2005.

Vincent K. Snowbarger,

Deputy Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 05–5009 Filed 3–14–05; 8:45 am]

BILLING CODE 7708–01–P

SECURITIES AND EXCHANGE COMMISSION

[File No. 1–11568]

Issuer Delisting; Notice of Application of DynTek, Inc. To Withdraw Its Common Stock, $.0001 par value, and Series A Convertible Preferred Stock and Warrants, From Listing and Registration on the Boston Stock Exchange, Inc.

March 9, 2005.

On February 23, 2005, DynTek, Inc. a Delaware corporation (''Issuer''), filed an application with the Securities and Exchange Commission (''Commission''), pursuant to Section 12(d) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 12d2–2(d) thereunder,[2] to withdraw its common stock, $.0001 par value, and series A convertible preferred stock and warrants (collectively ''Securities''), from listing and registration on the Boston Stock Exchange, Inc. (''BSE'').

On February 3, 2005, the Board of Directors (''Board'') of the Issuer approved resolutions to withdraw the Securities from listing and registration on BSE. The Board stated that the following reasons factored into its decision. In connection with the Issuer's voluntary withdrawal of Securities from inclusion for trading on Nasdaq SmallCap Market (''Nasdaq'') on December 15, 2004, the Board determined that such withdrawal was in the best interests of the Issuer and its stockholders, and the Issuer's current principal market maker has acted to continue to make a market in the Securities on the OTC Bulletin Board. The Issuer believes that its stockholders would be better served by channeling its resources into efforts that will accelerate the profitable growth of the Issuer, and that the ongoing costs, distractions, and uncertainties of the process to maintain a Nasdaq listing for the Issuer at that time was warranted. After the Issuer's voluntary withdrawal from listing on Nasdaq, the Issuer received a letter dated December 20, 2004 from BSE requesting additional information regarding the Issuer's decision to voluntary withdraw from Nasdaq, as well as other information pertaining to the listing of the Securities on BSE. After corresponding with BSE, the Board determined that it is in the best interest of the Issuer and its stockholders to voluntarily withdraw the listing of its Securities from BSE and requested that the Issuer's current market makers continue to make markets in the Securities on the OTC Bulletin Board.

The Issuer stated in its application that it has complied with BSE rules governing the withdrawal of a security from BSE by complying with all applicable laws in effect in the State of Delaware, the state in which the Issuer is incorporated, and by complying with BSE procedures for delisting by filing the required documents governing the withdrawal of a security from listing and registration on BSE.

The Issuer's application relates solely to withdrawal of the Securities from listing on BSE and from registration under Section 12(b) of the Act,[3] and shall not affect its obligation to be registered under Section 12(g) of the Act.[4]

Any interested person may, on or before April 4, 2005, comment on the facts bearing upon whether the application has been made in accordance with the rules of the BSE, and what terms, if any, should be imposed by the Commission for the protection of investors. All comment letters may be submitted by either of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/delist.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include the File Number 1–11568 or;

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 1–11568. This file number should be included on the subject line if e-mail is used. To help us 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

[1] 15 U.S.C. 78*l*(d).

[2] 17 CFR 240.12d2–2(d).

[3] 15 U.S.C. 78*l*(b).

[4] 15 U.S.C. 78*l*(g).

(*http://www.sec.gov/rules/delist.shtml*). Comments are also available for public inspection and copying in the Commission's Public Reference Room. All comments received will be posted without change; we do not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly.

The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[5]

Jonathan G. Katz,

Secretary.

[FR Doc. E5–1115 Filed 3–14–05; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[File No. 1–04822]

Issuer Delisting; Notice of Application of Earl Scheib, Inc. To Withdraw Its Capital Stock, $1.00 Par Value, From Listing and Registration on the American Stock Exchange LLC

March 9, 2005.

On February 24, 2005, Earl Scheib, Inc., a Delaware corporation (''Issuer''), filed an application with the Securities and Exchange Commission (''Commission''), pursuant to Section 12(d) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 12d2–2(d) thereunder,[2] to withdraw its capital stock, $1.00 par value (''Security''), from listing and registration on the American Stock Exchange LLC (''Amex'').

On February 23, 2005, the Board of Directors (''Board'') of the Issuer unanimously approved resolutions to withdraw the Security from listing on Amex. The Board stated that it determined it is in the best interest of the Issuer and its stockholders to withdraw the Security from Amex for the following reasons: (1) The Issuer has fewer than 300 record holders of the Security; (2) the Security trades in low volumes and, as a result, listing of the Security on Amex does not provide significant liquidity to stockholders; (3) the expense of maintaining the listing of the Security on Amex, including the cost of complying with the Act and the provision added by the Sarbanes-Oxley Act of 2002, has had, and is expected in the future to have, a significant negative effect on the Issuer's earnings; (4) the Issuer's management believes the Issuer is the only publicly-traded chain operator of automotive paint and body shops, and that the costs of maintaining its listing on Amex and complying with the Act place the Issuer at a disadvantage with competitors who do not bear these costs nor make the required disclosures; (5) compliance with the Act and the listing rules of Amex demands significant attention from the Issuer's management and the Board, which attention would otherwise be devoted to developing the Issuer's business and pursing strategic opportunities; and (6) the Issuer has not sought financing in public capital markets in many years, and the Issuer's management does not expect to do so for the foreseeable future.

The Issuer stated in its application that it has met the requirements of Amex Rule 18 by complying with all applicable laws in Delaware, in which it is incorporated, and with Amex's rules governing an issuer's voluntary withdrawal of a security from listing and registration.

The Issuer's application relates solely to withdrawal of the Security from listing on Amex and from registration under Section 12(b) of the Act,[3] and shall not affect its obligation to be registered under Section 12(g) of the Act.[4]

Any interested person may, on or before April 4, 2005 comment on the facts bearing upon whether the application has been made in accordance with the rules of Amex, and what terms, if any, should be imposed by the Commission for the protection of investors. All comment letters may be submitted by either of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/delist.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include the File Number 1–04822 or;

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 1–04822. This file number should be included on the subject line if e-mail is used. To help us 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/delist.shtml*). Comments are also available for public inspection and copying in the Commission's Public Reference Room. All comments received will be posted without change; we do not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly.

The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[5]

Jonathan G. Katz,

Secretary.

[FR Doc. E5–1116 Filed 3–14–05; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[File No. 1–14544]

Issuer Delisting; Notice of Application of Grupo Imsa, S.A. de C.V. To Withdraw Its American Depositary Shares (Represented by American Depositary Receipts (Each Representing Nine Equity Units, Each of Which Consists of Three Series B Shares, No Par Value, and Two Series C Shares, No Par Value), From Listing and Registration on the New York Stock Exchange, Inc.

March 9, 2005.

On February 10, 2005, Grupo Imsa, S.A. de C.V., a company organized under the laws of United Mexican States (''Issuer''), filed an application with the Securities and Exchange Commission (''Commission''), pursuant to Section 12(d) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 12d2–2(d) thereunder,[2] to withdraw its American Depositary Shares (each representing nine equity units, each of which consists of three Series B shares, no par value, and two Series C shares, no par value) (''Security''), from listing and registration on the New York Stock Exchange, Inc. (''NYSE'').

The Board of Directors (''Board'') of the Issuer adopted resolutions, at a

[5] 17 CFR 200.30–3(a)(1).

[1] 15 U.S.C. 78*l*(d).

[2] 17 CFR 240.12d2–2(d).

[3] 15 U.S.C. 78*l*(b).

[4] 15 U.S.C. 78*l*(g).

[5] 17 CFR 200.30–3(a)(1).

[1] 15 U.S.C. 78*l*(d).

[2] 17 CFR 240.12d2–2(d).

meeting held on January 10, 2005, to withdraw the Security from listing and registration on the NYSE. The Board stated that in reaching its decision to withdraw the Security from the Exchange, the Board considered the following factors. First, the Board believes that the Issuer's shareholders have been disadvantaged by the historically thin liquidity of the trading in the US markets for the Security. The Board believes that the trading price of the Security has been adversely affected by weak liquidity. Second, in the Board's view, the liquidity and pricing issues have arisen because the public float of the Security is not large enough to support trading on two exchanges. Only 15% of the Security is owned by the public, with the rest owned by the Canales Clariond and Clariond Reyes families. Since the Issuer is a Mexican company, headquartered in Monterrey, Mexico, the Board believes that all trading in the Security should take place on the Mexican Stock Exchange. Third, the Board hopes that if all of the trading in the Security takes place on the Mexican Stock Exchange, the market for the Security on that exchange will show improved liquidity and pricing. In that case, withdrawal of the Security from listing on the NYSE will benefit the Issuer's shareholders.

Last, the Board stated that as required by the Issuer's by-laws, the Issuer's shareholders have voted on and approved by a majority of more than 98%, the proposal to withdraw the Security from listing on the NYSE. Investors in the Security will continue to have access to information regarding the Issuer contained in reports filed with the Commission. In view of the thin liquidity of the trading markets for the Security and the price at which the Security has historically been trading, the Board believes that the Issuer's shareholders have not realized the benefits of an NYSE listing.

The Issuer stated in its application that it has complied with the NYSE's rules governing an issuer's voluntary withdrawal of a security from listing and registration by providing the NYSE with the required documents governing the removal of securities from listing and registration on the NYSE.

The Issuer's application relates solely to the withdrawal of the Security from listing on the NYSE and from registration under Section 12(b) of the Act,[3] and shall not affect its obligation to be registered under Section 12(g) of the Act.[4]

Any interested person may, on or before April 4, 2005, comment on the facts bearing upon whether the application has been made in accordance with the rules of the NYSE, and what terms, if any, should be imposed by the Commission for the protection of investors. All comment letters may be submitted by either of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/delist.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include the File Number 1–14544 or;

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 1–14544. This file number should be included on the subject line if e-mail is used. To help us 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/delist.shtml*). Comments are also available for public inspection and copying in the Commission's Public Reference Room. All comments received will be posted without change; we do not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly.

The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[5]

Jonathan G. Katz,

Secretary.

[FR Doc. E5–1119 Filed 3–14–05; 8:45 am]

BILLING CODE 8010–01–P

[3] 15 U.S.C. 78*l*(b).

[4] 15 U.S.C. 78*l*(g).

[5] 17 CFR 200.30–3(a)(1).

SECURITIES AND EXCHANGE COMMISSION

[File No. 1–15169]

Issuer Delisting; Notice of Application of Perficient, Inc. To Withdraw Its Common Stock, $.001 Par Value, From Listing and Registration on the Boston Stock Exchange, Inc.

March 9, 2005.

On February 15, 2005, Perficient, Inc. a Delaware corporation (''Issuer''), filed an application with the Securities and Exchange Commission (''Commission''), pursuant to Section 12(d) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 12d2–2(d) thereunder,[2] to withdraw its common stock, $.001 par value (''Security''), from listing and registration on the Boston Stock Exchange, Inc. (''BSE'').

On February 7, 2005, the Board of Directors (''Board'') of the Issuer approved resolutions to withdraw the Security from listing and registration on BSE. In making the decision to delist the Security from BSE, the Issuer stated that the following reason factored into its decision. Over the course of the past twelve months, the Issuer has periodically reviewed its ability to comply with the listing standards of Nasdaq National Market (''Nasdaq'') in order to move the listing of the Security from Nasdaq SmallCap Market to the Nasdaq. The Issuer was aware that once the Security was listed on Nasdaq, the Security would then be a covered security pursuant to Sections 18(b)(1)(A) of the Securities Act of 1933 (''Securities Act'')[3] and the Issuer would no longer need to maintain the listing of the Security on BSE to qualify for the exemption provided by Section 18 of the Securities Act. In December 2004, the Issuer determined that it met the criteria for listing the Security on Nasdaq. In January 2005, the Issuer applied to Nasdaq to move the listing of the Security to Nasdaq and to begin trading of the Security from Nasdaq SmallCap Market to Nasdaq on February 2, 2005. Concurrent with its decision to apply for listing the Security on Nasdaq, the Issuer received a request from BSE on January 3, 2005 to update the Issuer's number of shares listed on BSE, to confirm compliance with the corporate governance requirements of the Sarbanes-Oxley Act of 2002, and to confirm the current number of beneficial holders of the Security. On February 3, 2005, the Issuer notified BSE that the Security was listed on

[1] 15 U.S.C. 78*l*(d).

[2] 17 CFR 240.12d2–2(d).

[3] 15 U.S.C. 77r § 18(b)(1)(A).

Nasdaq and that the Issuer desired to voluntary delist from BSE.

The Issuer stated in its application that it has complied with BSE procedures for delisting by filing the required documents governing the withdrawal of securities from listing and registration on BSE.

The Issuer's application relates solely to withdrawal of the Security from listing on BSE and from registration under Section 12(b) of the Act,[4] and shall not affect its obligation to be registered under Section 12(g) of the Act.[5]

Any interested person may, on or before April 4, 2005, comment on the facts bearing upon whether the application has been made in accordance with the rules of BSE, and what terms, if any, should be imposed by the Commission for the protection of investors. All comment letters may be submitted by either of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/delist.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include the File Number 1–15169 or;

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 1–15169. This file number should be included on the subject line if e-mail is used. To help us 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/delist.shtml*). Comments are also available for public inspection and copying in the Commission's Public Reference Room. All comments received will be posted without change; we do not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly.

The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

[4] 15 U.S.C. 78*l*(b).

[5] 15 U.S.C. 78*l*(g).

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[6]

Jonathan G. Katz,

Secretary.

[FR Doc. E5–1118 Filed 3–14–05; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[File No. 1–32449]

Issuer Delisting; Notice of Application of Vitran Corporation Inc., To Withdraw Its Common Stock, No Par Value, From Listing and Registration on the American Stock Exchange LLC

March 9, 2005.

On March 1, 2005, Vitran Corporation Inc., an Ontario corporation (''Issuer''), filed an application with the Securities and Exchange Commission (''Commission''), pursuant to Section 12(d) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 12d2–2(d) thereunder,[2] to withdraw its common stock, no par value (''Security''), from listing and registration on the American Stock Exchange LLC (''Amex'').

On October 20, 2004, the Board of Directors (''Board'') of the Issuer unanimously approved a resolution to withdraw the Security from listing and registration on Amex and to list the Security on the Nasdaq National Market Systems (''Nasdaq''). The Issuer stated that it believes withdrawing the Security from Amex and listing on Nasdaq will offer increased visibility and liquidity in the financial markets. The Issuer will also have the advantage of being listed on Nasdaq with a majority of its peer group. The Issuer stated that trading in the Security on Nasdaq began March 7, 2005.

The Issuer stated in its application that it has met the requirements of Amex Rule 18 by complying with all applicable laws in effect in the Province of Ontario, Canada, in which it is incorporated, and with the Amex's rules governing an issuer's voluntary withdrawal of a security from listing and registration.

The Issuer's application relates solely to withdrawal of the Security from listing on the Amex and from registration under Section 12(b) of the Act,[3] and shall not affect its obligation to be registered under Section 12(g) of the Act.[4]

Any interested person may, on or before April 4, 2005, comment on the facts bearing upon whether the application has been made in accordance with the rules of the Amex, and what terms, if any, should be imposed by the Commission for the protection of investors. All comment letters may be submitted by either of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/delist.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include the File Number 1–32449 or;

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 1–32449. This file number should be included on the subject line if e-mail is used. To help us 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/delist.shtml*). Comments are also available for public inspection and copying in the Commission's Public Reference Room. All comments received will be posted without change; we do not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly.

The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[5]

Jonathan G. Katz,

Secretary.

[FR Doc. E5–1117 Filed 3–14–05; 8:45 am]

BILLING CODE 8010–01–P

[6] 17 CFR 200.30–3(a)(1).

[1] 15 U.S.C. 78*l*(d).

[2] 17 CFR 240.12d2–2(d).

[3] 15 U.S.C. 78*l*(b).

[4] 15 U.S.C. 78*l*(g).

[5] 17 CFR 200.30–3(a)(1).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–51340; File No. SR–FICC–2005–02]

Self-Regulatory Organizations; Fixed Income Clearing Corporation; Order Approving Proposed Rule Change To Amend the Application and Continuing Membership Standards of the Government Securities Division and the Mortgage-Backed Securities Division

March 9, 2005.

I. Introduction

On January 7, 2005, the Fixed Income Clearing Corporation (''FICC'') filed with the Securities and Exchange Commission (''Commission'') and on January 14, 2005, amended proposed rule change SR–FICC–2005–02 pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'').[1] Notice of the proposal was published in the **Federal Register** on January 28, 2005.[2] No comment letters were received. For the reasons discussed below, the Commission is approving the proposed rule change.

II. Description

FICC is amending the application and continuing membership standards of the Government Securities Division (''GSD'') and the Mortgage-Backed Securities Division (''MBSD'') to: (1) Provide that when an applicant, member, or participant [3] becomes subject to an order of statutory disqualification or order of similar effect, including an order issued by a non-U.S. regulator or examining authority, the FICC Membership and Risk Management Committee (''Committee'') shall determine whether this shall be the basis for denial of the membership applicant or termination of membership rather than such denial or termination being automatic; (2) impose a fine on members that fail to notify FICC within 2 business days of falling out of compliance with specified membership standards, including becoming subject to an order of statutory disqualification or order of similar effect; and (3) require applicants and members to notify FICC within two business days if they become aware of an investigation or similar proceeding against them that could lead them to violate a FICC membership standard.

1. Action in Cases of Statutory Disqualification or Orders of Similar Effect

The GSD and MBSD rules currently provide that a membership applicant that is subject to an order of statutory disqualification under Section 3(a)(39) of the Act or an order of similar effect is not eligible for membership.[4] Currently, a waiver of this requirement by the Committee is necessary in order for FICC to admit such applicant into membership. The admission requirements also serve as continuance standards for current members. Therefore, if a member becomes subject to a statutory disqualification, a waiver must be sought in order for it to continue as a member of FICC.

At the time it was organized as a clearing agency, the Government Securities Clearing Corporation, the predecessor to FICC, modeled its rules provisions regarding statutory disqualifications on those of other clearing agencies which are now subsidiaries of The Depository Trust & Clearing Corporation. The understanding at the time was that instances of statutory disqualification were a rare occurrence and called into question the entity's ability to meet membership requirements or to remain a member in good standing. More recently, firms are increasingly becoming subject to statutory disqualification, but the reasons for a firm's statutory disqualification may have little bearing on its ability to become or remain a member in good standing. FICC will retain the ability to deny or terminate membership where a firm's ability to meet applicable membership requirements is called into question. However, to the extent an order of statutory disqualification does not call this into question, FICC does not believe it appropriate for the Committee to have to issue a waiver in order to admit or retain the member.

The proposed rule change eliminates the automatic need to obtain a waiver in cases where an entity is subject to an order of statutory disqualification or order of similar effect but will keep such orders as a criterion to be considered for membership. FICC management will continue to present all instances of such orders to the Committee, and the Committee will make all final determinations with respect to these entities. In this manner, FICC management and the Committee will be able to thoroughly evaluate the risks presented by an applicant or member that was or that becomes subject to such an order. The proposed rule change allows FICC to admit and retain members that pose no risk to FICC.[5] In instances where waivers are still required under the rules and are granted by the Committee, FICC will promptly notify the Commission.

2. Fines for Failure To Notify FICC for Falling Out of Compliance With Membership Criteria

FICC's rules currently require members to promptly notify FICC in the event that they are not meeting membership standards. FICC is now implementing a fine for those members that do not promptly notify FICC of their noncompliance with any membership standard. The membership standards are set forth in GSD Rule 2, ''Members,'' and Rule 3, ''Financial Responsibility and Operational Capability Standards,'' which apply to comparison-only and netting members as applicable and in MBSD Clearing Rules Article III, ''Participants,'' which apply to MBSD clearing participants. For risk management purposes, it is important that FICC learn of a member's failure to meet a membership standard as soon as possible in order that FICC can promptly determine a course of action that will best protect FICC. In addition, in some instances, such as certain cases where a member becomes subject to a statutory disqualification order, FICC is required to promptly notify the Commission.[6] Given the importance of FICC's membership standards and the need for FICC to learn of noncompliance as soon as possible, FICC is proposing to fine members $1,000 per instance of a failure to notify FICC within two business days of the

[1] 15 U.S.C. 78s(b)(1).

[2] Securities Exchange Act Release No. 51066 (January 21, 2005), 70 FR 4167.

[3] GSD members and MBSD participants are collectively referred to as members for purposes of this order.

[4] For example, GSD Rule 3, ''Financial Responsibility and Operational Capability Standards,'' Section 1, ''Admissions Criteria for Comparison-Only Members,'' provides that an applicant may not be subject to an order of statutory disqualification or ''an order of similar effect issued by a Federal or State banking authority, or other examining authority or regulator.'' Section 3(a) (39) of the Act, which sets forth the definition of ''statutory disqualification,'' specifically covers orders issued by foreign financial regulatory authorities that are the equivalent to Commission-issued orders covered by the definition. The statutory definition also includes specific references to entities being barred from the ''foreign equivalent of a self-regulatory organization [or a] foreign or international securities exchange'' under ''any substantially equivalent foreign statute or regulation.''

[5] To the extent the Committee determines to admit or retain a member despite a statutory disqualification, the Committee will still retain all rights it currently has under FICC rules to impose limitations or restrictions on such member or participant.

[6] Rule 19h–1 of the Act does not require a notification or notice to the Commission in all cases of statutory disqualification.

member first having knowledge of its falling out of compliance with the particular membership standard.[7] Members would be afforded the same due process as is currently available under FICC's rules with respect to other types of fines. As with all fines, FICC will notify the Commission of all fines that are imposed pursuant to this rule change.

In addition, members that fail to timely notify FICC of falling out of compliance with any membership standard will automatically be placed on the Watch List and will be subject to more frequent and thorough monitoring as provided for in GSD Rule 4, Section 3 and MBSD Article IV, Rule 6.

3. Notification of Pending Investigations

The proposed rule change also requires applicants and members to notify FICC within two business days of first having knowledge of a pending investigation or similar proceeding or condition that could lead them to violate a membership standard. The proposed rule change will provide an exception to this requirement in cases where disclosure to FICC would cause the applicant or member to violate an applicable law, rule, or regulation.

4. Definitions

Finally, MBSD is proposing to add two definitions to Article I, ''Definitions and General Provisions.'' The term ''Associated Person'' will be defined to mean, when applied to any ''person,'' any partner, officer, or director of such ''person'' or any ''person'' directly or indirectly controlling or controlled by such ''person,'' including an employee of such ''person.'' The term ''Person'' will mean a partnership, corporation, or other organization, entity or individual.

III. Discussion

Section 17A(b)(3)(F) of the Act requires that the rules of a clearing agency be designed to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible.[8] The Commission finds that FICC's proposed rule change is consistent with this requirement because it will help FICC monitor its members' compliance with membership standards. This should better enable FICC to act quickly to protect itself and its members and as a result will better enable FICC to safeguard the securities and funds in its custody or control or for which it is responsible. The Commission also finds that FICC's proposed rule change is consistent with this requirement because while it will make an action of statutory disqualification only a criteria to be considered in membership matters and not an automatic bar, FICC has designed the proposed rule change in a manner that will not compromise its membership review process.

IV. Conclusion

On the basis of the foregoing, the Commission finds that the proposed rule change is consistent with the requirements of the Act and in particular Section 17A of the Act and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (File No. SR–FICC–2005–02) be and hereby is approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[9]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. E5–1102 Filed 3–14–05; 8:45 am]

BILLING CODE 8010–01–P

[7] Once FICC is notified of an applicant or member's statutory disqualification, it will follow the provisions of Rule 19h–1 of the Act.

[8] 15 U.S.C. 78q–1(b)(3)(F).

[9] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–51339; File No. SR–NASD–2004–164]

Self-Regulatory Organizations; Order Approving Proposed Rule Change and Amendment No. 1 Thereto by National Association of Securities Dealers, Inc. Relating to the Random Selection of Arbitrators by the Neutral List Selection System

March 9, 2005.

On October 28, 2004, the National Association of Securities Dealers, Inc. (''NASD''), through its subsidiary, NASD Dispute Resolution, Inc. (''NASD Dispute Resolution''), submitted to the Securities and Exchange Commission (''SEC'' or ''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change to NASD Rule 10308 of the NASD Code of Arbitration Procedure (''Code''). On January 5, 2005, NASD filed Amendment No. 1 to the proposed rule change.[3] The **Federal Register** published the proposed rule change, as amended, for comment on February 2, 2005.[4] The Commission received four comment letters in response to the proposed rule change.[5] This order approves the proposed rule change, as amended.

The proposed amendment to NASD Rule 10308 would change the method used by the Neutral List Selection System (''NLSS'') to select arbitrators from a rotational to a random selection function by incorporating the random selection provision of the proposed Customer and Industry Code revisions.[6]

The Greenberg letter supported the change to a random selection system. The Sugerman letter commented that a rotational system is more fair, asserting that under such a system an arbitrator's name is presented for possible selection with the same frequency as every other arbitrator. The Zimmerman letter suggested that NASD also use a random selection function for selecting mediators. The Levine letter, while addressing issues relating to arbitrators, did not specifically address the change from a rotational to a random arbitrator selection system.[7]

The Commission finds that the proposed rule change, as amended, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* letter from Mignon McLemore, NASD, to Catherine McGuire, SEC, dated January 5, 2005. In this letter, NASD stated that it will hire an outside consultant to audit the random selection system after it has been operational for one year and independently verify that the random selection system is operating as described in the proposed rule change. NASD also stated that it will keep statistics on the arbitrators selected by the random selection system who appear on an arbitrator list in order to monitor the effectiveness of the random selection system.

[4] Securities Exchange Act Release No. 51083, 70 FR 5497 (''Notice'').

[5] *See* letters to Jonathan Katz, Secretary, Commission, from Les Greenberg, dated February 10, 2005 (''Greenberg letter''); Arnold Levine, dated February 19, 2005 (''Levine letter''); Philip Zimmerman, dated February 21, 2005 (''Zimmerman letter''); and Irwin Sugerman, dated February 21, 2005 (''Sugerman letter'').

[6] NASD Dispute Resolution has filed with the SEC a proposed rule change to the Code to reorganize the current rules, simplify the language, codify current practices, and implement several substantive changes. The rule filing was submitted in three parts: Customer Code, Industry Code, and Mediation Code. The Customer Code was filed on October 15, 2003, and amended on January 3, 2005 and January 19, 2005 (SR–NASD–2003–158); the Industry Code was filed on January 16, 2004, and amended on February 26, 2004 and January 3, 2005 (SR–NASD–2004–011). The Mediation Code was filed on January 23, 2004, and amended on January 3, 2005 (SR–NASD–2004–013). It does not contain any provisions concerning the NLSS. The three new codes will replace the current Code in its entirety. The Code revision is undergoing SEC staff review and has not yet been published for comment.

[7] The Levine letter commented that NASD should only use professional arbitrators and suggested qualifications that should be required of such arbitrators.

securities association.[8] In particular, the Commission believes that the proposed rule change is consistent with Section 15A(b)(6) of the Act,[9] which requires, among other things, that NASD's rules be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. The Commission believes that a random selection function incorporated into the NASD Dispute Resolution arbitration forum provides a fair and equitable system for parties to select arbitrators.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[10] that the proposed rule change (SR–NASD–2004–164), as amended, is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[11]

Jill M. Petersen,

Assistant Secretary.

[FR Doc. E5–1103 Filed 3–14–05; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–51338; File No. SR–NASD–2003–141]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the National Association of Securities Dealers, Inc. To Adopt an Additional Mark-Up Policy for Transactions in Debt Securities Except Municipal Securities

March 9, 2005.

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, 2003, the National Association of Securities Dealers, Inc. (''NASD'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by NASD.[3] On June 29, 2004, NASD filed Amendment No. 1 to the proposed rule change.[4] On February 17, 2005, NASD filed Amendment No. 2 to the proposed rule change.[5] The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

NASD is proposing to adopt a second interpretation, proposed IM–2440–2, to Rule 2440 to provide additional mark-up guidance for transactions in debt securities except municipal securities. Below is the text of the proposed rule change. Proposed new language is in *italics*. Text in bold would appear in italics in the Rule as published in the NASD Manual.

* * * * *

IM–2440–*1*. Mark-Up Policy

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IM–2440–*2*. Additional Mark-Up Policy for Transactions in Debt Securities, Except Municipal Securities [1]

[1] The Interpretation does not apply to transactions in municipal securities. Single terms in parentheses within sentences, such as the terms ''(sales)'' and ''(to)'' in the phrase, ''contemporaneous dealer purchases (sales) in the security in question from (to) institutional accounts,'' refer to scenarios where a member is charging a customer a mark-down.

IM–2440–1 applies to debt securities transactions, and this IM–2440–2 supplements the guidance provided in IM–2440–1.

A dealer that is acting in a principal capacity in a transaction with a customer and is charging a mark-up or mark-down must mark-up or mark-down the transaction from the prevailing market price. Presumptively for purposes of this IM–2440–2, the prevailing market price for a debt security is established by referring to the dealer's contemporaneous cost as incurred, or contemporaneous proceeds as obtained, consistent with NASD pricing rules. (See, e.g., Rule 2320).

*When the dealer is **selling** the security to a customer, countervailing evidence of the prevailing market price may be considered only where the dealer made no **contemporaneous purchases** in the security or can show that in the particular circumstances the dealer's **contemporaneous cost** is not indicative of the prevailing market price. When the dealer is **buying** the security from a customer, countervailing evidence of the prevailing market price may be considered only where the dealer made no **contemporaneous sales** in the security or can show that in the particular circumstances the dealer's **contemporaneous proceeds** are not indicative of the prevailing market price.*

A dealer that effects a transaction in debt securities with a customer and identifies the prevailing market price using a measure other than the dealer's own contemporaneous cost or proceeds must be prepared to provide evidence that is sufficient to overcome the presumption that the dealer's contemporaneous cost or proceeds provide the best measure of the prevailing market price. A dealer may be able to show that its contemporaneous cost or proceeds are not indicative of prevailing market price, and thus overcome the presumption, in instances where (i) interest rates or the credit quality of the security changed significantly after the dealer's contemporaneous trades, or (ii) the dealer's contemporaneous trade was with an institutional account with which the dealer regularly effects transactions in the same or a ''similar'' security, as defined below, and in the case of a sale to such account, was executed at a price higher than the then prevailing market price, or, in the case of a purchase from such account, was executed at a price lower than the then prevailing market price, and the execution price was away from the prevailing market price because of the size and risk of the transaction (a ''Specified Institutional Trade''). In the case of a Specified Institutional Trade, when a dealer seeks to overcome the presumption that the dealer's contemporaneous cost or proceeds provide the best measure of the prevailing market price, the dealer must provide evidence of the then prevailing market price by referring exclusively to inter-dealer trades in the same security executed contemporaneously with the dealer's Specified Institutional Trade.

In instances other than those pertaining to a Specified Institutional Trade, where the dealer has presented evidence that is sufficient to overcome the presumption that the dealer's contemporaneous cost or proceeds provide the best measure of the

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[8] In approving this proposed rule change, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78(c)(f).

[9] 15 U.S.C. 78*o*–3(b)(6).

[10] 15 U.S.C. 78s(b)(2).

[11] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Commission staff made certain changes to the description of the proposed rule change with the consent of NASD, to enhance clarity and accuracy. Telephone conversation between Sharon K. Zackula, Associate General Counsel, Office of General Counsel, Regulatory Policy and Oversight, NASD, Richard Strasser, Attorney-Fellow, and Andrew Shipe, Special Counsel, Division of Market Regulation, Commission, March 3, 2005.

[4] *See* letter from Barbara Z. Sweeney, Senior Vice President and Corporate Secretary, NASD, to Katherine England, Assistant Director, Division of Market Regulation, Commission, dated June 29, 2004.

[5] *See* Form 19b–4, filed February 17, 2005. Amendment No. 2 replaced the previous filings in their entirety.

prevailing market price, or where interest rates or the credit quality of the security changed significantly after the dealer's contemporaneous trades, the most important or first pricing factor that should be taken into consideration in establishing prevailing market price for a mark-up or a mark-down is prices of any contemporaneous inter-dealer transactions in the security in question. In the absence of inter-dealer transactions, the second factor that should be taken into consideration in establishing the prevailing market prices for mark-ups (mark-downs) to customers is prices of contemporaneous dealer purchases (sales) in the security in question from (to) institutional accounts with which any dealer regularly effects transactions in the same security. For actively traded securities, contemporaneous bid (offer) quotations for the security in question made through an inter-dealer mechanism, through which transactions generally occur at the displayed quotations, may be used in the absence of inter-dealer or institutional transactions (described in the preceding sentence) in determining prevailing market price for customer mark-ups (mark-downs).

In the event that, in particular circumstances, the above factors are not available, other factors that may be taken into consideration for the purpose of establishing the price from which a customer mark-up (mark down) may be calculated, include but are not limited to:

- *Prices of contemporaneous inter-dealer transactions in a ''similar'' security, as defined below, or prices of contemporaneous dealer purchase (sale) transactions in a ''similar'' security with institutional accounts with which any dealer regularly effects transactions in the ''similar'' security with respect to customer mark-ups (mark-downs);*
- *Yields calculated from prices of contemporaneous inter-dealer transactions in ''similar'' securities;*
- *Yields calculated from prices of contemporaneous purchase (sale) transactions with institutional accounts with which any dealer regularly effects transactions in ''similar'' securities with respect to customer mark-ups (mark-downs); and*
- *Yields calculated from validated contemporaneous inter-dealer bid (offer) quotations in ''similar'' securities for customer mark-ups (mark-downs).*

The relative weight one may attribute to these other factors depends on the facts and circumstances surrounding the comparison transaction, such as its size, whether the dealer in the comparison transaction was on the same side of the market as the dealer is in the subject transaction, the timeliness of the information, and, with respect to the final factor listed above, the relative spread of the quotations in the similar security to the quotations in the subject security.

Finally, if information concerning the prevailing market price of the subject security cannot be obtained by applying any of the above factors, NASD or its members may consider as a factor in assessing the prevailing market price of a debt security the prices or yields derived from economic models (e.g., discounted cash flow models) that take into account measures such as credit quality, interest rates, industry sector, time to maturity, call provisions and any other embedded options, coupon rate, and face value; and consider all applicable pricing terms and conventions (e.g., coupon frequency and accrual methods). Such models currently may be in use by bond dealers or may be specifically developed by regulators for surveillance purposes.

Because the ultimate evidentiary issue is the prevailing market price, isolated transactions or isolated quotations generally will have little or no weight or relevance in establishing prevailing market price. For example, in considering yields of ''similar'' securities, except in extraordinary circumstances, members may not rely exclusively on isolated transactions or a limited number of transactions that are not fairly representative of the yields of transactions in ''similar'' securities taken as a whole.

A ''similar'' security should be sufficiently similar to the subject security that it would serve as a reasonable alternative investment to the investor. At a minimum, the security or securities should be sufficiently similar that a market yield for the subject security can be fairly estimated from the yields of the ''similar'' security or securities. Where a security has several components, appropriate consideration may also be given to the prices or yields of the various components of the security.

The degree to which a security is ''similar,'' as that term is used in this Interpretation, to the subject security may be determined by factors that include but are not limited to the following;

(a) Credit quality considerations, such as whether the security is issued by the same or similar entity, bears the same or similar credit rating, or is supported by a similarly strong guarantee or collateral as the subject security (to the extent securities of other issuers are designated as ''similar'' securities, significant recent information of either issuer that is not yet incorporated in credit ratings should be considered (e.g., changes to ratings outlooks));

(b) The extent to which the spread (i.e., the spread over U.S. Treasury securities of a similar duration) at which the ''similar'' security trades is comparable to the spread at which the subject security trades;

(c) General structural characteristics and provisions of the issue, such as coupon, maturity, duration, complexity or uniqueness of the structure, callability, the likelihood that the security will be called, tendered or exchanged, and other embedded options, as compared with the characteristics of the subject security; and

(d) Technical factors such as the size of the issue, the float and recent turnover of the issue, and legal restrictions on transferability as compared with the subject security.

When a debt security's value and pricing is based substantially on, and is highly dependent on, the particular circumstances of the issuer, including creditworthiness and the ability and willingness of the issuer to meet the specific obligations of the security, in most cases other securities will not be sufficiently similar, and therefore, other securities may not be used to establish the prevailing market price.

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NASD included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. NASD has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Introduction

Under NASD Rule 2440, ''Fair Prices and Commissions,'' a member is required to sell securities to a customer at a fair price.[6] When a member acts in

[6] NASD Rule 2440 specifically provides that a member is required to sell a security at a fair price

Continued

a principal capacity and sells a security to a customer, a dealer generally ''marks up'' the security, increasing the total price the customer pays. Conversely, when buying a security from a customer, a dealer that is a principal generally ''marks down'' the security, reducing the total proceeds the customer receives. IM–2440, ''Mark-Up Policy,'' provides additional guidance on mark-ups and fair pricing of securities transactions with customers.[7] Both Rule 2440 and IM–2440 apply to transactions in debt securities and IM–2440 provides that mark-ups for transactions in common stock are customarily higher than those for bond transactions of the same size.[8]

Under Rule 2440 and IM–2440, when a customer buys a security from a dealer, the customer's total purchase price, and the mark-up included in the price, must be fair and reasonable. Similarly, when a customer sells a security to a dealer, the customer's total proceeds from the sale, which were reduced by the mark-down, and the mark-down, must be fair and reasonable. A key step in determining whether a mark-up (mark-down) is fair and reasonable is correctly identifying the *prevailing market price* of the security, which is the basis from which the mark-up (mark-down) is calculated.[9]

The proposed interpretation, ''IM–2440–2, Additional Mark-Up Policy For Transactions in Debt Securities, Except Municipal Securities'' (''Proposed Interpretation''), provides additional guidance on mark-ups (mark-downs) in debt securities transactions, except municipal securities transactions.[10] The Proposed Interpretation addresses two fundamental issues in debt securities transactions: (1) How does a dealer correctly identify the prevailing market price of a debt security; and (2) what is a ''similar'' security and when may it be considered in determining the prevailing market price.

Prevailing Market Price

The Proposed Interpretation provides that when a dealer calculates a mark-up (or mark-down), the best measure of the prevailing market price of the security is presumptively the dealer's contemporaneous cost (proceeds).[11] Further, the dealer may look to countervailing evidence of the prevailing market price *only* where the dealer, when selling a security, made no contemporaneous purchases in the security or can show that in the particular circumstances the dealer's contemporaneous cost is not indicative of the prevailing market price. When buying a security from a customer, the dealer may look to countervailing evidence of the prevailing market price only where the dealer made no contemporaneous sales in the security or can show that in the particular circumstances the dealer's contemporaneous proceeds are not indicative of the prevailing market price.

The presumption that contemporaneous cost is the best evidence of prevailing market price is found in many cases and NASD decisions, and its specific applicability to debt securities transactions was addressed by the SEC as early as 1992 in *F.B. Horner & Associates, Inc.,* 50 S.E.C. 1063 (1992), *aff'd,* 994 F.2d 61 (2d Cir. 1993) (''*F.B. Horner*''), a debt mark-up case. In *F.B. Horner,* the SEC stated: ''We have consistently held that where, as in the present case, a dealer is not a market maker, the best evidence of the current market, absent countervailing evidence, is the dealer's contemporaneous cost.'' *F.B. Horner,* 50 S.E.C. at 1065–66.[12] The basis for the standard was also restated. ''That standard, which has received judicial approval, reflects the fact that the prices paid for a security by a dealer in transactions closely related in time to his retail sales are normally a highly reliable indication of the prevailing market.'' *F.B. Horner,* 50 S.E.C. at 1066 (citations omitted).

The Proposed Interpretation recognizes that in some circumstances a dealer may seek to overcome the presumption that the dealer's own contemporaneous cost (proceeds) are the prevailing market price of the subject security for determining a mark-up (mark-down), and sets forth a process for identifying a value other than the dealer's own contemporaneous cost (proceeds).

Cases Where the Presumption May Be Overcome

A dealer may seek to overcome the presumption that its contemporaneous cost or proceeds are not indicative of the prevailing market price in either of two instances: (1) Where the dealer's contemporaneous trade was with an institutional account with which the dealer regularly effects transactions in the same or a similar security under certain conditions, or (2) where interest rates or the credit quality of the security changed significantly after the dealer's contemporaneous trades.

Specified Institutional Trades

In instances when the dealer establishes that the dealer's contemporaneous trade was a ''Specified Institutional Trade,'' to overcome the presumption that the dealer's contemporaneous cost (or proceeds) is the best measure of the prevailing market price, the dealer must provide evidence of the then prevailing market price in the subject security by referring *exclusively* to inter-dealer trades in the same security executed

to customers, ''taking into consideration all relevant circumstances, including market conditions with respect to such security at the time of the transaction, the expense involved, and the fact that he is entitled to a profit * * *.'' Rule 2320, ''Best Execution and Interpositioning,'' also addresses a member's obligation in pricing customer transactions. In any transaction for or with a customer, NASD Rule 2320 requires a member to ''use reasonable diligence to ascertain the best inter-dealer market for the subject security and buy and sell in such market so that the resultant price to the customer is as favorable as possible under prevailing market conditions.'' Together, Rule 2440 and Rule 2320 impose broad responsibilities on broker-dealers to price customer transactions fairly. *Cf.* ''Review of Dealer Pricing Responsibilities,'' Municipal Securities Rulemaking Board (''MSRB'') Notice 2004–3 (January 26, 2004) (discussing MSRB Rules requiring municipal securities dealers to ''exercise diligence in establishing the market value of [a] security and the reasonableness of the compensation received on [a] transaction'').

[7] The terms ''mark-up'' and ''mark-down'' are not found in Rule 2440, but are used in IM–2440. Statements regarding mark-ups also apply generally to mark-downs unless mark-downs are discussed specifically in a separate statement.

[8] IM–2440(b)(1).

[9] The Commission notes that IM–2440 states: ''It shall be deemed a violation of Rule 2110 and Rule 2440 for a member to enter into any transaction with a customer in any security at any price not reasonably related to the current market price of the security or to charge a commission which is not reasonable.''

[10] MSRB Rule G–30, ''Prices and Commissions,'' applies to transactions in municipal securities, and requires that a municipal securities dealer engaging in a transaction as a principal with a customer must buy or sell securities at an aggregate price that is ''fair and reasonable.''

[11] Of course, if a dealer violates NASD Rule 2320, the dealer's contemporaneous cost (proceeds) in such transactions would not be a reliable indicator of the prevailing market price for the purpose of determining a mark-up or mark-down. If a dealer violates Rule 2320 because the dealer fails to exercise diligence, fails to negotiate at arms length in the market, or engages in fraudulent transactions, including those entered into in collusion with other dealers or brokers, including inter-dealer brokers, the price that the dealer obtains is not a price reflecting market forces, and, therefore, is not a valid indicator of the prevailing market price and should not be used to calculate a mark-up (mark-down). In addition, if a dealer that is not a party to a transaction engages in conduct to improperly influence the pricing of such transaction, the dealer could not properly use the execution price as the basis from which to compute a mark-up (mark-down) because the execution price does not represent the prevailing market price of the security.

[12] The term ''market maker'' is defined in Section 3(a)(38) of the Act [15 U.S.C. 78c(a)(38)] and a dealer in debt securities must meet the legal requirements of Section 3(a)(38) to be considered a market maker.

contemporaneously with the dealer's Specified Institutional Trade.[13]

Transactions Other Than Specified Institutional Trades.

In instances other than those pertaining to a Specified Institutional Trade, where the dealer has presented evidence that is sufficient to overcome the presumption that the dealer's contemporaneous cost (proceeds) provide the best measure of the prevailing market price, or where interest rates or credit quality of the security changed significantly, the dealer must follow a process for determining prevailing market price, considering certain factors in the appropriate order, as set forth in the Proposed Interpretation. Initially, a dealer must look to three factors or measures in the order they are presented (the ''Hierarchy'') to determine prevailing market price. The most important and first factor in the Hierarchy is the pricing of any contemporaneous inter-dealer transactions in the same security. The second most important factor in the Hierarchy recognizes the role of certain large institutions in the fixed income securities markets. In the absence of inter-dealer transactions, the second factor a dealer must consider is the prices of contemporaneous dealer purchases in the security in question from institutional accounts with which any dealer regularly effects transactions in the same security.[14] If contemporaneous inter-dealer trades or dealer-institutional trades in the same security are not available, a dealer must look to the third factor in the Hierarchy, which may be applied only to actively traded securities. For actively traded securities, a dealer is required to look to contemporaneous bid (offer) quotations for the security in question for proof of the prevailing market price if such quotations are made through an inter-dealer mechanism through which transactions generally occur at the displayed quotations.[15]

Additional Factors That May Be Considered in Cases Other Than Specified Institutional Trades

If none of the three factors in the Hierarchy is available, the dealer then may take into consideration the non-exclusive list of four factors in the Proposed Interpretation in trying to establish prevailing market price using a measure other than the dealer's contemporaneous cost (proceeds). In contrast to the Hierarchy of three factors discussed above, a dealer is not required to consider the four factors below in a particular order. The four factors reflect the particular nature of the debt markets and the trading and valuation of debt securities. They are:

- Prices of contemporaneous inter-dealer transactions in a ''similar'' security, as defined below, or prices of contemporaneous dealer purchase (sale) transactions in a ''similar'' security with institutional accounts with which any dealer regularly effects transactions in the ''similar'' security with respect to customer mark-ups (mark-downs);
- Yields calculated from prices of contemporaneous inter-dealer transactions in ''similar'' securities;
- Yields calculated from prices of contemporaneous purchase (sale) transactions with institutional accounts with which any dealer regularly effects transactions in ''similar'' securities with respect to customer mark-ups (mark-downs); and
- Yields calculated from validated contemporaneous inter-dealer bid (offer) quotations in ''similar'' securities for customer mark-ups (mark-downs).

When applying one or more of the four factors, a dealer must consider that the ultimate evidentiary issue is whether the prevailing market price of the security will be correctly identified. As stated in the Proposed Interpretation, the relative weight one may attribute to these other factors depends on the facts and circumstances surrounding the comparison transaction, such as its size, whether the dealer in the comparison transaction was on the same side of the market as the dealer is in the subject transaction, the timeliness of the information, and, with respect to the final factor, the relative spread of the quotations in the ''similar'' security to the quotations in the subject security.

Finally, if information concerning the prevailing market price of the subject security cannot be obtained by applying any of the above factors, a member may consider as a factor in determining the prevailing market price the prices or yields derived from economic models that take into account measures such as credit quality, interest rates, industry sector, time to maturity, call provisions and any other embedded options, coupon rate, and face value; and consider all applicable pricing terms and conventions (*e.g.*, coupon frequency and accrual methods). However, dealers may not use any economic model to establish the prevailing market price for mark-up (mark-down) purposes, except in limited instances where none of the three factors in the Hierarchy apply, the subject security is infrequently traded, and the security is of such low credit quality (*e.g.*, a distressed debt security) that a dealer cannot identify a ''similar'' security.[16]

The final principle in the Proposed Interpretation regarding prevailing market price addresses the use of pricing information from isolated transactions or quotations. The Proposed Interpretation provides that ''isolated transactions or isolated quotations generally will have little or no weight or relevance in establishing prevailing market price. For example, in considering yields of 'similar' securities, except in extraordinary circumstances, members may not rely exclusively on isolated transactions or a limited number of transactions that are not fairly representative of the yields of transactions in 'similar' securities taken as a whole.''

''Similar'' Securities

The definition of ''similar'' security, and the uses and limitations of ''similar'' securities are the second part of the Proposed Interpretation. Several of the factors referenced above to which

[13] A ''Specified Institutional Trade'' is defined as a dealer's contemporaneous trade with an institutional account with which the dealer regularly effects transactions in the same or a ''similar'' security, as defined below, and in the case of a sale to such an account, the trade was executed at a price *higher* than the then prevailing market price, and in the case of a purchase from such an account, the trade was executed at a price *lower* than the then prevailing market price, *and* the execution price was away from the prevailing market price because of the size and risk of the transaction.

[14] Contemporaneous dealer sales with such institutional accounts would be used to calculate a mark-down. If a dealer has overcome the presumption by establishing that interest rates or the credit quality of the security changed significantly after the dealer's trade, any inter-dealer or dealer-institutional trades in the same security *that occurred prior to the event* would not be valid measures of the prevailing market price as such transactions would be subject to the same imperfection.

[15] A dealer also is subject to the process of establishing prevailing market price, including the analysis under the Hierarchy and the other factors discussed below, where the dealer has not engaged in trading in the subject security for an extended period and therefore can evidence that it has no contemporaneous cost (proceeds) to refer to as a basis for computing a mark-up (mark-down).

[16] When a dealer seeks to identify prevailing market price using information other than the dealer's contemporaneous cost or contemporaneous proceeds, the dealer must be prepared to provide evidence that will establish the dealer's basis for not using contemporaneous cost (proceeds), and information about the other values reviewed (*e.g.*, the specific prices and/or yields of securities that were identified as similar securities) in order to determine the prevailing market price of the subject security. If a firm relies upon pricing information from a model the firm uses or has developed, the firm must be able to provide information that was used on the day of the transaction to develop the pricing information (*i.e.*, the data that was input, and the data that the model generated and the firm used to arrive at prevailing market price).

a dealer may refer when determining the prevailing market price as a value that is other than the dealer's contemporaneous cost (proceeds) require a dealer to identify one or more ''similar'' securities.

The Proposed Interpretation provides that a ''similar'' security should be sufficiently similar to the subject security that it would serve as a reasonable alternative investment. In addition, at a minimum, a dealer must be able to fairly estimate the market yield for the subject security from the yields of ''similar'' securities. Finally, to aid members in identifying ''similar'' securities when appropriate, the Proposed Interpretation sets forth a list of non-exclusive factors to determine the similarity between the subject security and one or more other securities. The non-exclusive list of factors that can be used to assess similarity includes the following:

(a) Credit quality considerations, such as whether the security is issued by the same or similar entity, bears the same or similar credit rating, or is supported by a similarly strong guarantee or collateral as the subject security (to the extent that securities of other issuers are designated as ''similar'' securities, significant recent information of either issuer that is not yet incorporated in credit ratings should be considered (*e.g.*, changes in ratings outlooks));

(b) The extent to which the spread (*i.e.*, the spread over U.S. Treasury securities of a similar duration) at which the ''similar'' security trades is comparable to the spread at which the subject security trades;

(c) General structural characteristics of the issue, such as coupon, maturity, duration, complexity or uniqueness of the structure, callability, the likelihood that the security will be called, tendered or exchanged, and other embedded options, as compared with the characteristics of the subject security; and

(d) Technical factors, such as the size of the issue, the float and recent turnover of the issue, and legal restrictions on transferability as compared with the subject security.

The provisions regarding ''similar'' securities, if adopted, would affirm explicitly, for the first time, that it may be appropriate under specified circumstances to refer to ''similar'' securities to determine prevailing market price.[17]

If the proposal were approved, NASD would announce the effective date of the proposed rule change in a *Notice to Members* to be published no later than 60 days following Commission approval. The effective date will be 30 days following publication of the *Notice to Members* announcing Commission approval.

2. Statutory Basis

NASD believes that the proposed rule change is consistent with Section 15A(b)(6) of the Act,[18] which requires, among other things, that NASD rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. NASD believes that clarifying the standard for correctly identifying the prevailing market price of a debt security for purposes of calculating a mark-up (mark-down), clarifying the additional obligations of a member when it seeks to use a measure other than the member's own contemporaneous cost (proceeds) as the prevailing market price, and confirming that similar securities may be used in certain instances to determine the prevailing market price are measures designed to prevent fraudulent practices, promote just and equitable principles of trade, and protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

NASD does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

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 self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change, as amended, is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–NASD–2003–141 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–NASD–2003–141. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the principal office of NASD. All

[17] The Proposed Interpretation also states that, for certain securities, there are no ''similar'' securities. Specifically, when a debt security's value and pricing is based substantially, and is highly dependent, on the particular circumstances of the issuer, including creditworthiness and the ability and willingness of the issuer to make interest payments and otherwise meet the specific obligations of the security, in most cases other securities will not be sufficiently ''similar,'' and therefore, may not be used to establish prevailing market price of the subject security. As noted above, NASD may consider a dealer's pricing information obtained from an economic model to establish prevailing market price, when ''similar'' securities do not exist and facts and circumstances have combined to create a price information void in the subject security. In addition, as provided in the Proposed Interpretation, NASD also may look to economic models other than the dealer's to make determinations as to the prevailing market price of a security.

[18] 15 U.S.C. 78o–3(b)(6).

comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NASD–2003–141 and should be submitted on or before April 5, 2005.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[19]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. E5–1104 Filed 3–14–05; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–51329; File No. SR-NYSE–2004–71]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change and Amendment No. 1 Thereto by the New York Stock Exchange, Inc. To Amend NYSE Rule 104 Regarding the Requirement That Specialists Obtain Floor Official Approval for Destabilizing Dealer Account Transactions in ETFs

March 8, 2005.

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 December 15, 2004, the New York Stock Exchange, Inc. (''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 February 28, 2005, the NYSE submitted Amendment No. 1 to the proposed rule change.[3] 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 is proposing to amend NYSE Rule 104 (Dealings by Specialists) to remove the requirement that specialists obtain Floor Official approval for destabilizing dealer account transactions in investment company units and Trust Issued Receipts (collectively referred to as ''Exchange Traded Funds'' or ''ETFs''). Below is the text of the proposed rule change, as amended. Proposed new language is *italicized*; proposed deletions are in [brackets].

Dealings by Specialists

Rule 104

(a) No specialist shall effect on the Exchange purchases or sales of any security in which such specialist is registered, for any account in which he, his member organization or any other member, allied member, or approved person, (unless an exemption with respect to such approved person is in effect pursuant to Rule 98) in such organization or officer or employee thereof is directly or indirectly interested, unless such dealings are reasonably necessary to permit such specialist to maintain a fair and orderly market, or to act as an odd-lot dealer in such security.

(b) No change.

Supplementary Material

Functions of Specialists

.10 Regular specialists.—Any member who expects to act regularly as specialist in any listed stock and to solicit orders therein must be registered as a regular specialist.

The function of a member acting as regular specialist on the Floor of the Exchange includes, in addition to the effective execution of commission orders entrusted to him, the maintenance, in so far as reasonably practicable, of a fair and orderly market on the Exchange in the stocks in which he is so acting. This is more specifically set forth in the following:

(1)–(6) No change.

(7) The requirement to obtain Floor Official approval for transactions for a specialist's own account contained in subparagraphs (5)(i)(A), (B) and (6)(i)(A) above shall not apply to transactions effected [for the purpose of bringing the price of] *in* an investment company unit (the ''unit''), as that term is defined in Section 703.16 of the Listed Company Manual, or a Trust Issued Receipt (the ''receipt'') as that term is defined in Rule 1200 [into parity with the value of the index on which the unit is based, with the net asset value of the securities comprising the unit or the receipt, or with a futures contract on the value of the index on which the unit is based]. Nevertheless such transactions must be effected in a manner that is consistent with the maintenance of a fair and orderly market and with the other requirements of this rule and the supplementary material herein.

No changes to remainder of rule.

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 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 eliminate the current restriction on the ability of specialists to buy ETFs on plus ticks or sell ETFs on minus ticks without Floor Official approval for the transactions.

NYSE Rule 104 governs specialists' dealings in their specialty stocks. In particular, NYSE Rules 104.10(5) and (6) describe certain types of transactions that are not to be effected unless they are reasonably necessary to render the specialist's position adequate to the needs of the market. The Exchange states that, in effect, these restrictions generally require specialists' transactions for their own accounts to be ''stabilizing'' (*i.e.,* against the trend of the market) and prohibit specialists from making transactions that are ''destabilizing'' (*i.e.,* with the market trend by buying on plus ticks and selling on minus ticks), except with the approval of a Floor Official.

The Exchange is proposing to remove these restrictions in connection with destabilizing transactions in ETFs by specialists for their own account. These products are based on a portfolio of underlying securities and are derivatively priced based upon the value of those securities. Therefore, according to the Exchange, specialists would be unable to effect ETF transactions for their own accounts in a manner that would likely lead the market price in those securities, even if the transactions were effected on destabilizing ticks. The Exchange notes that the Commission has previously recognized this aspect of ETFs.[4]

[19] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Amendment No. 1 superseded the originally filed proposed rule change in its entirety.

[4] *See* Securities Exchange Act Release No. 49087 (January 15, 2004), 69 FR 3622 (January 26, 2004) (''[T]he Commission believes that because ETFs are priced derivatively, an Exchange specialist would not be able to manipulate the pricing of an ETF.'').

Specialists are not currently required to obtain Floor Official approval for proprietary destabilizing transactions that bring an ETF into parity with the value of the index on which the ETF is based. The Exchange believes that, in light of the derivative nature of ETFs and the Commission's recognition that specialists are generally unable to lead the market through proprietary transactions in ETFs, NYSE Rule 104.10(7) should be amended to delete the need for Floor Official approval for any specialist destabilizing dealer account transactions in ETFs.

The Exchange notes that in addition to the diminished benefit of Floor Official approval of specialists' proprietary destabilizing tick transactions in ETFs, the time required to obtain Floor Official approval for such transactions can have the effect of delaying trading in these products and could result in inferior execution prices for customer orders. Finally, the Exchange believes that removing these restrictions should enhance the specialist's ability to make competitive markets in ETFs, since other markets where they are traded do not have such restrictions.

2. Statutory Basis

The basis under the Act for this proposed rule change is the requirement under Section 6(b)(5) [5] that an Exchange have rules that are designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and 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.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change, as amended, will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has not solicited, and does not intend to solicit, comments regarding the proposed rule change. The Exchange has not received any unsolicited written comments from members or other interested parties.

[5] 15 U.S.C. 78f(b)(5).

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** 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–2004–71 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–2004–71. 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 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–2004–71 and should be submitted on or before April 5, 2005.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[6]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. E5–1101 Filed 3–14–05; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–51333; File No. SR–Phlx–2005–15]

Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Eliminating Its Floor Brokerage Transaction Fee

March 8, 2005.

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 February 28, 2005, the Philadelphia Stock Exchange, Inc., (''Phlx'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The proposed rule change has been filed by the Phlx as establishing or changing a due, fee, or other charge, pursuant to Section 19(b)(3)(A)(ii) of the Act [3] and Rule 19b–4(f)(2) [4] thereunder, 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 Phlx proposes to amend its schedule of fees to eliminate the $.05 per contract Floor Brokerage Transaction Fee from the Exchange's Summary of Equity Option Charges and the Summary of Index Option and FXI Options Charges, effective for

[6] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(ii).

[4] 17 CFR 240.19b–4(f)(2).

transactions settling on or after March 1, 2005.

The Exchange is also proposing to make minor technical changes to correct two footnote numbers that appear on the Exchange's fee schedule.[5]

The text of the proposed rule change is available on the Phlx's Web site (*http://www.phlx.com*), at the Phlx's Office of the Secretary, and at 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 Phlx 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 Phlx has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to remain competitive in connection with the transaction charges assessed by the Exchange. Eliminating the $.05 per contract floor brokerage transaction fee will, of course, decrease costs for those floor brokers to whom the fee has applied. The purpose of changing the numbers of the footnotes that appear on page 2 of the Exchange's Summary of Equity Option Charges and page 1 of the Exchange's Summary of Index Option and FXI Options Charges is to correct a typographical error in connection with the numbering of these footnotes.

2. Statutory Basis

The Exchange believes that its proposal to amend its schedule of fees is consistent with Section 6(b) of the Act,[6] in general, and furthers the objectives of Section 6(b)(4) of the Act,[7] in particular, in that it is an equitable allocation of reasonable fees among Exchange members.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any inappropriate 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 either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing proposed rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act[8] and Rule 19b–4(f)(2)[9] thereunder, because it changes a fee imposed by the Exchange. At any time within 60 days of the filing of the proposed rule change, as amended, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an E-mail to *rule-comments@sec.gov*. Please include File Number SR–Phlx–2005–15 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–Phlx–2005–15. 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 Phlx. 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–Phlx–2005–15 and should be submitted on or before April 5, 2005.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[10]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. E5–1100 Filed 3–14–05; 8:45 am]

BILLING CODE 8010–01–P

[5] Because the Phlx recently has filed several rule change proposals that affect the numbering of footnotes in the fee schedule, the Phlx intends to amend File No. SR–Phlx–2005–16 to further adjust this numbering. Telephone conversation between Cynthia Hoekstra, Counsel, Phlx, and Ira L. Brandriss, Assistant Director, Division of Market Regulation, Commission, March 8, 2005.

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(4).

[8] 15 U.S.C. 78(s)(b)(3)(A)(ii).

[9] 17 CFR 240.19b–4(f)(2).

[10] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

Disaster Declaration # 10057 and # 10058; Arizona Disaster # AZ–00001

AGENCY: Small Business Administration.

ACTION: Notice.

SUMMARY: This is a notice of an Administrative declaration of a disaster for the State of Arizona, dated 03/02/2005.

Incident: Strong Winter Storms.

Incident Period: 12/28/2004 through 01/12/2005.

Effective Date: 03/02/2005.

Physical Loan Application Deadline Date: 05/02/2005.

EIDL Loan Application Deadline Date: 12/02/2005.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Disaster Area Office 1, 360 Rainbow Blvd. South 3RD Floor, Niagara Falls, NY 14303.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the Administrator's disaster declaration on 03/02/2005, applications for disaster loans may be filed at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties: Mohave.

Contiguous Counties:

Arizona:

Coconino, La Paz, Yavapai.

California:

San Bernardino.

Nevada:

Clark, Lincoln.

Utah:

Kane, Washington.

The Interest Rates are:

	Percent
Homeowners With Credit Available Elsewhere:	5.875
Homeowners Without Credit Available Elsewhere:	2.937
Businesses With Credit Available Elsewhere:	5.800
Businesses & Small Agricultural Cooperatives Without Credit Available Elsewhere:	4.000
Other (Including Non-Profit Organizations) With Credit Available Elsewhere:	4.750
Businesses and Non-Profit Organizations Without Credit Available Elsewhere:	4.000

The number(s) assigned to this disaster for physical damage is 10057 B and for economic injury is 10058 0.

The States which received EIDL Decl # are Arizona, Nevada, California, and Utah.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

Dated: March 2, 2005.

Hector V. Barreto,

Administrator.

[FR Doc. 05–4998 Filed 3–14–05; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

Public Federal Regulatory Enforcement Fairness Hearing; Region VII Regulatory Fairness Board

The Small Business Administration Region VII Regulatory Fairness Board and the SBA Office of the National Ombudsman will hold a Public Hearing on Wednesday, March 30, 2005 at 1 p.m. at Southeast Community College, Gallup Campus, 301 South 68 Street Place, Lincoln, NE 68510, phone (402) 221–4691, to receive comments and testimony from small business owners, small government entities, and small non-profit organizations concerning regulatory enforcement and compliance actions taken by federal agencies.

Anyone wishing to attend or to make a presentation must contact Deb Wilson in writing or by fax, in order to be put on the agenda. Deb Wilson, Public Information Officer, SBA Nebraska District Office, 11145 Mill Valley Road, Omaha, NE 68154, phone (402) 221–7222, fax (402) 221–3680, e-mail: *Deborah.Wilson@sba.gov.*

For more information, see our Web site at *http://www.sba.gov/ombudsman.*

Dated: March 4, 2005.

Peter Sorum,

Senior Advisor, Office of the National Ombudsman.

[FR Doc. 05–4997 Filed 3–14–05; 8:45 am]

BILLING CODE 8025–01–P

SOCIAL SECURITY ADMINISTRATION

Agency Information Collection Activities: Proposed Request and Comment Request

The Social Security Administration (SSA) publishes a list of information collection packages that will require clearance by the Office of Management and Budget (OMB) in compliance with Pub. L. 104–13, the Paperwork Reduction Act of 1995, effective October 1, 1995. The information collection packages that may be included in this notice are for revisions to OMB-approved information collections and extensions (no change) of OMB-approved information collections.

SSA is soliciting comments on the accuracy of the agency's burden estimate; the need for the information; its practical utility; ways to enhance its quality, utility, and clarity; and on ways to minimize burden on respondents, including the use of automated collection techniques or other forms of information technology. Written comments and recommendations regarding the information collection(s) should be submitted to the OMB Desk Officer and the SSA Reports Clearance Officer. The information can be mailed and/or faxed to the individuals at the addresses and fax numbers listed below: (OMB), Office of Management and Budget, Fax: 202–395–6974. (SSA), Social Security Administration, DCFAM, Attn: Reports Clearance Officer, 1338 Annex Building, 6401 Security Blvd., Baltimore, MD 21235, Fax: 410–965–6400.

I. The information collection listed below is pending at SSA and will be submitted to OMB within 60 days from the date of this notice. Therefore, your comments should be submitted to SSA within 60 days from the date of this publication. You can obtain copies of the collection instruments by calling the SSA Reports Clearance Officer at 410–965–0454 or by writing to the address listed above.

Social Security Benefits Application—20 CFR Subpart D, 404.310–404.311 and 20 CFR Subpart F, 404.601–404.603—0960–0618

One of the requirements for obtaining Social Security benefits is the filing of an application so that a determination may be made on the applicant's eligibility for monthly benefits. In addition to the traditional paper application, SSA has developed various options for the public to add convenience and operational efficiency to the application process. The total estimated number of respondents to all application collection formats is 3,874,369 with a cumulative total of 1,008,180 burden hours. The respondents are applicants for retirement insurance benefits (RIB), disability insurance benefits (DIB), and/or spouses' benefits.

Please note that burden hours for applications taken through the Modernized Claims System (MCS) are accounted for in the hardcopy collection formats. Guided by the MCS collection screens, an SSA representative interviews the applicant and inputs the information directly into the SSA's application database. MCS offers the representative prompts based on the type of application being filed and the circumstances of the applicant. These prompts facilitate a more complete initial application, saving both the agency and applicant time. MCS also propagates identity and similar information within the application, which saves additional time.

Internet Social Security Benefits Application (ISBA)

Type of Request: Revision of an OMB-approved information collection. (ISBA collection only).

ISBA, which is available through SSA's Internet site, is one method that an individual can choose to file an application for benefits. Individuals can use ISBA to apply for RIB, DIB and spouse's insurance benefits based on age. SSA gathers only information relevant to the individual applicant's circumstances and will use the information collected by ISBA to entitle individuals to RIB, DIB, and/or spouse's benefits. The respondents are applicants for RIB, DIB, and/or spouse's benefits.

Number of Respondents: 200,000.

Frequency of Response: 1.

Average Burden Per Response: 21.9 minutes.

Estimated Annual Burden: 73,000 hours.

Paper Application Forms

Application for Retirement Insurance Benefits (SSA–1)

Form SSA–1 is used by SSA to determine an individual's entitlement to RIB. In order to receive Social Security retirement insurance benefits, an individual must file an application with the SSA. Form SSA–1 is one application that the Commissioner of Social Security prescribes to meet this requirement. The information that SSA collects will be used to determine entitlement to retirement benefits. The respondents are individuals who choose to apply for Social Security retirement insurance.

Number of Respondents: 1,460,692.

Frequency of Response: 1.

Average Burden Per Response: 10.5 minutes.

Estimated Annual Burden: 255,621 hours.

Application for Wife's or Husband's Insurance Benefits (SSA–2)

SSA uses the information collected on Form SSA–2 to determine if an applicant (including a divorced applicant) can be entitled to benefits as the spouse of the worker and the amount of the spouse's benefits. The respondents are applicants for wife's or husband's benefits, including those who are divorced.

Number of Respondents: 700,000.

Frequency of Response: 1.

Average Burden Per Response: 15 minutes.

Estimated Annual Burden: 175,000 hours.

Application for Disability Insurance Benefits (SSA–16)

Form SSA–16–F6 obtains the information necessary to determine whether the provisions of the Act have been satisfied with respect to an applicant for disability benefits, and detects whether the applicant has dependents who would qualify for benefits on his or her earnings record. The information collected on form SSA–16–F6 helps to determine eligibility for Social Security disability benefits. The respondents are applicants for Social Security disability benefits.

Number of Respondents: 1,513,677.

Frequency of Response: 1.

Average Burden Per Response: 20 minutes.

Estimated Annual Burden: 504,559 hours.

II. The information collections listed below have been submitted to OMB for clearance. Your comments on the information collections would be most useful if received by OMB and SSA within 30 days from the date of this publication. You can obtain a copy of the OMB clearance package by calling the SSA Reports Clearance Officer at 410–965–0454, or by writing to the address listed above.

1. Homeless Outreach Project and Evaluation (HOPE)

Background

Congress passed the McKinney Act of 1987 in recognition of and in an effort to address situations and conditions facing people without permanent shelter. The Act funded 15 emergency services and nine individual titles to authorize the provision of specific programs by Federal agencies. The Act also established the Interagency Council on Homelessness (ICH) composed of leaders from 15 Federal agencies who are in charge of coordinating efforts to assist people who are homeless. During the past decade, SSA and other ICH agencies have compiled important data about people who are homeless and have carried out evaluations of services which have generated evidence about ''best'' or ''promising practices'' well suited to combating homelessness.

In fiscal year 2003, President George W. Bush announced an initiative to end chronic homelessness in 10 years. As a result, SSA developed Project HOPE and in May 2004 awarded 34 Cooperative Agreements to organizations which provide outreach, support services and benefit application assistance to the chronically homeless and other underserved populations. An additional 7 cooperative agreements were awarded in November 2004 for a total of 41. The goal of Project HOPE is to improve both the quantity and quality of applications for disability benefits. Project HOPE gives focused support to Cooperative (co-op) awardees via a training program and ongoing technical assistance.

Evaluation of Project HOPE

SSA is undertaking the project HOPE evaluation to determine the effectiveness and the efficiency of the program. To obtain the information needed for the evaluation, SSA is developing an interactive Web site that will be used by co-op awardees to input client and program data, and by SSA to communicate project-wide announcements to the awardees. The respondents are HOPE grantees/non-profit social services organizations serving people who are homeless & disabled.

Type of Request: New information collection.

Number of Respondents: 41.

Frequency of Response: 12.

Average Burden Per Response: 65 minutes.

Estimated Annual Burden: 533 hours.

2. Appointment of Representative—20 CFR 404.1707, 404.1720, 404.1725, 410.684 and 416.1507—0960–0527

The information collected by SSA on form SSA–1696–U4 is used to verify the applicant's appointment of a representative. It allows SSA to inform the representative of items which affect the applicant's claim. The affected public consists of applicants who notify SSA that they have appointed a person to represent them in their dealings with SSA when claiming a right to benefits.

Type of Request: Extension of an OMB-approved information collection.

Number of Respondents: 551,520.

Frequency of Response: 1.

Average Burden Per Response: 10 minutes.

Estimated Annual Burden: 91,920 hours.

3. Petition To Obtain Approval of a Fee for Representing a Claimant Before the Social Security Administration—20 CFR Subpart R—404.1720, 404.1725, Subpart F, 410.686b, Subpart O, 416.1520 and 416.1525—0960–0104

A representative of a claimant for Social Security benefits must file either a fee petition or a fee agreement with SSA in order to charge a fee for representing a claimant in proceedings before SSA. The representative uses form SSA–1560 to petition SSA for authorization to charge and collect a fee. A claimant may also use the form to agree or disagree with the requested fee amount or other information the representative provides on the form. SSA uses the information to determine a reasonable fee that a representative may charge and collect for his or her services. The respondents are claimants, their attorneys and other persons representing them.

Type of Request: Extension of an OMB-approved information collection.

Number of Respondents: 34,624.

Frequency of Response: 1.

Average Burden Per Response: 30 minutes.

Estimated Annual Burden: 17,312 hours.

4. Employee Work Activity Questionnaire—20 CFR 404.1574, 404.1592—0960–0483

When a possible unsuccessful work attempt or a subsidy is involved, as described in regulations 20 CFR 404.1574(a)(1), (2) and (3), form SSA–3033 is used to request a description of the employee's work effort. The data is evaluated to determine if the claimant meets the disability requirements of the law. The information is collected through form SSA–3033 or by telephone contact, only in cases where it cannot be obtained through electronic data matches with other Federal agencies and/or State agencies.

Type of Request: Revision of an OMB-approved information collection.

Number of Respondents: 15,000.

Frequency of Response: 1.

Average Burden Per Response: 15 minutes.

Estimated Annual Burden: 3,750 hours.

5. Statement Regarding the Inferred Death of an Individual by Reason of Continued and Unexplained Absence—20 CFR 404.720 and 404.721—0960–0002

SSA will use the information collected on form SSA–723 in making its determination that the missing person may be presumed deceased and, if so, to establish a date of presumed death. The respondents are persons who have knowledge about the disappearance of the missing person.

Type of Request: Extension of an OMB-approved information collection.

Number of Respondents: 3,000.

Frequency of Response: 1.

Average Burden Per Response: 30 minutes.

Estimated Annual Burden: 1,500 hours.

Dated: March 9, 2005.

Elizabeth A. Davidson,

Reports Clearance Officer, Social Security Administration.

[FR Doc. 05–4987 Filed 3–14–05; 8:45 am]

BILLING CODE 4191–02–P

SOCIAL SECURITY ADMINISTRATION

Privacy Act of 1974; as Amended New System of Records and New Routine Use Disclosures

AGENCY: Social Security Administration (SSA).

ACTION: Proposed new system of records and proposed routine uses.

SUMMARY: In accordance with the Privacy Act (5 U.S.C. 552a(e)(4) and (e)(11)), we are issuing public notice of our intent to establish a new system of records entitled Representative Payee/Misuse Restitution Control System (RP/MRCS), 60–0318, and routine uses applicable to this system of records. Hereinafter, we will refer to the proposed system of records as the RP/MRCS. We invite public comments on this proposal.

DATES: We filed a report of the proposed new system of records and proposed routine use disclosures with the Chairman of the Senate Committee on Homeland Security and Governmental Affairs, the Chairman of the House Committee on Government Reform, and the Director, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB) on January 26, 2005. The proposed system of records and routine uses will become effective on March 6, 2005, unless we receive comments warranting it not to become effective.

ADDRESSES: Interested individuals may comment on this publication by writing to the Executive Director, Office of Public Disclosure, Office of the General Counsel, Social Security Administration, Room 3–A–6 Operations Building, 6401 Security Boulevard, Baltimore, Maryland 21235–6401. All comments received will be available for public inspection at the above address.

FOR FURTHER INFORMATION CONTACT: Ms. Joyce Schaul, Social Insurance Specialist, Office of Public Disclosure, Office of the General Counsel, Social Security Administration, Room 3–A–6 Operations Building, 6401 Security Boulevard, Baltimore, Maryland 21235, e-mail address at *joyce.schaul@ssa.gov*, or by telephone at (410) 965–5662.

SUPPLEMENTARY INFORMATION:

I. Background and Purpose of the Proposed New System of Records Entitled the RP/MRCS System

A. General Background

On March 4, 2004, President Bush signed into law the Social Security Protection Act of 2004 (Pub. L. 108–203), which amended section 205(j) of the Social Security Act. Included in the amendment is a requirement for the Commissioner of Social Security to re-issue benefits under Title II or XVI whenever an individual representative payee serving 15 or more beneficiaries or an organizational representative payee is found to have misused a beneficiary's funds. This is effective for determinations of misuse on or after January 1, 1995. To carry out this function as required under the amended section 205(j), SSA must collect and maintain certain identifying information about: (1) representative payees that have misused benefits; (2) beneficiaries whose benefits have been misused; and (3) the relationship between the representative payee and the beneficiary.

B. Collection and Maintenance of the Data for the Proposed New System of Records Entitled the RP/MRCS System

SSA must collect and maintain certain identifying information about representative payees that have misused benefits; beneficiaries whose benefits have been misused; and, the relationship between the representative payee and the beneficiary. We will retrieve information from the proposed system of records by using the individual's name and/or Social Security number. Thus the RP/MRCS system will constitute a system of records under the Privacy Act of 1974, as amended.

II. Proposed Routine Use Disclosures of Data Maintained in the Proposed RP/MRCS

A. Proposed Routine Use Disclosures

We are proposing to establish routine uses of information that will be maintained in the proposed RP/MRCS as discussed below.

1. To the Office of the President for the purpose of responding to an individual pursuant to an inquiry received from that individual or from a third party on his or her behalf.

We will disclose information under this routine use only in situations in which an individual may contact the Office of the President, seeking that Office's assistance in a matter relating to information contained in this system of records. Information will be disclosed when the Office of the President makes an inquiry and indicates that it is acting on behalf of the individual whose record is requested.

2. To a congressional office in response to an inquiry from that office made at the request of the subject of a record.

We will disclose information under this routine use only in situations in which an individual may ask his or her congressional representative to intercede in a matter relating to information contained in this system of records. Information will be disclosed when the congressional representative makes an inquiry and indicates that he or she is acting on behalf of the individual whose record is requested.

3. To the Department of Justice (DOJ), a court or other tribunal, or another party before such tribunal when:

(a) SSA, or any component thereof; or

(b) Any SSA employee in his/her official capacity; or

(c) Any SSA employee in his/her individual capacity where DOJ (or SSA where it is authorized to do so) has agreed to represent the employee; or

(d) The United States or any agency thereof where SSA determines that the litigation is likely to affect the operation of SSA or any of its components, is party to litigation or has an interest in such litigation, and SSA determines that the use of such records by DOJ, a court or other tribunal, or another party before such tribunal, is relevant and necessary to the litigation, provided, however, that in each case, SSA determines that such disclosure is compatible with the purpose for which the records were collected.

Disclosure of any information defined as ''return or return information'' under 26 U.S.C. 6103 of the Internal Revenue Code (IRC) will not be made unless authorized by a statute, the Internal Revenue Service (IRS), or IRS regulations.

We will disclose information under this routine use only as necessary to enable DOJ to effectively defend SSA, its components or employees in litigation involving the proposed new system of records and ensure that courts and other tribunals have appropriate information.

4. To contractors and other Federal Agencies, as necessary, for the purpose of assisting SSA in the efficient administration of its programs. We contemplate disclosing information under this routine use only in situations in which SSA may enter into a contractual or similar agreement with a third party to assist in accomplishing an Agency function relating to this system of records.

We will disclose information under this routine use only in situations in which SSA may enter into a contractual agreement or similar agreement with a third party to assist in accomplishing an Agency function relating to this system of records.

5. To student volunteers, individuals working under a personal service contract, and other individuals performing functions for SSA but technically not having the status of Agency employees, if they need access to the records in order to perform their assigned Agency functions.

Under certain Federal statutes, SSA is authorized to use the service of volunteers and participants in certain educational, training, employment and community service programs. Examples of such statutes and programs include: 5 U.S.C. 3111 regarding student volunteers and 42 U.S.C. 2753 regarding the College Work-Study Program. We contemplate disclosing information under this routine use only when SSA uses the services of these individuals, and they need access to information in this system to perform their assigned Agency duties.

6. Non-tax return information which is not restricted from disclosure by Federal law may be disclosed to the General Services Administration (GSA) and the National Archives and Records Administration (NARA) under 44 U.S.C. 2904 and 2906, as amended by NARA Act of 1984, for the use of those agencies in conducting records management studies.

The Administrator of GSA and the Archivist of NARA are charged by 44 U.S.C. 2904, as amended, with promulgating standards, procedures and guidelines regarding record management and conducting records management studies. 44 U.S.C. 2906, as amended, provides that GSA and NARA are to have access to Federal agencies' records and that agencies are to cooperate with GSA and NARA. In carrying out these responsibilities, it may be necessary for GSA and NARA to have access to this proposed system of records. In such instances, the routine use will facilitate disclosure.

7. To Federal, State, and local law enforcement agencies and private security contractors, as appropriate, information necessary:

- To enable them to protect the safety of SSA employees and customers, the security of the SSA workplace, and the operation of SSA facilities, or
- To assist investigations or prosecutions with respect to activities that affect such safety and security or activities that disrupt the operation of SSA facilities.

We will disclose information under this routine use to law enforcement agencies and private security contractors when information is needed to respond to, investigate, or prevent, activities that jeopardize the security and safety of SSA customers, employees or workplaces or that otherwise disrupt the operation of SSA facilities. Information would also be disclosed to assist in the prosecution of persons charged with violating Federal or local law in connection with such activities.

B. Compatibility of Proposed Routine Uses

The Privacy Act (5 U.S.C. 552a(b)(3)) and SSA's disclosure regulation (20 CFR part 401) permit us to disclose information under a published routine use for a purpose that is compatible with the purpose for which we collected the information. SSA's Regulations at 20 CFR 401.150(c) permit us to disclose information under a routine use where necessary to carry out SSA programs. SSA's Regulations at 20 CFR 401.120 provide that we will disclose information when a law specifically requires the disclosure. The proposed routine uses numbered 1 through 5 and 7 above will ensure efficient administration of SSA programs administered through the RP/MRCS; the disclosure that would be made under routine use number 6 is required by law. The proposed routine uses are appropriate and meet the relevant statutory and regulatory criteria.

III. Records Storage Medium and Safeguards for the Proposed New System Entitled the RP/MRCS

SSA will maintain information in the RP/MRCS in electronic and paper form. Only authorized SSA and contractor personnel who have a need for the information in the performance of their official duties will be permitted access to the information. We will safeguard the security of the information by requiring the use of access codes to enter the computer system that will maintain the data and will store computerized records in secured areas that are accessible only to employees who require the information to perform their official duties. Any manually maintained records will be kept in locked cabinets or in otherwise secure areas. Furthermore, SSA employees having access to SSA databases maintaining personal information must sign a sanction document annually, acknowledging their accountability for making unauthorized access to or disclosure of such information.

Contractor personnel having access to data in the RP/MRCS will be required to adhere to SSA rules concerning safeguards, access and use of the data.

SSA and contractor personnel having access to the data on this system will be informed of the criminal penalties of the Privacy Act for unauthorized access to or disclosure of information maintained in this system. *See* 5 U.S.C. 552a(i)(1).

IV. Effect of the Proposed RP/MRCS on the Rights of Individuals

The proposed new system of records will maintain only that information that is necessary for the efficient and effective control and processing of the RP/MRCS in order to investigate certain misuse cases to determine whether the beneficiary has been repaid by either SSA or the representative payee. Security measures will be employed that protect access to and preclude unauthorized disclosure of records in

the proposed system of records. Therefore, we do not anticipate that the proposed system of records will have an unwarranted adverse effect on the rights of individuals.

Dated: January 25, 2005.

Jo Anne B. Barnhart,

Commissioner.

Notice of System of Records Required by the Privacy Act of 1974; as Amended

System Number: 60–0318.

SYSTEM NAME:

Representative Payee/Misuse Restitution Control System (RP/MRCS), Office of the Deputy Commissioner for Disability and Income Security Programs, Associate Commissioner for Income Security Programs.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Associate Commissioner for Income Security Programs, Social Security Administration, 6401 Security Boulevard, Baltimore, Maryland 21235–6401.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

This system maintains information about representative payees that have misused benefits and beneficiaries/recipients whose benefits have been misused.

CATEGORIES OF RECORDS IN THE SYSTEM:

Data in this system consist of:

(1) Names, mailing address, location address, phone number, employee identification number (EIN)/Social Security number (SSN), and identification number of representative payees;

(2) Names, SSNs or other cross-referenced account numbers, the program in which the misuse occurred (Title II or Title XVI), current address, payment status, misuse amount, misuse determination date, misuse start date, misuse end date and SSA negligence code (Y or N) of beneficiaries/recipients; and

(3) The original amount refunded by payee, original amount restored by SSA, new amount refunded by payee, new amount restored by SSA, case outcome and completion date.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The Social Security Protection Act of 2004 (Pub. L. 108–203); Section 205(j)(5) of the Social Security Act (42 U.S.C. 405(j)(5)).

PURPOSE(S):

Information in this system will assist SSA in investigating certain representative payee misuse cases going back to January 1, 1995, to determine whether the beneficiary has been repaid by either SSA or the representative payee. The information in this system will also be used to control completion of cases and to provide details about how the case was resolved.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Disclosure may be made for routine uses as indicated below. However, disclosure of any information defined as ''return'' or ''return information'' under 26 U.S.C. 6103 of the Internal Revenue Code will not be made unless authorized by a statute, the Internal Revenue Service (IRS) or IRS regulations.

1. To the Office of the President for the purpose of responding to an individual pursuant to an inquiry received from that individual or from a third party on his or her behalf.

2. To a congressional office in response to an inquiry from that office made at the request of the subject of a record.

3. To the Department of Justice (DOJ), a court or other tribunal, or another party before such tribunal when:

(a) SSA, or any component thereof; or

(b) any SSA employee in his/her official capacity; or

(c) any SSA employee in his/her individual capacity where DOJ (or SSA where it is authorized to do so) has agreed to represent the employee; or

(d) the United States or any agency thereof where SSA determines that the litigation is likely to affect the operations of SSA or any of its components, is party to litigation or has an interest in such litigation, and SSA determines that the use of such records by DOJ, a court or other tribunal, or another party before such tribunal, is relevant and necessary to the litigation, provided, however, that in each case, SSA determines that such disclosure is compatible with the purpose for which the records were collected.

Disclosure may be made for routine uses as indicated below. However, disclosure of any information defined as ''return'' or ''return information'' under 26 U.S.C. 6103 of the Internal Revenue Code will not be made unless authorized by a statute, the Internal Revenue Service (IRS) or IRS regulations.

4. To contractors and other Federal agencies, as necessary, for the purpose of assisting SSA in the efficient administration of its programs. We contemplate disclosing information under this routine use only in situations in which SSA may enter into a contractual or similar agreement with a third party to assist in accomplishing an Agency function relating to this system of records.

5. To student volunteers, individuals working under a personal services contract, and other individuals performing functions for SSA, but technically not having the status of Agency employees if they need access to the records in order to perform their assigned Agency functions.

6. Non-tax return information which is not restricted from disclosure by Federal law may be disclosed to the General Services Administration (GSA) and the National Archives and Records Administration (NARA) under 44 U.S.C. 2904 and 2906, as amended by NARA Act of 1984, for the use of those Agencies in conducting records management studies.

7. To Federal, State, and local law enforcement agencies and private security contractors, as appropriate, information necessary:

- To enable them to protect the safety of SSA employees and the public, the security of the SSA workplace, the operation of SSA facilities, or
- To assist investigations or prosecutions with respect to activities that affect such safety and security or activities that disrupt the operation of SSA facilities.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records in this system are maintained electronically.

RETRIEVABILITY:

Records in this system will be retrieved by the name, SSN or EIN of the representative payee, or name or SSN of the beneficiary/recipient.

SAFEGUARDS:

Security measures include the use of access codes to enter the computer system which will maintain the data and the storage of computerized records in secured areas which are accessible only to employees who require the information in performing their official duties. SSA employees who have access to the data will be informed of the criminal penalties of the Privacy Act for unauthorized access to, or disclosure of, information maintained in the system. *See* 5 U.S.C. 552a(i)(1).

Contractor personnel having access to data in the system of records will be

required to adhere to SSA rules concerning safeguards, access and use of the data.

RETENTION AND DISPOSAL:

Misuse data and contact information about misusers (payees) will be populated into RP/MRCS via a flat file produced by the Office of Systems from the Representative Payee System (RPS) using the criteria specified by section 205(j) of the Social Security Act. This flat file will also contain current beneficiary contact data from the Master Beneficiary Record and/or the Supplemental Security Income Record.

Once the data is loaded into RP/MRCS, field offices will develop the status of repayment of each misuse event and post resolution information. Management information regarding cases pending and cleared will be collected and reported, as will information about case resolution.

Data collected during the course of an RP/MCRS action is stored in a database on the Dallas Regional Office's Windows servers. Only a limited number of new records (those that were not recorded on RPS) will be added to the database. RP/MRCS will cover only misuse events related to the closed period of January 1, 1995, through the initial population of the database from SSA's Representative Payee System in April 2004.

Records in the system will be retained for 12 months after the final data are posted and then they will be archived.

SYSTEM MANAGER(S):

Associate Commissioner for Income Security Programs, Social Security Administration, 6401 Security Boulevard, Baltimore, Maryland 21235–6401.

NOTIFICATION PROCEDURE(S):

An individual can determine if this system contains a record about him/her by writing to the systems manager(s) at the above address and providing his/her name, SSN or other information that may be in the system of records that will identify him/her. An individual requesting notification of records in person should provide the same information, as well as provide an identity document, preferably with a photograph, such as a driver's license or some other means of identification. If an individual does not have any identification documents sufficient to establish his/her identity, the individual must certify in writing that he/she is the person claimed to be and that he/she understands that the knowing and willful request for, or acquisition of, a record pertaining to another individual under false pretenses, is a criminal offense. (20 CFR 401.40).

If notification is requested by telephone, an individual must verify his/her identity by providing identifying information that parallels the record to which notification is being requested. If it is determined that the identifying information provided by telephone is insufficient, the individual will be required to submit a request in writing or in person. If an individual is requesting information by telephone on behalf of another individual, the subject individual must be connected with SSA and the requesting individual in the same phone call. SSA will establish the subject individual's identity (his/her name, SSN, address, date of birth, and place of birth, along with one other piece of information, such as mother's maiden name) and ask for his/her consent in providing information to the requesting individual. (20 CFR 401.45)

If a request for notification is submitted by mail, an individual must include a notarized statement to SSA to verify his/her identity or must certify in the request that he/she is the person claimed to be and that he/she understands that the knowing and willful request for, or acquisition of, a record pertaining to another individual under false pretenses, is a criminal offense. These procedures are in accordance with SSA Regulations (20 CFR 401.45).

RECORD ACCESS PROCEDURE(S):

Same as Notification procedures. Requesters also should reasonably specify the record contents they are seeking. These procedures are in accordance with SSA Regulations (20 CFR 401.40).

CONTESTING RECORD PROCEDURE(S):

Same as Notification procedures. Requesters should also reasonably identify the record, specify the information they are contesting, and state the corrective action sought and the reasons for the correction with supporting justification showing how the record is untimely, incomplete, inaccurate, or irrelevant. These procedures are in accordance with SSA Regulations (20 CFR 401.65).

RECORD SOURCE CATEGORIES:

Information in this system of records is obtained from existing systems of records such as the Claims Folder System, 60–0089, Master Beneficiary Record, 60–0090, Supplemental Security Income Record and Special Veterans Benefits, 60–0103 and the Master Representative Payee File, 60–0222.

SYSTEMS EXEMPT FROM CERTAIN PROVISIONS OF THE PRIVACY ACT:

None.

[FR Doc. 05–4988 Filed 3–14–05; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF STATE

[Public Notice 5016]

Secretary of State's Advisory Committee on Private International Law: Notice of Meeting

SUMMARY: There will be a public meeting of the Study Group on Enforcement of Judgments of the Secretary of State's Advisory Committee on Private International Law, from 2 pm to 6 pm on Tuesday March 29 at the new headquarters of the U.S. Patent & Trademark Office: Henry Remsen Building, 400 Dulany Street, Conference Center (Lobby Level), Alexandria, VA 22313–1450.

Full Text: The Department of State, in conjunction with the U.S. Patent and Trademark Office and other Federal agencies, is convening a meeting of the Secretary of State's Advisory Committee on Private International Law, Study Group on Enforcement of Judgments, in order to seek consultations on the proposed draft Hague Convention on Exclusive Choice of Court Agreements. The draft Convention will be considered at the 20th Diplomatic Session of the Hague Conference on Private International Law, June 14–30, 2005, and is expected to be adopted and opened for signature at that time.

The meeting of the Advisory Committee will bring experts from industry, trade associations, bar associations, non-governmental associations, and other interested parties to consider in more detail those aspects of the draft convention that bear on intellectual property rights and related litigation, in order to assist the U.S. delegation prepare for the Diplomatic Conference. The current draft of the proposed convention may be found on the Web site of the Hague Conference (*http://www.hcch.net*).

The meeting will be held from 2 pm to 6 pm on Tuesday March 29, at the new headquarters of the U.S. Patent & Trademark Office: Henry Remsen Building, 400 Dulany Street, Conference Center (Lobby Level), Alexandria, VA 22313–1450. The meeting is open to the public up to the capacity of the meeting room. Interested persons are invited to attend and to express their views. Persons who wish to have their views considered are encouraged, but not required, to submit written comments in

advance of the meeting. Written comments should be submitted by e-mail to Jeffrey Kovar at *kovarjd@state.gov.* All comments will be made available to the public by request to Mr. Kovar via e-mail or by phone (202–776–8420).

Persons wishing to attend must notify Ms. Cherise Reid by e-mail (reidcd@state.gov), fax (202–776–8482), or by telephone (202–776–8420).

Dated: March 8, 2005.

Jeffrey D. Kovar,

Assistant Legal Adviser for Private International Law, Department of State.

[FR Doc. 05–5067 Filed 3–14–05; 8:45 am]

BILLING CODE 4710–08–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

First Joint Meeting: RTCA Special Committee 205/Software Considerations

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of RTCA Special Committee 205, Software Considerations.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of RTCA Special Committee 205, Software Considerations.

DATES: The meeting will be held March 30–April 1, 2005 starting at 9 a.m.

ADDRESSES: The meeting will be held at The MITRE Corporation, 7525 Colshire Dr., Building 1, South Lobby Entrance, McLean, Virginia 22102–7508.

FOR FURTHER INFORMATION CONTACT: (1) 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;* MITRE Contact: Ms. Carol Klebe; telephone (703) 883–5356; e-mail *cklebe@mitre.org.*

Note: MITRE's security obligations require pre-registration information. If you plan to attend this meeting please provide the following to both of the Joint Secretaries prior to March 25, 2005; Mr. Michael DeWalt, *mike.dewalt@certification.com;* Mr. Ross Hannan, *ross_hannon@btinternet.com.* The information needed for pre-registration must include your name, nationality, passport number (provided for security purposes, will not be made available or distributed), organization name and nation of origin (identify the national origins of your organization, regardless of where you are located), address, telephone, and e-mail address. On arrival at MITRE please have photo identification available to assist in your badge being issued.

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 135 meeting. The agenda will include:

March 30

- Opening Plenary Session (Welcome and Introductory Remarks)
- Federal Advisory Committee Act (FACA)/RTCA Procedures
  - Recognize FAA Designated Federal Official
- Review of Meeting Agenda
- Facility Host Presentation
- Committee Background
- Review of joint SC–205/WG–71 (SCWG) Terms of Reference
- Review of Special Committee Working Group Operations Plan
- Call for Other Committee/Other Related Documents Interface Volunteers
- Development of Sub-groups (Goal, Overview, Chairs, Membership)
  - SG–1—SCWG Document Integration Sub-group
  - SG–2—Issue & Rationale Sub-group
  - SG–3—Tool Qualifications Sub-group
  - SG–4—Model Based Design & Verification Sub-group
  - SG–5—Object Oriented Technology Sub-group
  - SG–6—Formal Methods Sub-group
  - SG–7—Safety Related Considerations Sub-group
- Membership Data To Be Held on File
- Breakout Rooms and Security Escorts
- Sub-group Breakout Sessions

March 31

- Sub-groups To Evaluate Issues To Determine
  - Issue Is Significant Enough To Warrant a Supplement
  - Allocation of Tasks/issue Papers To Be Developed To Work the Issue
  - Schedule of Completion for Submittal of Supplement or Other Deliverables to Plenary
- Web site Discussion/Review in Auditorium
- Exeucutive Committee/Sub-group Chairs Meeting
- Social Event at MITRE
- Certification Authorities Software Team (Private Session)

April 1

- Reports From Sub-groups 1–7
- Identification of Other Committee Interface Personnel
- Identification of Documents Interface Personnel
- Closing Plenary Session (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 February 23, 2005.

Natalie Ogletree,

FAA General Engineer, RTCA Advisory Committee.

[FR Doc. 05–5093 Filed 3–14–05; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA 2003–14467; Notice 2]

Michelin North America, Inc., Grant of Application for Decision That a Noncompliance Is Inconsequential to Motor Vehicle Safety

Michelin North America, Inc., (MNA) has determined that approximately 504 size P225/55R17 BFGoodrich Comp T/A VR4 tires do not meet the labeling requirements mandated by Federal Motor Vehicle Safety Standard (FMVSS) No. 109, ''New Pneumatic Tires.''

Pursuant to 49 U.S.C. 30118(d) and 30120(h), MNA has petitioned for a determination that this noncompliance is inconsequential to motor vehicle safety and has filed an appropriate report pursuant to 49 CFR Part 573, ''Defect and Noncompliance Reports.'' Notice of receipt of the application was published, with a 30-day comment period, on February 27, 2003, in the **Federal Register** (68 FR 9113). NHTSA received no comment on this application.

FMVSS No. 109 (S4.3(e)) requires that each tire shall have permanently molded into or onto both sidewalls the actual number of plies in the sidewall, and the actual number of plies in the tread area if different.

The noncompliance with S4.3 (e) relates to the sidewall markings. MNA's Ardmore, Oklahoma plant produced approximately 504 tires with incorrect markings during the period from October 3, 2002, through October 5, 2002. The noncompliant tires were marked: ''Tread Plies: 1 Polyester + 2 Steel + 1 Nylon, Sidewall Plies: 1 Polyester.'' The correct marking required by FMVSS No. 109 is as follows: ''Tread Plies: 2 Polyester + 2 Steel + 1 Nylon, Sidewall Plies: 2 Polyester.''

MNA stated that the noncompliant tires were actually constructed with more polyester sidewall plies than indicated on the sidewall marking (2 polyester plies rather than the 1 indicated). Therefore, this noncompliance is particularly unlikely to have an adverse effect on motor vehicle safety and is clearly inconsequential in that regard. The noncompliant tires meet or exceed all performance requirements of FMVSS No. 109 and will have no impact on the operational safety of vehicles on which these tires are mounted.

NHTSA strongly considers that the true measure of inconsequentiality to motor vehicle safety, in this case, is the effect of the noncompliance on the operational safety of vehicles on which these tires are mounted. NHTSA published a relevant ANPRM in the **Federal Register** on December 1, 2000 (65 FR 75222). Most comments expressed the opinion that the tire construction information label (number of plies and type of ply cord material in the sidewall and tread) is of little or no safety value to consumers and that most consumers do not even understand tire construction technology.

In this situation, MNA has incorrect sidewall markings on approximately 504 tires produced at their Oklahoma Plant. Except for the incorrect sidewall plies marking that indicated that the tire was constructed, with 1 polyester plie when in actuality it was constructed with 2 polyester plies, the tires are fabricated in accordance with FMVSS No. 109. All other labeling information, such as the tire size and load rating were accurately provided on the tires. Additionally, this labeling noncompliance has no effect on the safety performance of the subject tires. In fact, tires with 2 polyester plies are ''typically more robust'' than 1 polyester ply.

In consideration of the foregoing, NHTSA has decided that the applicant has met its burden of persuasion that the noncompliance is inconsequential to motor vehicle safety. Accordingly, its application is granted and the applicant is exempted from providing the notification of the noncompliance as required by 49 U.S.C. 30118, and from remedying the noncompliance, as required by 49 U.S.C. 30120.

Authority: (49 U.S.C. 301118, 301120; delegations of authority at 49 CFR 1.50 and 501.8)

Issued on: March 9, 2005.

H. Keith Brewer,

Director, Office of Crash Avoidance Standards.

[FR Doc. 05–5035 Filed 3–14–05; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Petition To Modify an Exemption of a Previously Approved Antitheft Device; General Motors Corporation

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

ACTION: Grant of a petition to modify an exemption from the Parts Marking Requirements of a previously approved antitheft device.

SUMMARY: On March 26, 1992, this agency granted in part the General Motors Corporation's (GM) petition for exemption from the parts marking requirements of the vehicle theft prevention standard for the Buick LeSabre vehicle line. On June 2, 1999, this agency granted in full GM's petition for modification of the previously approved antitheft device for the Buick LeSabre vehicle line. This notice grants in full GM's second petition to modify the exemption of the previously approved antitheft device for the Buick LeSabre vehicle line beginning with model year (MY) 2006. This notice also acknowledges GM's notification that the nameplate for the Buick LeSabre vehicle line will be changed to Buick Lucerne beginning with the 2006 model year. NHTSA is granting GM's petition to modify the exemption because it has determined, based on substantial evidence, that the modified antitheft device described in GM's petition to be placed on the vehicle line as standard equipment, is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements.

DATES: The exemption granted by this notice is effective beginning with model year (MY) 2006.

FOR FURTHER INFORMATION CONTACT: Ms. Rosalind Proctor, Office of International Policy, Fuel Economy and Consumer Programs, NHTSA, 400 Seventh Street, SW., Washington, DC 20590. Ms. Proctor's telephone number is (202) 366–0846. Her fax number is (202) 493–2290.

SUPPLEMENTARY INFORMATION: On March 26, 1992, NHTSA published in the **Federal Register** a notice granting in part the petition from GM for an exemption from the parts-marking requirements of the Theft Prevention Standard (49 CFR 541) for the MY 1993 Buick LeSabre vehicle line. The LeSabre was equipped with the ''PASS-Key II'' antitheft device (*See* 57 FR 10517). On June 2, 1999, NHTSA published in the **Federal Register** a notice granting in full GM's petition for modification of the previously approved antitheft device for the Buick LeSabre vehicle line beginning with the 2000 model year. The LeSabre was equipped with the ''PASS-Key III'' antitheft device (*See* 64 FR 29736). On November 4, 2004, GM submitted a second petition to modify an exemption of its existing antitheft device. GM's submission is a complete petition, as required by 49 CFR part 543.9(d), in that it meets the general requirements contained in 49 CFR part 543.5 and the specific content requirements of 49 CFR part 543.6. GM's petition provides a detailed description of the identity, design and location of the components of the antitheft system proposed for installation beginning with the 2006 model year.

GM's petition also informed the agency of its planned nameplate change for the Buick LeSabre to the Buick Lucerne nameplate beginning with the 2006 model year. GM stated that the Buick Lucerne will continue to be built on the existing ''H'' car platform from which the Buick LeSabre line is currently built.

The current antitheft device (''PASS-Key III'') installed on the Buick LeSabre vehicle line provides protection against unauthorized starting and fueling of the vehicle engine. GM stated that its antitheft device is designed to be active at all times without direct intervention by the vehicle operator and, that no specific or discrete security system action is necessary to achieve protection of the device. The device is fully armed immediately after the vehicle has been turned off and the key has been removed.

The PASS-Key III device utilizes a special ignition key and decoder module. The mechanical code of the key unlocks and releases the transmission lever. The vehicle can only be operated when the key's electrical code is sensed by the key cylinder and properly decoded by the controller module.

The ignition key contains electronics in the key head that receives energy from the controller module. Upon receipt of the data from the controller module, the key transmits a unique code through low frequency transmission. The controller module translates the received signal from the key into a digital signal which is transmitted to the

body control module (BCM). The received signal is compared to an internally stored value by the BCM. If the values match, the key is recognized as valid and a vehicle security password is transmitted through data link to the engine control module to enable fuel and starting of the vehicle.

In GM's petition to modify its exemption, it stated that its Buick Lucerne vehicle line will be equipped with the PASS-Key III+ theft deterrent system for MY 2006. The PASS-Key III+ device will continue to provide protection against unauthorized starting and fueling of the vehicle engine. Components of the modified antitheft device include a special ignition key and decoder module. The conventional mechanical code of the key will continue to unlock and releases the transmission lever. Before the vehicle can be operated, the key's electrical code must be sensed and properly decoded by the PASS-Key III+ control module. The ignition key contains electronics molded in to the key head. These electronics receive energy and data from the control module. Upon receipt of the data, the key will calculate a response to the data using secret information and an internal encryption algorithm and transmit the response back to the vehicle. The controller module translates the radio frequency signal received from the key into a digital signal and compares the received response to an internally calculated value. If the values match, the key is recognized as valid, and a vehicle security password (one of 65,534), is transmitted through a serial data link to the powertrain control module to enable fuel and starting of the vehicle. If an invalid key code is received, the PASS-Key III+ controller module will send a disable password to the powertrain control module through the serial data bus, and the ignition and fuel systems will be inhibited. GM also stated that the PASS-Key III+ device has the capability for producing billions of codes, which will require centuries to scan to allow someone to steal a vehicle.

GM stated that although it's modified antitheft device provides protection against unauthorized starting and fueling of the vehicle, it does not provide any visible or audible indication of unauthorized entry by means of flashing vehicle lights or sounding of the horn. Since the system is fully operational once the vehicle has been turned off, specific visible or audible reminders beyond key removal reminders have not been provided.

Based on comparison of the reduction in the theft rates of GM vehicles using a passive theft deterrent device with an audible/visible alarm system to the reduction in theft rates for GM vehicle models equipped with a passive antitheft device without an alarm, GM finds that the lack of an alarm or attention attracting device does not compromise the theft deterrent performance of a system such as PASS-Key III+. The agency has previously agreed with the finding that the absence of a visible or audible alarm has not prevented these antitheft devices from being effective protection against theft.

In order to ensure the reliability and durability of the device, GM conducted tests based on its own specified standards. GM provided a detailed list of tests conducted and believes that its device is reliable and durable since the device complied with its specified requirements for each test. The tests conducted included high and low temperature storage, thermal shock, humidity, frost, salt fog, flammability, altitude, drop, shock, random vibration, dust, potential contaminants, connector retention/strain relief, terminal retention, connector insertion, crush, ice, immersion and tumbling. Additionally, GM stated that the design and assembly processes of the PASS-Key III+ device and components are validated for a vehicle life of 10 years and 150,000 miles of performance.

GM compared its MY 2006 antitheft device with devices which NHTSA has already determined to be as effective in reducing and deterring motor vehicle theft as would compliance with the parts-marking requirements. To substantiate its beliefs as to the effectiveness of the new device, GM compared the MY 2006 modified device to its ''PASS-Key''-like systems. GM indicated that the theft rates, as reported by the Federal Bureau of Investigation's National Crime Information Center, are lower for GM models equipped with the ''PASS-Key''-like systems which have exemptions from the parts-marking requirements of 49 CFR part 541, than the theft rates for earlier models with similar appearance and construction which were parts-marked. Based on the performance of the PASS-Key, PASS-Key II, and PASS-Key III systems on other GM models, and the advanced technology utilized by the modification, GM believes that the MY 2006 modified antitheft device will be more effective in deterring theft than the parts-marking requirements of 49 CFR part 541.

On the basis of this comparison, the antitheft device (PASS-Key III+) for model years 2006 and later will provide essentially the same functions and features as found on its MY 1993–2005 ''PASS-Key''-like devices and therefore, its modified device will provide at least the same level of theft prevention as parts-marking. GM believes that the antitheft device proposed for installation on its MY 2006 Buick Lucerne vehicle line is likely to be as effective in reducing thefts as compliance with the parts-marking requirements of part 541.

The agency has evaluated GM's MY 2006 petition to modify the exemption for the Buick Lucerne vehicle line from the parts-marking requirements of 49 CFR Part 541, and has decided to grant it. It has determined that the PASS-Key III+ system is likely to be as effective as parts-marking in preventing and deterring theft of these vehicles, and therefore qualifies for an exemption under 49 CFR part 543. The agency believes that the modified device will continue to provide four of the five types of performance listed in Section 543.6(b)(3): promoting activation; preventing defeat or circumventing of the device by unauthorized persons; preventing operation of the vehicle by unauthorized entrants; and ensuring the reliability and durability of the device.

NHTSA suggests that if the manufacturer contemplates making any changes the effects of which might be characterized as *de minimis*, it should consult the agency before preparing and submitting a petition to modify.

Authority: 49 U.S.C. 33106; delegation of authority at 49 CFR 1.50.

Issued on: March 4, 2005.

Stephen R. Kratzke,

Associate Administrator for Rulemaking.

[FR Doc. 05–5036 Filed 3–14–05; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Petition for Exemption From the Vehicle Theft Prevention Standard; Ford

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

ACTION: Grant of petition for exemption.

SUMMARY: This document grants in full the petition of Ford Motor Company (Ford) for an exemption of a high-theft line, the Ford Thunderbird, from the parts-marking requirements of the Federal Motor Vehicle Theft Prevention Standard. This petition is granted because the agency has determined that the antitheft device to be placed on the line as standard equipment is likely to be as effective in reducing and deterring motor vehicle theft as compliance with

the parts-marking requirements of the Theft Prevention Standard.

DATES: The exemption granted by this notice is effective beginning with model year (MY) 2006.

FOR FURTHER INFORMATION CONTACT: Ms. Deborah Mazyck, Consumer Standards Division, NHTSA, 400 Seventh Street, SW., Washington DC 20590. Ms. Mazyck's telephone number is (202) 366–0846. Her fax number is (202) 493–2290.

SUPPLEMENTARY INFORMATION: In a petition dated December 20, 2004, Ford requested an exemption from the parts marking requirements of 49 CFR part 541, Federal Motor Vehicle Theft Prevention Standard, for the Ford Thunderbird vehicle line beginning in MY 2006. The petition was filed pursuant to 49 CFR part 543, Exemption from Vehicle Theft Prevention Standard, based on the installation of an antitheft device as standard equipment for the entire line. Based on the evidence submitted by Ford, the agency believes that the antitheft device for the Ford Thunderbird vehicle line is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements of the theft prevention standard (49 CFR part 541).

Section 331066(b)(2)(D) of Title 49, United States Code, authorized the Secretary of Transportation to grant an exemption from the parts-marking requirements for not more than one additional line of a manufacturer for MYs 1997–2000. However, it does not address the contingency of what to do after model year 2000 in the absence of a decision under section 33103(d). 49 U.S.C. 33103(d)(3) states that the number of lines for which the agency can grant an exemption is to be decided after the Attorney General completes a review of the effectiveness of antitheft devices and finds that antitheft devices are an effective substitute for parts-marking. The Attorney General has not yet made a finding and has not decided the number of lines, if any, for which the agency will be authorized to grant an exemption. Upon consultation with the Department of Justice, we determined that the appropriate reading of section 33103(d) is that NHTSA may continue to grant parts-marking exemptions for not more than one additional model line each year, as specified for model years 1997–2000 by 49 U.S.C. 33106(b)(2)(C). This is the level contemplated by the Act for the period before the Attorney General's decision. The final decision on whether to continue granting exemptions will be made by the Attorney General at the conclusion of the review pursuant to section 330103(d)(3).

Ford's submittal is considered a complete petition, as required by 49 CFR 543.7, in that it meets the general requirements contained in § 543.5 and the specific content requirements of § 543.6.

In its petition, Ford provided a detailed description and diagram of the identity, design, and location of the components of the antitheft device for the line. Ford will install its antitheft device, the SecuriLock Passive Anti-Theft Electronic Engine Immobilizer System (SecuriLock) as standard equipment on the MY 2006 Ford Thunderbird. The system has been voluntarily installed as standard equipment on its Ford Thunderbird line since MY 2002. The antitheft device installed on the Ford Thunderbird includes both an audible and visual alarm system and an engine immobilizer system. The Ford Thunderbird will also have a standard perimeter alarm system which will monitor all the doors, decklid and hood of the vehicle.

The visual and audible features of the standard perimeter alarm system will attract attention to the efforts of an unauthorized person to enter the vehicle by sounding the vehicle's horn and illuminating the front lights. The lights will flash from 4.5 to 5 minutes and the horn will sound 25 to 30 seconds on illegal entry. Once armed, the perimeter alarm system is activated.

In order to ensure the reliability and durability of the device, Ford conducted tests, based on its own specified standards. Ford provided a detailed list of the tests conducted supporting its belief that the device is reliable and durable since it complied with Ford's specified requirements for each test. The environmental and functional tests conducted were for thermal shock, high temperature exposure, low-temperature exposure, powered/thermal cycle, temperature/humidity cycling, constant humidity, end-of-line, functional, random vibration, tri-temperature parametric, bench drop, transmit current, lead/lock strength/integrity, output frequency, resistance to solvents, output field strength, dust, and electromagnetic compatibility.

The Ford SecuriLock is a transponder-based electronic immobilizer system. Ford stated that the integration of the transponder into the normal operation of the ignition key assures activation of the system. When the ignition key is turned to the start position, the transceiver module reads the ignition key code and transmits an encrypted message to the cluster. Validation of the key is determined and start of the engine is authorized once a separate encrypted message is sent to the powertrain's electronic control module (PCM). The powertrain will function only if the key code matches the unique identification key code previously programmed into the PCM. If the codes do not match, the powertrain engine starter, spark and fuel will be disabled.

Ford stated that there are now 18 quintillion possible codes, and at the time of vehicle assembly, each transponder is also hard-coded with a unique code. Additionally, Ford stated that in model year 2003, the SecuriLock system was upgraded from Read Only Transponder technology to Encrypted Transponder technology. Communication between the SecuriLock transponder, Cluster and the PCM is also encrypted, making key duplication nearly impossible.

Ford stated that its SecuriLock system incorporates an indicator light, a light-emitting diode (LED) that provides a visual indicator to the driver/operator as to the ''set'' and ''unset'' condition of the device. When the ignition is initially turned to the ''ON'' position, a 3-second continuous LED indicates that the device is ''unset.'' When the ignition is turned to ''OFF,'' a flashing LED indicates the device is ''set'' and provides visual information that the vehicle is protected by the SecuriLock system. Ford states that the integration of the setting/unsetting device (transponder) into the ignition key assures activation of the device.

Ford believes that its new device is reliable and durable because its does not have any moving parts, nor does it require a separate battery in the key. If the correct code is not transmitted to the electronic control module (accomplished only by having the correct key), there is no way to mechanically override the system and start the vehicle. Furthermore, Ford stated that with the sophisticated design and operation of the electronic engine immobilizer system, the SecuriLock electronic engine immobilizer device makes conventional theft methods such as hot-wiring or attacking the ignition lock cylinder ineffective, virtually eliminating drive-away thefts.

The effectiveness of Ford's SecuriLock device was first introduced as standard equipment on its MY 1996 Mustang GT and Cobra. In MY 1997, the SecuriLock system was installed on the entire Mustang vehicle line as standard equipment. Ford stated that the 1997 model year Mustang with SecuriLock shows a 70% reduction in theft compared to the MY 1995 Mustang, according to National Insurance Crime Bureau (NICB) theft statistics. There

were 149 reported theft for 1997 compared to 500 reported thefts in 1995.

As part of its submission, Ford also provided a Highway Loss Data Institute (HLDI) Injury, Collision & Theft Losses publication, dated September 2004, which evaluated the 2002–2003 Ford Thunderbird models equipped with the SecuriLock device. On a scale where one hundred (100) represents the average result for all cars in each loss category, the results as reported by HLDI indicated an average theft loss of eighty-seven convertible Thunderbirds over a two model year period. Results are based on the loss experience of 2001–2003 models from their first sales through 2004. HLDI loss results for 2001–2003 models are stated in relative terms. Since the reintroduction of the Ford Thunderbird equipped with the SecuriLock anti-theft device and Perimeter alarm system as standard equipment, it has seen a very low theft rate. Ford also presented information from NHTSA's Final Theft Data report (69 FR 53354, September 1, 2004) on thefts of 2002 model year passenger motor vehicles that occurred in calendar year 2002. The report showed the Ford Thunderbird having only fourteen thefts out of a production of 28,639 vehicles for the 2002 model year, with a theft rate of 0.4888.

Additionally, Ford stated that its SecuriLock device has been demonstrated to various insurance companies, and as a result AAA Michigan and State Farm now give an antitheft discount for all Ford vehicles equipped with the SecuriLock device.

On the basis of comparison, Ford has concluded that the antitheft device proposed for its vehicle line is no less effective than those devices in the lines for which NHTSA has granted full exemptions from the parts-marking requirements.

Based on the evidence submitted by Ford, the agency believes that the antitheft device for the Ford Thunderbird vehicle line is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements of the theft prevention standard (49 CFR part 541).

The agency concludes that the device will provide the types of performance listed in 49 CFR 543.6(a)(3): Promoting activation; attracting attention to the efforts of unauthorized persons to enter or operate a vehicle by means other than a key; preventing defeat or circumvention of the device by unauthorized persons; preventing operation of the vehicle by unauthorized entrants; and ensuring the reliability and durability of the device.

As required by 49 U.S.C. 33106 and 49 CFR 543.6(a)(4) and (5), the agency finds that Ford has provided adequate reasons for its belief that the antitheft device will reduce and deter theft. This conclusion is based on the information Ford provided about its antitheft device.

For the foregoing reasons, the agency hereby grants in full Ford Motor Company's petition for an exemption for the MY 2006 Ford Thunderbird vehicle line from the parts-marking requirements of 49 CFR part 541.

If Ford decides not to use the exemption for this line, it must formally notify the agency, and, thereafter, must fully mark the line as required by 49 CFR 541.5 and 541.6 (marking of major component parts and replacement parts).

NHTSA notes that if Ford wishes in the future to modify the device on which this exemption is based, the company may have to submit a petition to modify the exemption. Section 543.7(d) states that a part 543 exemption applies only to vehicles that belong to a line exempted under this part and equipped with the antitheft device on which the line's exemption is based. Further, § 543.9(c)(2) provides for the submission of petitions to modify an exemption to permit the use of an antitheft device similar to but differing from the one specified in that exemption. The agency wishes to minimize the administrative burden that § 543.9(c)(2) could place on exempted vehicle manufacturers and itself. The agency did not intend in drafting part 543 to require the submission of a modification petition for every change to the components or design of an antitheft device. The significance of many such changes could be *de minimis*. Therefore, NHTSA suggests that if the manufacturer contemplates making any changes, the effects of which might be characterized as *de minimis*, it should consult the agency before preparing and submitting a petition to modify.

Authority: 49 U.S.C. 33106; delegation of authority at 49 CFR 1.50.

Issued on: March 9, 2005.

H. Keith Brewer,

Director, Office of Crash Avoidance Standards.

[FR Doc. 05–5038 Filed 3–14–05; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

Office of Hazardous Materials Safety; Notice of Application for Exemptions

AGENCY: Research and Special Programs Administration, DOT.

ACTION: List of applications for exemption.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Material Regulations (49 CFR part 107, subpart B), notice is hereby given that the Office of Hazardous Materials Safety has received the application described herein. Each mode of transportation for which a particular exemption is requested is indicated by a number in the ''Nature of Application'' portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo aircraft only, 5—Passenger-carrying aircraft.

DATES: Comments must be received on or before April 14, 2005.

Address Comments To: Record Center, Research and Special Programs Administration, U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate. If confirmation of receipt of comments is desired, include a self-addressed stamped postcard showing the exemption number.

FOR FURTHER INFORMATION CONTACT: Copies of the applications are available for inspection in the Records Center, Nassif Building, 400 7th Street, SW., Washington DC or at *http://dms.dot.gov.*

This notice of receipt of applications for modification of exemption is published in accordance with part 107 of the Federal hazardous materials transportation law (49 U.S.C. 5117(b); 49 CFR 1.53(b)).

Issued in Washington, DC, on March 9, 2005.

R. Ryan Posten,

Exemptions Program Officer, Office of Hazardous Materials Safety Exemptions & Approvals.

NEW EXEMPTIONS

Application No.	Docket No.	Applicant	Regulation(s) affected	Nature of exemption thereof
14149–N	.....	Digital Wave Corporation, Englewood, CO.	49 CFR 180.205, 180.209	To authorize the transportation in commerce of certain DOT–3AL seamless aluminum cylinders that have been alternatively ultrasonically retested for use in transporting Division 2.1, 2.2, 2.3 materials. (modes 1, 2, 4).
14150–N	.....	Eli Lilly & Company, Indianapolis, IN.	49 CFR 177.834	To authorize an alternative attendance method for cargo tanks during loading and unloading of Class 3 and 8 hazardous materials. (mode 1).
14151–N	.....	ChevronTexaco, Houston, TX.	49 CFR 173.302	To authorize the transportation in commerce of certain non-DOT specification cylinders for obtaining core samples of naturally occurring methane. (modes 1, 3).
14151–N	.....	Saes Pure Gas, Inc, San Luis Obispo, CA.	49 CFR 173.187	To authorize the transportation of certain quantities of metal catalyst, classed as Division 4.2, in non-DOT specification packaging that exceed the maximum net quantity allowed per package (mode 4).
14154–N	.....	Careton Technologies, Inc.	49 CFR 173.302a, 173.304a, 180.209.	To authorize the manufacture, marking and sale of non-DOT specification fully wrapped carbon fiber reinforced aluminum lined cylinders for shipment of certain Division 2.2 gases (modes 1, 2, 3, 4, 5).
14155–N	.....	American Promotional Events, Inc., Florence, AL.	49 CFR 173.60	To authorize the transportation in commerce of certain fireworks in non-DOT specification packagings when returned to the distributor (mode 1).
14156–N	.....	Piper Metal Forming Corporation, New Albany, MS.	49 CFR 173.302a, 173.304a.	To authorize the manufacture, marking, sale and use of non-DOT specification cylinders similar to DOT–3AL cylinders except the alloy used in 6069 grade. (modes 1, 2, 3, 4, 5).
14157–N	.....	Worthington Cylinders of Canada Corp., Tilbury, Ontario N0P, 2L0.	49 CFR 173.302a	To authorize the manufacture, marking, sell and use of non-DOT specification cylinders similar to DOT 3AA for use in transporting certain nonflammable gases. (modes 1, 4).
14158–N	.....	UTC Fuel Cells, LLC, South Windsor, CT.	49 CFR 176.83	To authorize the transportation by vessel of a fuel cell power plant containing hazardous materials that are not segregated as required by 49 CFR 176.83. (mode 3).
14159–N	.....	ChevronTexaco, Richmond, CA.	49 CFR 173.187	To authorize the one-time one-way transportation in commerce of 8 non-DOT specification cylinders containing a Division 4.2 material. (mode 1).
14162–N	.....	BSCO Incorporated, Forest Hills, MD.	49 CFR 173.310(f)	To authorize the transportation in commerce of certain DOT specification cylinders for use in fire suppression systems containing Division 2.2 materials with an alternative thermal relief device. (modes 1, 3, 5).
14163–N	.....	Air Liquide America L.P., Houston, TX.	49 CFR 173.301(g)(1)(ii) ..	To authorize the transportation in commerce of certain Division 2.2 materials in DOT specification cylinders that are manifolded and are not equipped with an individual shut off valve. (modes 1, 2, 3).
14164–N	.....	Sigma-Aldrich Corporation, Milwaukee, WI.	49 CFR 173.181	To authorize the transportation in commerce of non-DOT specification cylinders, similar to DOT 4B2 cylinders, containing Trimethylaluminum. (modes 1, 2, 3).
14166–N	.....	Presidential Airways, Melbourne, FL.	49 CFR 172.101 Column (9B).	To authorize the transportation in commerce of certain Division 1.1, 1.2, 1.3 and 1.4 explosives which are forbidden or exceed quantities authorized for transportation by cargo aircraft only. (mode 4).
14167–N	.....	Trinityrail, Dallas, TX	49 CFR 173.26, 173.314(c), 179.13 and 179.100–12(c).	To authorize the manufacture, mark and sell DOT 105J600W specification tank cars having a maximum gross weight on rail of 286,000 in chlorine service. (mode 2).
14168–N	.....	Matheson Tri-Gas, East Rutherford, NJ.	49 CFR 173.3(d)	To authorize the transportation in commerce of salvage cylinders by cargo vessel. (mode 3).

[FR Doc. 05–5031 Filed 3–14–05; 8:45 am]
BILLING CODE 4909–60–M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

Notice of Applications for Modification of Exemption

AGENCY: Research and Special Programs Administration, DOT.

ACTION: List of applications for modification of exemption.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Material Regulations (49 CFR part 107, subpart B), notice is hereby given that the Office of Hazardous Materials Safety has received the application described herein. This notice is abbreviated to expedite docketing and public notice. Because the sections affected, modes of transportation, and the nature of application have been shown in earlier **Federal Register** publications, they are not repeated here. Request of modifications of exemptions (*e.g.*, to provide for additional hazardous materials, packaging design changes, additional mode of transportation, etc.) are described in footnotes to the application number. Application numbers with the suffix ''M'' denote a modification request. There applications have been separated from the new application for exemption to facilitate processing.

DATES: Comments must be received on or before March 30, 2005.

Address Comments To: Record Center, Research and Special Programs Administration, U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate. If confirmation of receipt of comments is desired, include a self-addressed stamped postcard showing the exemption number.

FOR FURTHER INFORMATION CONTACT: Copies of the applications are available for inspection in the Records Center, Nassif Building, 400 7th Street SW., Washington, DC or at *http://dms.dot.gov.*

This notice of receipt of applications for modification of exemption is published in accordance with part 107 of the Federal hazardous materials transportation law (49 U.S.C. 5117(b); 49 CFR 1.53(b)).

Issued in Washington, DC, on March 9, 2005.

R. Ryan Posten,

Exemptions Program Officer, Office of Hazardous Materials Exemptions & Approvals.

MODIFICATION EXEMPTIONS

Application No.	Docket No.	Applicant	Regulation(s) affected	Modification of exemption	Nature of exemption thereof
7465–M		State of Alaska Department of Transportation & Public Facilities, Juneau, AK.	49 CFR part 172; 173.220.	7465	To modify the exemption to authorize the addition of a new ferry vessel to the existing passenger ferry fleet.
7928–M		State of Alaska Department of Transportation & Public Facilities, Juneau, AK.	49 CFR part 172.101; 176.905(L).	7928	To modify the exemption to authorize the addition of a new ferry vessel to the existing passenger ferry fleet.
9659–M		Kaiser Compositek Inc. Brea, CA.	49 CFR 173.302a(a)(1); 173.304a(a), (d); 175.3; 177.812.	9659	To modify the exemption to authorize a design change of the non-Dot specification fiber reinforced plastic (FRP) full wrapped composite cylinder transporting Division 2.1 and Division 2.2 materials.
9830–M		Worthington Cylinder Corporation, Columbus, OH.	49 CFR 173.201; 173.202; 173.203; 173.302a(a); 173.304a(a) & (d); 175.3.	9830	To modify the exemption to authorize the transportation of certain Class 8 materials in non-DOT specification steel cylinders by motor vehicle only.
10590–M		ITW/SEXTON (formerly Sexton Can Company, Inc.), Decatur, AL.	49 CFR 173.304a(d)(3)(ii); 178.33.	10590	To modify the exemption to authorize a design change to the nonrefillable, non-DOT specification, inside container and the transportation of a Class 3 and additional Division 2.1 material.
11606–M		Safety-Kleen Systems, Inc., Humble, TX.	49 CFR 173.28(b)(2)	11606	To modify the exemption to authorize the transportation of an additional Division 6.1 and Class 8 material in UN Standard 1A1 and 1A2 drums and non-DOT specification metal drums.
12844–M	RSPA–01–10753.	Delphi Automotive Systems, Vandalia, OH.	49 CFR 173.301(a)(1); 173.302a(a); 175.3.	12844	To modify the exemption to authorize an increase of the maximum service pressure to 7,200 psig for the non-DOT specification pressure vessels.
12995–M	RSPA–02–12220.	Dow Chemical Company, Midland, MI.	49 CFR 173.306(a)(3)(v).	12995	To modify the exemption to authorize the use of the DOT 2Q specification container with an increased container pressure not to exceed 180 psig at 55 degrees C.
13229–M	RSPA–03–15235.	Matheson Tri-Gas, East Rutherford, NJ.	49 CFR 173.304(b) ...	13229	To modify the exemption to authorize importation of phosphine in non-DOT specification cylinders.

MODIFICATION EXEMPTIONS—Continued

Application No.	Docket No.	Applicant	Regulation(s) affected	Modification of exemption	Nature of exemption thereof
13322–M	RSPA–03–16595.	UXB International Inc., Blacksburg, VA.	49 CFR 172.320; 173.54(a); 173.56(b); 173.58.	13322	To modify the exemption to authorize the transportation of liquid explosives.
13996–M	RSPA–04–19660.	North American Automotive Hazardous Material Action Committee (NAAHAC), Washington, MI.	49 CFR 173.166(e)(4)	13996	To reissue the exemption originally issued on an emergency basis for the transportation of airbag inflators/modules/pyrotechnic seat belt pretensioners in reusable high strength plastic or metal containers or dedicated handling devices.

[FR Doc. 05–5032 Filed 3–14–05; 8:45 am]

BILLING CODE 4909–60–M

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