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

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

7 CFR Part 1434

RIN 0560–AH18

Nonrecourse Marketing Assistance Loan and Loan Deficiency Payment Regulations for Honey

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Final rule.

SUMMARY: This rule adopts as a final rule, an interim rule published on August 25, 2004. The Commodity Credit Corporation (CCC) uses these regulations to provide marketing assistance loans (MAL) and loan deficiency payments (LDP) for honey pledged as loan collateral. This final rule does not change the interim rule, thus, it is adopted as a final rule without change.

DATES: This rule is effective January 21, 2005.

FOR FURTHER INFORMATION CONTACT: Kimberly Graham, 202–720–9154, e-mail: *Kimberly.Graham@wdc.usda.gov*. Persons with disabilities who require alternative means for communication (Braille, large print, audiotape, etc.) should contact the USDA Target Center at (202) 720–2600 (voice and TDD).

SUPPLEMENTARY INFORMATION:

Background

This rule finalizes a change in CCC regulations regarding producers of relatively small quantities of honey. Most honey marketed in the U.S. is stored in metal drums or plastic storage units called Intermediate Bulk Containers (IBC's), and the majority of commercially exported and imported honey is stored in steel drums. Smaller producers, however, often market through channels like farmer markets or local groceries, and store honey in smaller, less expensive, plastic containers. This rule finalizes regulations providing that honey stored in 5-gallon plastic containers is eligible for MAL's and LDP's.

Public Comments

Section 1601(c) of the Farm Security and Rural Investment Act of 2002 (Section 1601) provides that the regulations involved may be promulgated without notice and comment. Nonetheless, CCC solicited comments on the interim rule because it was determined to be in the public's interest. No comments were received.

Executive Order 12866

This rule is issued in conformance with Executive Order 12866, was determined to be not significant, and has not been reviewed by the Office of Management Budget.

Regulatory Flexibility Act

It has been determined that the Regulatory Flexibility Act is not applicable to this rule because CCC is not required to publish a notice proposed rulemaking for the subject matter of this rule.

Environmental Assessment

The environmental impacts of this rule have been considered in accordance with the provisions of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321 *et seq.*, the regulations of the Council on Environmental Quality (40 CFR parts 1500–1508), and the FSA regulations for compliance with NEPA, 7 CFR part 799. FSA has initiated the completion of an environmental assessment (EA) to determine the potential impacts of this action upon the human and natural environments. A copy of the draft EA will be made available to the public upon its completion.

Executive Order 12988

This rule has been reviewed in accordance with Executive Order 12988. This rule preempts State laws that are inconsistent with it. Before any legal action may be brought regarding a determination under this rule, the administrative appeal provisions set forth at 7 CFR parts 11 and 780 must be exhausted.

Executive Order 12372

This program is not subject to the provisions of Executive Order 12372, which require intergovernmental consultation with State and local officials. See the notice related to 7 CFR part 3014, subpart V, published at 48 FR 29115 (June 24, 1983).

Unfunded Mandates Reform Act of 1995

The rule contains no Federal mandates under the regulatory provisions of Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) for State, Local, and tribal governments or the private sector. Thus, this rule is not subject to the requirements of sections 202 and 205 of the UMRA.

Paperwork Reduction Act

Section 1601 provides that the promulgation of regulations and the administration of these regulations are not subject to review by OMB under the Paperwork Reduction Act.

Executive Order 12612

This rule does not have sufficient Federalism implications to warrant the preparation of a Federalism Assessment. This rule will not have a substantial direct effect on States or their political subdivisions or on the distribution of power and responsibilities among the various levels of government.

Government Paperwork Elimination Act

FSA is committed to compliance with the Government Paperwork Elimination Act (GPEA) and the Freedom to E-File Act, which require Government agencies in general and FSA in particular to provide the public the option of submitting information or transacting business electronically to the maximum extent possible. The forms and other information collection activities required for participation in the program are available electronically for downloading or electronic submission through the USDA eForms Web site at *http://forms.sc.egov.usda.gov/eforms.*

Federal Assistance Programs

The title and number of the Federal assistance program found in the Catalog of Federal Domestic Assistance to which this final rule applies are Commodity Loans and Loan Deficiency Payments, 10.051.

List of Subjects in 7 CFR Part 1434

Honey, Loan programs-agriculture, Reporting and recordkeeping requirements.

■ For the reasons set out in the preamble, 7 CFR part 1434 is amended as follows:

PART 1434—NONRECOURSE MARKETING ASSISTANCE LOAN AND LOAN DEFICIENCY PAYMENTS FOR HONEY

■ Accordingly, the interim rule amending 7 CFR part 1434 which was published at 69 FR 52167, on August 25, 2004, is adopted as a final rule without change.

Signed in Washington, DC, on January 11, 2005.

James R. Little,

Executive Vice President, Commodity Credit Corporation.

[FR Doc. 05–1050 Filed 1–19–05; 8:45 am]

BILLING CODE 3410–05–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. NM300; Special Conditions No. 25–284–SC]

Special Conditions: Shadin Company, Inc., Cessna Aircraft Company Model 501 and 551 Airplanes; High Intensity Radiated Fields (HIRF)

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions; request for comments.

SUMMARY: These special conditions are issued for Cessna Aircraft Company Model 501 and 551 series airplanes modified by Shadin Company, Inc. These airplanes will have novel and unusual design features when compared to the state of technology envisioned in the airworthiness standards for transport category airplanes. The modification incorporates the installation of two Shadin Company Air Data Computers (ADC), Model ADC–6000. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for the protection of these systems from the effects of high-intensity-radiated fields (HIRF). These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

DATES: The effective date of these special conditions is January 12, 2005. Comments must be received on or before February 22, 2005.

ADDRESSES: Comments on these special conditions may be mailed in duplicate to: Federal Aviation Administration, Transport Airplane Directorate, Attn: Rules Docket (ANM–113), Docket No. NM300, 1601 Lind Avenue SW., Renton, Washington 98055–4056; or delivered in duplicate to the Transport Airplane Directorate at the above address. Comments must be marked: Docket No. NM300.

FOR FURTHER INFORMATION CONTACT: Greg Dunn, FAA, Airplane and Flight Crew Interface Branch, ANM–111, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue SW., Renton, Washington 98055–4056; telephone (425) 227–2799; facsimile (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA has determined that notice and opportunity for prior public comment is impracticable because these procedures would significantly delay certification of the airplanes and thus delivery of the affected aircraft. In addition, the substance of these special conditions has been subject to the public comment process in several prior instances with no substantive comments received. The FAA therefore finds that good cause exists for making these special conditions effective upon issuance; however, we invite interested persons to participate in this rulemaking by submitting written comments, data, or views. The most helpful comments reference a specific portion of the special conditions, explain the reason for any recommended change, and include supporting data. We ask that you send us two copies of written comments.

We will file in the docket all comments we receive, as well as a report summarizing each substantive public contact with FAA personnel concerning these special conditions. The docket is available for public inspection before and after the comment closing date. If you wish to review the docket in person, go to the address in the **ADDRESSES** section of this preamble between 7:30 a.m. and 4 p.m. Monday through Friday, except Federal holidays.

We will consider all comments we receive on or before the closing date for comments. We will consider comments filed late if it is possible to do so without incurring expense or delay. We may change these special conditions in light of the comments received.

If you want the FAA to acknowledge receipt of your comments on these special conditions, include with your comments a pre-addressed, stamped postcard on which the docket number appears. We will stamp the date on the postcard and mail it back to you.

Background

On March 3, 2004, Shadin Company, Inc., 6831 Oxford Street, St. Louis Park, MN, 55426–4412, applied for a supplemental type certificate (STC) to modify Cessna Aircraft Company Model 501 and 551 series airplanes. These models are currently approved under Type Certificate No. A27CE. These Cessna airplane models are small transport category airplanes. The Cessna Model 501 is powered by two Pratt & Whitney Aircraft of Canada, Ltd., JT15D–1A or JT15D–1B turbofans; and the Cessna Model 551 is powered by two Pratt & Whitney Aircraft of Canada, Ltd., JT15D–4 turbofans. The Cessna Model 501 has a maximum takeoff weight of 11,850 pounds and the Cessna Model 551 has a maximum takeoff weight of 12,500 pounds. The Cessna Model 501 operates with one to two-pilot crews and holds up to 9 passengers and the Cessna Model 551 operates with one to two-pilot crews and holds up to 11 passengers. The modification incorporates the installation of two Shadin ADC 6000 Reduced Vertical Separation Minimum (RVSM) capable systems, which will allow for the removal of the existing encoding altimeters, air data computer, and pneumatic altimeter. This system uses two ADC–6000s and interfaces to existing BA–141 altimeters. These ADCs can be susceptible to disruption to both command and response signals as a result of electrical and magnetic interference. This disruption of signals could result in the loss of all critical flight information displays and annunciations or the presentation of misleading information to the pilot. The avionics/electronics and electrical systems installed in these airplanes have the potential to be vulnerable to high-intensity radiated fields (HIRF) external to the airplanes.

Type Certification Basis

Under the provisions of 14 CFR 21.101, Shadin Company, Inc. must show that the Cessna Aircraft Company Model 501 and 551 series airplanes, as changed, continue to meet the applicable provisions of the regulations incorporated by reference in Type Certificate No. A27CE, or the applicable regulations in effect on the date of application for the change. The regulations incorporated by reference in

the type certificate are commonly referred to as the ''original type certification basis.'' The certification basis for the Cessna Model 501 series airplanes includes part 23 of 14 CFR effective February 1, 1965, as amended by amendments 23–1 through 23–16 except as follows: Delete §§ 23.45 through 23.77, 23.831, 23.1091(c)(2), 23.1303, 23.1323, 23.1441 through 23.1449, 23.1581 through 23.1583(f), and 23.1583(h) through 23.1587; and add § 23.1385 as amended through amendment 23–20; and add part 25 of 14 CFR effective February 1, 1965, as amended by amendments 25–1 through 25–17; §§ 25.1195, 25.1199 and 25.1203 as amended by amendments 25–1 through 25–37; §§ 25.101 through 25.125, 25.831, 25.934, 25.1091(d)(2), 25.1197, 25.1201, 25.1303, 25.1305(a)(7), 25.1323, 25.1439 through 25.1453, 25.1581 through 25.1583(c)(3), and §§ 25.1583(e) through 25.1587.

The certification basis for the Cessna Model 551 series airplanes includes part 23 of 14 CFR effective February 1, 1965, as amended by amendments 23–1 through 23–16 except as follows: Delete §§ 23.21 through 23.31, 23.45 through 23.77, 23.157, 23.171 through 23.177, 23.251, 23.345, 23.351, 23.361, 23.471 through 23.511, 23.571, 23.572, 23.629, 23.679, 23.723 through 23.737, 23.773, 23.775, 23.777, 23.783, 23.807, 23.831, 23.903(c), 23.1091(c)(2), 23.1301, 23.1303, 23.1307, 23.1309, 23.1321, 23.1323, 23.1325, 23.1385(c), 23.1435, 23.1441 through 23.1449, 23.1581 through 23.1583(f), 23.1583(i) through 23.1587; and add §§ 23.1143(e) and 23.1385(c) as amended through amendment 23–18 and 23.1301 and 23.1335 as amended through amendment 23–20; and add from part 25 of 14 CFR effective February 1, 1965, as amended by amendments 25–1 through 25–17, §§ 25.812, 25.863, 25.1195, 25.1199, 25.1203, 25.1309, and 25.1435; as amended by amendment 25–1 through 25–37, §§ 25.21 through 25.31, 25.101 through 25.125, 25.147(c)(e), 25.171 through 25.177, 25.251, 25.305(c), 25.345, 25.351, 25.361, 25.471 through 25.511, 25.571, 25.573, 25.629, 25.679, 25.721 through 25.737, 25.773, 25.775, 25.777, 25.783, 25.807, 25.831, 25.851, 25.903(b)(d), 25.934, 25.1091(d)(2), 25.1189(g)(h), 25.1197, 25.1201, 25.1303, 25.1305(a)(7), 25.1305(c)(4), 25.1307, 25.1321, 25.1323, 25.1325, 25.1439 through 25.1453, 25.1581 through 25.1583(c)(3), 25.1583(f) through 25.1587, and §§ 25.901(c), 25.903(e)(3), and 25.1351(d) as amended through amendment 25–41.

In addition, the certification basis includes certain later amended sections of the applicable part 25 regulations that are not relevant to these special conditions.

If the Administrator finds that the applicable airworthiness regulations (*i.e.*, part 25, as amended) do not contain adequate or appropriate safety standards for modified Cessna Aircraft Company Model 501 and 551 series airplanes, because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16.

In addition to the applicable airworthiness regulations and special conditions, the Cessna Model 501 and 551 series airplanes must comply with the fuel vent and exhaust emission requirements of 14 CFR part 34 and the noise certification requirements of 14 CFR part 36.

Special conditions, as defined in 14 CFR 11.19, are issued in accordance with § 11.38, and become part of the type certification basis in accordance with § 21.101.

Special conditions are initially applicable to the model for which they are issued. Should Shadin Company, Inc. apply at a later date for a supplemental type certificate to modify any other model included on Type Certificate No. A27CE to incorporate the same novel or unusual design feature, these special conditions would also apply to the other model under the provisions of § 21.101.

Novel or Unusual Design Features

As noted earlier, the Cessna Aircraft Company Model 501 and 551 series airplanes modified by Shadin Company, Inc. will incorporate a new altitude display system that will perform critical functions. These systems may be vulnerable to high-intensity radiated fields external to the airplane. The current airworthiness standards of part 25 do not contain adequate or appropriate safety standards for the protection of this equipment from the adverse effects of HIRF. Accordingly, this system is considered to be a novel or unusual design feature.

Discussion

There is no specific regulation that addresses protection requirements for electronic and electrical systems from HIRF. Increased power levels from ground-based radio transmitters and the growing use of sensitive avionics/electronics and electrical systems to command and control airplanes have made it necessary to provide adequate protection.

To ensure that a level of safety is achieved equivalent to that intended by the regulations incorporated by reference, special conditions are needed for the Cessna Model 501 and 551 series airplanes modified by Shadin Company, Inc. These special conditions require that new avionics/electronics and electrical systems that perform critical functions be designed and installed to preclude component damage and interruption of function due to both the direct and indirect effects of HIRF.

High-Intensity Radiated Fields (HIRF)

With the trend toward increased power levels from ground-based transmitters, and the advent of space and satellite communications, coupled with electronic command and control of the airplane, the immunity of critical digital avionics/electronics and electrical systems to HIRF must be established.

It is not possible to precisely define the HIRF to which the airplane will be exposed in service. There is also uncertainty concerning the effectiveness of airframe shielding for HIRF. Furthermore, coupling of electromagnetic energy to cockpit-installed equipment through the cockpit window apertures is undefined. Based on surveys and analysis of existing HIRF emitters, an adequate level of protection exists when compliance is shown with either HIRF protection special condition paragraph 1 or 2 below:

1. A minimum threat of 100 volts rms (root-mean-square) per meter electric field strength from 10 KHz to 18 GHz.

a. The threat must be applied to the system elements and their associated wiring harnesses without the benefit of airframe shielding.

b. Demonstration of this level of protection is established through system tests and analysis.

2. A threat external to the airframe of the field strengths identified in the table below for the frequency ranges indicated. Both peak and average field strength components from the table are to be demonstrated.

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

Frequency	Field/strength (volts per meter)	
	Peak	Average
8 GHz–12 GHz	3000	300
12 GHz–18 GHz ...	2000	200
18 GHz–40 GHz ...	600	200

The field strengths are expressed in terms of peak of the root-mean-square (rms) over the complete modulation period.

The threat levels identified above are the result of an FAA review of existing studies on the subject of HIRF, in light of the ongoing work of the Electromagnetic Effects Harmonization Working Group of the Aviation Rulemaking Advisory Committee.

Applicability

As discussed above, these special conditions are applicable to the Cessna Aircraft Company Model 501 and 551 series airplanes. Should Shadin Company, Inc. apply at a later date for a supplemental type certificate to modify any other model included on Type Certificate No. A27CEU to incorporate the same or similar novel or unusual design feature, these special conditions would apply to that model as well under the provisions of § 21.101.

Conclusion

This action affects only certain novel or unusual design features on the Cessna Model 501 and 551 series airplanes modified by Shadin Company, Inc. It is not a rule of general applicability and affects only the applicant who applied to the FAA for approval of these features on the airplane.

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

List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

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

Authority: 49 U.S.C. 106(g), 40113, 44701, 44702, 44704.

The Special Conditions

■ Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued as part of the supplemental type certification basis for the Cessna Aircraft Company Model 501 and 551 series airplanes modified by Shadin Company, Inc.

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

2. For the purpose of these special conditions, the following definition applies:

Critical Functions: Functions whose failure would contribute to or cause a failure condition that would prevent the continued safe flight and landing of the airplane.

Issued in Renton, Washington, on January 12, 2005.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 05–1156 Filed 1–19–05; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE TREASURY

Fiscal Service

31 CFR Part 285

RIN 1510–AA65

Centralized Offset of Federal Payments To Collect Nontax Debts Owed to the United States

AGENCY: Financial Management Service, Fiscal Service, Treasury.

ACTION: Final rule.

SUMMARY: This final rule describes the general rules and procedures applicable to the collection, through the Treasury Offset Program (TOP), of delinquent, nontax debts owed to Federal agencies. TOP is a program administered by the Financial Management Service (FMS), a bureau of the Treasury Department.

DATES: This rule is effective January 21, 2005.

FOR FURTHER INFORMATION CONTACT: Gerry Isenberg, Financial Program Specialist, at (202) 874–6660; Tricia Long, Attorney-Advisor, at (202) 874–6680. A copy of this final rule is being made available for downloading from the Financial Management Service Web site at the following address: *http://www.fms.treas.gov/debt.*

SUPPLEMENTARY INFORMATION:

Background

On December 26, 2002, FMS published an interim rule with request for comments (''Interim Rule'') describing the general rules and procedures applicable to the collection of delinquent, nontax debts owed to Federal agencies by the centralized offset of Federal payments. *See* 67 FR 78936.

FMS established TOP in order to implement provisions of various Federal laws affecting offset, including the Debt Collection Improvement Act of 1996 (Pub. L. 104–134, 110 Stat. 1321–358 (April 26, 1996)) (''DCIA''), which directed Treasury to provide a centralized process for withholding or reducing eligible Federal payments to pay the payee's delinquent debt owed to the United States. *See* 31 U.S.C. 3716(c) and 3720A.

Discussion of Comments

General

FMS received comments from a Federal agency and a State comptroller's office in response to the publishing of the Interim Rule. In response to the comments, FMS has made the revisions reflected in this final rule. In addition, FMS has corrected the citation to Executive Order 13019 in the list of authorities for 31 CFR Part 285 and has made minor editorial changes for purposes of consistency.

Comment Analysis

Interim Rule § 285.5(a) Scope

One commenter noted that the rule does not address how TOP processes offsets to collect debts for which two or more debtors are jointly and severally liable. FMS has not made any changes in response to this comment. TOP has been developed to comply with existing laws regarding the liability of debtors who are jointly and severally liable for debts, and therefore, no change to the rule is required.

One commenter asked for clarification as to whether past-due support debts and other debts owed to a State are covered by the rule. The commenter noted that paragraph (f)(3) of this section sets forth the priority of collection when multiple debts (including support and other debts owed to States) match with the same payment. This final rule applies only to

offsets made through TOP to collect delinquent, nontax debts owed to the United States. Past-due support debts and debts owed to States are not within the scope of this rule (although nontax debts owed by States are covered by this rule). TOP does, however, process offsets and levies to collect debts pursuant to several laws and regulations. Paragraph (f)(3) was intended to explain what will occur if a debt within the scope of this rule matches with a payment at the same time as a debt that is not covered by this rule. We have revised the wording in (f)(3)(ii) and (f)(3)(ii)(B) for clarification.

Interim Rule § 285.5(b) Definitions

One commenter suggested deleting the example in the definition of ''legally enforceable'' in paragraph (b) regarding debts under appeal. The commenter questioned whether a debt may ever be considered final, and therefore legally enforceable, when there is a pending administrative review process with respect to the debt. FMS has determined that deleting the example is not necessary. Statutes, regulations and agency guidance applicable to particular debts may provide for appeals after a final agency decision on any matter related to the debt.

One commenter remarked that the definition of ''match'' allows for payments due to one State agency to be offset to collect delinquent debts incurred by another agency of the same State. This is possible because each State has one TIN for all its agencies. The commenter suggested that one State agency's payments should not be affected by another agency's debts, and that FMS should put in controls, such as using different identifiers for payment programs, in order to avoid such offsets. FMS disagrees. For purposes of offset, the debtor is the State, not the individual agency. This is also the case for corporations and other entities that share a TIN with subsidiaries. Two components of an entity using the same TIN are generally considered to be one legal entity responsible for debts incurred by either component. As a result, payments made to one component of such an entity are eligible for offset to collect debts owed by another component of the same entity. FMS realizes that States and other organizations have a need internally to identify components which have incurred delinquent debts, and FMS will work with such organizations to assist such communications to the extent possible.

Interim Rule § 285.5(d)(5) Delinquent Debt Information Requirements

One commenter suggested that creditor agencies be required to supply the address and phone number of the primary contact within the agency who will respond to inquiries about the debt. The commenter also suggested that this information be included in the offset notice described in paragraph (g)(3). This suggestion is consistent with the applicable portions of the Federal Claims Collection Standards as set forth in 31 CFR 901.2, and this final rule incorporates that suggestion in (d)(5)(iv) and (g)(3)(iii).

The commenter also suggested that FMS require creditor agencies to supply the nature of the debt to FMS, so such information could be included in offset and warning notices. FMS does not believe that such a requirement is appropriate or necessary. The debtor can ascertain information about the nature of the debt and other information pertaining to the debt by contacting the creditor agency using the contact information provided in the notices. Also, FMS does not need this information to facilitate offset. The nature of the debt is not relevant to its legal enforceability, nor is it necessary for TOP to match the debt with the payment. For these reasons, FMS has not included this requirement in this final rule.

Interim Rule § 285.5(d)(6) Creditor Agency Certification

As described in paragraph (ii)(A), the creditor agency must certify that it has sent written notice regarding the debt to the debtor's most current address known to the agency. One commenter requested that, when the debtor is a State agency, the rule require that copies of these notices (as well as those sent by disbursing officials pursuant to paragraph (g)(3)) be sent to the State comptroller or treasurer, in order to facilitate communications among State agencies. FMS believes that such a requirement would create an undue burden on Federal agencies to ascertain the central point of contact for each State entity with which it does business. With respect to the creditor agency's obligation to notify the debtor of the debt, the legal requirement is to send written notice to the last known address. The last known address generally is the one supplied by the debtor to the creditor agency, unless the creditor agency has obtained an updated address through its independent research. The State has the option of supplying its comptroller's or treasurer's address to each Federal agency with which it does business, as the official address for sending such notices. With respect to the disbursing official's obligation to send notices regarding the offset of a payment, the disbursing official sends such notice to the address to which the payment would have been sent, if a payment address is available. In the case of payments made by electronic funds transfer, payment addresses are generally not available, and notices are therefore sent to the address for the debtor, which is supplied by the creditor agency. For these reasons, this final rule does not require creditor agencies or disbursing officials to send additional copies of notices to a central point of contact within a State.

Interim Rule § 285.5(d)(10) Correcting and Updating Debt Information

One commenter suggested that FMS revise paragraph (v) to state that it does not apply to offsets when the paying agency is also the creditor agency. The commenter asserted that FMS would be notified in such cases by the creditor agency's compliance with paragraphs (d)(10)(i) through (d)(10)(iv). FMS requires that creditor agencies notify FMS if they have refunded monies to the debtor in order to assure that FMS's debt and accounting records are accurate. The fact that the creditor agency is also the paying agency does not necessarily result in FMS being notified of the refund through other means. Additionally, it is noted that paragraphs (d)(10)(i) through (d)(10)(iv) do not require agencies to specify whether the collections they credit pursuant to those paragraphs are due to refunds or other types of collections.

In reviewing (d)(10)(v) to respond to the commenter's suggestion, we determined that this paragraph should be clarified to indicate that the creditor agency must notify FMS any time the creditor agency refunds money to the debtor/payee, in accordance with paragraph (i)(3). Accordingly, we have incorporated this clarification in the final rule in both paragraphs (d)(10)(v) and (i)(3).

Interim Rule § 285.5(d)(11) Debts at FMS, a Debt Collection Center, or the Department of Justice

One commenter suggested that paragraph (d)(11) be changed to clarify that creditor agencies may opt to send debts to TOP directly, even if those debts are already at FMS or a designated debt collection center for cross-servicing. FMS has not made any changes to the rule in response to this comment. The rule states that FMS or a designated debt collection center may

fulfill the agency's requirement to refer debts to TOP. While direct referral to TOP is not the preferred practice, the rule, as written, does not prohibit creditor agencies from sending debts directly to TOP. If the creditor agency wishes to fulfill its obligation by sending debts directly, such intention should be stated clearly in any agreement between the creditor agency and the entity performing its cross-servicing.

Interim Rule § 285.5(e)(2) Payments Excluded From Offset Under This Section

One commenter suggested that claims on certain types of benefits should be exempted payments under the rule. The comment focused on whether the State or an individual is actually liable for the debt being collected from such payments. Paragraph (e)(2) addresses which classes of payments are excluded from offset. It does not address who is liable for the debt. The determination as to who is liable for a debt is made solely by the creditor agency based upon the laws and regulations applicable to the program under which the debt arose. Such determination is beyond the scope of this rule. Therefore, no change has been made to this provision in the rule.

Interim Rule § 285.5(e)(7) Payment Agency Requests for Exemptions From Centralized Offset Pursuant to 31 U.S.C. 3716(c)(3)(B)

One commenter suggested that the rule require FMS to consult with creditor agencies prior to granting a debtor-specific payment exemption. Such consultation is not necessary, because only classes of payments may be exempted from centralized offset, not classes of debts or debtors.

Interim Rule § 285.5(g) Notices

One commenter suggested that disbursing officials and creditor agencies send notices electronically. As of this writing, FMS is exploring the legal and operational issues of sending its notices electronically. Creditor agencies may also explore this possibility. At this time, FMS is not contemplating a rule that would mandate that any notices be sent electronically.

The commenter also suggested that the rule specify that disbursing officials send notices to the address of the payee (rather than the debtor). The rule currently does not specify an address. When a payment voucher contains the address of the payee, FMS uses that address. In the case of payments made by electronic funds transfer, the payment agency does not supply an address to FMS on the payment voucher. Therefore, the only address available to TOP is the debtor address supplied by the creditor agency. No change has been made to this final rule in response to the comment.

The commenter also suggested that the warning notice described in (g)(1) be sent for all types of payments where more than one payment to a payee is contemplated, not just recurring payments. Warning notices are a courtesy that disbursing officials can provide, because the debt will eventually be collected in full from recurring payments. When a warning notice is sent, the disbursing official loses the opportunity to offset a payment for one payment cycle. Disbursing officials do not have any way of knowing what other types of payments may be made on a recurring basis. If a payment is not expected to be made on a recurring basis, there is no reasonable certainty that the debt will be collected in full. Therefore, in situations of non-recurring payments, TOP cannot forego collection during a payment cycle before collecting a debt while granting the debtor an additional warning. The rule will not be changed to provide for warning notices on additional payments.

While reviewing comments received on the requirements for warning notices, FMS determined that the rule should be clarified to reflect that failure to send out a warning notice does not affect the validity of an offset. Disbursing officials send warning notices as a courtesy only. They are not part of any required due process. FMS has added language at the end of (g)(1) to provide such clarification.

One commenter suggested that the offset notice include the amount of debt collection fees and penalties assessed by the federal creditor agency. Disbursing officials do not have this information. Creditor agencies have differing rules and policies about recouping fees and costs from the debtor. Additionally, disbursing officials have no knowledge of penalties that a creditor agency may assess. Therefore, it would be operationally impractical to include such information on a notice. Further, the debtor can always obtain this information from the creditor agency. The due process letter that the creditor agency sends the debtor (as described in (d)(5)) contains information about the interest, costs and fees that may be charged to the debtor. The debtor may also contact the creditor agency to determine what fees and penalties have been added to the debt balance.

Interim Rule § 285.5(j) Fees

One commenter stated that collection of fees to recoup costs would be a burden on State debtors and suggested that there should be a cap on fees paid by States. Disbursing officials are authorized by 31 U.S.C. 3716 to cover the costs of delinquent debt collection through the imposition of fees. Disbursing officials charge these fees to the creditor agencies, and the amount of fees are capped at the cost of collection. The creditor agencies decide, based upon applicable laws and policies, whether to charge the cost of such fees to debtors. Based on this, FMS has decided not to impose a cap on fees paid by States. As stated above, FMS will, however, work with States to assist with communications issues that delay resolution of delinquent debts and which may result in additional fees.

Regulatory Analysis

This final rule is not a significant regulatory action as defined in Executive Order 12866. Because no notice of proposed rulemaking was required for this rule, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) do not apply.

Special Analysis

FMS has determined that good cause exists to make this final rule effective upon publication without providing the 30-day period between publication and the effective date contemplated by 5 U.S.C. 553(d). The purpose of a delayed effective date is to afford persons affected by a rule a reasonable time to prepare for compliance. However, in this case, Treasury has been collecting delinquent nontax debt pursuant to the Debt Collection Improvement Act of 1996 since its passage. Moreover, this final rule makes only minor clarifications to the currently effective interim final rule and provides guidance that is expected to facilitate Federal agencies' participation in the centralized offset program.

List of Subjects in 31 CFR Part 285

Administrative practice and procedure, Black lung benefits, Child support, Claims, Credit, Debts, Disability benefits, Federal employees, Garnishment of wages, Hearing and appeal procedures, Loan programs, Privacy, Railroad retirement, Railroad unemployment insurance, Salaries, Social Security benefits, Supplemental Security Income (SSI), Taxes, Veteran's benefits, Wages.

Authority and Issuance

■ For the reasons set forth in the preamble, 31 CFR part 285 is amended as follows:

PART 285—DEBT COLLECTION AUTHORITIES UNDER THE DEBT COLLECTION IMPROVEMENT ACT OF 1996

■ 1. The authority citation for part 285 is revised to read as follows:

Authority: 5 U.S.C. 5514; 26 U.S.C. 6402; 31 U.S.C. 321, 3701, 3711, 3716, 3719, 3720A, 3720D; E.O. 13019, 61 FR 51763, 3 CFR, 1996 Comp., p. 216.

■ 2. Section 285.5 is amended to revise the section heading, and paragraphs (d)(5)(iv),(d)(10)(v), (f)(3), (g)(1), (g)(3)(iii), and (i)(3) to read as follows:

§ 285.5 Centralized offset of Federal payments to collect nontax debts owed to the United States.

* * * * *

(d) * * *

(5) * * *

(iv) The address and telephone number of the contact point within the creditor agency who will handle questions, concerns or communications regarding the debt;

* * * * *

(10) * * *

(v) The creditor agency shall notify FMS if it has returned any monies to the debtor/payee.

* * * * *

(f) * * *

(3) *Priorities for collecting multiple debts owed by the payee.* (i) A levy pursuant to the Internal Revenue Code of 1986 shall take precedence over deductions under this section.

(ii) When a payment may be offset to collect more than one debt, amounts offset will be applied:

(A) First, to satisfy any past due support debts assigned to a State pursuant to sections 402(a)(26) and 471(a)(17) of the Social Security Act (*see* 26 U.S.C. 6402(c) and §§ 285.1 and 285.3 of this part);

(B) Second, to satisfy any debts owed to Federal agencies, as described in this § 285.5;

(C) Third, to satisfy any qualifying past-due support claims not assigned to a State (*see* 26 U.S.C. 6402(c) and §§ 285.1 and 285.3 of this part); and

(D) Fourth, to any debts owed to States for debts other than past-due support (*see* § 285.8 of this part).

* * * * *

(g) *Notices*—(1) *Warning notice by disbursing official to payee/debtor.* Before offsetting a recurring payment, the disbursing official, or FMS on behalf of the disbursing official, will notify the payee in writing when offsets will begin (which may be stated as a number of days or number of payments from the time of the notice) and the anticipated amount of such offset (which may be stated as a percentage of the payment). Such notice shall also provide the information contained in paragraph (g)(3) of this section. Failure to send such notice does not affect the validity of the offset.

* * * * *

(3) * * *

(iii) The address and telephone number of the contact point within the creditor agency who will handle concerns regarding the offset.

* * * * *

(i) * * *

(3) Generally, the disbursing official is not responsible for refunding money to debtors. The creditor agency shall notify FMS any time the creditor agency returns all or any part of an offset payment to an affected payee. *See* paragraph (d)(10)(v) of this section. FMS and the creditor agency shall adjust the debtor records appropriately.

* * * * *

Richard L. Gregg,

Commissioner.

[FR Doc. 05–1051 Filed 1–19–05; 8:45 am]

BILLING CODE 4810–35–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[CGD09–04–140]

RIN 1625–AA00

Safety Zones; Captain of the Port Buffalo Zone

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is establishing permanent safety zones on a portion of Lake Ontario. These safety zones are necessary to ensure the safety of spectators and vessels from the hazards associated with fireworks displays. These safety zones restrict vessel traffic from portions of Lake Ontario, New York, during annual fireworks displays.

DATES: This rule is effective February 22, 2005.

ADDRESSES: Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket CGD9–02–009 and are available for inspection or copying at U.S. Coast Guard Marine Safety Office Buffalo, 1 Fuhrmann Blvd., Buffalo, NY 14203 between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: LT Craig A. Wyatt, U.S. Coast Guard MSO Buffalo, (716) 843–9570.

SUPPLEMENTARY INFORMATION:

Regulatory Information

On May 10, 2002, the Coast Guard published an NPRM in the **Federal Register** proposing 14 safety zones for annual firework displays in the Captain of the Port Buffalo zone (67 FR 31747). We received no comments on the proposal. No public hearing was requested, and none held.

Background and Purpose

On May 10, 2002, the Coast Guard published an NPRM in the **Federal Register** proposing 14 safety zones for annual firework displays in the Captain of the Port Buffalo zone (67 FR 31747). We proposed these safety zones to control vessel traffic within the immediate location of the fireworks launching area during annual fireworks displays. The Coast Guard received no comments in response to this NPRM.

On May 3, 2004, the Coast Guard published a supplement to the proposed regulation (69 FR 24112–1), which removed twelve events that were proposed in the NPRM, added four new events (Ontario Memorial Day Fireworks, Ontario, NY; Olcott Fireworks, Olcott, NY; Harbor Sound and Light Festival, Sackets Harbor, NY; Village of Sackets Harbor July 4 Display, Sackets Harbor, NY), and revised the location and time of two events (Oswego Independence Day Fireworks, and Oswego Harborfest Fireworks Display). This final rule establishes 6 permanent safety zones that will be enforced for marine events occurring annually at the same location.

Based on recent accidents that have occurred in other Captain of the Port zones, and the explosive hazard associated with these events, the Captain of the Port has determined that fireworks launched in close proximity to watercraft pose a significant risk to public safety and property. The likely combination of large numbers of inexperienced recreational boaters, congested waterways, darkness punctuated by bright flashes of light, alcohol use, and debris falling into the water could easily result in serious injuries or fatalities. Establishing a safety zone to control vessel movement

in the vicinity of these marine event locations will help ensure the safety of persons and property at these events and help minimize the associated risk.

Establishing permanent safety zones provides better notice than promulgating temporary rules annually, and decreases the amount of annual paperwork required for these events. The Coast Guard has not previously received notice of any impact caused by safety zones created for these events in the past.

Discussion of Comments and Changes

The Coast Guard received no comments regarding the proposed rulemaking.

Regulatory Evaluation

This rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. The Office of Management and Budget has not reviewed this rule under that order. It is not significant under the regulatory policies and procedures of the Department of Homeland Security (DHS). We expect the economic impact of this rule to be so minimal that a full Regulatory Evaluation under the regulatory policies and procedures of DHS is unnecessary.

This determination is based on the minimal time that vessels will be restricted from the zones, and all of the zones are in areas where the Coast Guard expects insignificant adverse impact to mariners from the zones? activation.

Small Entities

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

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

This rule will affect the following entities, some of which might be small entities: The owners or operators of commercial vessels intending to transit a portion of an activated safety zone.

These safety zones will not have a significant economic impact on a substantial number of small entities for the following reasons: The safety zones are only enforced for a few hours on the day of the event on an annual basis. Vessel traffic can safely pass outside the safety zones during the events.

In cases where traffic congestion is greater than expected or blocks shipping channels, with the permission of the Captain of the Port Buffalo, traffic may be allowed to pass through the safety zones under Coast Guard or assisting agency escort. Before the annual enforcement period, the Coast Guard will publish a notice of implementation of regulation in the **Federal Register**, and will issue maritime advisories in the Ninth Coast Guard District Local Notice to Mariners, Marine Information Broadcasts and facsimile broadcasts—forums widely available to users who might be in the affected area. Additionally, the Coast Guard has not received any negative reports from small entities affected during these displays in previous years.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121), we want to assist small entities in understanding this rule so that they can better evaluate its effects and participate in the rulemaking process. If the rule will affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact Marine Safety Office Buffalo (see **ADDRESSES**).

Small businesses may send comments on actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency?s responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

Collection of Information

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

Federalism

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

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

The Coast Guard has analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not concern an environmental risk to health or risk to safety that may disproportionately affect children.

Indian Tribal Governments

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

Energy Effects

We have analyzed this rule under Executive Order 13211, Actions

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

Environment

We have analyzed this rule under Commandant Instruction M16475.1D, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2–1, paragraph (34)(g), of the Instruction, from further environmental documentation. This rule fits the category from paragraph (34)(g) because it establishes a security zone.

Under figure 2–1, paragraph (34)(g), of the Instruction, an ''Environmental Analysis Check List'' and a ''Categorical Exclusion Determination'' are not required for this rule.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

■ For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 1. The authority citation for Part 165 continues to read as follows:

Authority: 33 U.S.C. 1226, 1231; 46 U.S.C. Chapter 701; 50 U.S.C. 191, 195; 33 CFR 1.05–1(g), 6.04–1, 6.04–6 and 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation no. 0170.1.

■ 2. Add § 165.914 to read as follows:

§ 165.914 Safety Zones; Annual Fireworks Events in the Captain of the Port Buffalo Zone.

(a) *Safety zones*. The following areas are designated safety zones:

(1) *Oswego Independence Day Fireworks, Oswego, NY*.

(i) *Location*. All waters of Oswego Harbor, in Lake Ontario, within a 1,000-foot radius of the fireworks barge moored or anchored in approximate position 43°28′05″ N, 076°31′01″ W (NAD 1983).

(ii) *Enforcement date*. The first Sunday in July.

(2) *Oswego Harborfest Fireworks Display, Oswego, NY*.

(i) *Location*. (A) All waters of Oswego Harbor within a 300-yard radius around the fireworks barge located at 43°28′08″ N, 076°31′07″ W (NAD 1983).

(B) All waters surrounding the fireworks display on the western break wall; 43°27′55″ N, 076°31′30″ W then to 43°28′03″ N, 076°31′12″ W then to 43°27′54″ N, 076°31′06″ W then to 43°27′48″ N, 076°31′26″ W then back to the point of origin (NAD 1983).

(ii) *Enforcement date*. The last Saturday during the last full week of July.

(3) *Ontario Memorial Day Fireworks, Ontario, NY*.

(i) *Location*. All waters of Lake Ontario within a 200-yard radius of the fireworks display at Bear Creek Harbor located in position 43°16′39″ N, 077°16′35″ W (NAD 1983).

(ii) *Enforcement date*. Memorial Day, the last Monday in May.

(4) *Olcott Fireworks, Olcott, NY*.

(i) *Location*. All waters of Lake Ontario within a 300-yard radius of the fireworks display on the west break wall of the Olcott Harbor entrance located in position 43°20′25″ N, 078°43′09″ W (NAD 1983).

(ii) *Enforcement date*. July 3.

(5) *Harbor Sound and Light Festival, Sackets Harbor, NY*.

(i) *Location*. All waters of Lake Ontario within a 300-yard radius of the fireworks display on the beach just southwest of Mill Creek located in position 43°57′18″ N, 076°06′35″ W (NAD 1983).

(ii) *Enforcement date*. The second Saturday in June.

(6) *Village of Sackets Harbor July 4 Display, Sackets Harbor, NY*.

(i) *Location*. All waters of Lake Ontario within a 200-yard radius of the fireworks display on the beach of Battlefield State Park located in position 43°56′56″ N, 076°07′43″ W (NAD 1983).

(ii) *Enforcement date*. July 4.

(b) *Regulations*. (1) The general regulations contained in 33 CFR 165.23 apply.

(2) All persons and vessels must comply with the instructions of the Coast Guard Captain of the Port or the designated on scene patrol personnel. Coast Guard patrol personnel include commissioned, warrant, and petty officers of the U.S. Coast Guard. Upon being hailed by a U.S. Coast Guard vessel via siren, radio, flashing light, or other means, the operator shall proceed as directed.

(3) Commercial vessels may request permission from the Captain of the Port Buffalo to transit the safety zone. Approval will be made on a case-by-case basis. Requests must be made in advance and approved by the Captain of the Port before transits will be authorized. The Captain of the Port may be contacted via U.S. Coast Guard Group Buffalo on Channel 16, VHF–FM.

(4) Marine Event Permits (CG–4423) will still need to be sent to U.S. Coast Guard Group Buffalo, NY.

(c) *Notice of annual enforcement period*. The Captain of the Port Buffalo will publish, at least 10 days in advance of each annual event, a notice of implementation of regulation in the **Federal Register**. The COTP may also issue notices in the Ninth Coast Guard District Local Notice to Mariners the dates and times this section will be enforced each year.

Dated: November 15, 2004.

P.M. Gugg,

Commander, U.S. Coast Guard, Captain of the Port Buffalo.

[FR Doc. 05–1103 Filed 1–19–05; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Part 192

[Docket No. RSPA–99–6106; Amdt. 192–94]

RIN 2137–AD35

Pipeline Safety: Periodic Updates to Pipeline Safety Regulations

AGENCY: Research and Special Programs Administration, DOT.

ACTION: Direct final rule.

SUMMARY: This direct final rule makes a minor editorial correction to the definition of ''transmission line'' in the Federal safety regulations for natural gas pipelines. The correction is intended to clarify that gathering lines are excluded from the definition of transmission line. Because gathering lines have never been included in the definition of transmission line, the correction will not result in any substantive change in the definition.

DATES: This direct final rule goes into effect on May 6, 2005. If the Research and Special Programs Administration's Office of Pipeline Safety (RSPA/OPS)

does not receive an adverse comment [1] or notice of intent to file an adverse comment by March 22, 2005, it will publish a confirmation document within 15 days after the close of the comment period. The confirmation document will announce that this direct final rule will go into effect on the date stated above or at least 30 days after the document is published, whichever is later. If RSPA/OPS receives an adverse comment, it will publish a timely notice to confirm that fact and withdraw this direct final rule in whole or in part. RSPA/OPS may then incorporate changes based on the adverse comment into a subsequent direct final rule or may publish a notice of proposed rulemaking.

ADDRESSES: You may submit written comments directly to the dockets by any of the following methods:

- Mail: Dockets Facility, U.S. Department of Transportation, Room PL–401, 400 Seventh Street, SW., 20590–0001. Anyone wanting confirmation of mailed comments must include a self-addressed stamped postcard.
- Hand delivery or courier: Room PL–401, 400 Seventh Street, SW., Washington, DC. The Dockets Facility is open from 10 a.m. to 5 p.m., Monday through Friday, except Federal holidays.
- Web site: Go to *http://dms.dot.gov*, click on ''Comment/Submissions'' and follow instructions at the site.

All written comments should identify the docket number (RSPA–99–6106) stated in the heading of this notice.

Docket access. For copies of this notice or other material in the docket, you may contact the Dockets Facility by phone (202–366–9329) or visit the facility at the above street address. For Web access to the docket to read and download filed material, go to *http://dms.dot.gov/search*. Then type in the last four digits of the docket number shown in the heading of this notice, and click on ''Search.''

Privacy Act Information. Anyone can search the electronic form of all comments filed in any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted for an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the April 11, 2000, issue of the **Federal Register** (65 FR 19477) or go to *http://dms.dot.gov*.

Electronic Access

An electronic copy of this document may be downloaded by using a computer, modem, and suitable communications software from the Government Printing Office's Electronic Bulletin Board Service at (202) 512–1661. Internet users may reach the Office of the Federal Register's Home page at: *http://www.nara.gov/fedreg* and the Government Printing Office's database at: *http://www.access.gpo.gov/nara*. You can also view and download this document by going to the Department's Docket Management System Web page at: *http://www.dms.dot.gov*. On that page, click on ''search.'' On the next page, type in the last four digits of the docket number shown in the title block on the first page of this document. Then, click on ''search.''

FOR FURTHER INFORMATION CONTACT: Gopala K. Vinjamuri, Research and Special Programs Administration, U.S. Department of Transportation, 400 Seventh Street, SW., Room 2103, Washington, DC 20590–0001; (202) 366–4503 (voice); (202) 366–4566 (fax); E-Mail Address: *gopala.vinjamuri@rspa.dot.gov*.

SUPPLEMENTARY INFORMATION: On June 14, 2004, RSPA/OPS issued a final rule titled ''Periodic Updates to Pipeline Safety Regulations'' (69 FR 32886). The final rule amended various sections of the pipeline safety regulations and incorporated the most recent editions of the voluntary consensus standards publications referenced in the Federal Pipeline Safety Regulations in 49 CFR parts 192 and 195. On September 9, 2004, RSPA/OPS issued correcting amendments to the final rule (69 FR 54591). These amendments corrected several inadvertent errors in the final rule.

After the correcting amendments were published, RSPA/OPS received three written comments noting that the correcting amendments failed to correct a punctuation error in the definition of transmission line in 49 CFR 192.3. These commenters contended that this punctuation error could be misinterpreted as creating an ambiguity in the definition of transmission line. Specifically, the commenters contended that the absence of a colon after the introductory phrase could lead to an unintended interpretation that the exclusion for gathering lines was not applicable to the second and third sub-clauses of the definition.

RSPA/OPS never intended the issuance of the final rule or the correcting amendments to result in any substantive change to the definition of transmission line. Moreover, gathering lines have never been included in the § 192.3 definition of transmission line. In response to the comments, however, we are correcting this punctuation error to remove even the potential for any ambiguity or misinterpretation in the definition of transmission line. This minor correction will not result in any substantive change to the definition.

This direct final rule making a minor editorial correction is not a significant regulatory action within the meaning of Executive Order 12866 (''Regulatory Planning and Review,'' 58 FR 51735; Oct. 4, 1993), and is not significant within the meaning of Department of Transportation regulatory policies and procedures (44 FR 11034; Feb. 26, 1979). As required by the Regulatory Flexibility Act, as amended (5 U.S.C. 601 *et seq.*), RSPA/OPS certifies that the amendment made by this rule will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 49 CFR Part 192

Pipeline safety.

■ For the reasons stated in the preamble, RSPA/OPS amends 49 CFR part 192 as follows:

PART 192—TRANSPORTATION OF NATURAL AND OTHER GAS BY PIPELINE: MINIMUM FEDERAL SAFETY STANDARDS

■ 1. The authority citation for Part 192 continues to read as follows:

Authority: 49 U.S.C. 5103, 60102, 60104, 60108, 60109, 60110, 60113, and 60118; and 49 CFR 1.53.

■ 2. Amend § 192.3 by revising the definition of ''transmission line'' to read as follows:

§ 192.3 Definitions.

* * * * *

Transmission line means a pipeline, other than a gathering line, that: (1) Transports gas from a gathering line or storage facility to a distribution center, storage facility, or large volume customer that is not down-stream from a distribution center; (2) operates at a hoop stress of 20 percent or more of SMYS; or (3) transports gas within a storage field.

Note: A large volume customer may receive similar volumes of gas as a distribution center, and includes factories, power plants, and institutional users of gas.

* * * * *

[1] An adverse comment is one which explains why the rule would be inappropriate, including a challenge to the rule's underlying premise or approach, or would be ineffective or unacceptable without a change. Comments that are frivolous or insubstantial will not be considered adverse under this procedure. A comment recommending a rule change in addition to the rule will not be considered an adverse comment, unless the commenter states why the rule would be ineffective without the additional change. (49 CFR 190.339(c)).

Issued in Washington, DC, on January 11, 2005.

Samuel G. Bonasso,

Deputy Administrator.

[FR Doc. 05–1062 Filed 1–19–05; 8:45 am]

BILLING CODE 4910–60–P

Proposed Rules

Federal Register
Vol. 70, No. 13
Friday, January 21, 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 AGRICULTURE

Foreign Agricultural Service

7 CFR Part 1530

RIN 0551–AA65

The Sugar Re-Export Program, the Sugar-Containing Products Re-Export Program, and the Polyhydric Alcohol Program

AGENCY: Foreign Agricultural Service (FAS), USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would implement Chapter 17 of the Harmonized Tariff Schedule of the United States (HTS), Additional U.S. Note 6, which authorizes entry of raw cane sugar under subheading 1701.11.20 of the HTS for the production of polyhydric alcohols, except polyhydric alcohols for use as a substitute for sugar in human food consumption, or to be refined and re-exported in refined form or in sugar-containing products, or to be substituted for domestically produced raw cane sugar that has been or will be exported. The proposed rule would totally revise the current regulation at 7 CFR part 1530, effective February 12, 1999.

DATES: Comments should be received on or before March 22, 2005 to be assured of consideration.

ADDRESSES: Comments should be sent to the Director, Import Policies and Programs Division, Foreign Agricultural Service, U.S. Department of Agriculture, 1400 Independence Avenue, SW., Stop 1021, Washington, DC 20250–1021. All comments received will be available for public inspection in room 5531.

FOR FURTHER INFORMATION CONTACT: Ron Lord, Acting Director, Import Policies and Programs Division, Foreign Agricultural Service, 1400 Independence Avenue, SW., STOP 1021, by e-mail at *Ronald.Lord@usda.gov,* telephone at 202–720–2916, or fax at 202–720–0876.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

The rule has been determined to be significant under E.O. 12866 and has been reviewed by the Office of Management and Budget.

Regulatory Flexibility Act

The Regulatory Flexibility Act ensures that regulatory and information requirements are tailored to the size and nature of small businesses, small organizations, and small governmental jurisdictions. This rule will have a significant favorable economic impact on small businesses participating in the program. Participation is voluntary. Direct and indirect costs are likely to be very small as a percentage of revenue and in terms of absolute costs. The regulatory requirements affect large and small businesses equally. The program's benefits should significantly improve the price competitiveness of exporters of sugar and sugar-containing products, and lower the cost of producing polyhydric alcohols.

Executive Order 12988

This rule has been reviewed under Executive Order 12988. The provisions of this rule would not have preemptive effect with respect to any State or local laws, regulations, or policies which conflict with such provision or which otherwise impede their full implementation. The rule would not have retroactive effect. Before any judicial action may be brought regarding this rule, all administrative remedies must be exhausted.

National Environmental Policy Act

The Administrator has determined that this action will not have a significant effect on the quality of the human environment. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is necessary for this rule.

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

Public Law 104–4 requires consultation with State and local officials and Indian tribal governments. This rule does not impose an unfunded mandate or any other requirement on State, local, or tribal governments. Accordingly, these programs are not subject to the provisions of the Unfunded Mandates Reform Act.

Executive Order 12630

This Order requires careful evaluation of governmental actions that interfere with constitutionally protected property rights. This rule would not interfere with any property rights and, therefore, does not need to be evaluated on the basis of the criteria outlined in Executive Order 12630.

Government Paperwork Elimination Act

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

Background

The proposed rule at 7 CFR 1530 would revise the current regulation in effect since February 12, 1999, to improve program administration and reflect changes in the sugar sector. The Refined Sugar Re-export Program, the Sugar-containing Products Re-export Program, and the Polyhydric Alcohol Program permit licensed participants to purchase sugar on the world market for either export or use in the production of certain polyhydric alcohols. The raw equivalent of the program sugar exported or used may be replaced by raw cane sugar imported under HTS subheading 1701.11.20.

The programs administered under 7 CFR 1530 were established in 1982 when U.S. raw sugar imports were brought under import quota restriction. The programs were intended to assist the U.S. cane sugar refining industry to remain competitive in world markets and maintain refining volume in light of a shrinking domestic market. The regulations governing these programs were revised, consolidated, and reissued on February 12, 1999. The reissued rule required documentation agreements between FAS and licensees to facilitate program administration and oversight. Presently, 4 refiners, over 200 manufacturers, and 17 polyhydric alcohol producers are licensed to participate in the programs under this part.

Recent developments, including consolidation in the refining industry and the re-imposition of domestic marketing allotments, have altered

trading conditions applicable to sugar. On May 1, 2003, FAS published in the **Federal Register** (68 FR 23230) an Advance Notice of Proposed Rulemaking (ANPR) seeking public comments on a number of issues related to the administration of the sugar re-export programs. By incorporating changes that received favorable public comment, the proposed rule would:

—Prohibit refiners from claiming program credits for exports of domestically produced sugar that has not been reported to the Farm Service Agency as having been marketed during periods when marketing allotments are in effect. This prohibition would prevent the circumvention of domestic marketing allotments.

—Allow the transfer of export credits between refined sugar re-export licenses. This would allow a refiner that has not exported program sugar to purchase credits from a refiner that has, in order to import raw cane sugar.

—Allow polyhydric alcohol producers to purchase sugar to their specifications from refiners, without regard to polarity. The current regulation limits polyhydric producers to the purchase of sugar having a polarity of 99.5 degrees or more, which is higher than necessary for the production of some polyhydric alcohols.

—Allow holders of refined sugar re-export licenses to hold sugar-containing product re-export licenses. Multiple licenses would not increase the refiner's overall license limit of credits and charges.

—Allow third-party exports. License holders, however, would be required to pre-register third-party exporters on their licenses and provide for the third-party export transactions in their documentation agreements.

—Allow toll refining. Licensed manufacturers of sugar-containing products would be allowed to buy raw cane sugar on the world market and pay a licensed refiner to enter it into the United States and refine it to contract specifications.

In addition, the proposed rule would create a new class of licenses for entities that produce ingredients from sugar for the food industry. The license would be issued under the refined sugar re-export program and would allow the purchase of program sugar from refiners. Such ingredients could be sold only to holders of sugar-containing product re-export licenses. Holders of the new license would neither be able to import raw cane sugar nor export program sugar or sugar-containing products for program credits. This new class of license would be called a ''Class B Refined Sugar Re-export Program license'' to differentiate it from the regular refiner's license which is called a ''Class A Refined Sugar Re-export Program license.''

The proposed rule would require licensees to provide independent laboratory verification of the sugar content of products transferred and/or exported upon request of the Licensing Authority.

The Department invites comments on all aspects of the proposed rule including those described above.

List of Subjects in 7 CFR Part 1530

Polyhydric alcohol, Raw and refined sugar, Re-exports.

Proposed Rule

Accordingly, for the reasons described in the preamble, 7 CFR part 1530—the Refined Sugar Re-export Program, the Sugar-containing Products Re-export Program, and the Polyhydric Alcohol Program, is proposed to be revised to read as follows:

PART 1530—THE REFINED SUGAR RE-EXPORT PROGRAM, THE SUGAR-CONTAINING PRODUCTS RE-EXPORT PROGRAM, AND THE POLYHYDRIC ALCOHOL PROGRAM

Sec.

1530.100 General statement.
1530.101 Definitions.
1530.102 Nature of the license.
1530.103 Persons eligible to apply for licenses.
1530.104 License application procedures and the documentation agreement.
1530.105 Terms and conditions governing program transactions.
1530.106 Bonding requirements.
1530.107 Reporting to FAS.
1530.108 Records, certification, and documentation.
1530.109 Enforcement and penalties.
1530.110 Appeals of Licensing Authority's determinations.
1530.111 Non-punitive actions resulting in revocation, consolidation, and surrender of licenses.
1530.112 Waivers.
1530.113 Implementation.
1530.114 Paperwork Reduction Act assigned number.

Authority: Additional U.S. note 6 to chapter 17 of the Harmonized Tariff Schedule of the United States (19 U.S.C. 1202); 19 U.S.C. 3314; Proc. 6641, 58 FR 66867, 3 CFR, 1994 Comp., p. 172; Proc. 6763, 60 FR 1007, 3 CFR, 1995 Comp., p. 146.

§ 1530.100 General statement.

This part provides regulations for the Refined Sugar Re-export Program, the Sugar-containing Products Re-Export Program, and the Polyhydric Alcohol Program. These provisions authorize FAS to license refiners to enter raw cane sugar under the HTS subheading 1701.11.20 unrestricted by the quantitative limit established for the raw sugar tariff-rate quota or the requirements of certificates for quota eligibility provided for in 15 CFR part 2011, as long as an equivalent quantity of sugar regulated by the program is either exported or used in the production of certain polyhydric alcohols. Stocks of sugar blocked by domestic marketing allotments are disqualified from participation in the programs of this part. All refined sugar (whether derived from sugar beets or sugarcane) marketed in the United States may qualify as program sugar.

§ 1530.101 Definitions.

Affiliated persons means two or more persons where one or more of said persons directly or indirectly controls or has the power to direct or limit the business decisions of the other(s) regarding program transactions under this part.

Bond or letter of credit means an insurance agreement pledging surety for the entry of raw sugar or the transfer of program sugar.

Certain polyhydric alcohols means any polyhydric alcohol, except polyhydric alcohol produced by distillation or polyhydric alcohol used as a substitute for sugar as a sweetener in human food.

Co-packer means a person who owns and operates a facility within the U.S. Customs Territory that adds value to a manufacturer's product or produces a product for export by a manufacturer using the manufacturer's program sugar.

Date of entry means the date raw sugar enters the U.S. Customs Territory.

Date of export means the date program sugar is exported from the U.S. Customs Territory, or if exported to a restricted foreign trade zone, the date shown on the U.S. Customs Service form designating the product as restricted for export.

Date of transfer means the date that program sugar is transferred from one licensee to another licensee.

Day means calendar day. When the day for complying with an obligation under this part falls on a weekend or Federal holiday, the obligation may be completed on the next business day.

Documentation agreement means a signed and notarized letter from a licensee specifying documents that the licensee shall obtain and maintain on file before said licensee requests from FAS a license balance update.

Enter or entry means importation into the U.S. Customs Territory, or withdrawal from warehouse for consumption, as those terms are used by the U.S. Customs Service.

Export means the conveyance (shipment) of a product to a country outside the U.S. Customs Territory, or to a restricted foreign trade zone.

Ingredient producer means a person who owns and operates a facility within the U.S. Customs Territory that uses program sugar to make specified ingredients.

Licensing Authority means a person designated by the Deputy Administrator, International Trade Policy, Foreign Agricultural Service, USDA.

Manufacturer means a person who makes, or orders others to make, sugar-containing products within the U.S. Customs Territory.

Notice of Transfer means a document recording the transfer of a quantity of program sugar from one licensee to another licensee that is dated and signed by both parties.

Person means any individual, partnership, corporation, association, estate, trust, or any other business enterprise or legal entity.

Polyhydric alcohol producer means a person who owns and operates a facility within the U.S. Customs Territory that produces (other than by distillation) polyhydric alcohols, other than polyhydric alcohols for use as a substitute for sugar in human food consumption.

Program sugar means sugar that has been charged or credited to the license of a program participant in conformity with the provisions of this part.

Program transaction means an appropriate entry, transfer, use, or export of program sugar.

Refiner means any person who owns and operates a facility in the U.S. Customs Territory that refines raw cane sugar through affination or defecation, clarification, and further purification by absorption or crystallization.

Sugar-containing product means any product, other than those normally marketed by refiners, that is produced using program sugar, or to which program sugar has been added as an ingredient.

Specified ingredient means any product, other than those normally marketed by refiners, that is produced using program sugar and sold exclusively to manufacturers per their contract specifications.

Third-party exporter means a person who purchases and exports program sugar or sugar-containing products from a licensed refiner or manufacturer.

Transfer means the transfer of program sugar from one license to another license subject to a Notice of Transfer.

Unique number means a number established by a licensee for the purpose of tracking each program transaction and for identifying the specific file maintained by the licensee containing all supporting documentation for the program transaction.

§ 1530.102 Nature of the license.

(a) A license issued by the Licensing Authority allows a person to participate in the programs under this part according to the terms and conditions of the license.

(b) The license authorizes a special account at FAS for monitoring imports, transfers and exports, and in the case of polyhydric alcohol producers, usage. FAS adds to the account balance ''charges'' for imports (entries) and transfers received from other licensees and subtracts from the balance ''credits'' for exports and transfers to other licensees, and in the case of polyhydric alcohol producers, usage.

(c) A Class A license under the Refined Sugar Re-export Program permits the holder to:

(1) Enter raw cane sugar under subheading 1701.11.20 of the HTS;

(2) Transfer program sugar;

(3) Receive transfers of program sugar; and

(4) Export program sugar.

(d) A Class B license under the Refined Sugar Re-export Program permits the holder to:

(1) Receive transfers of program sugar; and

(2) Transfer specified ingredients to holders of Sugar-containing Products Re-export Program licenses.

(e) A license under the Sugar-containing Products Re-export Program permits the holder to:

(1) Receive transfers of program sugar from holders of Class A licenses and specified ingredients from holders of Class B licenses described in paragraphs (c) and (d) of this section;

(2) Export an equivalent quantity of program sugar as an ingredient in sugar-containing products; and

(3) Import raw cane sugar and take delivery of an equivalent quantity of program sugar by Notice of Transfer under the terms of a toll refining contract with a licensed refiner. Imports must be charged to the refiner's license.

(f) A license under the Polyhydric Alcohol Program permits the holder to:

(1) Receive transfers of program sugar; and

(2) Use an equivalent quantity of program sugar in the production of certain polyhydric alcohols.

§ 1530.103 Persons eligible to apply for licenses.

(a) Any refiner may apply for a Class A license to participate in the Refined Sugar Re-export Program.

(b) Any ingredient producer may apply for a Class B license to participate in the Refined Sugar Re-export Program.

(c) Any manufacturer may apply for a license to participate in the Sugar-containing Products Re-export Program.

(d) Any polyhydric alcohol producer may apply for a license to participate in the Polyhydric Alcohol Program.

(e) No one person, nor any two or more affiliated persons, may apply for or hold more than one license of any kind under this part.

(f) Notwithstanding paragraph (e) of this section, any person holding a Class A Refined Sugar Re-export Program license may hold one or more licenses under paragraph (c) of this section, as long as the combined license balance limit for all licenses held by that person does not exceed 50,000 metric tons, raw value.

(g) The Licensing Authority may permit the holder of a license to assign the use of the license to another person upon receiving a written request from the holder accompanied by the written concurrence of the person to whom the license will be assigned.

§ 1530.104 License application procedures and the documentation agreement.

(a) A person may request a license by submitting a written application to the Licensing Authority that includes:

(1) The applicant's name and address, and the name(s) and address(es) of any affiliated person(s), who may use the license;

(2) The address where the applicant will maintain the records required under § 1530.108;

(3) The address(es) of the facility(ies), which will refine program sugar, produce specified ingredients, manufacture sugar-containing products, including those of any co-packer(s), or produce polyhydric alcohols;

(4) In the case of a product marketed by refiners or ingredient producers, the polarity of the product and the formula proposed by the refiner or ingredient producer for calculating the program sugar in the product;

(5) In the case of a sugar-containing product, the percentage of program sugar (100 degrees polarity) on a dry weight basis in the product;

(6) In the case of polyhydric alcohol, the quantity of program sugar used to produce a certain volume of polyhydric alcohol; and

(7) A statement disclosing any associations or relationships relevant for

determining whether or not an affiliation exists between the applicant and any other licensee under this part. The statement shall describe any interlocking directorships, joint management structures, ownership interests, and family connections that may exist with other licensees, and it shall explain the use of any shared facilities, equipment, or employees. In the case of a relevant association or relationship, the statement shall explain the degree of control or influence that the other licensee(s) may have on the business decisions of the applicant. If there are no such associations, the application shall include the following statement: ''No associations or relationships exist with other licensees under the regulations at 7 CFR part 1530 that are relevant for making a determination regarding affiliation.''

(b) The applicant shall propose a documentation agreement for auditing program transactions. Charges and credits to the license balance will be made only for transactions covered by the agreement. A representative list of program transactions follows:

(1) Entry of raw cane sugar (refiners only);

(2) Transfer of program sugar or specified ingredients;

(3) Direct export of program sugar or sugar-containing products to:

(i) Mexico;

(ii) Canada;

(iii) A restricted foreign trade zone;

(iv) U.S. military exchanges; or

(v) All other destinations.

(4) Third-party exports of program sugar or sugar-containing products to:

(i) Mexico;

(ii) Canada;

(iii) A restricted foreign trade zone;

(iv) U.S. military exchanges; or

(v) All other destinations.

(5) Use of program sugar (polyhydric alcohol producers only).

(c) For each transaction that is proposed, the applicant shall provide to the Licensing Authority sample documents corroborating the transaction.

(1) Commercial documents are suitable for confirming the sale, transit, and use of program sugar and sugar-containing products within the U.S. Customs Territory.

(2) Official documents generated by the U.S., Canadian, or Mexican governments are necessary to confirm the entry of raw cane sugar and the export of program sugar and sugar-containing products.

(3) Signed Notices of Transfer confirm the transfer of program sugar between license holders.

(4) Export transactions also require documenting the name(s) of carrier(s) and vessel(s), the numbers of containers, and the contact information of agents, consignees, and foreign purchasers.

(5) Exports of program sugar to Mexico shall be declared as U.S. re-export program sugar upon entry into Mexico.

(d) The applicant shall register third-party exporters by providing their names and contact information in the documentation agreement.

(e) The Licensing Authority shall inspect the sample documents and notify the applicant if they are suitable for auditing transaction reports submitted under § 1530.107. If not, the Licensing Authority will notify the applicant and suggest alternative documentation.

(f) Once the Licensing Authority and the applicant agree upon a list of transactions and supporting documents, the applicant shall submit a notarized letter confirming the agreement and certifying that the documentation identified in the agreement will be kept on file, identifiable by a unique number, and available for inspection pursuant to § 1530.108, to support all charges and credits made pursuant to § 1530.107.

(g) If any of the information required by this section changes, the licensee shall promptly notify the Licensing Authority.

§ 1530.105 Terms and conditions governing program transactions.

(a) All refining, production of specified ingredients, manufacturing, and polyhydric alcohol production must be accomplished in the U.S. Customs Territory and within time frames and quantity limitations prescribed in this part. Sugar transferred, exported, or used as program sugar does not need to be the same physical sugar produced by refining raw sugar entered under subheading 1701.11.20 of the HTS.

(b) The holder of a Class A Refined Sugar Re-export Program license:

(1) May enter raw sugar or receive program sugar in anticipation of the export or transfer of an equivalent quantity of program sugar not to exceed the value of the bond or letter of credit, which must be established pursuant to § 1530.106 of this part.

(2) May export or transfer program sugar prior to the date that either an equivalent quantity of raw sugar is entered or that an equivalent quantity of program sugar is received by transfer.

(3) May receive credits for exports of program sugar made by a third-party exporter registered on the licensee's documentation agreement.

(4) May not carry a license balance for charges or credits of program sugar exceeding 50,000 metric tons, raw value, at any time during the year.

(5) Shall export or transfer, not later than 90 days after entering a quantity of raw cane sugar under subheading 1701.11.20 of the HTS, an equivalent quantity of program sugar, if the entry results in a positive license balance.

(c) The holder of a Class B Refined Sugar Re-export Program license:

(1) May only transfer program sugar prior to the date that an equivalent quantity of program sugar is received.

(2) May not carry a license balance for credits of program sugar exceeding 3,000 short tons, refined value, at any time during the year.

(d) A holder of a Sugar-containing Products Re-export Program license:

(1) May receive a transfer of program sugar in anticipation of the export of an equivalent quantity of program sugar in a sugar-containing product not to exceed the value of the bond or letter of credit, which must be established pursuant to § 1530.106 of this part.

(2) May export program sugar in a sugar-containing product prior to the date that an equivalent quantity of program sugar is received by transfer.

(3) May receive credits for exports of program sugar in a sugar-containing product made by a third-party exporter registered on the licensee's documentation agreement.

(4) May not carry a license balance for charges or credits of program sugar exceeding 10,000 short tons, refined value, at any time during the year.

(5) Shall export, not later than 18 months from the date of transfer of a quantity of program sugar, an equivalent quantity of program sugar as an ingredient in a sugar-containing product, if the transfer results in a positive license balance.

(e) A holder of a Polyhydric Alcohol Program license:

(1) May receive a transfer of program sugar in anticipation of the use of an equivalent quantity of program sugar in the production of certain polyhydric alcohols not to exceed the value of the bond or letter of credit, which must be established pursuant to § 1530.106 of this part.

(2) May use program sugar in the production of certain polyhydric alcohols prior to the date that an equivalent quantity of program sugar is received by transfer.

(3) May not carry a license balance for charges or credits of program sugar exceeding 10,000 short tons, refined value, at any time during the year.

(4) Shall use, not later than 18 months from the date of transfer of a quantity of program sugar, an equivalent quantity of program sugar in the production of

certain polyhydric alcohols, if the transfer results in a positive license balance.

(f) The Licensing Authority may impose such conditions, limitations or restrictions on program transactions at such time and in such manner as the Licensing Authority determines to be necessary or appropriate to prevent circumvention of the domestic sugar program.

§ 1530.106 Bonding requirements.

(a) A program participant must establish a bond or a letter of credit in favor of USDA prior to receiving program sugar in anticipation of its export or transfer, or in the case of polyhydric alcohol producers, its use. Such a condition exists whenever charges exceed credits, resulting in a positive license balance.

(b) Only the licensee may be the principal on the bond or letter of credit covering program sugar. The surety or sureties shall be among those listed by the Secretary of the Treasury as acceptable on Federal bonds.

(c) The bond or letter of credit shall cover entries or transfers made during the period of time specified in the bond (a term bond). The obligation under the bond or letter of credit shall be made effective no later than the date that the license balance becomes positive. If the bond is allowed to expire while the license balance is positive, the licensee shall be barred from entering or receiving transfers of program sugar until such time as the bond is renewed, or the licensee reports to FAS credits sufficient to reduce the license balance below zero.

(d) The amount of the bond or letter of credit shall be equal to 15 cents per pound of program sugar for any positive balance up to the maximum license limit establish by this part.

(e) If a licensee fails to qualify for credit to a license within the specified time period of the date of export or use of corresponding program sugar in an amount sufficient to offset the charge to the license for that corresponding program sugar, payment shall be made to the U.S. Treasury. The payment shall be equal to the difference between the Number 11 contract price and the Number 14 contract price (New York Board of Trade) in effect on the last market day before the date of entry of the sugar or the last market day before the end of the period during which export or use was required, whichever difference is greater. The difference shall be multiplied by the quantity of refined sugar, converted to raw value, that should have been exported in compliance with this part. If there was not a Number 11 or a Number 14 contract price for the relevant market day, the Licensing Authority may estimate the relevant prices, as he or she deems appropriate.

§ 1530.107 Reporting to FAS.

(a) All program transactions during the following calendar quarters shall be reported to FAS on or before the date indicated in order for the account balance to receive charges or credits:

(1) January–March: June 30.

(2) April–June: September 30.

(3) July–September: December 31.

(4) October–December: March 31.

(b) FAS shall provide licensees with reporting formats and methods that allow for the use of suitable information technologies.

(c) Reports shall be identified by the name and license number of the licensee and provide the following for all program transactions:

(1) A unique number for the transaction.

(2) The date of the transaction or use.

(3) The quantity transacted adjusted to a dry weight basis.

(i) Refiner quantities shall be adjusted to raw value.

(A) For entries of raw cane sugar, refiners shall provide the initial and final polarization, and the final weight (when available).

(B) To adjust the raw value for sugar with a polarization of less than 92 degrees, divide the total sugar content by 0.972 (polarization × outturn weight/0.972).

(C) To adjust the raw value for sugar with polarization of 92 degrees or above, multiply the polarization times 0.0175, subtract 0.68, and multiply the difference by the outturn weight (((polarization × 0.0175) − 0.68) × outturn weight).

(D) To determine the quantity of refined sugar that must be transferred or exported to equal a corresponding quantity of entered raw sugar charged to a license, divide the quantity of entered raw sugar by 1.07 (raw quantity/1.07).

(ii) Ingredient producer, manufacturer, and polyhydric alcohol producer quantities shall be adjusted to 100 degrees polarity.

(4) The license number of the recipient of a transfer.

(5) The country of origin, if an entry, and final destination, if an export, using country codes designated by the Licensing Authority.

(6) In the case of program sugar exports to Mexico, the following signed statement: ''The customer has provided written certification that the program sugar will be substantially transformed in Mexico, as defined by General Note 12 of the HTS.''

(d) Licensees have an affirmative and continuing duty to maintain the accuracy of the information contained in previously submitted reports.

(1) Holders of Class A Refined Sugar Re-export Program licenses or Sugar-containing Products Program Re-export licenses shall immediately notify the Licensing Authority and request that previously claimed credits be charged back upon discovery that exports were re-entered into the U.S. Customs Territory without substantial transformation, falsely declared, or made but did not satisfy regulatory requirements or the documentation agreement.

(2) Holders of Polyhydric Alcohol Program licenses shall immediately notify the Licensing Authority and promptly request that previously claimed credits be charged back upon discovery that the program sugar was not used for the production of certain polyhydric alcohols.

(3) Charge backs shall be as of the date of the erroneously claimed credit.

§ 1530.108 Records, certification, and documentation.

(a) The licensee shall maintain the documentation established in the documentation agreement for 5 years from the date of the program transaction.

(b) The licensee shall request customers to provide annual written certification as required by § 1530.107(c)(6) and maintain the documentation for 5 years.

(c) Upon request, the licensee shall make the records described in the documentation agreement available for inspection and copying by the Licensing Authority; the Compliance Review Staff, FAS; the Inspector General, USDA; the U.S. Department of Justice; and/or any U.S. Government regulatory or investigative office.

(d) The Licensing Authority may request licensees to provide, at their expense, independent laboratory verification of the information provided under § 1530.104(a)(4) and (5) regarding the sugar content of articles transferred and exported.

§ 1530.109 Enforcement and penalties.

(a) Violation or disregard of the regulations under this part are cause for enforcement actions and penalties.

(b) The Licensing Authority may:

(1) Revoke credits from a license if the credits were unauthorized by the regulations under this part or undocumented, and the licensee does not voluntarily charge back the credits erroneously claimed.

(2) Temporarily suspend a license for non-compliance with the bonding requirements under § 1530.106.

(3) Recommend that the Administrator revoke a license, if the licensee has consistently provided false or misleading information under § 1530.107(d) of this part.

(c) The FAS Administrator may suspend or revoke a license. Suspension of a license will be governed by 7 CFR part 3017, subpart D, and debarment will be governed by 7 CFR part 3017, subpart C.

§ 1530.110 Appeals of Licensing Authority's determinations.

(a) The licensee may appeal the Licensing Authority's determination to revoke credits by filing a written notice of appeal, signed by the licensee or the licensee's agent, with the Deputy Administrator, International Trade Policy, FAS, or his or her designee. The decision on such an appeal shall be made by the Deputy Administrator and will be governed by § 3017.515 of this title. The appeal must be filed not later than 30 days after the date of the Licensing Authority's determination, and shall contain the licensee's written argument.

(b) The licensee may request an informal hearing. The Deputy Administrator shall arrange a place and time for the hearing, except that it shall be held within 30 days of the filing date of the notice of appeal if the licensee so requests.

(c) The licensee may be represented by counsel, and shall have full opportunity to present any relevant evidence, documentary, or testimonial. The Deputy Administrator may permit other individuals to present evidence at the hearing, and the licensee shall have an opportunity to question those witnesses.

(d) The licensee may arrange and pay for a professional reporter to provide a verbatim transcript of the hearing.

(e) The Deputy Administrator shall make the determination on appeal, and may affirm, reverse, modify, or remand the Licensing Authority's determination. The Deputy Administrator shall notify the licensee in writing of the determination on appeal and of the basis thereof. The determination on appeal exhausts the licensee's administrative remedies.

§ 1530.111 Non-punitive actions resulting in revocation, consolidation, and surrender of licenses.

(a) The Licensing Authority may revoke a license held by an ineligible party.

(b) The Licensing Authority may consolidate two or more licenses upon determination that the persons holding the licenses are affiliated.

(c) A licensee may surrender a license when the sum of all credits is equal to or greater than the sum of all charges. The licensee may request the Licensing Authority to transfer any outstanding credits to another license holder.

§ 1530.112 Waivers.

Upon written application of the licensee or at the discretion of the Licensing Authority, and for good cause, the Licensing Authority may extend the period for transfer, export, or production; may temporarily increase a maximum license limit for a period of up to 6 months to facilitate a tolling arrangement; and/or may extend the period for submitting regularly scheduled reports. The Licensing Authority may specify additional requirements or procedures in place of the requirements or procedures waived or modified.

§ 1530.113 Implementation.

Current licensees qualify under this rule which is effective [effective date of final rule].

§ 1530.114 Paperwork Reduction Act assigned number.

Licensees are not required to respond to requests for information unless the form for collecting information displays the currently valid Office of Management and Budget (OMB) control number 0551–0015. OMB has approved the information collection requirements contained in this part in accordance with 44 U.S.C. chapter 35.

Dated: January 12, 2005.

A. Ellen Terpstra,

Administrator, Foreign Agricultural Service.

[FR Doc. 05–1068 Filed 1–19–05; 8:45 am]

BILLING CODE 3410–10–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2004–19911; Airspace Docket No. 04–ASO–20]

Proposed Establishment of Class E Airspace; Cocoa Beach Patrick AFB, FL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposed to establish Class E4 airspace at Cocoa Beach Patrick AFB, FL. Class E4 airspace designated as an extension to Class D airspace is required when the control tower is open to contain existing Standard Instrument Approach Procedures (SIAPs) and other Instrument Flight Rules (IFR) operations at the airport. This action would establish a Class E4 airspace extension that is 6.8 miles wide and extends 7.3 miles northeast of the airport. This airspace is currently being protected by Notice to Airmen.

DATES: Comments must be received on or before February 22, 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 the docket number FAA–2004–19911/ Airspace Docket No. 04–ASO–20, at the beginning of your comments. You may also submit comments on the Internet at *http://dms.dot.gov.* You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket office (telephone 1–800–647–5527) is on the plaza level of the Department of Transportation NASSIF Building at the above address.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division, Federal Aviation Administration, Room 550, 1701 Columbia Avenue, College Park, Georgia 30337.

FOR FURTHER INFORMATION CONTACT: Jeffrey U. Vincent, Manager, Airspace Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305–5586.

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 and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those

comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2004–19911/Airspace Docket No. 04–ASO–20.'' The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of the comments received. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

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 Superintendent of Document's Web page at *http://www.access.gpo.gov/nara.* Additionally, any person may obtain a copy of this notice by submitting a request to the Federal Aviation Administration, Office of Air Traffic Airspace Management, ATA–400, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267–8783. Communications must identify both docket numbers for this notice. Persons interested in being placed on a mailing list for future NPRM's should contact the FAA's Office of Rulemaking, (202) 267–9677, to request a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

The Proposal

The FAA is considering an amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to establish Class E4 airspace at Cocoa Beach Patrick AFB, FL. Class E airspace designations for airspace areas designated as an extension to a Class D airspace area are published in Paragraph 6004 of FAA Order 7400.9M, dated August 30, 2004, and effective September 16, 2004, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in the Order.

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. It, therefore, (1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) 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 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, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

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

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

§ 71.1 [Amended]

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

Paragraph 6004 Class E4 Airspace Areas Designated as an Extension to a Class D or Class E Surface Area.

* * * * *

ASO FL E4 Cocoa Beach Patrick AFB, FL [NEW]

Cocoa Beach, Patrick Air Force Base, FL
(Lat. 28°14′06″ N, long. 80°36′36″ W)

That airspace extending upward from the surface within 3.4 miles each side of the Patrick TACAN 034°, radial, extending from the 5.3—mile radius to 7.3 miles northeast of the airport. This Class E airspace area is effective during the specific days and times established in advance by a Notice to Airmen. The effective days and times will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Issued in College Park, Georgia, on January 3, 2005.

Jeffrey U. Vincent,

Acting Manager, Air Traffic Division, Southern Region.

[FR Doc. 05–1160 Filed 1–19–05; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2004–19851; Airspace Docket No. 04–AAL–13]

RIN 2120–AA66

Proposed Modification and Revocation of Federal Airways; Alaska

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to revoke jet route 711 (J–711), modify jet routes 133 and 889R (J–133 and J–889R), and modify two colored Federal airway (B–25 and A–1) in Alaska. The FAA is proposing this action to remove all airways and routes off the Hinchinbrook, AK, Nondirectional Radio Beacon (NDB) in preparation for the NDB's eventual decommissioning from the National Airspace System (NAS).

DATES: Comments must be received on or before March 7, 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 the FAA Docket No. FAA–2004–19851 and Airspace Docket No. 04–AAL–13, at the beginning of your comments. You may also submit comments on 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–2004–19851 and Airspace Docket No. 04–AAL–13) 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 notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to FAA Docket No. FAA–2004–19851 and Airspace Docket No. 04–AAL–13.'' 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 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 99533.

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.

Background

In August 2004, the Alaskan Region determined that continued operation of the Hinchinbrook, AK, NDB was in jeopardy at its current location, and that action was required to reconfigure the airways using the Orca Bay, AK, NDB instead of the Hinchinbrook, NDB.

The Proposal

The FAA is proposing an amendment to Title 14 Code of Federal Regulations (14 CFR) part 71 (part 71) to revoke J–711, and to modify J–133, J–889R, B–25, and A–1 in Alaska. The FAA is proposing this action to remove all airways and routes off the Hinchinbrook, AK, NDB in preparation for commissioning of the Orca Bay NDB on May 1, 2005.

Colored Federal airways and jet routes are published in paragraphs 6009(c) and paragraph 2004, respectively, of FAA Order 7400.9M dated August 30, 2004, and effective September 16, 2004, which is incorporated by reference in 14 CFR section 71.1. The colored Federal airway and Alaskan VOR Federal airways listed in this document would be published subsequently in the order.

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 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 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 2004 Jet Routes

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J–711 [Revoked]

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J–133 [Revised]

From Sitka, AK, NDB via INT Sitka, AK NDB (308°T/280°M) and Orca Bay, AK, NDB (114°T/091°M); Johnstone Point, AK; Anchorage, AK; to Galena, AK.

* * * * *

J–889R Anchorage, AK, to Yakutat, AK [Revised]

NOWEL
60°28′59″ N. 148°38′08″ W. Anchorage, AK
ARISE
60°00′00″ N. 146°09′13″ W. Middleton Island, AK
KONKS
59°33′02″ N. 144°00′07″ W Middleton Island, AK
LAIRE
58°48′15″ N. 140°31′43″ W Yakutat, AK

* * * * *

Paragraph 6009(c) Amber Federal Airways

* * * * *

A–1 [Revised]

From Sandspit, BC, Canada, NDB 96 miles 12 AGL, 102 miles 35 MSL, 57 miles 12 AGL, via Sitka, AK, NDB; 31 miles 12 AGL, 50 miles 47 MSL , 88 miles 20 MSL, 40 miles 12 AGL, Ocean Cape, AK, NDB; INT Ocean Cape NDB 283° and Orca Bay, AK, NDB 106° bearings; Orca Bay NDB; INT Orca Bay 285° and Campbell Lake, AK, NDB 123° bearings; Campbell Lake NDB; Takotna River, AK, NDB; 24 miles 12 AGL, 53 miles 55 MSL; 51 miles 40 MSL, 25 miles 12 AGL, North River, AK, NDB; 17 miles 12 AGL, 89 miles 25 MSL, 17 miles 12 AGL, to Fort Davis, AK, NDB. Excluding that airspace within Canada.

* * * * *

Paragraph 6009(d) Blue Federal Airways

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B–25 [Revised]

From Orca Bay, AK, NDB, via Glenallen, AK, NDB; Delta Junction, AK, NDB.

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Issued in Washington, DC, January 13, 2005.

Edie Parish,

Acting Manager, Airspace and Rules.

[FR Doc. 05–1157 Filed 1–19–05; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

14 CFR Part 212

[Docket No. OST–2002–11741]

RIN 2105–AD38

Charter Rules for Foreign Direct Air Carriers

AGENCY: Office of the Secretary.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Department seeks comment on a proposal to revise its rules on charter operations. This proposal arises from a petition filed by the National Air Carrier Association (NACA). NACA seeks to make changes to the definitions and standards the Department uses to determine whether to grant or deny foreign air carrier requests to conduct certain types of international charter flights.

The Department grants NACA's petition, and proposes to make some, but not all of the changes sought by NACA. The Department proposes to make revisions to definitions relating to charter types, and to modify the Department's current charter application form so as to require updated reciprocity information as well as numbers of U.S.-homeland services vs. U.S.-non-homeland services. The Department does not anticipate adopting NACA's requests to impose a reciprocity standard that ensures substantially equivalent opportunities for U.S. carriers in the homeland of the applicant, or to accord U.S. carriers a right of ''first refusal'' over foreign carrier requests to conduct certain U.S.-originating charter operations.

Specifically, the Department proposes to clarify the definition of ''fifth freedom charter'' by adding definitions of ''sixth- and seventh-freedom charters.'' The Department also proposes modifications to OST Form 4540 (Foreign Air Carrier Application for Statement of Authorization). Specifically, the Department proposes to require an updated reciprocity statement by foreign carriers for a statement of authorization to allow us to ensure that our reciprocity standards have been satisfied and are properly supported. The Department also proposes to require that foreign carrier applicants for a statement of authorization include historical data relative to the applicant's U.S.-home country operations to allow the Department to readily evaluate levels of third- and fourth-freedom versus fifth-, sixth-, and seventh-freedom operations. This data will allow the Department to satisfy any concerns we might have as to the applicant's reliance on fifth-, sixth- and seventh-freedom operations. These proposed modifications will ensure that the Department has the most current information on the state of reciprocity for each foreign carrier applicant for fifth-, sixth-, or seventh-freedom charter authority.

DATES: Comments should be received by March 22, 2005. Late-filed comments will be considered to the extent practicable.

ADDRESSES: To make sure your comments and related material are not entered more than once in the docket, please submit them (marked with docket number OST–2002–11741) by only one of the following means:

(1) By mail to the Dockets and Media Management, U.S. Department of Transportation, M–30, Room PL–401, 400 7th Street SW., Washington, DC 20590.

(2) By hand delivery to room PL–401 on the Plaza level of the Nassif Building, 400 7th Street SW., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

(3) Electronically through the Web Site for the Docket Management System at *http://dms.dot.gov*. [Comments must be filed in Docket OST–2002–11741, U.S. Department of Transportation, 400 7th Street SW., Washington, DC 20590.]

Due to security procedures in effect since October 2001 on mail deliveries, mail received through the Postal Service may be subject to delays. Commenters should consider using an express mail firm to ensure the timely filing of any comments not submitted electronically or by hand.

FOR FURTHER INFORMATION CONTACT: Gordon H. Bingham, Office of International Aviation (X–40), U.S. Department of Transportation, 400 7th Street, SW., Washington, DC 20590; (202) 366–2404.

SUPPLEMENTARY INFORMATION: Under current Department charter regulations in 14 CFR Part 212, foreign air carriers must obtain prior Department approval for all ''fifth-freedom'' charters. The standard for grant of such authority is a public interest test, with reciprocity on the part of the applicant's home country being the primary criterion. Under the Department's regulations, ''fifth-freedom'' charters include all charters operated between the U.S. and a third-country point, either via the foreign carrier's home country or absent any nexus to the foreign carrier's home country. Because almost all charter flights processed by the Department under Part 212 are conducted as point-to-point services, in practice the ''no nexus'' case represents the norm.

On March 4, 2002, NACA, on behalf of its member carriers (Air Transport International, American Trans Air, Express.Net Airlines, Falcon Air Express, Gemini Air Cargo, Champion Air, Miami Air International, North American Airlines, Omni Air International, Ryan International Airlines, USA 3000 Airlines, and World Airways, Inc.) filed a petition for rulemaking in which it requested that the Department change certain provisions of 14 CFR Parts 200 and 212. NACA asserted that the current definition of fifth-freedom passenger charters in Part 212 is inaccurate, and most of what the Department authorizes as fifth-freedom charters are in fact seventh-freedom operations because they involve no nexus with the foreign carrier's home country. NACA asserted that a true ''fifth-freedom'' charter would involve an airline carrying traffic that originates and terminates in a country other than its home country, provided the flight originates, terminates or changes gauge in the home country of the airline. Similarly, true ''sixth-freedom'' charters, according to NACA, involve the right of an airline to carry traffic that originates and terminates in a country other than its home country, provided the flight operates via the home country of the airline. NACA asserts that most foreign countries do not provide U.S. carriers reciprocal ''seventh-freedom'' passenger charter rights, and thus, the Department should scrutinize more closely the ''seventh-freedom'' charters it approves. Finally, NACA states that U.S. charter carriers have been adversely affected financially by competition from foreign carriers, particularly since the events of September 11, 2001, and that foreign carriers have been dumping their excess capacity into U.S. charter markets.

To remedy its concerns, NACA proposes changes to the definitions and standards the Department uses in determining whether to grant or deny foreign air carrier requests to conduct certain types of international charter flights. Specifically, NACA requests that we (1) add to and amend the Part 212 definitions concerning charter types so as to ensure, *inter alia*, that what it

regards as seventh-freedom passenger operations are identified as such; (2) amend the existing Part 212 reciprocity standard so that prior approval requires a finding of ''substantially equivalent'' reciprocity in the charter market of the applicant's home country; (3) alter the Department's methodology for measuring fifth-freedom traffic so that it more accurately reflects the realities in the marketplace and provides the Department with a better basis for resolving ''undue reliance'' issues; and (4) accord U.S. carriers a right of ''first refusal'' with respect to U.S.-originating fifth-freedom (seventh-freedom) passenger charter flights.

On March 21, 2002, the Department published a Notice in the **Federal Register** (67 FR 55, March 21, 2002) inviting interested parties to comment on NACA's petition. Comments to the petition were due May 6, 2002, and reply comments were due by June 4, 2002.

Comments of Interested Parties

The Department received a large number of comments in response to NACA's petition. A complete summary of those comments follow.

Comments Filed in Support for NACA's Petition

Comments in support of NACA's petition were filed by eight NACA-member carriers and approximately 1,600 employees from two NACA-member carriers. Other comments in support of NACA's petition were filed by the International Brotherhood of Teamsters (IBT), the Air Line Pilots Association (ALPA) and the Aviation Suppliers Association, MLT Vacations Inc. (a U.S. indirect air carrier), Eagle Aircraft Supply and AAR Aircraft Services(aircraft sales and service companies), and P&C Engineering Consultants. Sen. Ernest F. Hollings (D–SC), Rep. John L. Mica (R–FL), Rep. William O. Lipinski (D–IL), Rep. Jerry Moran (R–KS), Rep. Jim Ryun (R–KS), Rep. Todd Tiahart (R–KS), Rep. Brad Carson (D–OK), and Rep. John Sullivan (R–OK), have written the Department urging us to review NACA's recommendations and, if warranted, make changes to our charter rules that give foreign airlines an unfair competitive advantage over U.S. carriers. Senator Hollings requests that we support the changes proposed by NACA.

NACA's supporters argue, generally, that the Department's current charter regulations undermine the ability of U.S. carriers to compete commercially; that limited fifth-freedom opportunities exist for U.S. carriers abroad; and that adopting a ''first refusal'' policy would promote U.S. charter viability. They believe that (1) NACA's proposals, if adopted, will remove the anomaly under which seventh-freedom passenger charter flights by foreign carriers are defined and regulated by the Department as fifth-freedom charter flights; (2) the Department's approval of large seventh-freedom charter programs (which the supporters believe are often indistinguishable from scheduled service) is contrary to the Department's longstanding policy of not granting scheduled seventh-freedom scheduled rights to foreign carriers; (3) the Department's definition of fifth-freedom charter flights is inconsistent with definitions used by our foreign trading partners for similar charter services and should be corrected; (4) U.S. carriers are placed at a competitive disadvantage when the Department provides economic opportunities to foreign carriers that exceed rights the U.S. has negotiated for U.S. carriers; and (5) the Department should revise filing procedures for its T–100 reporting data to more accurately measure levels of foreign carrier third- and fourth-freedom operations versus levels of fifth-freedom operations.

Commenters supporting NACA's petition also share NACA's view that the Department should give U.S. charter carriers ''first refusal'' rights to assist the ability of U.S. carriers to compete commercially and to remain viable supporters of the Civil Reserve Air Fleet (CRAF) program. They also believe that current DOT practice favors U.S. scheduled carriers by subjecting U.S. charter carriers to competition by foreign carrier charter operators while protecting U.S. scheduled carriers against competition by not allowing seventh-freedom scheduled operations by foreign carriers. They believe that because comparable rights for U.S. carriers may not be available in the home country of an applicant foreign carrier, ''first refusal'' would place U.S. charter carriers on an equal footing with U.S. scheduled carriers. They also state that ''first refusal'' would not interfere with foreign carrier third and fourth-freedom charter services, and will allow foreign carriers to conduct U.S.-originating seventh-freedom charters where no U.S. carrier lift is available. The IBT believes that ''first refusal'' should be extended to cover U.S.-originating seventh-freedom all-cargo charter flights as well.

Many of the commenters agree with NACA that the Department's reciprocity test does not go far enough because it does not take into account whether a commercially viable charter market actually exists in a foreign carrier's home country. They point out that the Department's existing reciprocity test requires nothing more than the apparent willingness of a foreign government to grant fifth-freedom charter rights to U.S. carriers, regardless of the size of the market or the existence of meaningful charter opportunities in the market. They believe that NACA's proposal will bring clarity to the standards for demonstrating reciprocity which they believe should be based on measurable traffic volumes or ''substantial equivalency''.

Other commenters suggest that foreign carriers enjoy a cost advantage over U.S. carriers because foreign carriers enjoy lower safety and security requirements and that cost and time burdens associated with the disparate safety and security requirements place U.S. carriers at a competitive disadvantage.

Comments Filed in Opposition to NACA's Petition

NACA's petition is opposed by the Air Transport Association (ATA); three trade associations (Airports Council International-North America, United States Airports for Better International Air Service, and the Washington Airports Task Force); seven U.S. indirect air carriers (Cuba Travel Services, Marazul Charters, Inc., TNT Vacations, Suntrips, Inc., Vacation Express, GWV Travel, and the Apple Companies); Atlas Air, Inc. (a U.S. all-cargo carrier); Port of Portland (a U.S. airport operator); eleven foreign direct air carriers (Condor Flugdienst, Grupo TACA representing six foreign carriers from Latin America; Skyservice Airlines, Inc., Lineas Aereas Allegro, S.A. de C.V., Antonov Design Bureau, and JMC Airlines Limited); and one individual.

Those opposing NACA's petition maintain that U.S. charter carriers provide the majority of flights in the U.S.-origin charter market in spite of the number of U.S-originating charter flights by foreign carriers authorized by the Department. They state that based on charter approval numbers offered by NACA, Department approvals of U.S.-originating charter flights by foreign carriers (with no home country nexus) since 1999, amount to less than seven flights per day throughout the U.S. TNT Vacations states that over the past several years it has been increasingly difficult to locate lift at rates enabling it to offer charter packages at prices competitive with vacation packages available through scheduled service. TNT states that the ''saving grace'' has been the competition provided by non-U.S. carriers in both home country- and

non-home country markets. TNT further states that NACA-member carriers have received over $90 million in taxpayer support under compensation legislation related to the events of September 11, 2001, and now, through NACA's petition, seek to impose additional financial burdens on the traveling public in the form of higher international charter prices.

ATA, the principal trade association of the U.S. scheduled airline industry (representing 21 U.S. carrier members and 4 foreign carrier associate members), believes that adoption of NACA's recommendations would effectively re-regulate international charter services, a result its membership opposes. ATA supports the current U.S. policy of placing maximum reliance on competitive forces to determine price, level and quality of air transportation services. ATA (as well as other commenters), opposes NACA's efforts to add new operating restrictions to charter services, whether by redefining definitions or by any other means, believing that any restrictions adopted by the United States will be applied reciprocally to U.S. carriers around the world. ATA contends that NACA's request for commercial equivalency is inconsistent with U.S. reliance on competition and should be rejected, arguing that U.S. aviation policy is intended to open foreign markets to competition, not to guarantee reciprocal access to similarly-sized markets for U.S. carriers. It argues that the Department's resources should not be used to protect U.S. carriers from foreign competition merely because a particular home country market is small, but should be used to open restricted markets to both U.S. charter and scheduled carriers. It states that NACA's request for ''first refusal'' is inconsistent with longstanding Department policy and U.S. efforts to liberalize the global aviation market, and, like Atlas Air, believes that vigorous enforcement of the public interest factors currently used by the Department are sufficient to ensure fair treatment of U.S. carriers without having to resort to ''first refusal''.

GWV states that while U.S. carriers have long been an integral part of its charter programs, it has been unable to obtain sufficient and competitively priced lift from U.S. carriers ''alone'' to meet its operational needs. GWV further stated that charter operators develop charter markets to serve a particular leisure market at the most economical cost, and adds that careful selection of aircraft, schedules and competitive rates are vital to a charter program's success. In that regard, foreign carriers play an ''indispensable'' role in supporting U.S. public charter programs and that adoption of NACA's petition would have a ''chilling'' effect on the willingness of foreign carriers to invest time or resources in bidding for U.S. tour operator charter contracts. GWV adds that if the Department adopts NACA's recommendations, and substitutes its judgment for the business judgment of GWV and other tour operators, it should also be prepared to assume the financial consequences and costs that could result from such a change.

Many of the commenters believe that the regulatory modifications NACA seeks are not necessary and can be better addressed by the Department through vigorous enforcement of existing regulations rather than by amending the current regulatory structure. They also suggest that NACA's concerns can be resolved through, among other things, Department efforts to ensure that foreign governments do not impede the ability of U.S. carriers to operate charter services, and by monitoring foreign carrier services to ensure that they do not place undue reliance on non-home country (fifth-freedom) charter operations. Atlas, as well as others, suggest that we should reject both NACA's call for an ''equivalency test''—which Atlas believes would preclude foreign carriers from small countries from operating any third-country charters—as well as its request to give U.S. carriers ''first refusal,'' which would invite foreign governments to apply a similar retaliatory policy against U.S. carrier charter operations. Airports Council International-North America (ACI–NA), United States Airports for Better International Air Service (USA–BIAS), and the Washington Airports Task Force (WATF) strongly oppose NACA's request. ACI–NA, on behalf of 53 U.S. participating airports, opposes NACA's petition, arguing that it would be detrimental to a wide range of U.S. interests. ACI–NA maintains that NACA's request for commercial equivalency focuses only on airline benefits and ignores the interests of airports and their local economies, and the traveling and shipping public. Similarly, ACI–NA, like many of the commenters opposing NACA's petition, rejects NACA's call for ''first refusal,'' stating that implementation of such a practice would take away a charterer's ability to negotiate the service which best meet its needs, and ultimately result in the loss of U.S.-originating charter programs because they would be priced out of the market. The loss of these programs would, in ACI–NA's view, be damaging to the traveling public, tour operators, U.S. airports and the local economies they serve. USA–BIAS, on behalf of 14 U.S. airports, states that NACA's petition looks only at the narrow mercantile needs of its members and ignores the greater good that international mobility brings to the U.S. economy, U.S. cities, U.S. businesses and the traveling public. USA–BIAS states that it sees no need for the ''hyper-regulatory'' approach sought by NACA, suggesting that the Department possesses ample tools under its existing regulatory framework to assess the public interest. ACI–NA, USA–BIAS and WATF all believe that fifth-freedom charter services provide U.S. airports with an opportunity to obtain new or competitive international air services and oppose any new regulations that would add restrictions to the ability of foreign air carriers to provide new services on international routes.

WATF states that history has demonstrated that the people and the economy of the United States benefit from a free and open air service market, rather than from arrangements which confer commercial benefits on a specific class of U.S. carrier. WATF further states that it would be ''a gross irony'' for the United States to accept the offending aspects of the NACA petition as it strives to negotiate ever more liberal air service agreements with foreign governments.

The Port of Portland expresses its interest in expanding international air services at its airport and is opposed to any initiative to make the addition of new international services more difficult, noting that Portland enjoyed the charter services of a foreign carrier passenger charter program to Cancun during the past winter season. Portland supports the strong opposition to NACA's request set forth in the comments of Atlas and Condor, a foreign carrier from Germany.

As noted above, eleven foreign carriers filed in opposition to NACA's petition. Condor Flugdienst (Germany), Grupo TACA (representing six foreign carriers from Latin America), Skyservice Airlines, Inc. (Canada), Lineas Aereas Allegro (Mexico), Antonov Design Bureau (Ukraine), and JMC Airlines Limited (United Kingdom). All believe that NACA's proposal is anticompetitive and, if adopted, would deprive the Department of its ability to consider the needs of all aviation and aviation-related entities.

Condor Flugdienst (Condor) states that if the Department adopts NACA's recommendations, the Department will

be retreating from its support of liberalization as the cornerstone of U.S. aviation policy by urging trading partners to embrace open skies and move away from ''balance'' as a guide for trading opportunities. Condor states that NACA should be careful of what it asks for, noting that if ''economic balance'' is scrutinized, there is large category of traffic where non-U.S. carriers are unable to compete because such arrangements are prohibited under FAA rules (specifically, the wet leasing of aircraft to U.S. carriers). Condor believes that the ability to wet lease aircraft is of greater value than the seventh-freedom charter flight issue NACA raises, and is particularly unfair given that U.S. carriers face no similar restrictions from foreign regulatory authorities when they wet lease aircraft to foreign carriers. Condor also believes that NACA would be concerned if foreign governments were to apply a strict ''reciprocity'' test with respect to such wet-lease services against U.S. carriers.

Grupo TACA argues that changing the name of what the Department defines as fifth-freedom charters to seventh-freedom charters would neither alter the nature of the subject charter operations nor would it impair the underlying justification for the Department's granting them. Grupo TACA states that NACA's efforts to create a commercial equivalency test would effectively prevent airlines from smaller countries from participating in the charter business while at the same time facing daily competition in their home countries from large U.S. scheduled and charter carriers.

Skyservice Airlines, Inc. (Skyservice), a foreign air carrier from Canada, states that the liberal and pro-competitive environment between the United States and Canada has benefited carriers of both sides, noting that during calendar years 1999–2001, the Canadian Transport Authority (CTA) approved requests by U.S. carriers to operate a total of 371 fifth-freedom charter flights (passenger and cargo) to and from Canada. Skyservice believes that these services have benefited both the traveling and shipping public in both the United States and Canada and should not be overlooked in the context of NACA's petition. Skyservice also questions NACA's ''equivalency'' test and asks if the Canada market would qualify as ''substantially equivalent,'' and if not, which nation would. Skyservice disagrees with NACA's contention that foreign carriers enjoy cost or regulatory advantages over U.S. carriers.

Lineas Aereas Allegro S.A. de C.V (Allegro) states that the Department's charter policy is well-founded and applied responsibly, and therefore, it is not necessary to redefine the various charter types as NACA requests. Allegro further states that NACA's ''equivalency test'' would be burdensome to implement and could effectively prevent foreign carriers from operating any fifth-freedom charter flights in U.S. markets. Allegro also believes that the relief sought by NACA only considers the effect of its request on U.S. charter carriers rather than the aviation industry as a whole. Allegro states that NACA's suggestion that foreign carrier services to and from the United States do not meet U.S. safety standards is unfounded and that NACA provides no empirical data to support its claim. Allegro also disagrees with NACA's suggestion that the Department should revise the requirements for traffic data submitted by foreign carriers, believing that instead of relying on T–100 data, the Department would be better served by comparing the actual number of third/fourth-freedom flights with the number of fifth-freedom charter flights during a specified time period.

Antonov Design Bureau (Antonov) believes that the Department's rules require that the Department's actions on foreign carrier charter flight requests to and from the U.S. to points other than the operator's home country are reviewed and based on reciprocity and defined public interest principles, and that NACA's distinction of ''fifth'' versus ''seventh'' is a distinction without a difference.

JMC Airlines Limited (JMC) states that NACA's petition is contrary to the interests of the traveling public and is designed to eliminate competition by disqualifying non-U.S. carriers from conducting fifth-freedom charter flights. JMC believes that by adopting NACA's petition, the Department would effectively lose the ability to consider the interests and needs of other beneficiaries of charter services when considering fifth-freedom charter requests by non-U.S. carriers.

The U.S. indirect air carriers mentioned above oppose NACA's petition, believing it would have severe repercussions for their industry and the traveling public, in the form of higher charter prices and reduced service options. They believe that NACA's petition is designed to carve out an exclusive market for NACA members and reduce competition by barring foreign carriers from U.S. charter markets through NACA's ''first refusal'' or ''equivalency test.'' If adopted, NACA's proposal would make scarce resources scarcer and cause charter prices to escalate, especially in Caribbean markets where some countries have no carrier able to provide third/fourth-freedom competition against large U.S. scheduled and charter carriers. They also argue that NACA's proposal would have a ''chilling'' effect on competition because non-U.S. carriers will not expend time or resources pursuing U.S.-third country traffic when such opportunities could be lost to a less competitive bidder under a ''first refusal'' policy, ultimately diminishing the ability of indirect air carriers (tour operators) to select the direct air carrier which best meets their needs.

Reply Comments

Reply comments were filed by NACA, the Transportation Trades Department of the AFL–CIO (TTD), Amerijet International, Inc. (a U.S. all-cargo carrier), three foreign air carriers (Antonov, Air 2000 Limited, and Allegro), the Apple Companies and 15 ARC-accredited travel agencies.

Reply Comments in Support of NACA's Petition

NACA believes that some of the commenters did not understand that the proposed changes are narrow in scope, while other commenters ''vastly exaggerate'' the impact its proposed changes would have if adopted. NACA states that its petition does not seek to re-regulate or restrict competition and is intended to create fair and equal regulatory treatment of U.S. charter and scheduled passenger carriers with regard to seventh-freedom operations by foreign carriers. NACA states that the Department has established a ''dichotomy'' of regulatory treatment by giving the larger and stronger U.S. scheduled carriers preferential regulatory treatment over the smaller and weaker U.S. charter carriers by approving virtually all foreign carrier seventh-freedom charter requests, while at the same time enforcing a strict policy against allowing foreign carriers to operate seventh-freedom scheduled flights.

NACA states that it does not believe that foreign governments will take retaliatory action against U.S. carriers if its proposals are adopted, nor does it believe that all of its concerns can be resolved through vigorous enforcement of existing rules, as many of the commenters state. NACA maintains that failure to correct existing policies could have serious financial consequences on U.S. charter carriers and result in possible national security concerns if

U.S. charter carrier contributions to CRAF are diminished.

The TTD, on behalf of the 34 transportation unions it represents, supports NACA's petition and states that the Department's practice of granting foreign carrier seventh-freedom charter requests weakens U.S. charter carriers through lost revenues, and, therefore is a threat to the viability of U.S. charter carrier industry. TTD supports NACA's request that the Department subject foreign carrier charter requests to a substantial reciprocity test as well as granting U.S. carriers ''first refusal'' rights on foreign carrier seventh-freedom charter requests. TTD believes that by adopting NACA's recommendations the Department will establish a meaningful standard for reforming current regulations which TTD believes unfairly penalize U.S. charter carriers and their employees.

Amerijet International, Inc. (Amerijet) also supports NACA's proposal and believes that a review of the Department's charter regulations should be undertaken to insure that their impact is consistent with the goals of the Department and the Congress. Amerijet contends that the Department has abandoned its longstanding policy of not allowing foreign carriers to place undue reliance on fifth-freedom services, and suggests that the NACA's petition serves to strengthen that policy. Amerijet further states that following the events of September 11, Congress made it clear that the U.S. carrier industry requires a level of protection, and argues that that is all NACA and its supporters are seeking in this proceeding.

Reply Comments in Opposition to NACA's Petition

The Apple Companies, ARC-accredited travel agencies, and three foreign air carriers are unanimous in their reply comments in opposition to NACA's petition.

The Apple Companies state that the parties supporting NACA's petition represent a narrow sector of the industry; that those opposing NACA's petition are unanimous in their view that current regulatory mechanisms are sufficient to protect the public interest and that the overall interests of U.S. aviation would be severely damaged by NACA's protectionist and anticompetitive proposal; and, that foreign carrier fifth-freedom charter operations represent a small portion of all Public Charter flights operated annually in the United States.

The travel agencies believe that the changes proposed by NACA will eliminate competition and either increase prices or reduce the availability of charter vacation packages, to the detriment of the U.S. travel agent community. The agencies further support the Department's longstanding policy of letting the market set the price and quality of charter transportation services.

Antonov notes that while only NACA members and certain labor interests filed in support of NACA's request, groups such as tour operators, U.S. airports and cities with interests closely aligned with the needs of consumers and the traveling public oppose NACA's petition. Antonov concurs with the comments filed in opposition to NACA's request, and agrees with comments of USA–BIAS, Suntrips Inc., Vacation Express, and ATA, which Antonov believes are representative of the aviation community which stands to lose the most if NACA's petition is adopted.

Like Antonov, Allegro states that an analysis of the comments filed in response to NACA's petition suggests that NACA's petition enjoys little support outside its membership and the employees of some of its members, while a much broader cross-section of the aviation community opposes NACA's petition. Allegro believes that NACA's petition is anticompetitive and would ultimately reduce competition between U.S. and foreign carriers in the U.S. charter market to the detriment of the U.S. traveling public.

Air 2000 Limited (Air 2000) states that NACA's petition is contrary to international aviation policy and the interests of U.S. shippers, airports and the traveling public. Air 2000 further states that NACA's equivalency test would disadvantage U.S. airlines and U.S. workers, its ''first refusal'' proposal is anti-consumer and anticompetitive, and revision of the definitions of the freedoms of the air would lead to protecting only U.S. charter carriers from foreign carrier competition.

Overview

In its petition, NACA maintained that foreign air carrier charter flights generate more benefit to the foreign carrier industry than the U.S. carrier industry. It asserted that these flights now threaten the survival of some of its members and weaken their ability to serve the national defense.

NACA proposes a number of remedies to address this situation, including; revision of the definition of fifth-freedom charters; adoption of a new, more restrictive reciprocity standard; and, creation of an amendment to our regulations that would provide U.S. carriers with a right of ''first refusal'' for certain U.S.-originating passenger charter flights. In other words, ''first refusal'' in that context would mean the right to prevent a foreign carrier from operating any U.S.-originating fifth-freedom passenger charter (under our existing definition) that a U.S. carrier wants to operate.

After carefully examining the comments and information in the record, we have tentatively determined that it is in the public interest to make modifications to Part 212 that would improve our ability to assess the merits of applications filed under that Part.

Background

Our bilateral aviation agreements do not cover the passenger charter services that are at issue in this proceeding; [1] therefore, U.S. and foreign carriers operate these services only at the discretion of the U.S and foreign governments. The Department's regulations require foreign airlines to apply for permission to operate fifth-freedom charters (14 CFR 212.9), and establish a ''public interest'' standard for considering these foreign carrier requests (§ 212.11(a)).

Reciprocity on the part of the applicant's home country is the primary criterion for approval (§ 212.11(b)(2)). The Department also examines other factors that may be relevant in specific cases (for example, the extent of the applicant's reliance on fifth-freedom operations in relation to its third- and fourth-freedom services). In making its public interest determination, the Department's approach consistently has been to look not only to the interests of U.S. charter carriers, but also to consider the needs and concerns of other parties affected by its decision, notably the tour operator (frequently a U.S. company), and members of the traveling public (often U.S. citizens). The Department's longstanding policy has been to give charterers the maximum flexibility possible to choose the airline services that best meet their needs. The Department repeatedly has rejected according U.S. carriers a right of ''first refusal''.

NACA asserts that the Department has permitted foreign airlines to operate an excessive number of fifth-freedom passenger charter flights under Part 212, and that our actions have harmed its members and undermined their ability to serve the national defense. NACA

[1] A number of our agreements state the parties will give favorable consideration to such charters on the basis of comity and reciprocity. While this certainly reflects a spirit sympathetic to approval, it does not formally bind the parties to such a result.

also maintains that the effects of the events of September 11, 2001, have aggravated that harm and adverse impact on national defense, and that foreign governments do not provide NACA members with reciprocal charter opportunities. NACA has proposed several changes to Department rules to meet its concerns. Specifically, it asks the Department to:

- Add to and amend the Part 212 definitions concerning charter types so as to ensure, inter alia, that what it regards as seventh-freedom passenger operations are identified as such;
- Amend the existing Part 212 reciprocity standard so that prior approval requires a finding of ''substantially equivalent'' reciprocity in the charter market of the applicant's home country;
- Alter the Department's methodology for measuring fifth-freedom traffic so that, in NACA's view, it more accurately reflects the realities in the marketplace and provides the Department with a better basis for resolving ''undue reliance'' issues; and
- Accord U.S. carriers a right of ''first refusal'' with respect to certain U.S.-originating fifth-freedom (seventh-freedom) passenger charter flights.

Discussion

Proposed Modifications to OST Form 4540 and Amendments to Part 212

We are proposing two changes to Part 212 that are intended to improve our ability to assess the merits of applications filed under that Part. We believe that these changes will enhance the Department's decision-making process without imposing an undue burden on applicants or affecting the public benefits that our rules now provide.

First, we propose to amend the application form for charter applications (OST Form 4540) as regards the information to be provided on reciprocity. Specifically, we will add a note to the reciprocity section of OST Form 4540 to establish, as an express requirement for approval, that the applicant explicitly provide evidence that it has verified that its home country government would accord reciprocal treatment to comparable U.S. carrier requests. We will also require that the applicant provide the date of such verification and with whom the verification was made. This verification must come from an official of the government of the homeland of the applicant.

Because we recognize that some applicants may file multiple requests within a limited period, we will not require that each successive request entail a new effort to secure the needed verification. Under normal circumstances, we would consider 90 days a reasonable period to rely on a previously-filed verification of reciprocity, and our amendment to OST Form 4540 would so indicate. Of course, if intervening events give cause to doubt the continuing validity of such verification, we will expect applicants to seek a new verification, even if their subsequent request is submitted within 90 days of a previous verification. Alternatively, we may advise them of our inability to complete the processing of their application absent a new reciprocity verification.

Second, we propose to amend OST Form 4540 to require applicants to provide additional information regarding the extent to which they are relying on fifth-freedom charter services to and from the United States in relation to their overall services to and from the U.S. As noted earlier, although this relationship is an important public interest consideration in our determination of the merits of applications for fifth-freedom charter authority, a number of commenters have expressed concern that some applications for such authority do not contain facts that adequately address this issue. In response to those concerns, we propose to amend OST Form 4540 to expressly require that in Box 13 designated for ''Other information requested by DOT,'' (or, at the applicant's preference, in a cover letter or attachment) applicants shall specify the number of third- and fourth-freedom flights they have provided over the preceding calendar year.[2] This information should be presented with sufficient clarity for any commenting parties and the Department to readily evaluate the proposed services against the historical data. Failure to provide the necessary information would be expected to affect the processing of the application.

We also propose revisions to our definitions. NACA asserts that many of the flights fitting our definition of fifth-freedom charters in § 212.2 in fact would be understood throughout the world as ''seventh-freedom'' charter flights because ''they do not carry paying passengers to, from, or via the homeland of the carrier.'' [3] NACA argues that it is misleading, confusing and bad policy for the Department to continue to call all passenger charter flights that serve countries other than the carrier's home country as ''fifth-freedom'' charters.[4]

While we could point to various commenters who contend that the charter community is so familiar with our longstanding regulatory nomenclature as to render confusion unlikely, we nevertheless conclude that even a limited degree of confusion is best avoided. Accordingly, we propose to expand the definitions in § 212.2 to expressly differentiate between fifth-, sixth-, and seventh-freedom charters.

Vision 100—Century of Aviation Reauthorization Act

Our proposed revisions to Part 212 are consistent with Section 820 of the recently signed Vision 100-Century of Aviation Reauthorization Act (the Act). Specifically, Section 820 of the Act provides the sense of Congress that the Department should ''formally define 'Fifth Freedom' and 'Seventh Freedom' consistently for both scheduled and charter passenger and cargo traffic.'' As noted above, we are proposing to expand the definitions in Part 212 to differentiate between fifth-, sixth-, and seventh-freedom charters. The revisions we propose will apply to both passenger and cargo services and will standardize the definitions used by the Department for both scheduled and charter services.

Other Issues

While we are proposing the changes outlined above in response to NACA's petition, we have concluded that the record does not provide justification for adopting other changes proposed by NACA, as they would in our view significantly reduce other important public benefits now provided by our fifth-freedom charter rules. Therefore, we do not anticipate adopting NACA's proposal to require a finding of ''substantially equivalent reciprocity'' in the charter market of the applicant's home country, or to accord U.S. carriers ''first refusal'' for U.S.-originating fifth-freedom (seventh-freedom) passenger charter flights. As more fully discussed below, we believe that the adoption of either of these changes would not be in the public interest.

Part 212 allows U.S. tour operators to hire foreign airlines that meet the requirements of that Part to provide foreign air transportation for the tour operators. While U.S. tour operators rely primarily on U.S. airlines for air service, they also use the option provided by our rules to use the services of foreign

[2] We are not, however, adopting NACA's proposal that we make methodological changes regarding our T–100 traffic data. We traditionally have based our undue reliance determinations on flights rather than traffic, and NACA has presented no persuasive reason to alter that approach.

[3] NACA Petition, at 4.

[4] *Id.*, at 5.

carriers in third-, fourth-, and fifth-freedom markets. The tour operators have demonstrated that this option enhances their ability to compete with airlines and cruise ship operators in the highly competitive discretionary travel markets. We also recognize that tour operators have made an important contribution to competition by offering attractive price and service alternatives to the marketplace.

By contrast, it is likely that the changes proposed by NACA would inhibit competition in markets served by U.S. tour operators. This is especially true to the extent that they would prevent tour operators from using foreign airlines by requiring, for example, the latter to obtain NACA's permission before they may provide transportation for U.S. tour operators in certain fifth-freedom and seventh-freedom markets.

In calendar year 2001, the Department authorized foreign airlines to provide 1490 roundtrip fifth-freedom charters on behalf of U.S. tour operators, or fewer than five roundtrip fifth-freedom charters per day.[5] Yet, this relatively small number of authorizations is important to a number of foreign airlines and their home countries. In these circumstances, our rules promote good aviation relations with other nations and support a liberal aviation environment that has benefited our citizens and airline industry overall. This point is illustrated by the fact that in 2001 we authorized airlines from Mexico and Central America to provide 512 fifth-freedom roundtrip charters, while U.S. airlines were providing nearly 140,000 flights—and carrying two-thirds of the cargo and passenger traffic—in the U.S.-Mexico/U.S.-Central America aviation markets.[6]

Furthermore, as the Air Transport Association (ATA), airlines, and other concerned parties have pointed out, NACA's proposal could invite retaliation against U.S. airlines by foreign governments because it could remove valuable fifth-freedom charter opportunities now enjoyed by their airlines. U.S. airlines providing scheduled service would be vulnerable to retaliation because of the huge stake they have in the bilateral aviation markets that would be affected. Also, such action would expose U.S. airlines providing wet-lease services to foreign airlines to a serious risk of harm because they are major providers of wet-lease services around the world and because those services are operated completely at the discretion of foreign governments.

The essence of NACA's position is that our rules permit foreign airlines to conduct business in markets that should be reserved only for U.S. airlines; however, the business which NACA is referring to involves the provision of service to tour operators, many of which are U.S. companies. Most of the tour operators participating in this proceeding commented that there is no need to make major changes to our fifth-freedom rules, and that those changes proposed by NACA would be harmful to both their interests and competition. We believe that the weight of the evidence supports that position.

NACA maintains that competition from the foreign charter operators hired by U.S. tour operators has harmed NACA members and has undermined their ability to serve the national defense. Our data shows, however, that the number of fifth-freedom charter flights authorized by the Department amount to a small percentage of the flights that NACA members operate. In calendar year 2001, for example, that number was less than 6% of the total number of civilian charters that NACA carriers operated and reported to the Department. It is likely that those authorizations had a smaller impact on NACA members than Department records indicate, considering that: (1) It is likely the foreign airlines did not use all of the authorizations for which they obtained Department authority; (2) NACA members operated a large number of military charters that are not reported to us; and, (3) NACA members have benefited from the extensive fifth-freedom opportunities provided by other governments.

NACA maintains that the rules have created a large aviation trade deficit with other nations because our fifth-freedom charter markets are significantly larger. We disagree. As noted above, our charter rules have supported a liberal aviation environment that has allowed U.S. airlines to capture traffic and revenues far in excess of the traffic and revenues that have been achieved by foreign airlines operating fifth-freedom flights, and has permitted our airlines to take advantage of the extensive fifth-freedom and wet-lease opportunities provided by other governments.

NACA also contends that the rules discriminate against its members because our rules prohibit ''all 7th freedom scheduled passenger flights by foreign carriers,'' while permitting what NACA refers to as seventh-freedom charter flights by foreign carriers. We disagree with this contention. The international aviation industry is still heavily regulated. Most governments believe that charter service and scheduled service are in separate product markets; therefore, they have created different opportunities and have imposed different restrictions on each class of service. Thus, while most nations permit U.S. airlines to operate charter flights between their home countries and third countries, they prohibit U.S. airlines from providing scheduled service between their home countries and third countries. Our rules reflect the realities of the still-regulated international aviation system. While we would prefer to have a situation that imposes no restrictions on international aviation services, we note the existing situation has provided U.S. charter airlines with advantages that are not afforded to U.S. scheduled airlines.

Regulatory Analyses and Notices

All comments received before the close of business on the comment closing date indicated above will be considered and will be available for examination in the docket at the above address. Comments received after the comment closing date will be considered to the extent practicable. In addition to late comments, the Department will also continue to file relevant information in the docket as it becomes available after the comment period closing date, and interested persons should continue to examine the docket for new material.

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

This rule is a significant regulation under Executive Order 12866 and DOT's Regulatory Policies and procedures because of public interest. The NPRM was reviewed by the Office of Management and Budget under Executive Order 12866. The rule will not impose any new costs on applicant carriers. It simply would clarify the types of charters being conducted. The change to OST Form 4540 is minor and will require no additional burden on the applicant carriers.

Executive Order 13132 (Federalism Assessment)

The Department has analyzed this rulemaking action in accordance with the principles and criteria set forth in Executive Order 13132 and has determined that it does not have sufficient federalism implications to warrant consultation with State and local officials. The Department anticipates that any action taken will

[5] Foreign air carrier applications for statements of authorization under 14 CFR Part 212 are on file in the Department's Foreign Air Carrier Licensing Division, Room 6412, 400 7th Street, SW., Washington, DC 20590.

[6] Form T–100 data on file with the Department.

not preempt a State law or State regulation or affect the States' ability to discharge traditional State government functions.

Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601, *et seq.*) requires an agency to review regulations to assess their impact on small entities unless the agency determines that a rule is not expected to have a significant impact on a substantial number of small entities. The Department will analyze any action that might be proposed for the purpose of the Regulatory Flexibility Act.

The Department certifies that this rule will not have a significant economic impact on a substantial number of U.S. small businesses. Because the rule is applicable to foreign air carriers, the proposed changes in the NPRM will not have a significant impact on small entities within the meaning of 5 U.S.C. 601, *et seq.*

Regulation Identifier (RIN)

A regulation identifier (RIN) is assigned 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. The RIN contained in the heading of this document can be used to cross-reference this action with the Unified Agenda.

Unfunded Mandates Reform Act

The changes proposed would not impose any unfunded mandates for the purpose of the Unfunded Mandates Reform Act of 1995.

Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995, 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, sponsor, or require through regulations. This rule contains information collection requirements. As required by the Paperwork Reduction Act, the Department will submit this requirement to the Office of Information and Regulatory Affairs of the OMB for review, and reinstatement, with change of a previously approved collection for which approval has expired.

OST Form 4540 is a required Application for Statement of Authorization for foreign air carriers to file with the Department prior to engaging in certain charter operations to and from the United States. The Department grants the authorization to the foreign air carrier. Foreign air carriers file this form as often as necessary whenever they have charter flights required by Part 212. This form is required for all foreign air carriers seeking Department authority to conduct certain types of charter flights, and does not require a significant amount of time and is not burdensome to complete.

OMB Number: 2106–0035.

Title: 14 CFR Part 212—Charter Rules for U.S. and Foreign Direct Air Carriers.

Burden hours: 1000.

Affected public: Business or other for-profit.

Cost: $400,000.00.

Description of Paperwork: The proposed changes to the rulemaking and the form are intended to improve the Department's ability to assess the merits of applications filed under Part 212, and will ensure that the Department has the most current information on the state of reciprocity for each foreign carrier applicant for charter authority filed under Part 212. These proposed changes will also enhance the Department's decision-making process without imposing an undue burden on applicants or affecting the public benefits that the Department's rules now provide. The collection of historical data relative to the applicant's U.S.-home country operations will allow the Department to satisfy any concerns it might have as to the applicant's reliance on fifth-, sixth- and seventh-freedom operations.

List of Subjects in 14 CFR Part 212

Air carriers, Air transportation, Charter flights, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, the Department proposes to amend Part 212 as follows:

PART 212—CHARTER RULES FOR U.S. AND FOREIGN DIRECT AIR CARRIERS

1. The authority citation for 14 CFR Part 212 continues to read as follows:

Authority: 49 U.S.C. 40101, 40102, 40109, 40113, 41101, 41103, 41504, 41702, 41708, 41712, 46101.

2. Amend § 212.2 by adding, in alphabetical order among the existing definitions, a definition of ''Sixth freedom charter'' after ''Single entity charter,'' and a definition of ''Seventh freedom charter'' after ''Part charter.''

§ 212.2 Definitions.

* * * * *

Sixth-freedom charter means a charter flight carrying traffic that originates and terminates in a country other than the country of the foreign air carrier's home country, provided the flight operates via the home country of the foreign air carrier.

* * * * *

Seventh-freedom charter means a charter flight carrying traffic that originates and terminates in a country other than the foreign air carrier's home country, where the flight does not have a prior, intermediate, or subsequent stop in the foreign air carrier's home country.

* * * * *

3. In § 212.9, revise paragraph (b)(1) to read as follows:

§ 212 Prior authorization requirements.

* * * * *

(b) * * *

(1) Fifth-, sixth-and/or seventh-freedom charter flights to or from the United States;

* * * * *

Issued this 10th day of January, 2005, in Washington, DC.

Karan K. Bhatia,

Assistant Secretary for Aviation and International Affairs.

BILLING CODE 4910–62–P

APPENDIX

According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 2106-0035.

U.S. Department of Transportation

FOREIGN AIR CARRIER APPLICATION FOR STATEMENT OF AUTHORIZATION

(See Instructions on Reverse Side)

DO NOT WRITE–FOR OFFICIAL USE ONLY

Disposition of Application:

__ Approved
__ Approved, subject to condition(s) on reverse
__ Disapproved/Dismissed for reason(s) cited on reverse.

Under assigned authority _____

Effective from _____ to _____

Director, Office of International Aviation

To: Department of Transportation
Foreign Air Carrier Licensing Division, X-45
Office of International Aviation
400 Seventh Street, S.W.
Washington, D.C. 20590

Operations pursuant to this authorization shall conform to Part 212 of the Department's regulations, to the terms, conditions and limitations of the applicant's foreign air carrier permit or exemption, and to Part 129 of the Federal Aviation Regulations.

Application is made for authorization to conduct charter flights under provisions of applicant's foreign air carrier permit and 14 CFR 212 or DOT order.

1. Name of Applicant:

Nationality:

2. Send authorization To:
a. Name and Address:

b. Telephone:
Fax:

3. Name of Charterer:

Address:

4. Total charter price:

5. Dates of flights under this authorization:

6. Aircraft make, model, and capacity:

7. Country in which aircraft is registered:

8. Planned routing of flights (indicate non-traffic stops by asterisks):

9. No. of flights _____ (specify whether one-way or round-trip) and type:

Passenger ___ Cargo ___ Mixed ___

For passenger flights: available passenger seats _____, number of passengers to be carried _____.

If cargo to be carried, weight and description of cargo:

OST Form 4540

(Continue on back)

10. If application is being filed late, state reason for lateness:

11. Description of chartering organization and purpose of flights:

12. Does the nation which is the domicile of the applicant grant to United States carriers a privilege similar to that requested herein? _____; if so, has evidence of such reciprocity, from an official of the carrier's homeland government, been submitted to the Department? _____; when?_____. Date that applicant last verified reciprocity_____(must be in preceding 90 days); with whom?_____. If the fact has not been established with the Department, provide documentation to establish such reciprocity.

13. Other information requested by DOT (other than third- and fourth-freedom applications): Include here the number of one-way third- and fourth-freedom flights operated by the applicant in the preceding 12 month period/calendar year (alternatively, this information may be provided in a cover letter).

CERTIFICATION

I hereby certify that the flights for which authority is sought herein conform to the requirements of DOT's Regulations and applicable orders of DOT governing charters.

_____ (Date)

_____ (Signature and title of authorized officer)

INSTRUCTIONS

1. Prepare an original and one copy of this application according to Section 212.10 of the Department's Regulations. If extra space is required to complete an item, continue on a separate sheet of paper.

2. Send the application to: Department of Transportation, Foreign Air Carrier Licensing Division, X-45, Office of International Aviation, 400 Seventh Street, S.W., Washington, D.C. 20590 (and, if required by regulation or Order, to the Director of Flight Standards Service (AFS-1), Federal Aviation Administration, 800 Independence Avenue, S.W., Washington, D.C. 20591).

DO NOT WRITE -- FOR OFFICIAL USE ONLY

Exercise of the authorization is subject to the following condition(s), OR Application is disapproved/dismissed for the following reason(s):

[FR Doc. 05–1107 Filed 1–19–05; 8:45 am]
BILLING CODE 4910–62–C

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[CGD13–04–047]

RIN 1625–AA09

Drawbridge Operation Regulations; Duwamish Waterway, Seattle, WA

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to temporarily change the operating regulations for the First Avenue South dual drawbridges across the Duwamish Waterway, mile 2.5, at Seattle, Washington. The proposed change would enable the bridge owner to keep the bridges closed during night hours for a 4-month period. This would facilitate painting the structure while properly containing debris and paint.

DATES: Comments and related material must reach the Coast Guard on or before March 22, 2005.

ADDRESSES: You may mail comments and related material to Commander (oan), 13th Coast Guard District, 915 Second Avenue, Seattle, WA 98174–1067 where the public docket for this rulemaking is maintained. Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at the Aids to Navigation and Waterways Management Branch between 7:30 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

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

SUPPLEMENTARY INFORMATION:

Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related material. If you do so, please include your name and address, identify the docket number for this rulemaking [CGD13–04–047], indicate the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and related material in an unbound format, no larger than 8½ by 11 inches, suitable for copying. If you would like to know they reached us, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them.

Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for a meeting by writing to the Aids to Navigation and Waterways Management Branch at the address under **ADDRESSES** explaining why one would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

Background and Purpose

The dual First Avenue South bascule bridges provide 32 feet of vertical clearance above mean high water for the central 100 feet of horizontal distance in the channel spans. When the drawspans are open there is unlimited vertical clearance for the central 120 feet of the spans. An adjacent, parallel bascule bridge was constructed and completed in 1999. Drawbridge openings are provided for recreational vessels, large barges, and floating construction equipment.

The operating regulations currently in effect for these drawbridges at 33 CFR 117.1041 provide that the spans need not open for the passage of vessels from 6 a.m. to 9 a.m. and from 3 p.m. to 6 p.m. Monday through Friday, except on all Federal holidays but Columbus Day. The draws must open at any time for a vessel of 5,000 gross tons and over, a vessel towing such a vessel or en route to take in tow a vessel of that size.

The proposed temporary rule would enable the bridge owner to paint the structure after preparing the surfaces of the steel truss beneath the roadway. All of this work must be accomplished within a containment system that permits no material to fall into the waterway. This containment system would have to be removed or partially dismantled for drawspan openings. Therefore, the bridge owner has requested periods in which the work may proceed without frequent interruption.

Discussion of Proposed Rule

This proposed rule would allow the bridge to remain closed to navigation from 9 p.m. to 5 a.m. Sunday through Friday from June 1 to October 1, 2005. One-hour notice would be required for openings during the currently established weekday closed periods discussed below.

Preliminary analysis indicates that most vessel operators will not be inconvenienced by the hours of temporary closure. Others would receive enough notice to plan trips at other hours. Vessel traffic includes tugboats, barges, derrick barges, sailboats and motorized recreational boats including large yachts. The majority of vessels pass through the dual bascule spans during hours other than the proposed closure times.

First Avenue South is a heavily traveled commuter arterial that serves Boeing Company plants and other industrial facilities in south Seattle. Currently, the dual bascule spans need not open for the passage of vessels from 6 a.m. to 9 a.m. and from 3 p.m. to 6 p.m. Monday through Friday. Vessels of 5000 gross tons or more and vessels enroute to tow such vessels may request an opening at any time.

However, under this proposal, between June 1 and October 1, 2005, from Sunday to Friday, the draws need not be opened for the passage of any vessels from 9 p.m. to 5 a.m. Furthermore, Vessels of 5000 gross tons or more and vessels enroute to tow such vessels must provide one-hour notice for openings during the current weekday closed periods. Vessels of this size infrequently ply this reach of the waterway. The dual spans open an average of four times a day. Draw logs show that up to 25% of openings have happened during the proposed hours of closure. Many of these vessels could schedule movements to avoid these periods.

Regulatory Evaluation

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

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

We reached this conclusion based on the fact that most vessels will be able to plan transits to avoid the closed periods. Most commercial vessel owners have indicated that they can tolerate the proposed hours by working around them. Saturdays will enjoy normal operations, lessening inconvenience to sailboats.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this proposed rule would have

a significant economic impact on a substantial number of small entities. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities. This may affect some recreational sailboat owners insofar as they must return by 9 p.m. or wait until 5 a.m. to regain moorage above the drawbridges. We expect these to be few in number.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

Assistance for Small Entities

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

Collection of Information

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

Federalism

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

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

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

Energy Effects

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

Technical Standards

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

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

Environment

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

List of Subjects in 33 CFR Part 117

Bridges.

Regulations

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 117 as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

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

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

2. From 9 p.m. on June 1, 2005 to 5 a.m. on October 1, 2005, in (§ 117.1041, suspend paragraph (a)(1) and add a new paragraph (a)(3) to read as follows:

§ 117.1041 Duwamish Waterway.

(a) * * *

(3) Monday through Friday, except all Federal holidays but Columbus Day, the draws of the First Avenue South Bridges, mile 2.5, need not be opened for the passage of vessels from 6 a.m. to 9 a.m. and from 3 p.m. to 6 p.m., except that the draw shall open on one-hour notice for vessels of 5000 gross tons or over, a vessel towing a vessel of 5000 gross tons and over, and a vessel proceeding to pick up for towing a vessel of 5000 gross tons and over. Sunday through Friday, the draws need not be opened for the passage of any vessels from 9 p.m. to 5 a.m.

* * * * *

Dated: January 11, 2005.

Jeffrey M. Garrett,

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

[FR Doc. 05–1057 Filed 1–19–05; 8:45 am]

BILLING CODE 4910–15–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[NV–FOA–124; FRL–7862–3]

Determination of Attainment for the Ozone and Carbon Monoxide National Ambient Air Quality Standards in Washoe County, NV

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to determine that the marginal one-hour ozone nonattainment area that includes all of Washoe County, Nevada has attained the 1-hour ozone National Ambient Air Quality Standard by the applicable attainment date (1993) and has continued to attain since that time. EPA is also proposing to determine that the moderate carbon monoxide nonattainment area that includes the Truckee Meadows area of Washoe County has attained the carbon monoxide National Ambient Air Quality Standard by the applicable attainment date (1995) and has continued to attain since that time. EPA is proposing this action to fulfill its obligations to make such determinations under sections 179(c), 181(b)(2), and 186(b)(2) of the Clean Air Act. The intended effect of this action will be to relieve the State of Nevada of the obligation to submit revisions to the State Implementation Plan to address additional requirements under the Clean Air Act for the next higher nonattainment classifications and to satisfy one of the five statutory criteria for redesignation of these areas from nonattainment to attainment.

DATES: Any comment on this proposal must arrive by February 22, 2005.

ADDRESSES: Please address your comments to Eleanor Kaplan, Air Planning Office (AIR–2), U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901 or e-mail to *kaplan.eleanor@epa.gov,* or submit comments at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Eleanor Kaplan, EPA Region IX at (415) 947–4147 or *kaplan.eleanor@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document, whenever ''we'', ''us'', or ''our'' are used, we mean the Environmental Protection Agency.

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I. Background

A. What National Ambient Air Quality Standards (NAAQS) Are Considered in Today's Proposed Determination of Attainment?

Ozone. Ozone is a gas composed of three oxygen atoms. It is not usually emitted directly into the air, but at ground level is created by a chemical reaction between oxides of nitrogen (NO_X) and volatile organic compounds (VOC) in the presence of heat and sunlight. Ozone has the same chemical structure whether it occurs miles above the earth or at ground level and can be ''good'' or ''bad,'' depending on its location in the atmosphere. ''Good'' ozone occurs naturally in the stratosphere approximately 10 to 30 miles above the earth's surface and forms a layer that protects life on earth from the sun's harmful rays. In the earth's lower atmosphere, ground-level ozone is considered ''bad.''

Ozone can irritate lung airways and cause inflammation much like a sunburn. Other symptoms include wheezing, coughing, pain when taking a deep breath, and breathing difficulties during exercise or outdoor activities. People with respiratory problems are most vulnerable, but even healthy people that are active outdoors can be affected when ozone levels are high.

Repeated exposure to ozone pollution for several months may cause permanent lung damage. Anyone who spends time outdoors in the summer is at risk, particularly children and other people who are active outdoors. Even at very low levels, ground-level ozone triggers a variety of health problems including aggravated asthma, reduced lung capacity, and increased susceptibility to respiratory illnesses like pneumonia and bronchitis.

The 1-hour ozone NAAQS is 0.12 parts per million (ppm), one-hour average, not to be exceeded on average more than 1 day per year over any 3-year period. See 40 CFR 50.9 and appendix H.

Carbon Monoxide. Carbon monoxide (CO) is a colorless and odorless gas, formed when carbon in fuel is not burned completely. It is a component of motor vehicle exhaust, which contributes about 60 percent of all CO emissions nationwide. Nonroad vehicles account for the remaining CO emissions from transportation sources.

CO can cause harmful health effects by reducing oxygen delivery to the body's organs (like the heart and brain) and tissues. The health threat from lower levels of CO is most serious for those who suffer from heart disease, like angina, clogged arteries, or congestive heart failure. For a person with heart disease, a single exposure to CO at low levels may cause chest pain and reduce that person's ability to repeated exposures and may contribute to other cardiovascular effects.

Even healthy people can be affected by high levels of CO. People who breathe high levels of CO can develop vision problems, reduced ability to work or learn, reduced manual dexterity, and difficulty performing complex tasks. At extremely high levels, CO is poisonous and can cause death.

CO NAAQS are for 1-hour and 8-hour periods and are not to be exceeded more

than once per year. The 1-hour CO NAAQS is 35 ppm (40 mg/m3) and the 8-hour CO NAAQS is 9 ppm (10 mg/m3).

B. What Are the Current Designations and Classifications in Washoe County With Respect to the 1-Hour Ozone and Carbon Monoxide NAAQS?

Ozone. Under the Clean Air Act, as amended in 1990 (CAA or ''Act''), EPA designated all of Washoe County as a nonattainment area for the 1-hour ozone NAAQS, effective January 6, 1992. See 56 FR 56694, at 56798 (November 6, 1991). In our 1991 final rule, EPA further classified Washoe County as a ''marginal'' nonattainment area for the 1-hour ozone NAAQS. Under section 181(a)(1), the Act establishes the end of 1993 as the attainment date for ''marginal'' ozone nonattainment areas, such as Washoe County.

Washoe County is located in the northwestern portion of the State of Nevada and encompasses a land area of approximately 6,600 square miles. Washoe County is bordered by the State of California to the west and the State of Oregon to the north. Within the State of Nevada, the counties of Humboldt, Pershing, Churchill, Lyon, and Storey and the city of Carson City bound Washoe County to the east and south.

In 1998, we found that Washoe County was attaining the 1-hour ozone NAAQS, based on 1994–1996 monitoring data, and listed it as one of the areas in the country where the 1-hour ozone NAAQS no longer applied. See 63 FR 31014, at 31065 (June 5, 1998). In 2000, in response to continuing litigation over the 8-hour ozone NAAQS, we reinstated the 1-hour ozone NAAQS in those areas in which we had found the standard to no longer apply, such as Washoe County. See 65 FR 45182, at 45244 (July 20, 2000). In that 2000 action, we also reinstated Washoe County's classification as a ''marginal'' nonattainment area for the 1-hour ozone NAAQS, effective January 16, 2001, see 65 FR 45829 (July 25, 2000), and also reinstated the 1993 attainment date.

Carbon Monoxide. Under section 107(d)(1)(C) of the Act, an area that lies entirely within Washoe County, *i.e.*, hydrographic area #87 (named ''Truckee Meadows''), and another that extends into a portion of Washoe County, *i.e.*, hydrographic are #90 (named ''Lake Tahoe Basin''), were designated nonattainment for the CO NAAQS by operation of law because they had been designated nonattainment at the time of enactment of the 1990 Clean Air Act Amendments. With respect to CO, this rulemaking only concerns ''Truckee Meadows''. In a separate rulemaking, EPA redesignated ''Lake Tahoe Basin'' from nonattainment to attainment for the CO NAAQS. See 68 FR 69611 (December 15, 2003).

Pursuant to the Act as amended in 1990, EPA further classified Truckee Meadows as a ''moderate'' nonattainment area for the CO NAAQS. See 56 FR 56694, at 56798 (November 6, 1991) and 40 CFR part 81.329. Under section 186(a)(1), the Act establishes the end of 1995 as the attainment date for ''moderate'' CO nonattainment areas, such as Truckee Meadows.

Truckee Meadows lies in the far southern portion of Washoe County and encompasses a land area of approximately 200 square miles. The Truckee Meadows CO nonattainment area is comprised of three governmental units: Washoe County and two incorporated cities, Reno and Sparks.

C. How Do We Make Attainment Determinations?

Ozone. Pursuant to sections 179(c) and 181(b)(2) of the Act, we have the responsibility of determining within six months of the applicable attainment date whether, based on air quality data, the 1-hour ozone NAAQS has been attained in a given nonattainment area by that date. Determinations under section 179(c) of the Act are to be based upon an area's ''air quality as of the attainment date''. Section 181(b)(2) is consistent with this requirement. As noted above, Washoe County's attainment date for the 1-hour ozone NAAQS was 1993.

Generally, we will determine whether an area's air quality is meeting the NAAQS for purposes of sections 181(b)(2) based upon data gathered at established state and local air monitoring stations (SLAMS) and national air monitoring sites (NAMS) in the nonattainment area and entered into the Air Quality System (AQS) database, formerly known as the Aerometric Information Retrieval System (AIRS). We will also consider air quality data from other air monitoring stations in the nonattainment area provided that the stations meet the federal monitoring requirements for SLAMS. We also review whether the area's monitoring network is adequate.

The 1-hour ozone NAAQS is 0.12 ppm, not to be exceeded on average more than 1 day per year over any 3-year period. See 40 CFR 50.9 and appendix H. Under our policies, we determine if an area has attained the 1-hour standard by calculating, at each monitor, the average number of days over the standard (*i.e.*, ''exceedance days'') per year during the preceding 3-year period. For this proposal, we have based our determination of attainment by the applicable attainment date on the average number of exceedance days per year for the period 1991 though 1993.

Carbon Monoxide. Section 179(c)(1) of the Act provides that attainment determinations are to be based on the ''area's air quality as of the attainment date,'' and section 186(b)(2) of the Act is consistent with this requirement but adds that CO air quality is to be documented for attainment determination purposes in terms of ''design values''. Similar to the procedure described above for ozone, EPA makes the determination as to whether an area's air quality is meeting the NAAQS for CO based upon air quality data gathered at SLAMS and NAMS monitoring sites in the nonattainment area and entered into the AQS database. As for ozone, we also review whether the area's monitoring network is adequate.

This data is reviewed to determine the area's air quality status in accordance with 40 CFR 50.8, EPA policy guidance as stated in a memorandum from William G. Laxton, Director Technical Support Division, entitled ''Ozone and Carbon Monoxide Design Value Calculations,'' dated June 18, 1990, and EPA's ''General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990'' (*see* 57 FR 13498, at 13531–13532, April 16, 1992).

The 8-hour and 1-hour CO design values are used to determine attainment of CO areas, and the design values are determined by reviewing 8 quarters of data, or a total of 2 complete calendar years of data for an area. The 8-hour design value is computed by first finding the maximum and second maximum (non-overlapping) 8-hour values at each monitoring site for each year of the two calendar years prior to and including the attainment date. Then the higher of the two ''second high'' values is used as the design value for the monitoring site, and the highest design value among the various CO monitoring sites represents the CO design value for the area.

The CO NAAQS requires that not more than one 8-hour average per year can equal or exceed 9.5 ppm (values below 9.5 are rounded down to 9 and are not considered exceedances). If an area has a design value that is equal to or greater than 9.5 ppm, this means that there was a monitoring site where the second highest (non-overlapping) 8-hour average was measured to be equal to or greater than 9.5 ppm in at least 1 of the 2 years being reviewed to determine attainment for the area. This

indicates that there were at least two values above the NAAQS during 1 year at that site and thus the NAAQS for CO was not met. Conversely, an eight-hour design value of less than 9.5 ppm indicates that the area has attained the CO NAAQS. The one-hour CO design value is computed in the same manner. For this proposal, we have based our determination of attainment by the attainment date on the design values calculated using CO monitoring data from 1994 and 1995.

II. Basis for EPA's Proposed Action

A. How Did We Determine That the Washoe County Monitoring Network Is Adequate To Provide the Data Necessary To Determine Whether the Area Has Attained the Ozone and Carbon Monoxide NAAQS?

Our determination of whether an area has attained the NAAQS under CAA sections 179(c), 181(b)(2), and 186(b)(2) relies on monitored air quality data. Thus, the validity of a determination of attainment depends on whether the monitoring network adequately measures ambient levels of the relevant pollutants in the area. We evaluate 3 basic elements in determining the adequacy of an area's monitoring network. First, the network needs to meet the design requirements of 40 CFR part 58, appendix D. Under 40 CFR part 58, appendix D, EPA has established ambient air quality monitoring requirements and standards for SLAMS and for NAMS. These requirements and standards provide for operating schedules, data quality assurance, and for the design and siting of samplers. Also, the network needs to utilize monitoring equipment designated as reference or equivalent methods under 40 CFR part 53, and the agency or agencies operating the equipment need to have a quality assurance plan in place that meets the requirements of 40 CFR part 58, appendix A.

The Washoe County District Health Department, Air Quality Management Division (WCAQMD) operates the air pollutant monitoring network in Washoe County. WCAQMD's ozone and carbon monoxide network meets or exceeds our requirements described above and is therefore adequate for use in determining the attainment status for ozone and carbon monoxide. Data entered into the AQS database has been determined to meet federal monitoring requirements (*see* 40 CFR 50.8 and 50.9, 40 CFR part 50 appendices C and D, 40 CFR part 53, 40 CFR part 58 appendices A and D) and may be used to determine the attainment status of areas. We have included in the docket for this rulemaking a copy of the most recent comprehensive audit of WCAQMD's ambient air monitoring network. That audit found no problems in the network.

B. How Did We Determine That Washoe County Attained the 1-Hour Ozone NAAQS by the Applicable Attainment Date and Has Continued To Attain Since Then?

WCAQMD currently monitors 1-hour ozone on a continuous basis at 6 monitoring sites within Washoe County. Three of the 6 ozone monitoring stations within Washoe County are SLAMS/NAMS stations (Reno3, South Reno and Sparks); two are SLAMS stations (Lemmon Valley and Toll Road); and one is a special purpose monitor (SPM) (Incline Village).

As noted above, the applicable attainment date for Truckee Meadows ''marginal'' 1-hour ozone nonattainment area was 1993 and that we are evaluating attainment based on the data from 1991 through 1993. During the 1991–1993 period, only 4 of the current 6 ozone monitoring stations were in operation. Table 1 summarizes the ozone data collected at these 4 ozone monitoring stations during the 1991–1993 period and included in AQS.

TABLE 1.—AVERAGE NUMBER OF OZONE EXCEEDANCE DAYS PER YEAR BY MONITORS IN WASHOE COUNTY, 1991–1993

[Summary of One-Hour Ozone Air Quality, Washoe County, 1991–1993]

Monitoring site name and AQS number	Average number of exceedance days per year, 1991–1993
Reno-Downtown (32–031–0016)	0
South Reno (32–031–0020)	0
Sparks-Fourth St. (32–031–1005)	0
Lemmon Valley (32–031–2009)	0

Source: EPA Air Quality System (AQS) Database.

As shown in Table 1, the average number of exceedance days per year is zero at all of the sites. Therefore, we propose to find that Washoe County attained the 1-hour ozone NAAQS by December 31, 1993, which is the applicable attainment date for this nonattainment area.

A review of data input to AQS indicates that Washoe County has continued to attain the 1-hour ozone NAAQS since the end of 1993. The highest 1-hour ozone concentration measured in Washoe County during the 1994 through 2003 period was a concentration of 0.12 ppm (rounded up from a measured value of 0.116 ppm) that was measured at the Sparks station in 1999. This highest value does not exceed the corresponding 1-hour ozone NAAQS of 0.12 ppm. A ''quick look'' report generated using AQS for the WCAQMD ozone monitoring stations for the 1991 to 2003 period is included in the docket for this rulemaking. Thus, in conclusion, we propose to find that Washoe County has attained the 1-hour ozone NAAQS by the applicable attainment date (1993) and has continued to attain since that time.

C. How Did We Determine That the Truckee Meadows Portion of Washoe County Attained the Carbon Monoxide NAAQS by the Applicable Attainment Date and Has Continued To Attain Since Then?

WCAQMD currently monitors CO on a continuous basis at 5 monitoring sites within Truckee Meadows. Four of the 5 CO monitoring stations within Truckee Meadows are SLAMS/NAMS stations (Reno3, South Reno, Galletti, and Sparks) and one is a SLAMS site (Toll Road).

As noted above, the applicable attainment date for Truckee Meadows ''moderate'' CO nonattainment area was 1995 and that we are evaluating attainment based on the data from 1994 and 1995. During the 1994–1995 period, only 4 of the current 5 CO monitoring stations were in operation. Table 2 summarizes the CO data collected at these 4 CO monitoring stations during the 1994–1995 period and included in AQS.

TABLE 2.—CARBON MONOXIDE DESIGN VALUES FOR ONE-HOUR AND EIGHT-HOUR AVERAGES IN TRUCKEE MEADOWS, 1994–1995

[Summary of Carbon Monoxide Air Quality Data Truckee Meadows, Washoe County, Nevada 1994–1995]

Monitoring site name and AQS number	2nd highest 8-hour concentration (ppm)			2nd highest 1-hour concentration (ppm)		
	1994	1995	Design value	1994	1995	Design value
Reno-Downtown (32–031–0016)	6.8	5.1	6.8	10.7	7.8	10.7
Reno-Galletti (32–031–0022)	9.1	6.0	9.1	11.8	8.4	11.8
South Reno (32–031–0020)	3.5	2.5	3.5	5.5	4.4	5.5
Sparks-Fourth St. (32–031–1005)	7.0	5.5	7.0	11.6	9.9	11.6
Area Design Value	8-Hour CO Design Value: 9.1. ppm			1-Hour CO Design Value: 11.8 ppm		

Source: EPA Air Quality System (AQS) Database.

As shown in Table 2, the CO design values are less than 9.5 ppm (eight-hour average) and 35.5 ppm (one-hour average) at all of the sites. Therefore, we propose to find that Truckee Meadows attained the CO NAAQS by December 31, 1995, which is the applicable attainment date for this nonattainment area.

A review of data input to AQS indicates that Truckee Meadows has continued to attain the CO NAAQS since the end of 1995. The highest 8-hour and 1-hour CO concentrations measured at the various monitoring stations during the 1996 through 2003 period were 9 ppm and 12 ppm, respectively (both at the Reno-Galletti station in 1997), which do not exceed the corresponding CO NAAQS of 9 ppm and 35 ppm, respectively. A ''quick look'' report generated using AQS for the WCAQMD CO monitoring stations for the 1994 to 2003 period is included in the docket for this rulemaking. Thus, in conclusion, we propose to find that Truckee Meadows has attained the CO NAAQS by the applicable attainment date (1995) and has continued to attain since that time.

III. EPA's Proposed Action

EPA proposes to find, pursuant to sections 179(c)(1), 181(b)(2), and 186(b)(2) of the Act, that the Washoe County ''marginal'' ozone nonattainment area has attained the 1-hour ozone NAAQS by the applicable attainment date (1993) and has continued to attain the 1-hour ozone NAAQS since then, and that the Truckee Meadows ''moderate'' CO nonattainment area in Washoe County has attained the CO NAAQS by the applicable attainment date (1995) and has continued to attain the CO NAAQS since then. If finalized as proposed, our action will relieve the State of Nevada from the obligation to revise the SIP to comply with CAA requirements related to the next higher ozone and CO classifications for these nonattainment areas.

It should be noted that this proposed action does not represent a proposal to redesignate Washoe County from ''nonattainment'' to ''attainment'' for the 1-hour ozone NAAQS nor does it represent a proposal to redesignate Truckee Meadows from ''nonattainment'' to ''attainment'' for the CO NAAQS. Under section 107(d)(3)(E), the Clean Air Act requires that, for an area to be redesignated from nonattainment to attainment, five criteria must be satisfied. The attainment findings herein satisfy one of the five criteria, but other criteria, such as the submittal by the State (and approval by EPA) of a maintenance plan, must also be satisfied before EPA can redesignate an area from nonattainment to attainment. Therefore, the designation status in 40 CFR part 81, section 329 (81.329) will remain as marginal nonattainment for the 1-hour ozone NAAQS (Washoe County) and moderate nonattainment for the CO NAAQS (Truckee Meadows) until such time as the State of Nevada meets the CAA requirements for redesignations to attainment.

IV. Request for Public Comment

We are soliciting public comment on all aspects of this proposal. These comments will be considered before taking final action. To comment on today's proposal, you should submit comments by mail or in person (in triplicate if possible) to the **ADDRESSES** section listed in the front of this document. Your comments must be received by February 22, 2005 to be considered in the final action taken by EPA.

V. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this proposed action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001). This proposed action merely proposes to find that an area has attained a national ambient air quality standard based on an objective review of measured air quality data. If finalized, it would not impose any new regulations, mandates, or additional enforceable duties on any public, nongovernmental, or private entity. Accordingly, the Administrator certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this proposed rule does not impose any additional enforceable duty, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4).

This proposed rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely proposes to find that an area has attained a national ambient air quality standard, and does not alter the

relationship or the distribution of power and responsibilities established in the Clean Air Act. This proposed rule also is not subject to Executive Order 13045 ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), because it is not economically significant.

This proposed rule does not involve establishment of technical standards, and thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 *note*) do not apply. This proposed rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*)

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

List of Subjects in 40 CFR Part 81

Environmental protection, Air pollution control, National parks, Wilderness areas.

Dated: January 7, 2005.

Laura Yoshii,

Acting Regional Administrator, Region IX.

[FR Doc. 05–1118 Filed 1–19–05; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[FRL–7862–5]

Determination of Attainment by the Applicable Attainment Date for the Carbon Monoxide National Ambient Air Quality Standard Within the Las Vegas Valley Nonattainment Area, Clark County, NV; Determination Regarding Applicability of Certain Clean Air Act Requirements

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to find that the Las Vegas Valley nonattainment area in the State of Nevada has attained the National Ambient Air Quality Standard for carbon monoxide by the applicable December 31, 2000 attainment date. Based on this proposal, EPA also proposes to determine that the Clean Air Act's requirements for contingency provisions will no longer apply to the area.

DATES: Written comments on this proposal must be received by February 22, 2005.

ADDRESSES: Comments should be addressed to the EPA contact below. You may inspect and copy the rulemaking docket for this notice at the following location during normal business hours. We may charge you a reasonable fee for copying parts of the docket. Steven Barhite, Chief, Environmental Protection Agency, Region IX, Air Division, Air Planning Office (AIR–2), 75 Hawthorne Street, San Francisco, CA 94105–3901.

FOR FURTHER INFORMATION CONTACT: Karina O'Connor, Air Planning Office (AIR–2), Air Division, U.S. EPA, Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901. Telephone: (775) 833–1276. E-mail: *oconnor.karina@epa.gov*.

SUPPLEMENTARY INFORMATION: Throughout this document, ''we,'' ''us'' and ''our'' refer to EPA.

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I. Attainment Finding

A. Background

1. *Which NAAQS Is Considered in Today's Proposed Finding?*

Carbon monoxide (CO) is a colorless, odorless gas emitted in combustion processes. In most areas where elevated CO levels are found, CO comes primarily from tailpipe emissions of cars and trucks. Exposure to elevated CO levels is associated with impairment of visual perception, work capacity, manual dexterity, and learning ability, and with illness and death for those who already suffer from cardiovascular disease, particularly angina or peripheral vascular disease.

On April 30, 1971 (*see* 36 FR 8186), pursuant to section 109 of the Clean Air Act (CAA or ''Act''), as amended in 1970, we promulgated the original National Ambient Air Quality Standards (NAAQS) for several pervasive air pollutants, including CO. NAAQS represent concentration levels the attainment and maintenance of which, allowing for an adequate margin of safety, EPA has determined to be requisite to protect public health (''primary'' NAAQS) and welfare (''secondary'' NAAQS). The primary (*i.e.*, health-based) NAAQS for CO is 9 parts per million (ppm) averaged over an 8-hour period, and 35 ppm averaged over 1 hour, neither to be exceeded more than once per year. In our 1971 rulemaking, we established identical primary and secondary NAAQS for CO but later revoked the secondary (welfare) NAAQS for CO. See 50 FR 37484 (September 13, 1985).

2. *What Is the Designation and Classification of This CO Nonattainment Area?*

As noted above, EPA first promulgated the NAAQS in 1971, and within 9 months thereafter, each State was required under section 110 of the Act to adopt and submit to EPA a plan that provides for the implementation, maintenance, and enforcement of the NAAQS within each State. These plans are referred to as ''State implementation plans'' or ''SIPs.'' Generally, SIPs were to provide for attainment of the NAAQS within 3 years after EPA approval of the plan. However, many areas of the country did not attain the NAAQS within the statutory period. In response, Congress amended the Act in 1977 to establish a new approach, based on area designations, for attaining the NAAQS, and on March 3, 1978 (*see* 43 FR 8962), we promulgated attainment status designations for all areas within each of the States. In this 1978 rulemaking, we designated Las Vegas Valley (*i.e.*, State hydrographic area #212), which is a subarea within Clark County, as a ''nonattainment'' area for the CO NAAQS.

The Clean Air Act, as amended in 1977, required States to revise their SIPs by preparing, adopting and submitting attainment plans (for EPA approval) that set forth a strategy to achieve the NAAQS in designated nonattainment areas. The original statutory deadline for attainment was 1982. EPA conditionally approved the initial CO attainment plan for Las Vegas Valley into the Nevada SIP in 1981. See 46 FR 21758 (April 14, 1981). EPA removed the conditions on the CO plan in 1982. See 47 FR 15790 (April 13, 1982). Updated attainment plans were required for areas, like Las Vegas Valley, that did not achieve the original 1982 deadline. EPA approved an updated plan for CO in Las Vegas Valley into the Nevada SIP in 1984. See 49 FR 44208 (November 5, 1984).

Notwithstanding our approval of the updated CO attainment plan that was intended to provide for attainment in the valley by the end of 1987, the CO NAAQS was not actually attained by the end of that year in Las Vegas Valley, nor was it attained in many other areas of the country. In 1988, EPA notified the Governors of the various States in which areas had failed to attain the CO NAAQS that their SIPs were inadequate and that their SIPs must be revised (''SIP call''). See 53 FR 34500 (September 7, 1988). The SIP call involved a two-phase approach. The first phase called for the States to fix deficiencies in their existing plans and to implement any measures already adopted but not yet implemented. The second phase, which called for development of a new attainment plan, awaited Congressional amendments to the Clean Air Act that were anticipated to occur in 1990. See 55 FR 30873 (July 30, 1990).

As anticipated, the Act was substantially amended in 1990 to establish new planning requirements and attainment deadlines for the NAAQS. Under section 107(d)(1)(C) of the Act, areas designated nonattainment at the time of enactment of the 1990 Act Amendments, including Las Vegas Valley, were designated nonattainment by operation of law. Under section 186(a) of the Act, each CO area designated nonattainment under section 107(d) was also classified by operation of law as either moderate or serious, depending on the severity of the area's air quality problem. CO areas with design values between 9.1 and 16.4 parts per million (ppm), such as the Las Vegas Valley area, were classified as moderate. See 56 FR 56694 (November 6, 1991). (The design value for Las Vegas Valley for initial classification purposes was 14.4 ppm, which was based on monitoring data from the late 1980's.)

Section 172 of the 1990 Act Amendments contains general requirements applicable to SIP revisions for nonattainment areas, and sections 186 and 187 set out additional air quality planning requirements for CO nonattainment areas. The most fundamental of these provisions is the requirement that CO nonattainment areas with design values greater than 12.7 ppm submit a SIP revision demonstrating attainment of the NAAQS as expeditiously as practicable but no later than the deadline applicable to the area's classification: December 31, 1995, for moderate areas. See CAA sections 186(a)(1) and 187(a)(7).

Las Vegas Valley failed to reach attainment by December 31, 1995, but, under section 186(a)(4) of the Act, the State of Nevada requested, and EPA granted, a one-year extension of the attainment date, *i.e.*, to December 31, 1996. See 61 FR 57331 (November 6, 1996). However, in the first quarter of 1996, three exceedances of the CO standard were recorded at the East Charleston monitoring station in Las Vegas, and thus, the State was unable to show attainment of the standard by December 31, 1996 and could not qualify for an additional one-year extension under section 186(a)(4) of the Act.

Subsequently, on October 2, 1997, we published a final rule that found that the Las Vegas Valley CO nonattainment area did not attain the CO NAAQS by the applicable attainment date and that reclassified the area from ''moderate'' to ''serious'' nonattainment under section 186(b)(2) of the Act. See 62 FR 51604 (October 2, 1997). Areas reclassified as serious are given more time to develop a new attainment plan and a new attainment date but are subject to additional requirements beyond those that are required in moderate nonattainment areas. For Las Vegas Valley, the effect of the reclassification to ''serious'' was to allow Nevada 18 months from the effective date of the reclassification to submit a new plan demonstrating attainment of the CO NAAQS as expeditiously as practicable but no later than December 31, 2000, the CAA attainment date for serious CO nonattainment areas.

In 2000, the State of Nevada submitted a new plan that revises the CO attainment strategy and that provides a demonstration of attainment, based on modeling techniques, by the new attainment deadline, *i.e.*, December 31, 2000. In January 2003, EPA proposed to approve the various plan elements contained in this latest CO plan, including the modeled attainment demonstration. See 68 FR 4141 (January 28, 2003). In September 2004, we finalized our approval of all of the plan elements except for the contingency provisions. See 69 FR 56351 (September 21, 2004).

3. How Do We Make Attainment Determinations?

Section 179(c)(1) of the Act provides that attainment determinations are to be based on the ''area's air quality as of the attainment date,'' and section 186(b)(2) of the Act is consistent with this requirement but adds that CO air quality is to be documented for attainment determination purposes in terms of ''design values''. EPA makes the determination as to whether an area's air quality is meeting the CO NAAQS based upon air quality data gathered at CO monitoring sites in the nonattainment area which have been entered into the Air Quality System (AQS) database, formerly known as the Aerometric Information Retrieval System (AIRS). This data is reviewed to determine the area's air quality status in accordance with 40 CFR 50.8, EPA policy guidance as stated in a memorandum from William G. Laxton, Director Technical Support Division, entitled ''Ozone and Carbon Monoxide Design Value Calculations,'' dated June 18, 1990, and in EPA's ''General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990'' (*see* 57 FR 13498, at 13535, April 16, 1992).

The 8-hour and 1-hour CO design values are used to determine attainment of CO areas, and the design values are determined by reviewing 8 quarters of data, or a total of 2 complete calendar years of data for an area. The 8-hour design value is computed by first finding the maximum and second maximum (non-overlapping) 8-hour values at each monitoring site for each year of the two calendar years prior to and including the attainment date. Then the higher of the two ''second high'' values is used as the design value for the monitoring site, and the highest design value among the various CO monitoring sites represents the CO design value for the area.

The CO NAAQS requires that not more than one 8-hour average per year can equal or exceed 9.5 ppm (values below 9.5 are rounded down to 9 and are not considered exceedances). If an area has a design value that is equal to or greater than 9.5 ppm, this means that there was a monitoring site where the second highest (non-overlapping) 8-hour average was measured to be equal to or greater than 9.5 ppm in at least 1 of the 2 years being reviewed to determine attainment for the area. This indicates that there were at least two values above the NAAQS during 1 year at that site and thus the NAAQS for CO was not met. Conversely, an eight-hour design value of less than 9.5 ppm indicates that the area has attained the CO NAAQS. The one-hour CO design value is computed in the same manner.

B. Basis for EPA's Proposed Attainment Finding

1. What Is the Statutory Basis for This Proposed Finding?

Pursuant to sections 179(c)(1) and 186(b)(2) of the Act, we have the responsibility of determining within six months of the applicable attainment date whether, based on the area's design

value as of the attainment date, the CO nonattainment area attained the NAAQS by that date. As a CO nonattainment area that was reclassified as ''serious'' under 186(b)(2)(A) of the Act, Las Vegas Valley was required under section 186 of the Act to attain the CO NAAQS no later than December 31, 2000. Therefore, our obligation, under sections 179(c)(1) and 186(b)(2) of the Act, is to determine whether the Las Vegas Valley attained the CO NAAQS based on the area's design value as of December 31, 2000.

2. How Did We Determine That Las Vegas Valley Has Attained the CO NAAQS by the Applicable Attainment Date?

As additional background, we provide a brief description in the following paragraphs of the Las Vegas Valley CO nonattainment area and CO monitoring network before discussing the monitoring data that provide the basis for determining the design value and attainment of the CO NAAQS.

Characteristics of Nonattainment Area: The population of the Las Vegas Valley nonattainment area (State hydrographic area #212) is approximately 1.4 million residents. The valley, located in southern Nevada, lies entirely within Clark County and includes the cities of Las Vegas, North Las Vegas, and Henderson. The remainder of the nonattainment area includes unincorporated areas of Clark County. The nonattainment area, approximately 1,500 square miles, is bounded by the Spring Mountains to the west, the Pintwater, Desert, Sheep, and Las Vegas Mountains to the north, and Frenchman Mountain to the east. The McCullough Range and Big Spring Range close the area to the south.

Valley drainage flows to the south, toward the McCullough and Big Spring Ranges, then easterly through the Las Vegas Wash to Lake Mead. Las Vegas Valley's climate, at the edge of the Mojave Desert, is very dry and warm. Average annual precipitation is 4.2 inches. Temperatures through a year can range from daily maximums in July of 104 degrees Fahrenheit to average daily minimums in January of 33 degrees Fahrenheit. Climatic conditions, and Las Vegas' location in a broad valley, result in calm wind conditions during the winter. These low winds combine with temperature inversions and nighttime downslope drainage of air back into the valley, preventing effective dispersion of air pollutants.

CO Monitoring Network: EPA has established ambient air quality monitoring requirements and standards for State and Local Air Monitoring Stations (SLAMS) and for National Air Monitoring Stations (NAMS). These requirements and standards provide for operating schedules, data quality assurance, and for the design and siting of CO samplers.

The Clark County Health District began monitoring CO in Las Vegas Valley in the early 1970's and operated continuous CO monitors at two locations (East Charleston and Casino Center Blvd.) by the mid-1970's. Since then, the CO ambient monitoring network in Las Vegas Valley has evolved into a system of 15 monitoring sites. All of these stations are operated by the Clark County Department of Air Quality and Environmental Management (DAQEM), which is the local agency now responsible for the ambient air monitoring (and other regulatory) functions that had been conducted (*i.e.*, until mid-2001) by the Clark County Health District. Currently, for CO, DAQEM operates 7 SLAMS sites, 4 NAMS sites, and 4 special purpose monitoring sites. Each of these air quality monitoring stations uses a Dasibi CO Analyzer which employs the Gas Filter Correlation technique. The monitoring schedule for CO is continuous. Most of the CO monitoring sites are sited at the neighborhood scale with an objective of assessing population exposure. The South Las Vegas Boulevard station, located near an intersection with high traffic density, is designated as microscale.

In August 2001, EPA conducted a technical systems audit on DAQEM's ambient air monitoring program to assess its compliance with established regulations governing the collection, analysis, validation, and reporting of ambient air quality data. In our February 2002 report containing the findings of this audit, we concluded that, despite various program deficiencies, the data was suitable for use in regulatory decisions in light of substantial compliance with many of the quality control activities required by EPA regulations. Thus, we conclude that the CO data is appropriate for use in determining whether the Las Vegas Valley has attained the CO NAAQS. Our February 2002 audit report is included in the docket for this rulemaking.

CO Monitoring Data: The following table summarizes the CO data collected at the various CO monitoring stations in Las Vegas Valley in 1999 and 2000 and included in AQS.

SUMMARY OF CARBON MONOXIDE AIR QUALITY DATA LAS VEGAS VALLEY, CLARK COUNTY, NEVADA, 1999–2000

Monitoring site name and AQS number	2nd highest 8-hour concentration (ppm)			2nd highest 1-hour concentration (ppm)		
	1999	2000	Design value	1999	2000	Design value
Boulder City (32–003–0601)	0.6	1.1	1.1	1.1	1.3	1.3
City Center (32–003–0016)	5.6	4.8	5.6	8.5	7.2	8.5
Craig Road (32–003–0020)	2.7	1.8	2.7	2.9	3.0	3.0
Crestwood (32–003–0562)	5.8	5.1	5.8	7.8	6.9	7.8
East Flamingo (32–003–1022)	5.2	4.2	5.2	7.5	6.2	7.5
East Sahara (32–003–0539)	6.9	5.7	6.9	8.7	7.2	8.7
Health District (32–003–0021)	5.1	*ND	5.1	6.8	*ND	6.8
Green Valley (32–003–0298)	1.9	1.7	1.9	3.0	2.7	3.0
S. East Valley (32–003–0007)	1.7	1.5	1.7	3.3	2.8	3.3
Winterwood (32–003–0538)	6.5	4.1	6.5	8.3	6.0	8.3
Paul Meyer (32–003–0043)	2.0	1.6	2.0	2.8	3.0	3.0
Pittman (32–003–0107)	2.5	2.1	2.5	5.9	4.2	5.9
S. Las Vegas Blvd (32–003–1023)	4.4	3.7	4.4	6.9	5.6	6.9
Sunrise Acres (32–003–0561)	8.2	7.1	8.2	10.2	8.5	10.2
J.D. Smith (32–003–2002)	4.4	3.8	4.4	6.7	5.8	6.7
Area Design Value—Sunrise Acres	8-Hour CO Design Value: 8.2 ppm			1-Hour CO Design Value: 10.2 ppm		

Source: EPA Air Quality System (AQS) Database.
*ND = No Data.

As shown in the above table, the design values are less than 9.5 ppm (eight-hour average) and 35.5 ppm (one-hour average) at all of the sites. Therefore, we propose to find that the Las Vegas Valley attained the CO NAAQS by December 31, 2000, which is the applicable attainment date for this nonattainment area under the Act.

A review of data input to AQS indicates that Las Vegas Valley has continued to attain the CO NAAQS since the end of 2000. The highest 8-hour and 1-hour CO concentrations measured at the various monitoring stations during the 2001 through 2003 period were 7.2 ppm and 8.9 ppm, respectively (both at the Sunrise Acres station in 2001), which are well below the corresponding CO NAAQS of 9 ppm and 35 ppm, respectively. A ''quick look'' report generated using AQS for the Las Vegas Valley CO monitoring stations for the 2001 to 2003 period is included in the docket for this proposed rule.

II. Applicability of Clean Air Act Contingency Provisions

A. Background

In our proposal to approve SIP revisions submitted by the State of Nevada to provide for attainment of the CO NAAQS in the Las Vegas Valley Nonattainment Area (68 FR 4141, January 28, 2003), we concluded that the contingency measure requirements for the area under sections 172(c)(9) and 187(a)(3) of the Act were met by the implementation of standardized On-Board Diagnostics systems (OBD II) testing (as part of the vehicle inspection and maintenance (I/M) program). See 68 FR at 4157. In that proposal, we also proposed to disapprove two other contingency measures (*i.e.*, Lower I/M Program Cutpoints and On Road Remote Sensing) that had been submitted as part of the Las Vegas Valley serious area CO attainment plan, the *Carbon Monoxide State Implementation Plan, Las Vegas Valley Nonattainment Area, Clark County,* Nevada (August 2000). See 68 FR at 4157.

In the final rule, we approved the SIP revisions as we had proposed with the exception of the contingency provisions. With respect to the contingency provisions, we stated that objections raised by public comments on the appropriateness of our proposed approval of OBD II testing as fulfilling the contingency measure requirements under sections 172(c)(9) and 187(a)(3) of the Act (in addition to fulfilling an I/M requirement) and the fact that Clark County had yet to provide quantitative information on the emissions reductions associated with OBD II testing consistent with their commitment to do so had lead us to defer taking final action on the contingency provisions in that notice. See 69 FR 56351 (September 21, 2004). We indicated in that final rule that we would address the contingency provision requirements for Las Vegas Valley in a separate rulemaking. This proposal constitutes that rulemaking.

B. Effect of a Finding of Attainment by Applicable Attainment Date on CAA Contingency Measure Requirement

Upon our designation of Las Vegas Valley as a CO nonattainment area, Las Vegas Valley became subject to the contingency provisions set forth in subpart 1 (of title I of the Act) at section 172(c)(9) and in subpart 3 at section 187(a)(3). For the reasons described below, we believe that the contingency provisions under sections 172(c)(9) and 187(a)(3) are no longer required for CO nonattainment areas that are determined to have attained the CO NAAQS by the applicable attainment date.

Section 172(c)(9) requires a State to submit contingency measures that will be implemented if an area fails to make ''reasonable further progress'' (RFP) [1] or fails to attain by the applicable attainment date. Thus, the stated purpose of the contingency measure requirement is to ensure RFP (the purpose of which is to ensure attainment by the applicable attainment date) and attainment by the applicable attainment date. If an area has in fact attained the standard by the applicable attainment date, the stated purpose of the contingency measure requirement will have already been fulfilled. Consequently, we believe that the requirement for a State to submit revisions providing for measures to meet the contingency provisions of section 172(c)(9) no longer applies for an area that we find as having attained the relevant NAAQS by the applicable attainment date. We note that we took this view with respect to the general contingency measure requirement of section 172(c)(9) in our ''General Preamble for the Interpretation of Title I of the Clean Air Act Amendments of 1990'' at 57 FR 13498 (April 16, 1992). In the General Preamble, we stated, in the context of a discussion of the requirements applicable to the evaluation of requests to redesignate nonattainment areas to attainment, that the ''section 172(c)(9) requirements for contingency measures * * * no longer apply when an area has attained the standard and is eligible for redesignation.'' See 57 FR 13498, at 13564 (April 16, 1992). See also ''Procedures for Processing Requests to Redesignate Areas to Attainment,'' from John Calcagni, Director, Air Quality Management Division, to Regional Air Division Directors, September 4, 1992 (*http://www.epa.gov/ttn/naaqs/ozone/ozonetech/940904.pdf*), at page 6.

Section 187(a)(3) identifies two circumstances for which contingency measures must be submitted. First, a State must submit contingency measures to be implemented if any estimate of vehicle miles traveled (VMT) in the area for any year prior to the attainment year that is submitted in an annual report under section 187(a)(2)(A) (''VMT tracking report'') exceeds the number predicted in the most recent prior forecast. This aspect of section 187(a)(3) supports reasonable further progress (RFP) by ensuring that the SIP contains a mechanism to correct for underprediction in the CO plan of VMT and related motor vehicle emissions in years prior to the attainment year, and thereby serves to help maintain the overall year-to-year reduction in CO emissions that is referred to as the RFP requirement. However, since the provision applies only to years prior to the attainment year and that year has already passed, and the purpose of RFP itself is fulfilled upon a finding of attainment by the applicable attainment date, we find that the additional support for RFP that would otherwise be provided through the application of section 187(a)(3) is no longer required upon that same finding of attainment by the applicable attainment date.

Second, under section 187(a)(3) of the Act, a State must submit contingency measures to be implemented if the area fails to attain the national primary ambient air quality standard for carbon monoxide by the primary standard attainment date. This aspect of section 187(a)(3), *i.e.*, failure to attain the CO NAAQS by the attainment date, essentially restates the requirement in section 172(c)(9) (''* * * measures to be undertaken if the area * * * fails to attain the national primary ambient air quality standard by the attainment date applicable under this part.'') As such, our interpretation of section 172(c)(9) described above that a State need no longer submit revisions providing for measures to meet the contingency provisions of section 172(c)(9) for areas that we find as having attained the CO NAAQS by the applicable attainment date applies equally to the

[1] RFP means ''such annual incremental reductions in emissions of the relevant air pollutant as are required by this part or may reasonably be required by the Administrator for the purpose of ensuring attainment of the applicable national ambient air quality standard by the applicable date.'' See section 171(1) of the Act.

corresponding provision in section 187(a)(3).

Therefore, based on our proposed finding that Las Vegas Valley has attained the CO NAAQS by the applicable attainment date (December 31, 2000), we propose to find that the contingency requirements under section 172(c)(9) and 187(a)(3) of the Act will no longer apply for the Las Vegas Valley CO nonattainment area at such time as we finalize our proposed attainment finding.

III. EPA's Proposed Action

EPA proposes to find, pursuant to sections 179(c)(1) and 186(b)(2) of the Act, that the Las Vegas Valley ''serious'' nonattainment area has attained the NAAQS for CO by the applicable attainment date. If finalized as proposed, our action will relieve the State of Nevada from the obligation under section 187(g) of the Act to prepare and submit a SIP revision providing for a reduction of CO emissions within Las Vegas Valley by at least five percent per year in each year after approval of the SIP revision until the CO NAAQS is attained. It should be noted that this proposed action does not represent a proposal to redesignate this area from ''nonattainment'' to ''attainment''. Under section 107(d)(3)(E), the Clean Air Act requires that, for an area to be redesignated from nonattainment to attainment, five criteria must be satisfied including the submittal by the State (and approval by EPA) of a maintenance plan as a SIP revision. Therefore, the designation status of Las Vegas Valley in 40 CFR part 81 is unaffected by this proposed action, and Las Vegas Valley will remain a ''serious'' nonattainment area for CO until such time as EPA finds that the State of Nevada has met the Clean Air Act requirements for redesignation to attainment.

Based on our proposed finding of attainment by the applicable attainment date, we are also proposing to determine that the CAA's requirement for the SIP to provide for CO contingency measures will no longer apply to Las Vegas Valley. In this instance, the State submitted contingency measures (as part of the Las Vegas Valley serious area CO plan adopted in August 2000), but we will continue to defer taking any further action on them under sections 172(c)(9) and 187(a)(3) of the Act in light of this proposed finding of attainment by the applicable attainment date and resulting determination that the contingency measure requirement no longer applies to the area. The State may elect to withdraw the contingency measures to lift the obligation on EPA under section 110(k) to act on SIP submittals within certain time periods. If we finalize this action as proposed, then the remaining FIP obligation (*i.e.*, relative to contingency measures) that was triggered 24 months after our finding of Nevada's failure to submit a serious area CO plan for Las Vegas Valley (*see* 64 FR 49084, September 10, 1999) will be permanently lifted.

IV. Request for Public Comment

We are soliciting public comment on all aspects of this proposal. These comments will be considered before taking final action. To comment on today's proposal, you should submit comments by mail or in person (in triplicate if possible) to the **ADDRESSES** section listed in the front of this document. Your comments must be received by February 22, 2005 to be considered in the final action taken by EPA.

V. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this proposed action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001). This proposed action merely proposes to find that an area has attained a national ambient air quality standard based on an objective review of measured air quality data. It also proposes to determine that certain Clean Air Act requirements no longer apply so long as the area continues to attain the standard. If finalized, it would not impose any new regulations, mandates, or additional enforceable duties on any public, nongovernmental, or private entity. Accordingly, the Administrator certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this proposed rule does not impose any additional enforceable duty, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4).

This proposed rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely proposes to find that an area has attained a national ambient air quality standard and is therefore not subject to certain specific requirements for so long as the area continues to attain the standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This proposed rule also is not subject to Executive Order 13045 ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), because it is not economically significant.

This proposed rule does not involve establishment of technical standards, and thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 *note*) do not apply. This proposed rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*)

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

List of Subjects in 40 CFR Part 81

Environmental protection, Air pollution control, National parks, Wilderness areas.

Dated: January 7, 2005.

Laura Yoshii,

Acting Regional Administrator, Region IX.

[FR Doc. 05–1119 Filed 1–19–05; 8:45 am]

BILLING CODE 6560–50–P

HARRY S. TRUMAN SCHOLARSHIP FOUNDATION

45 CFR Part 1801

Scholar Accountability Policy

AGENCY: Harry S. Truman Scholarship Foundation.

ACTION: Notice of proposed rulemaking

SUMMARY: The Truman Scholarship Foundation [Foundation] proposes to amend its regulations with respect to Scholar accountability to the Foundation for scholarship funds received. This rule is to clarify existing Foundation policy.

DATES: Submit comments on or before March 22, 2005.

ADDRESSES: Send comments to Louis H. Blair, Executive Secretary, Harry S. Truman Scholarship Foundation, 712 Jackson Place, NW., Washington, DC 20005 or send e-mail to *lblair@truman.gov.*

FOR FURTHER INFORMATION CONTACT: Louis H. Blair, Harry S. Truman Scholarship Foundation, 202–395–4831.

SUPPLEMENTARY INFORMATION: This proposed rule was developed by the Accountability Task Force, established at the Spring 2003 Board of Trustees Meeting. The Task Force researched and considered a number of options and recommended this rule to the Board of Trustees in Spring 2004. The Board adopted the recommendations of the Trustees and required the Foundation provide an implementation plan. This implementation plan was received and approved at the Fall 2004 Board Meeting.

List of Subjects in 45 CFR Part 1801

Grant Programs—education, Scholarships and fellowships.

For the reasons set forth in the preamble, the Foundation proposes to amend 45 CFR part 1801 as follows:

PART 1801—HARRY S. TRUMAN SCHOLARSHIP PROGRAM

1. The authority citation for part 1801 continues to read as follows:

Authority: Pub. L. 93–642, 88 Stat. 2276 (20 U.S.C. 2001–2012).

2. Add §1801.63 to read as follows:

§ 1801.63 Scholar accountability.

(a) A Scholar selected after January 2005 must be employed in public service for three of the seven years following completion of his or her Foundation funded graduate education.

(b) Following completion of Foundation funded graduate education, Scholars must submit a report to the Foundation by July 15 of each year. This report will include the Scholar's current contact information as well as a brief description of his or her employment during the past twelve months. This reporting requirement ends when the Foundation determines that a Scholar has reported three years of public service employment and the Foundation notifies him or her that he or she no longer is required to submit reports. Scholars who fail for two consecutive years to submit the required report to the Foundation will be considered to have failed to complete the three year public service requirement of paragraph (a) of this section.

(c) A Scholar who fails to be employed in public service for three out of the first seven years following completion of his or her Foundation funded graduate education must repay to the Foundation an amount equal to:

(1) All of the Scholarship stipends received,

(2) Interest at the rate of 6% per annum from the date of receipt of each payment until repayment is made to the Foundation, and

(3) Reasonable collection fees.

(d)(1) The repayment obligation of paragraph (c) of this section accrues on the first July 15 on which it becomes impossible for a Scholar to fulfill the three year public service requirement of paragraph (a) of this section. For example, July 15 of the sixth year following completion of Foundation funded graduate education for a Scholar who has been employed in the public service for only one of those six years.

(2) The Foundation will send to the Scholar's last known address a notice that his or her repayment obligation has accrued. The failure, however, of the Foundation to send, or the Scholar to receive, such a notice does not alter or delay the Scholar's repayment obligation.

(e) The Foundation may employ whatever remedies are available to it to collect any unpaid obligation accruing under this § 1801.63.

(f) Upon application by the Scholar showing good cause for doing so, the Foundation may waive or modify the repayment obligation established by paragraph (c) of this section.

(g) The Foundation will establish a process for appealing any disputes concerning the accrual of the repayment obligation imposed by paragraph (c) of this section. The Foundation will publish on its Web site *http://www.truman.gov* information about this appeals process and other information pertinent to repayment obligations accruing under this § 1801.63.

Dated: January 11, 2005.

Louis H. Blair,

Executive Secretary.

[FR Doc. 05–1045 Filed 1–19–05; 8:45 am]

BILLING CODE 6820–AD–P

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Parts 171, 172, 173 and 175

[Docket No. RSPA–02–11654 (HM–228)]

RIN 2137–AD18

Hazardous Materials: Revision of Requirements for Carriage by Aircraft

AGENCY: Research and Special Programs Administration (RSPA), Department of Transportation (DOT).

ACTION: Notice of proposed rulemaking (NPRM); extension of comment period.

SUMMARY: RSPA is extending until March 18, 2005, the period for interested persons to submit comments on the November 10, 2004 notice of proposed rulemaking in response to a request by the Air Transport Association of America, Inc. (ATA). In the November 10, 2004 NPRM, we proposed to amend the requirements in the Hazardous Materials Regulations (HMR) for the transportation of hazardous materials by aircraft. The proposed changes include clarifying the applicability of part 175; excepting cargo aircraft from the quantity limits in § 175.75; reformatting the exceptions in § 175.10 into three sections based on applicability; and providing new separation distances for the shipment of radioactive materials by cargo aircraft. These changes are being proposed in order to clarify requirements to promote safer transportation practices; promote compliance and enforcement; eliminate unnecessary regulatory requirements; convert certain exemptions into regulations of general applicability; finalize outstanding petitions for rulemaking; facilitate international commerce; and make these requirements easier to understand.

DATES: Submit comments by March 18, 2005. To the extent possible, we will consider comments received after this date.

ADDRESSES: You may submit comments identified by any of the following methods:

Web Site: http://dms.dot.gov. Follow the instructions for submitting comments on the DOT electronic docket site.

Fax: 1–202–493–2251.

Mail: Docket Management System: U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL–401, Washington, DC 20590–001.

Hand Delivery: To the Docket Management System; Room PL–401 on

the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. *http://www.Regulations.gov.*

Instructions: You must include the agency name and docket number [RSPA–02–11654 (HM–228)] or the Regulatory Identification Number (RIN 2137–AD18) for this notice at the beginning of your comment. You should identify the docket number RSPA–02–11654 (HM–228) at the beginning of your comments. You should submit two copies of your comments, if you submit them by mail. If you wish to receive confirmation that RSPA received your comments, you should include a self-addressed stamped postcard. Internet users may submit comments at *http://www.Regulations.gov* and may access all comments received by DOT at *http://dms.dot.gov.* Note that all comments received will be posted without change to *http://dms.dot.gov* including any personal information provided. Please see the Privacy Act section of this rule.

Docket: You may view the public docket through the Internet at *http://dms.dot.gov* or in person at the Docket management System office at the above address.

FOR FURTHER INFORMATION CONTACT: Deborah Boothe, Office of Hazardous Materials Standards, (202) 366–8553, Research and Special Programs Administration, U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

I. Background

On November 10, 2004, the Research and Special Programs Administration (RSPA) published a notice of proposed rulemaking (NPRM) (69 FR 65294) under Docket RSPA–02–11654 (HM–228) to propose changes to the requirements in the Hazardous Materials Regulations (HMR) for the transportation of hazardous material by aircraft. The HMR (49 CFR parts 171–180) govern the transportation of hazardous materials in commerce by all modes of transportation, including aircraft (49 CFR 171.1(a)(1)). Parts 172 and 173 of the HMR include requirements for classification and packaging of hazardous materials, hazard communication, and training of employees who perform functions subject to the requirements in the HMR.

Part 175 contains additional requirements applicable to aircraft operators transporting hazardous materials aboard an aircraft, and authorizes passengers and crew members to carry hazardous materials on board an aircraft under certain conditions.

RSPA and the Federal Aviation Administration (FAA) are proposing changes to part 175 and other sections of the HMR applicable to transportation of hazardous materials by aircraft. These changes are being proposed in order to clarify requirements to promote safer transportation practices; promote compliance and enforcement; eliminate unnecessary regulatory requirements; convert certain exemptions into regulations of general applicability; finalize outstanding petitions for rulemaking; facilitate international commerce; and make these requirements easier to understand.

On November 19, 2004, the Air Transport Association (ATA) requested an extension of the comment period by an additional 90 days until April 29, 2005. ATA indicated the part 175 provisions are of particular significance to ATA carriers and the carriers will wish to submit detailed comments. ATA stated that the current comment period spans the Thanksgiving, Christmas and New Year holiday period, which is also the operational rush period for both passenger and cargo airlines. ATA also indicated that responsible persons at several key carriers have pre-existing commitments for early 2005 and that ATA will not be able to hold the relevant carrier discussions and prepare comments by January 31, 2005. We are willing to extend the comment period to provide ATA and others additional time to provide comments. However, we believe that an extension of 45 days should be sufficient to accommodate commenters' need for additional time.

Therefore, we are denying the request for extension of the comment period until April 29, 2005. Accordingly, the closing date of the comment period is extended to until March 18, 2005.

Issued in Washington, DC, on January 13, 2005 under the authority delegated in 49 CFR Part 106.

Robert A McGuire,

Associate Administrator for Hazardous Materials Safety.

[FR Doc. 05–1105 Filed 1–19–05; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 20

RIN 1018–AU04

Migratory Bird Hunting; Application for Approval of Tungsten-Iron-Copper-Nickel Shot as Nontoxic for Waterfowl Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The U.S. Fish and Wildlife Service (Service) hereby provides public notice that Spherical Precision, Inc. of Tustin, California, has applied for approval of 40 to 76 percent tungsten, 10 to 37 percent iron, 9 to 16 percent copper, and 5 to 7 percent nickel shot as nontoxic for waterfowl hunting in the United States. The Service has initiated review of the shot under the criteria set out in Tier 1 of the nontoxic shot approval procedures given at 50 CFR 20.134.

DATES: A comprehensive review of the Tier 1 information is to be concluded by March 22, 2005.

ADDRESSES: The Spherical Precision, Inc. application may be reviewed in Room 4091 at the Fish and Wildlife Service, Division of Migratory Bird Management, 4501 North Fairfax Drive, Arlington, Virginia. Comments on this notice may be submitted to the Division of Migratory Bird Management at 4401 North Fairfax Drive, MS MBSP–4107, Arlington, VA 22203–1610. Comments will become part of the Administrative Record for the review of the application. The public may review the record at the Division of Migratory Bird Management, Room 4091, 4501 North Fairfax Drive, Arlington, Virginia.

FOR FURTHER INFORMATION CONTACT: Brian Millsap, Chief, Division of Migratory Bird Management, (703) 358–1714, or George T. Allen, Wildlife Biologist, Division of Migratory Bird Management, (703) 358–1825.

SUPPLEMENTARY INFORMATION: The Migratory Bird Treaty Act of 1918 (Act) (16 U.S.C. 703–712 and 16 U.S.C. 742a–j) implements migratory bird treaties between the United States and Great Britain for Canada (1916 and 1996 as amended), Mexico (1936 and 1972 as amended), Japan (1972 and 1974 as amended), and Russia (then the Soviet Union, 1978). These treaties protect certain migratory birds from take, except as permitted under the Act. The Act authorizes the Secretary of the Interior

to regulate take of migratory birds in the United States. Under this authority, the Fish and Wildlife Service controls the hunting of migratory game birds through regulations in 50 CFR part 20.

Since the mid-1970s, the Service has sought to identify types of shot for waterfowl hunting that are not toxic to migratory birds or other wildlife when ingested. We have approved several types of shot as nontoxic and added them to the migratory bird hunting regulations in 50 CFR 20.21. Use of shot types other than those listed in 50 CFR 20.21(j)(1) for hunting waterfowl and coots and any species that make up aggregate bag limits is prohibited. We will continue to review all shot types submitted for approval as nontoxic.

Spherical Precision has submitted its application with the counsel that it contained all of the specified information for a complete Tier 1 submittal, and has requested unconditional approval pursuant to the Tier 1 time frame. The Service has determined that the application is complete, and has initiated a comprehensive review of the Tier 1 information. After the review, the Service will either publish a Notice of Review to inform the public that the Tier 1 test results are inconclusive or publish a proposed rule for approval of the candidate shot. If the Tier 1 tests are inconclusive, the Notice of Review will indicate what other tests will be required before we will again consider approval of the Tungsten-Iron-Copper-Nickel shot as nontoxic. If the Tier 1 data review results in a preliminary determination that the candidate material does not pose a significant toxicity hazard to migratory birds, other wildlife, or their habitats, the Service will commence with a rulemaking proposing to approve the candidate shot.

Dated: January 3, 2005.

Steve Williams,

Director, U.S. Fish and Wildlife Service.

[FR Doc. 05–1140 Filed 1–19–05; 8:45 am]

BILLING CODE 4310–55–P

Notices

Federal Register
Vol. 70, No. 13
Friday, January 21, 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

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

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

Agricultural Research Service

Title: ARS Animal Health National Program Assessment Survey Form.

OMB Control Number: 0518–NEW.

Summary of Collection: The Agricultural Research Service (ARS) is charged with extending the Nation's scientific knowledge with research projects in agriculture, human nutrition, food safety, natural resources, the environment, and other topic affecting the Nation. ARS conducts national program assessments every five years. The proposed assessment instrument will enable ARS to ascertain the level of customer and stakeholder satisfaction with the quality, relevance, and performance of its animal health research program. The input received from customers is critical to assess the performance and impact of ARS' research program.

Need and Use of the Information: The purpose of the survey/questionnaire is to assess the impact that the research program has had in the 2000–2004 national program cycle. The information will be used to assess the performance and impact of the animal health research program and provide input for future modifications as ARS prepares for the next 5-year cycle of research.

Description of Respondents: Federal Government; State, Local or Tribal Government.

Number of Respondents: 460.

Frequency of Responses: Reporting: Other (1 time survey).

Total Burden Hours: 80.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. 05–1079 Filed 1–19–05; 8:45 am]

BILLING CODE 3410–03–M

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

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

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Farm Service Agency

Title: 7 CFR Part 1951–L, Servicing Cases Where Unauthorized Loan or Other Assistance was Received.

OBM Control Number: 0560–0160.

Summary of Collection: The Farm Service Agency (FSA) farm loan programs are administered under the provisions of the Consolidated Farm and Rural Development Act (CONACT) [Pub. L. 87–128]. Occasionally, FSA encounters cases where unauthorized assistance was received by a borrower. This assistance may be a loan where the recipient did not meet the eligibility requirements set forth in program regulations or where the borrower qualified for loan assistance but the interest rate used was incorrect. The assistance may also be loan servicing

where a borrower received an excessive write down or write-off of their debt. The information collected under the provisions of this regulation is provided on a voluntary basis by the borrower, although failure to cooperate to correct loan accounts may result in liquidation of the account.

Need and Use of the Information: The information to be collected by FSA will primarily be financial data such as amount of income, farm operating expenses, crop yields, etc. The borrower will provide written records or other information to refute FSA's findings when it is determined through audit or by other means that a borrower has received unauthorized financial assistance. If the borrower is unsuccessful in having the FSA change its determination of unauthorized assistance, the borrower may appeal the FSA decision. Otherwise, the unauthorized loan recipient may pay the loan in full, apply for a loan under a different program, convey the loan security to the government, enter into an accelerated repayment agreement, or sell the security in lieu of forced liquidation.

Description of Respondents: Farms; individuals or household; business or other for-profit.

Number of Respondents: 200.

Frequency of Responses: Reporting; on occasion; annually.

Total Burden Hours: 800.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. 05–1080 Filed 1–19–05; 8:45 am]

BILLING CODE 3410–05–M

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

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

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

Food and Nutrition Service

Title: Food Stamp Nutrition Education Systems Review.

OMB Control Number: 0584–NEW.

Summary of Collections: The Food Stamp Act of 1977 (Pub. L. 88–525, as amended; 7 U.S.C. 2011) authorized the Food Stamp Act. Under implementing Food Stamp Program (FSP) Regulations (7 CFR 272.2) state FSP agencies have the option to include nutrition education for program participants as part of their administrative operations. The states must submit an annual nutrition education plan to the Food and Nutrition Service (FNS) for approval; FNS then reimburses states 50 percent of the allowable expenses for nutrition education.

Need and Use of the Information: The Food and Nutrition Service will conduct a descriptive study to develop a more in-depth understanding of the Food Stamp Nutrition Education (FSNE) infrastructure, policy choices, operations, and decision-making. The last descriptive study of FSNE operations was conducted in fiscal year 1997. Since that time, several factors have converged making it critical for FNS to obtain more current information. First the scale of FSNE has grown rapidly. Second there is growing Agency and public interest in improving the diets and reducing the prevalence of overweight and obesity. Finally, FNS has limited information on the states use of new approaches to nutrition education.

Description of Respondents: State, Local, or Tribal Government; business or other for-profit; not-for-profit institutions.

Number of Respondents: 1,110.

Frequency of Responses: Reporting; other (one time).

Total Burden Hours: 1,730.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. 05–1081 Filed 1–19–05; 8:45 am]

BILLING CODE 3410–30–M

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 03–080–5]

RIN 0579–AB73

Bovine Spongiform Encephalopathy; Minimal Risk Regions and Importation of Commodities; Availability of an Environmental Assessment With Corrections and Extension of Comment Period

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of availability and extension of comment period.

SUMMARY: We are advising the public that the Animal and Plant Health Inspection Service is making available a corrected version of an environmental assessment relative to a final rule that was published in the January 4, 2005, issue of the **Federal Register**. We are making the corrected version of the environmental assessment available to the public for review and comment through February 17, 2005.

DATES: We will consider all comments that we receive on or before February 17, 2005.

ADDRESSES: You may submit comments by any of the following methods:

- EDOCKET: Go to *http://www.epa.gov/feddocket* to submit or view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Once you have entered EDOCKET, click on the ''View Open APHIS Dockets'' link to locate this document.
- Postal Mail/Commercial Delivery: Please send four copies of your comment (an original and three copies) to Docket No. 03–080–5, Regulatory Analysis and Development, PPD,

APHIS, Station 3C71, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comment refers to Docket No. 03–080–5.

• E-mail: Address your comment to *regulations@aphis.usda.gov*. Your comment must be contained in the body of your message; do not send attached files. Please include your name and address in your message and ''Docket No. 03–080–5'' on the subject line.

Reading Room: You may read any comments that we receive on the environmental assessment in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue, SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690–2817 before coming.

Other Information: You may view APHIS documents published in the **Federal Register** and related information, including the names of groups and individuals who have commented on APHIS dockets, on the Internet at *http://www.aphis.usda.gov/ppd/rad/webrepor.html*.

FOR FURTHER INFORMATION CONTACT: Dr. Karen James-Preston, Director, Technical Trade Services, National Center for Import and Export, VS, APHIS, 4700 River Road Unit 38, Riverdale, MD 20737–1231; (301) 734–4356.

SUPPLEMENTARY INFORMATION:

Background

On January 4, 2005, the Animal and Plant Health Inspection Service (APHIS) published in the **Federal Register** (70 FR 460–553, Docket No. 03–080–3) a final rule to amend the regulations regarding the importation of animals and animal products to recognize a category of regions that present a minimal risk of introducing bovine spongiform encephalopathy (BSE) into the United States via live ruminants and ruminant products, and to add Canada to this category. The final rule also provides for the importation of certain live ruminants and ruminant products and byproducts from such regions under certain conditions.

Also in the January 4, 2005, issue of the **Federal Register**, we published a notice (70 FR 554, Docket No. 03–080–4) announcing the availability of, and requesting comments on, a final environmental assessment (EA) regarding the potential impact on the quality of the human environment due to the importation of ruminants and ruminant products and byproducts from Canada under the conditions specified in the final rule. APHIS' review and analysis of the potential environmental impacts associated with those importations were documented in the EA, titled ''Rulemaking to Establish Criteria for the Importation of Designated Ruminants and Ruminant Products from Canada into the United States, Final Environmental Assessment (December 2004).'' We announced that the EA would be available to the public for review and comment until February 3, 2005.

We have become aware, however, that the version of the EA that was made available on January 4, 2005, contained some transcription errors that resulted in the omission of several references to an updated APHIS risk analysis regarding the final rule, as well as the incorrect formatting of several source citations. We have corrected those errors.

We are giving notice that the corrected version of the EA is available to the public for review and comment, and we are extending the comment period on the EA until February 17, 2005.

The EA may be viewed on the EDOCKET Web site (*see* **ADDRESSES** above for instructions for accessing EDOCKET) or on the APHIS Web site at *http://www.aphis.usda.gov/lpa/issues/bse/bse.html*. You may request paper copies of the EA by calling or writing to the person listed under **FOR FURTHER INFORMATION CONTACT**. Please refer to the title of the EA when requesting copies. The EA is also available for review in our reading room (information on the location and hours of the reading room is provided under the heading **ADDRESSES** at the beginning of this notice).

The EA has been prepared in accordance with: (1) The National Environmental Policy Act of 1969 (NEPA), as amended (42 U.S.C. 4321 *et seq.*), (2) regulations of the Council on Environmental Quality for implementing the procedural provisions of NEPA (40 CFR parts 1500–1508), (3) USDA regulations implementing NEPA (7 CFR part 1), and (4) APHIS' NEPA Implementing Procedures (7 CFR part 372).

Done in Washington, DC, this 18th day of January 2005.

W. Ron DeHaven,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 05–1202 Filed 1–19–05; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Foreign Agricultural Service

Trade Adjustment Assistance for Farmers

AGENCY: Foreign Agricultural Service, USDA.

ACTION: Notice.

The Administrator, Foreign Agricultural Service (FAS), today accepted a petition filed by the Olive Growers Council, Visalia, California 93291, for trade adjustment assistance for olive producers in the state of California. The Administrator will determine within 40 days whether or not increasing imports of processed olives in a saline solution contributed importantly to a decline in domestic producer prices of 20 percent or more during the marketing period beginning August 2003 and ending July 2004. If the determination is positive, all producers who market their olives in California will be eligible to apply to the Farm Service Agency for technical assistance at no cost and for adjustment assistance payments.

FOR FURTHER INFORMATION CONTACT: Jean-Louis Pajot, Coordinator, Trade Adjustment Assistance for Farmers, FAS, USDA, (202) 720–2916, e-mail: *trade.adjustment@fas.usda.gov*.

Dated: January 6, 2005.

A. Ellen Terpstra,

Administrator, Foreign Agricultural Service.

[FR Doc. 05–1083 Filed 1–19–05; 8:45 am]

BILLING CODE 3410–10–P

DEPARTMENT OF AGRICULTURE

Foreign Agricultural Service

Trade Adjustment Assistance for Farmers

AGENCY: Foreign Agricultural Service, USDA.

ACTION: Notice.

The Administrator, Foreign Agricultural Service (FAS), today accepted a petition filed by the Spokane Hutterian Brethren, Reardan, Washington 99029, for trade adjustment assistance for seed potato producers in the state of Washington. The Administrator will determine within 40 days whether or not increasing seed potato imports contributed importantly to a decline in domestic producer prices of 20 percent or more during the marketing period beginning February 2004 and ending May 2004. If the determination is positive, all producers who market their seed potatoes in

Washington will be eligible to apply to the Farm Service Agency for technical assistance at no cost and for adjustment assistance payments.

FOR FURTHER INFORMATION CONTACT: Jean-Louis Pajot, Coordinator, Trade Adjustment Assistance for Farmers, FAS, USDA, (202) 720–2916, e-mail: *trade.adjustment@fas.usda.gov*.

Dated: January 6, 2005.

A. Ellen Terpstra,

Administrator, Foreign Agricultural Service.

[FR Doc. 05–1082 Filed 1–19–05; 8:45 am]

BILLING CODE 3410–10–P

DEPARTMENT OF AGRICULTURE

Forest Service

Garnet Stars & Sands Project; Idaho Panhandle National Forests, Benewah and Latah Counties, ID

AGENCY: Forest Service, USDA.

ACTION: Cancellation of Notice of Intent to prepare an Environmental Impact Statement.

SUMMARY: A Notice of Intent to prepare an Environmental Impact Statement for the Garnet Stars & Sands Project was published in the **Federal Register** on May 1, 2001 (Volume 66, Number 84) on pages 21731–21732. The proposed action and the purpose and need for the proposed action have changed substantially, so the project is cancelled. A new Notice of Intent to prepare an Environmental Impact Statement for the new project (Emerald Creek Garnet Area) will be published in the **Federal Register**. A scoping letter was sent to addresses on the mailing list explaining the changes in the project. The responsible official is Ranotta K. McNair, Forest Supervisor, Idaho Panhandle National Forests, 3815 Schreiber Way, Coeur d'Alene, ID 83815.

FOR FURTHER INFORMATION CONTACT: Tracy Gravelle, St. Joe Ranger District, Avery Office, HC Box 1, Avery, ID 83861.

Dated: January 11, 2005.

Ranotta K. McNair,

Forest Supervisor, Idaho Panhandle National Forests.

[FR Doc. 05–1065 Filed 1–19–05; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Fresno County Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Fresno County Resource Advisory Committee will meet in Prather, California. The purpose of the meeting is to review and approve recommend project proposals for FY2005 funds regarding the Secure Rural Schools and Community Self-Determination Act of 2000 (Pub. L. 106–393) for expenditure of Payments to States Fresno County Title II funds.

DATES: The meeting will be held on February 15, 2005 from 6:30 p.m. to 9:30 p.m.

ADDRESSES: The meeting will be held at the Sierra National Forest, Supervisor's Office, 1600 Tollhouse Road, Clovis, CA 93612. Send written comments to Robbin Ekman, Fresno County Resource Advisory Committee Coordinator, c/o Sierra National Forest, High Sierra Ranger District, 29688 Auberry Road, Prather, CA 93651 or electronically to *rekman@fs.fed.us.*

FOR FURTHER INFORMATION CONTACT: Robbin Ekman, Fresno County Resource Advisory Committee Coordinator, (559) 855–5355 ext. 3341.

SUPPLEMENTARY INFORMATION: The meeting is open to the public. Committee discussion is limited to Forest Service staff and Committee members. However, persons who wish to bring Payments to States Fresno County Title II project matters to the attention of the Committee may file written statements with the Committee staff before or after the meeting.

Public sessions will be provided and individuals who made written requests by October 12, 2004 will have the opportunity to address the Committee at those sessions. Agenda items to be covered include: (1) Review project proposals; (2) approve projects for 2005 funding; (3) public comment.

Dated: January 13, 2005.

Ray Porter,

District Ranger.

[FR Doc. 05–1089 Filed 1–19–05; 8:45 am]

BILLING CODE 3410–11–M

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Deletions

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

ACTION: Deletions from procurement list.

SUMMARY: This action deletes from the Procurement List services previously furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

DATES: *Effective Date:* February 20, 2005.

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

FOR FURTHER INFORMATION CONTACT: Sheryl D. Kennerly, Telephone: (703) 603–7740, Fax: (703) 603–0655, or e-mail *SKennerly@jwod.gov.*

SUPPLEMENTARY INFORMATION:

Deletions

On November 19, 2004, the Committee for Purchase From People Who Are Blind or Severely Disabled published notice (69 F.R. 67698) of proposed deletions to the Procurement List. After consideration of the relevant matter presented, the Committee has determined that the services listed below are no longer suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4.

Regulatory Flexibility Act Certification

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

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

End of Certification

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

Services

Service Type/Location: Commissary Shelf

Stocking & Custodial, Brooks Air Force Base, Texas.
NPA: Bexar County Mental Health Mental Retardation Center, San Antonio, Texas.
Contracting Activity: Defense Commissary Agency, Fort Lee, Virginia.
Service Type/Location: Commissary Shelf Stocking & Custodial, Kelley Air Force Base, Texas.
NPA: Bexar County Mental Health Mental Retardation Center, San Antonio, Texas.
Contracting Activity: Defense Commissary Agency, Fort Lee, Virginia.

Sheryl D. Kennerly,

Director, Information Management.

[FR Doc. 05–1168 Filed 1–19–05; 8:45 am]

BILLING CODE 6353–01–P

DEPARTMENT OF COMMERCE

Bureau of the Census

[Docket Number 050107004–5004–01]

2004 Company Organization Survey

AGENCY: Bureau of the Census, Commerce.

ACTION: Notice of determination.

SUMMARY: The U.S. Census Bureau (Census Bureau) is conducting the 2004 Company Organization Survey. The survey's data are needed, in part, to update the multilocation companies in the Business Register. The survey, which has been conducted annually since 1974, is designed to collect information on the number of employees, payroll, geographic location, current operational status, and kind of business for the establishments of multilocation companies. We have determined that annual data collected from this survey are needed to aid the efficient performance of essential governmental functions and have significant application to the needs of the public and industry. The data derived from this survey are not available from any other source.

ADDRESSES: The Census Bureau will furnish report forms to organizations included in the survey, and additional copies are available on written request to the Director, U.S. Census Bureau, Washington, DC 20233–0101.

FOR FURTHER INFORMATION CONTACT: Paul Hanczaryk, Economic Planning and Coordination Division, U.S. Census Bureau, Room 2747, Federal Building 3, Washington, DC 20233–6100; telephone (301) 763–4058.

SUPPLEMENTARY INFORMATION: Title 13, United States Code, sections 182, 195, 224, and 225 authorize the Census Bureau to undertake surveys necessary to furnish current data on the subjects covered by the censuses. This survey will provide continuing and timely national statistical data for the period between economic censuses. The next economic censuses will be conducted for the year 2007. The data collected in this survey will be within the general scope, type, and character of those that are covered in the economic censuses. Forms NC–99001 and NC–99007 (for single-location companies) will be used to collect the desired data.

Notwithstanding any other provision of law, no person is required to respond to, nor shall a person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the Paperwork Reduction Act, unless that collection of information displays a current, valid Office of Management and Budget (OMB) control number. In accordance with the Paperwork Reduction Act, 44 U.S.C., chapter 35, the OMB approved Forms NC–99001 and NC–99007 on December 21, 2004, under OMB Control Number 0607–0444. We will furnish report forms to organizations included in the survey, and additional copies are available on written request to the Director, U.S. Census Bureau, Washington, DC 20233–0101.

I have, therefore, directed that the 2004 Company Organization Survey be conducted for the purpose of collecting these data.

Dated: January 14, 2005.

Charles Louis Kincannon,

Director, Bureau of the Census.

[FR Doc. 05–1106 Filed 1–19–05; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

International Trade Administration

Advocacy Questionnaire

AGENCY: International Trade Administration, DOC.

ACTION: Proposed collection; comment request.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burdens, invites the general public and other Federal agencies to take this opportunity to comment on the continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506 (c)(2)(A)).

DATES: Written comments must be submitted on or before March 22, 2005.

ADDRESSES: Direct all written comments to Diana Hynek, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6625, 14th & Constitution Ave., NW., Washington, DC 20230, or e-mail *dHynek@doc.gov*.

FOR FURTHER INFORMATION CONTACT: Request for additional information or copies of the information collection instrument and instructions should be directed to: Joe Enright, TheAdvocacy Center, Room 3814A, Department of Commerce, 14th and Constitution Ave., NW., Washington, DC 20230; Phone number: (202) 482–3896, and fax number; (202) 501–2895.

SUPPLEMENTARY INFORMATION:

I. Abstract

The U.S. Department of Commerce invites the general public and other Federal agencies to comment on the proposed extension of the use of the advocacy questionnaire by the Trade Promotion Coordination Committee's (TPCC) Advocacy Network. The questionnaire is used to evaluate requests for United States Government (USG) advocacy in connection with overseas commercial bids, offers, and proposals. The International Trade Administration's Advocacy Center marshals federal resources to assist U.S. commercial interests competing for foreign government commercial projects, procurements, investments, business ventures worldwide. The mission of the Advocacy Center is to coordinate USG commercial advocacy in order to promote U.S. exports, trade which both creates and sustains U.S. employment. The Advocacy Center works with and coordinates activities within TPCC which is chaired by the Secretary of Commerce and includes 19 federal agencies involved in export promotion. The purpose of the advocacy questionnaire is to collect the information necessary to evaluate a commercial I interest's (*e.g.*, a company's) eligibility for USG advocacy assistance. There are clear, well-established USG advocacy guidelines that describe the various situations in which the USG can provide advocacy support for a specific commercial interest. The questionnaire was developed to collect only the information necessary to determine if a commercial interest meets the eligibility requirements set forth in the advocacy guidelines. The Advocacy Center, appropriate ITA officials, U.S. Embassy/Consulate officials worldwide, and other federal government agencies (the Advocacy Network) that provide advocacy support, will require firms seeking USG advocacy support to complete the questionnaire. Without the information, the USG would be unable

to determine the eligibility of commercial interests seeking USG advocacy support.

II. Method of Collection

When U.S. commercial interests request USG advocacy assistance, they are either sent Form ITA–4133P or referred to the Advocacy Center's Web site from which Form ITA–4133P may be down-loaded completed, signed, and filed.

III. Data

OMB Number: 0625–0220.
Form Number: ITA–4133P.
Type of Review: Regular Submission.
Affected Public: Commercial Interests seeking USG advocacy.
Estimated Number of Respondents: 200.
Estimated Time Per Response: 30 minutes.
Estimated Total Annual Burden Hours: 205.
Estimated Total Annual Costs: $15,300.00 ($9,175.00 for respondents and $6,125.00 for federal government).

IV. Request for Comments

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 (including hours and costs) 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 forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: January 13, 2005.

Madeleine Clayton,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. E5–197 Filed 1–19–05; 8:45 am]

BILLING CODE 3510–FP–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–868]

Amended Final Results of the First Antidumping Duty Administrative Review: Folding Metal Tables and Chairs From the People's Republic of China

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

DATES: *Effective Date:* January 21, 2005.

FOR FURTHER INFORMATION CONTACT: Amber Musser, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–1777.

Amendment to Final Results

In accordance with section 751(a) of the Tariff Act of 1930, as amended (the ''Act''), on December 20, 2004, the Department published the final results of the first administrative review of the antidumping duty order on folding metal tables and chairs from the People's Republic of China (''PRC''), in which we determined that the cooperative respondent, Dongguan Shichang Metals Factory Co., Ltd. and Maxchief Investments, Ltd. (''Shichang''), sold subject merchandise to the United States at less than normal value during the period of review (''POR'') (69 FR 75913). On December 20, 2004, we received an allegation, timely filed pursuant to section 751(h) of the Act and 19 CFR 351.224(C)(2), from Shichang that the Department made a ministerial error in its final results. The petitioner [1] did not comment on the alleged ministerial error.

After analyzing Shichang's submission, we have determined, in accordance with section 751(h) of the Act and 19 CFR 351.224, that we made a ministerial error in our final margin calculation for Shichang. Specifically, we incorrectly calculated the selling, general, and administrative (''SG&A'') and profit financial ratios because we did not include the line item ''Purchase of Traded Goods'' in the denominator of these ratios. For a detailed discussion of the ministerial error, as well as the Department's analysis, *see* the memorandum to James C. Doyle, Office Director, from Amber Musser, analyst, dated January XX, 2005.

Therefore, in accordance with section 751(h) of the Act and 19 CFR 351.224(e), we are amending the final results of the first antidumping duty administrative review of the order on folding metal tables and chairs from the PRC. The revised dumping margin is as follows:

Exporter/manufacturer	Original final margin percentage	Revised final margin percentage
Dongguan Shichang Metals Factory Co., Ltd. and Maxchief Investments, Ltd.	4.27	3.30

We will notify U.S. Customs and Border Protection (''CBP'') of the revised cash deposit rate for Shichang.

Scope of the Order

The products covered by this order consist of assembled and unassembled folding tables and folding chairs made primarily or exclusively from steel or other metal, as described below:

(1) Assembled and unassembled folding tables made primarily or exclusively from steel or other metal (''folding metal tables''). Folding metal tables include square, round, rectangular, and any other shapes with legs affixed with rivets, welds, or any other type of fastener, and which are made most commonly, but not exclusively, with a hardboard top covered with vinyl or fabric. Folding metal tables have legs that mechanically fold independently of one another, and not as a set. The subject merchandise is commonly, but not exclusively, packed singly, in multiple packs of the same item, or in five piece sets consisting of four chairs and one table. Specifically excluded from the scope of folding metal tables are the following:

a. Lawn furniture;
b. Trays commonly referred to as ''TV trays'';
c. Side tables;
d. Child-sized tables;
e. Portable counter sets consisting of rectangular tables 36″ high and matching stools; and
f. Banquet tables. A banquet table is a rectangular table with a plastic or laminated wood table top approximately 28″ to 36″ wide by 48″ to 96″ long and with a set of folding legs at each end of

[1] The petitioner is Meco Corporation.

the table. One set of legs is composed of two individual legs that are affixed together by one or more cross-braces using welds or fastening hardware. In contrast, folding metal tables have legs that mechanically fold independently of one another, and not as a set.

(2) Assembled and unassembled folding chairs made primarily or exclusively from steel or other metal (''folding metal chairs''). Folding metal chairs include chairs with one or more cross-braces, regardless of shape or size, affixed to the front and/or rear legs with rivets, welds or any other type of fastener. Folding metal chairs include: Those that are made solely of steel or other metal; those that have a back pad, a seat pad, or both a back pad and a seat pad; and those that have seats or backs made of plastic or other materials. The subject merchandise is commonly, but not exclusively, packed singly, in multiple packs of the same item, or in five piece sets consisting of four chairs and one table. Specifically excluded from the scope of folding metal chairs are the following:

a. Folding metal chairs with a wooden back or seat, or both;

b. Lawn furniture;

c. Stools;

d. Chairs with arms; and

e. Child-sized chairs.

The subject merchandise is currently classifiable under subheadings 9401710010, 9401710030, 9401790045, 9401790050, 9403200010, 9403200030, 9403708010, 9403708020, and 9403708030 of the HTSUS. Although the HTSUS subheadings are provided for convenience and customs purposes, the Department's written description of the merchandise is dispositive.

These amended final results of this new shipper review and notice are in accordance with sections 751(h) and 777(i) of the Act and 19 CFR 351.224(e).

Dated: January 11, 2005.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. E5–209 Filed 1–19–05; 8:45 am]

BILLING CODE 3510–DS–P

CONSUMER PRODUCT SAFETY COMMISSION

[CPSC Docket No. 05–C0005]

Polaris Industries Inc., Provisional Acceptance of a Settlement Agreement and Order

AGENCY: Consumer Product Safety Commission.

ACTION: Notice.

SUMMARY: It is the policy of the Commission to publish settlements which it provisionally accepts under the Consumer Product Safety Act in the **Federal Register** in accordance with the terms of 16 CFR 1118.20(e). Published below is a provisionally-accepted Settlement Agreement with Polaris Industries Inc., containing a civil penalty of $950,000.00.

DATES: Any interested person may ask the Commission not to accept this agreement or otherwise comment on its contents by filing a written request with the Office of the Secretary by February 7, 2005.

ADDRESSES: Persons wishing to comment on this Settlement Agreement should send written comments to the Comment 05–C005, Office of the Secretary, Consumer Product Safety Commission, Washington, DC 20207.

FOR FURTHER INFORMATION CONTACT: Seth B. Popkin, Trial Attorney, Office of Compliance, Consumer Product Safety Commission, Washington, DC 20207; telephone (301) 504–7612.

SUPPLEMENTARY INFORMATION: The text of the Agreement and Order appears below.

Dated: January 13, 2005.

Todd A. Stevenson,

Secretary.

Settlement Agreement and Order

1. In accordance with 16 CFR 1118.20, Polaris Industries Inc. (''Polaris'') and the staff (''Staff'') of the United States Consumer Product Safety Commission (''Commission'') enter into this Settlement Agreement (''Agreement''). The Agreement and the incorporated attached Order (''Order'') settle the Staff's allegations set forth below.

Parties

2. The Commission is an independent federal regulatory agency established pursuant to, and responsible for the enforcement of, the Consumer Product Safety Act, 15 U.S.C. 2051–2084 (''CPSA'').

3. Polaris is a corporation organized and existing under the laws of the state of Minnesota. Its principal offices are located at 2100 Highway 55, Medina, MN 55340. Polaris designs and manufactures all terrain vehicles (ATVs) and other vehicles.

Staff Allegations

Throttle Control

4. From December 1998 through July 2000, Polaris manufactured and/or sold a total of approximately 13,600 units of certain 1999 Scrambler 400, Sport 400, and Xplorer 400 ATVs, and of certain 2000 Scrambler 400 and Xplorer 400 ATV's (''400cc ATVs'').

5. Each 400cc ATV is a ''consumer product'' that Polaris ''distributed in commerce,'' and Polaris is a ''manufacturer'' of a consumer product, as those terms are defined in sections 3(a)(1), (4), (11), and (12) of the CPSA, 15 U.S.C. 2052(a)(1), (4), (11), and (12).

6. The throttle on the 400cc ATVs could stick as a result of the throttle cable becoming caught on the throttle control cover, preventing the ATVs from slowing down or stopping when riders released the throttle lever. A stuck throttle can cause an ATV rider to lose control and crash, possibly resulting in severe injury or death.

7. From December 1998 to May 2000, Polaris received 88 reports of 400cc ATV throttles that stuck as a direct or apparent result of the cable becoming caught on the throttle control cover. In 19 of the 88 reports, the stuck throttle caused crashes, other accidents, or damage, and in 7 of the 88 reports, the stuck throttle caused injuries. The injuries included, among others, a dislocated hip, a broken shoulder, and torn back muscles.

8. From September 1999 to May 2000, Polaris obtained knowledge about the 400cc ATVs' throttle defect, hazard, and risk, and Polaris made 3 engineering changes to address the defect. As of the end of September 1999, Polaris had received 47 of the 88 stuck throttle reports, it had received several reports from dealers who specifically noted the defect's characteristics, and it had begun engineering changes to address the defect. As of January 2000, Polaris had received additional reports, made 2 engineering changes, decided on a further engineering change, and successfully tested revised parts.

9. By September 30, 1999, Polaris had obtained information that reasonably supported the conclusion that the 400cc ATVs contained a defect that could create a substantial product hazard or that they created an unreasonable risk of serious injury or death. Sections 15(b)(2) and (3) of the CPSA, 15 U.S.C. 2064(b)(2) and (3), required Polaris to immediately inform the Commission of such defect or risk.

10. Polaris did not report to the Commission regarding the 400cc ATVs until May 23, 2000, thereby failing to immediately inform the Commission as required by sections 15(b)(2) and (3) of the CPSA, 15 U.S.C. 2064(b)(2) and (3). This failure violated section 19(a)(4) of the CPSA, 15 U.S.C. 2068(a)(4).

11. Polaris knowingly failed to immediately inform the Commission of the 400cc ATVs' defect or risk, as the term ''knowingly'' is defined in section

20(d) of the CPSA, 15 U.S.C. 2069(d). Pursuant to section 20 of the CPSA, 15 U.S.C. 2069, this failure subjected Polaris to civil penalties.

Oil Line

12. From January 1999 through August 2000, Polaris manufactured and/or sold a total of approximately 55,500 units of 2000 and 2001 Xpedition 325, Trail Boss 325, and Magnum 325 ATVs (''325cc ATVs'').

13. Each 325cc ATV is a ''consumer product'' that Polaris ''distributed in commerce,'' and Polaris is a ''manufacturer'' of a consumer product, as those terms are defined in sections 3(a)(1), (4), (11), and (12) of the CPSA, 15 U.S.C. 2052(a)(1), (4), (11), and (12).

14. The oil lines on the 325cc ATVs disconnected, blew off, loosened, or leaked, spraying or otherwise discharging hot pressurized oil. The discharging oil could cause the ATV and its surroundings to catch on fire, and the hot oil and fires could cause severe injury or death.

15. From March 1999 to February 2001, Polaris received at least 1,447 reports of 325cc ATV oil lines that disconnected, blew off, loosened, or leaked. In 61 of the 1,447 reports, the discharging hot oil caused smoke, fire, melting, or accidents, and in 42 of those 61 reports the discharging hot oil caused the 325cc ATVs and/or their surroundings to catch on fire. In 18 of the 1,447 reports, the discharging hot oil caused injuries, including 2nd and 3rd degree burns and scarring.

16. From February 2000 to January 2001, Polaris acquired extensive knowledge about the 325cc ATV's oil line defect, hazard and risk. Polaris monitored claim reports, conducted engineering analyses, and made 4 engineering changes to address the defect.

17. From May 2000 to January 2001, Polaris sent at least 5 alerts to its dealers about the 325cc ATVs' oil line defect.

18. By February 2000, Polaris had obtained information that reasonably supported the conclusion that the 325cc ATVs contained a defect that could create a substantial product hazard or that they created an unreasonable risk of serious injury or death. Sections 15(b)(2) and (3) of the CPSA, 15 U.S.C. 2064(b)(2) and (3), required Polaris to immediately inform the Commission of such defect or risk.

19. Polaris did not report to the Commission regarding the 325cc ATVs until after the Staff requested a report in December 2000. Polaris submitted a report in February 2001. As a result, Polaris failed to immediately inform the Commission as required by sections 15(b)(2) and (3) of the CPSA, 15 U.S.C. 2064(b)(2) and (3). This failure violated section 19(a)(4) of the CPSA, 15 U.S.C. 2068(a)(4).

20. Polaris knowingly failed to immediately inform the Commission of the 325cc ATVs' defect or risk, as the term ''knowingly'' is defined in section 20(d) of the CPSA, 15 U.S.C. 2069(d). Pursuant to section 20 of the CPSA, 15 U.S.C. 2069, this failure subjected Polaris to civil penalties.

Polaris Response

21. Polaris vigorously contests and denies the Staff's allegations set forth above in this Agreement. Polaris enters into this Agreement to resolve the Staff's claims without the expense and distraction of litigation. By agreeing to this settlement, Polaris does not admit any of the allegations set forth above in this Agreement, or any fault, liability, or statutory or regulatory violation.

Agreement of the Parties

22. Under the CPSA, the Commission has jurisdiction over this matter and over Polaris.

23. The parties enter into this Agreement for settlement purposes only. The Agreement does not constitute an admission by Polaris, or a determination by the Commission, that Polaris has violated the CPSA.

24. In settlement of the Staff's allegations, Polaris shall pay a civil penalty in the amount of nine hundred and fifty thousand dollars ($950,000.00) within twenty (20) calendar days of service of the Commission's final Order accepting this Agreement. The payment shall be by check payable to the order of the United States Treasury.

25. Upon the Commission's provisional acceptance of the Agreement, the Agreement shall be placed on the public record and published in the **Federal Register** in accordance with the procedures set forth in the 16 CFR 1118.20(e). If the Commission does not receive any written request not to accept the Agreement within fifteen (15) days, the Agreement shall be deemed finally accepted on the sixteenth (16th) day after the date it is published in the **Federal Register**.

26. Upon the Commission's final acceptance of the Agreement and issuance of the final Order, Polaris knowingly, voluntarily, and completely waives any rights it may have in this matter to the following: (1) An administrative or judicial hearing; (2) judicial review or other challenge or contest of the validity of the Commission's Order or actions; (3) a determination by the Commission of whether Polaris failed to comply with the CPSA and its underlying regulations; (4) a statement of findings of fact and conclusions of law; and (5) any claims under the Equal Access to Justice Act.

27. The Commission may publicize the terms of the Agreement and Order.

28. The Agreement and Order shall apply to, and be binding upon, Polaris and each of the successors and assigns.

29. The Commission issues the Order under the provisions of the CPSA, and violation of the Order may subject Polaris to appropriate legal action.

30. The Agreement may be used in interpreting the Order. Understandings, agreements, representations, or interpretations apart from those contained in the Agreement and Order may not be used to vary or contradict their terms. The Agreement shall not be waived, amended, modified, or otherwise altered, except in a writing that is executed by the party against whom such waiver, amendment, modification, or alteration is sought to be enforced, and that is approved by the Commission.

31. If after the effective date hereof, any provision of the Agreement and Order is held to be illegal, invalid, or unenforceable under present or future laws effective during the terms of the Agreement and Order, such provision shall be fully severable. The balance of the Agreement and Order shall remain in full force and effect, unless the Commission and Polaris determine that severing the provision materially affects the purpose of the Agreement and Order.

Polaris Industries Inc.

Dated: December 13, 2004.

Mary P. McConnell,

Vice President and General Counsel, Polaris Industries Inc., 2100 Highway 55, Medina, MN 55340.

Granta Y. Nakayama, Esq.,

Kirkland & Ellis LLP, 655 Fifteenth Street, NW., Suite 1200, Washington, DC 20005, Counsel for Polaris Industries Inc.

U.S. Consumer Product Safety Commission Staff.

Nicholas V. Marchica,

Acting Assistant Executive Director, Office of Compliance.

Eric L. Stone,

Director, Legal Division, Office of Compliance.

Dated: December 14, 2004.

Seth B. Popkin,

Trial Attorney, Legal Division, Office of Compliance.

Order

Upon consideration of the Settlement Agreement entered into between Polaris Industries Inc. (''Polaris'') and the U.S. Consumer Product Safety Commission (''Commission'') staff, and the Commission having jurisdiction over the subject matter and over Polaris, and it appearing that the Settlement Agreement and Order is in the public interest, it is

Ordered, that the Settlement Agreement be, and hereby is, accepted; and it is

Further ordered, that Polaris shall pay a civil penalty in the amount of nine hundred and fifty thousand dollars ($950,000.00) within twenty (20) calendar days of service of the final Order upon Polaris. The payment shall be made by check payable to the order of the United States Treasury. Upon the failure of Polaris to make the foregoing payment when due, interest on the unpaid amount shall accrue and be paid by Polaris at the federal legal rate of interest set forth in the provisions of 28 U.S.C. 1961(a) and (b).

Provisionally accepted and Provisional Order issued on the 13th day of January, 2005.

By order of the Commission.

Todd A. Stevenson,

Secretary, Consumer Product Safety Commission.

[FR Doc. 05–1049 Filed 1–19–05; 8:45 am]

BILLING CODE 6355–01–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Science Board

AGENCY: Department of Defense.

ACTION: Notice of Advisory Committee meeting.

SUMMARY: The Defense Science Board Task Force on Management Oversight of Acquisition Organizations will meet in open session on January 27–28, 2005, at SAIC, 4001 N. Fairfax Drive, Arlington, VA. This Task Force should assess whether all major acquisition organizations within the Department have adequate management and oversight processes, including what changes might be necessary to implement such processes where needed.

The missions of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Acquisition, Technology & Logistics on scientific and technical matters as they affect the perceived needs of the Department of Defense. At these meetings, the Defense Science Board Task Force will examine the oversight function with respect to Title 10 and military department regulations to ensure that proper checks and balances exist. The Task Force will review whether simplification of the acquisition structure could improve both efficiency and oversight.

FOR FURTHER INFORMATION CONTACT: LtCol Scott Dolgoff, Defense Science Board, 3140 Defense Pentagon, Room 3D865, Washington, DC 20301–3140, via e-mail at *scott.dolgoff@osd.mil*, or via phone at (703) 695–4158.

SUPPLEMENTARY INFORMATION: Members of the public who wish to attend the meeting must contact LtCol Dolgoff no later than January 21, 2005, and for further information about admission as seating is limited. Additionally, those who wish to make oral comments or deliver written comments should also request to be scheduled, and submit a written text of the comments by January 21, 2005, to allow time for distribution to Task Force members prior to the meeting. Individual oral comments will be limited to five minutes, with the total oral comment period not exceeding 30 minutes.

Dated: January 13, 2005.

Jeannette Owings-Ballard,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 05–1052 Filed 1–19–05; 8:45 am]

BILLING CODE 5001–06–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Science Board

AGENCY: Department of Defense.

ACTION: Notice of Advisory Committee Meeting.

SUMMARY: The Defense Science Board Task Force on Force Protection in Urban and Unconventional Environments will meet in closed session on January 25–26, 2005, at SAI, 3601 Wilson Boulevard, Arlington, VA. This Task Force will review and evaluate force protection capabilities in urban and unconventional environments and provide recommendations to effect change to the future Joint Force.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Acquisition, Technology & Logistics on scientific and technical matters as they affect the perceived needs of the Department of Defense. Specifically, the Task Force's foci will be to evaluate force protection in the context of post major combat operations that have been conducted in Iraq and Afghanistan. In the operations, loss of national treasure—military and civilian, U.S. and other nations—has resulted from actions executed by non-state and rogue actors. The threat and capabilities these insurgent, terrorist and criminal actions present post a most serious challenge to our ability to achieve unified action.

In accordance with Section 10(d) of the Federal Advisory Committee Act, Public Law 92–463, as amended (5 U.S.C. App. 2), it has been determined that these Defense Science Board Task Force meetings concern matters listed in 5 U.S.C. 552b(c)(1) and that, accordingly, these meetings will be closed to the public.

Dated: January 11, 2005.

Jeannette Owings-Ballard,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 05–1053 Filed 1–19–05; 8:45 am]

BILLING CODE 5001–06–M

DEPARTMENT OF DEFENSE

Department of the Air Force

Privacy Act of 1974; System of Records

AGENCY: Department of the Air Force, DoD.

ACTION: Notice to amend systems of records.

SUMMARY: The Department of the Air Force is amending three systems of records notices in its existing inventory of record systems subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended.

DATES: This proposed action will be effective without further notice on February 22, 2005 unless comments are received which result in a contrary determination.

ADDRESSES: Send comments to the Air Force Privacy Act Manager, Office of the Chief Information Officer, AF–CIO/P, 1155 Air Force Pentagon, Washington, DC 20330–1155.

FOR FURTHER INFORMATION CONTACT: Ms. Eugenia Harms at (703) 696–6280.

SUPPLEMENTARY INFORMATION: The Department of the Air Force systems of records notices subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The specific changes to the record system being amended are set forth

below followed by the notice, as amended, published in its entirety. The proposed amendments are not within the purview of subsection (r) of the Privacy Act of 1974, (5 U.S.C. 552a), as amended, which requires the submission of a new or altered system report.

Dated: January 11, 2005.

Jeannette Owings-Ballard,

OSD Federal Register Liaison Officer, Department of Defense.

F036 AETC L

SYSTEM NAME:

Community College of the Air Force Student Record System (June 11, 1997, 62 FR 31793).

CHANGES:

* * * * *

SYSTEM NAME:

Change entry to read 'Community College of the Air Force Student Transcript, Administration, and Records System'.

SYSTEM LOCATION:

Replace '6307' with '6613'. Replace 'System Development Branch' with 'Technology Support Division'.

* * * * *

F036 AETC L

SYSTEM NAME:

Community College of the Air Force Student Transcript, Administration, and Records System.

SYSTEM LOCATION:

The system is centrally administered by the Community College of the Air Force, 130 East Maxwell Boulevard, Maxwell Air Force Base, AL 36112–6613. Computer processing for the system is performed by the Technology Support Division.

CATEGORIES OF INDIVIDUALS COVERED BY THE SAME SYSTEM:

The system may have a record for any person who since January 1, 1968 has completed a formal course of instruction conducted by one of the Air Force schools identified in the current Community College of the Air Force General Catalog. Such courses do not include pre-commissioning courses and courses conducted exclusively for officers or their civilian counterparts. The system includes records reflecting Air Force courses completed before 1968 and other educational accomplishments for persons who as enlisted members of the Air Force registered in programs of study leading to credentials awarded by the college. Both here and where appropriate below, the general term Air Force includes the regular Air Force, the Air Force Reserve, and the Air National Guard.

CATEGORIES OF RECORDS IN THE SYSTEM:

Individual academic records and, where necessary to serve airmen registered in study programs leading to credentials awarded by the college, a variety of source or substantiating records such as copies of registration applications and document control records derived from such applications, civilian college transcripts, college level examination program score reports; copies of educational records originated by other Air Force and non-Air Force agencies external to the college (such as the Federal Aviation Agency, the United States Armed Forces Institute, and the Defense Activity for Non-traditional Education Support), copies of a variety of Air Force personnel records (such as documents derived from master records maintained by the Air Force Manpower and Personnel Center and microfiche records of locator data); and records of credentials awarded to graduates. The college also maintains copies and related records of communications from, to, or regarding persons interested in the college, its educational programs, its student record system, and related matters. Copies of and statistical records derived from individual responses to surveys, questionnaires, and similar instruments authorized by HQ USAF may also be maintained as needed for managerial evaluation and planning by officers of the college.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 9315, Community College of the Air Force: associate degree; Air Force Instruction 36–2304, Community College of the Air Force, and E.O. 9397 (SSN).

PURPOSE(S):

Records originated in the system document, in terms of credit awarded or accepted in transfer by the college, individual educational accomplishments which satisfy curricular requirements of study programs leading to an Associate in Applied Science degree offered by the college. Transcripts of records in the college are, at the written request of persons concerned, furnished to any recipient(s) designated in such requests. Such recipients typically include Air Force Education Services Centers, other offices where Air Force personnel are stationed, educational institutions, and potential or current employers. CCAF transcripts and copies of other records originated in the college are also used to support educational and occupational counseling, planning, and development; admission to other colleges; and related individual affairs. Disclosures of information recorded in the system may be made to employees of civilian contractors engaged by the Air Force to provide services which directly or indirectly support the record system.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The DoD 'Blanket Routine Uses' published at the beginning of the Air Force's compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Permanent student computer records are maintained on and as necessary reproduced from magnetic media. Paper records are maintained in file folders, card files, and special binders/cabinets designed for computer listings.

RETRIEVABILITY:

Computer records are retrievable by a combination of Social Security Number and certain letters of last name. Paper records are retrievable by either Social Security Number or name.

SAFEGUARDS:

Records maintained in the college are normally disclosed only upon written request from the subject of the records or upon written request from an Air Force officer or employee responsible to provide educational or related services to Air Force personnel. Disclosures to non-Air Force agencies not requested by the subject of the records require approval of an officer of the college. Except for disclosures within the college as may be necessary to its operations, requests by telephone and other unwritten means will not be honored unless in the judgment of a responsible member of the college staff the requester is a member or employee of the Air Force acting on behalf of, or is, the person whose record is requested. Special care is exercised to ensure complete identification of the requester, the person whose record is to be disclosed, and intended use. Other systematic safeguards to ensure integrity of records include secure storage of

successive generations of computer master files, existence and long-term retention in other Air Force facilities of records needed to rebuild the entire system in the event of catastrophe, and traditional measures to ensure the security of Air Force facilities. All records in the system are attended by responsible Air Force personnel during duty hours and stored in locked facilities under constant or periodic surveillance by Air Force security police during non-duty hours. Those in computer storage devices are protected by computer system software.

RETENTION AND DISPOSAL:

Retained in office files until superseded, obsolete, no longer needed for reference. Academic records maintained in the Student Transcript, Administration, and Records System are retained as permanent records in accordance with the American Association of Collegiate Registrars and Admissions Officers' publication Retention of Records dated 1987. Active master file records on the computer are by their nature evolutionary and will be maintained permanently. Paper records maintained to serve students registered in study programs are retained so long as a registrant remains active in his or her program. Such records are destroyed 1 year after a registrant completes his or her study program. Other records are typically retained only so long as they may serve a useful purpose, which is typically between 30 and 90 days. Computer records are destroyed by erasing, deleting or overwriting.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Admissions/Registrar, Community College of the Air Force, 130 East Maxwell Boulevard, Maxwell Air Force Base, AL 36112–6613.

NOTIFICATION PROCEDURE:

Persons who have not registered in the college should address inquiries regarding records maintained by the college to Chief, Student Records Branch, Community College of the Air Force, 130 East Maxwell Boulevard, Maxwell Air Force Base, AL 36112–6613. Persons who have registered in the college may address inquiries as above or to Chief, Academic Programs Division, also at Maxwell Air Force Base. Such inquiries will need to include the full name (and former names if appropriate), Social Security Number, and birth date of the inquirer, and should include a full return address (including ZIP Code). Visits to the college are welcomed, and visitors seeking information about personal records should first visit the Office of the Registrar.

RECORD ACCESS PROCEDURES:

Individuals seeking to access records about themselves contained in this system should address requests to the System Manager, or to addresses listed above.

Visits to the college are welcomed, and visitors seeking information about personal records should first visit the Office of the Registrar.

CONTESTING RECORD PROCEDURES:

The Air Force rules for accessing records, and for contesting contents and appealing initial agency determinations are published in Air Force Instruction 33–332; 32 CFR part 806b; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Information obtained from educational institutions, automated system interfaces and from source documents submitted to the college by or at the request of individuals concerned, or by other Air Force agencies acting on behalf of individuals concerned.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

F036 AETC N

SYSTEM NAME:

Student Record Folder (June 11, 1997, 62 FR 31793).

CHANGES:

* * * * *

STORAGE:

Add to entry 'and on computers and computer output products'.

RETRIEVABILITY:

Add to entry 'Social Security Number'.

SAFEGUARDS:

Add to entry 'Records in computer storage devices are protected by computer system software.'

* * * * *

F036 AETC N

SYSTEM NAME:

Student Record Folder.

SYSTEM LOCATION:

Air University, Maxwell Air Force Base, AL 36112–6335 and at each Air University Professional Military School/Course at Maxwell Air Force Base, and Gunter Air Force Annex, AL 36118–5643.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Military and civilian students.

CATEGORIES OF RECORDS IN THE SYSTEM:

Individual student folder containing test results, speech and writing critiques, interview/counseling record, faculty rating, and other documents pertaining to student administration.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 8013, Secretary of the Air Force; AF Instruction 36–2301, Professional Military Education; and E.O. 9397 (SSN).

PURPOSE(S):

Used by faculty and staff of applicable school/course to evaluate and record performance/progress of student, and to determine suitability for future faculty position.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The DoD 'Blanket Routine Uses' published at the beginning of the Air Force's compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders and on computers and computer output products.

RETRIEVABILITY:

Retrieved by name and Social Security Number.

SAFEGUARDS:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties and who are properly screened and cleared for need-to-know. Records are stored in locked cabinets or rooms. Records in computer storage devices are protected by computer system software.

RETENTION AND DISPOSAL:

Retained in office files until graduation or elimination from training, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Curriculums. Submanagers: Director of

Administration (DA) at each school/course; AWC, 325 Chennault Circle, Maxwell AFB, AL 36112–6427; ACSC, 225 Chennault Circle, Maxwell AFB, AL 36112–6426; SOS, 125 Chennault Circle, Maxwell AFB, AL 36112–6430.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to or visit the Director of Student Affairs at the applicable school. Provide name, Social Security Number.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system should address written inquiries to or visit the Director of Student Affairs at each applicable school (AWC, ACSC, SOS). Official mailing addresses are published as an appendix to the Air Force's compilation of systems of records notices.

CONTESTING RECORD PROCEDURES:

The Air Force rules for accessing records, and for contesting contents and appealing initial agency determinations are published in Air Force Instruction 33–332; 32 CFR part 806b; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Individual student, instructor and source documents such as reports.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

F036 AETC P

SYSTEM NAME:

Student Questionnaire (June 11, 1997, 62 FR 31793).

CHANGES:

* * * * *

STORAGE:

Replace entry with 'Maintained in file folders, computers, and computer output products.'

RETRIEVABILITY:

Replace entry with 'Retrieved by name and Social Security Number.'

SAFEGUARDS:

Add to entry 'Records in computer storage devices are protected by computer system software.'

* * * * *

F036 AETC P

SYSTEM NAME:

Student Questionnaire.

SYSTEM LOCATION:

Air University, Maxwell Air Force Base, AL 36112. Subsystems are located at the Air War College, Air Command and Staff College, Squadron Officers School, Maxwell Air Force Base, AL 36112.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All students attending Air War College (AWC), Air Command and Staff College (ACSC), and Squadron Officers School (SOS).

CATEGORIES OF RECORDS IN THE SYSTEM:

Questionnaire including military data such as name, Social Security Number, grade, age, flying data, education data, personal data and locator data.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 8013, Secretary of the Air Force; AF Instruction 36–2301, Professional Military Education; and E. O. 9397 (SSN).

PURPOSE(S):

Primary use is to gather statistical data for analysis by management analysis personnel, subsequent publication of data in AU quarterly program summary. Used by applicable PME school for locator and other administrative purposes.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The DoD 'Blanket Routine Uses' published at the beginning of the Air Force's compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders, computers, and computer output products.

RETRIEVABILITY:

Retrieved by name and Social Security Number.

SAFEGUARDS:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties and who are properly screened and cleared for need-to-know. Records are stored in locked cabinets or rooms. Records in computer storage devices are protected by computer system software.

RETENTION AND DISPOSAL:

Retained in office files until graduation or elimination from training, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Dean of Students, AWC, 325 Chennault Circle, Maxwell AFB, AL 36112–6427; Director of Technology, ACSC, 225 Chennault Circle, Maxwell AFB, AL 36112–6426; and Student Services, SOS, 125 Chennault Circle, Maxwell AFB, AL 36112–6430.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to or visit AWC Dean of Students, 325 Chennault Circle, Maxwell AFB, AL 36112–6427; ACSC Dean of Education and Curriculum, 225 Chennault Circle, Maxwell AFB, AL 36112–6426; and SOS Student Services, 125 Chennault Circle, Maxwell AFB, AL 36112–6430.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system should address written inquiries to or visit AWC Dean of Students, 325 Chennault Circle, Maxwell AFB, AL 36112–6427; ACSC Dean of Education and Curriculum, 225 Chennault Circle, Maxwell AFB, AL 36112–6426; and SOS Student Services, 125 Chennault Circle, Maxwell AFB, AL 36112–6430.

CONTESTING RECORD PROCEDURES:

The Air Force rules for accessing records, and for contesting contents and appealing initial agency determinations are published in Air Force Instruction 33–332; 32 CFR part 806b; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Individual student.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 05–1054 Filed 1–19–05; 8:45 am]

BILLING CODE 5001–06–M

DEPARTMENT OF DEFENSE

Department of the Navy

Meeting of the Chief of Naval Operations (CNO)Executive Panel

AGENCY: Department of the Navy, DOD.

ACTION: Notice of closed meeting.

SUMMARY: The CNO Executive Panel is to report the midterm findings and recommendations of the Near Land Battle Study Group to the Chief of Naval Operations. The meeting will consist of discussions of the Navy's role in land warfare and the unique challenges to operating in the near land arena.

DATES: The meeting will be held on Thursday, February 3, 2005, from 11 a.m. to 12 p.m.

ADDRESSES: The meeting will be held at the Chief of Naval Operations office, Room 4E540, 2000 Navy Pentagon, Washington, DC 20350.

FOR FURTHER INFORMATION CONTACT: LCDR Chris Corgnati, CNO Executive Panel, 4825 Mark Center Drive, Alexandria, VA 22311, 703–681–4909.

SUPPLEMENTARY INFORMATION: Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App. 2), these matters constitute classified information that is specifically authorized by Executive Order to be kept secret in the interest of national defense and are, in fact, properly classified pursuant to such Executive Order.

Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meeting be closed to the public because they will be concerned with matters listed in section 552b(c)(1) of title 5, United States Code.

Dated: January 13, 2005.

I.C. Le Moyne Jr.

Lieutenant, Judge Advocate General's Corps, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. 05–1092 Filed 1–19–05; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF EDUCATION

[CFDA Nos: 84.334A and 84.334S]

Office of Postsecondary Education, Teacher and Student Development Service

ACTION: Notice Announcing Technical Assistance Workshops for fiscal year (FY) 2005 Gaining Early Awareness and Readiness for Undergraduate Programs (GEAR UP) Program.

SUMMARY: This notice provides information about three one-day technical assistance workshops to assist institutions of higher education, local education agencies, and States interested in preparing grant applications for FY 2005 new awards under the Gaining Early Awareness and Readiness for Undergraduate Programs (GEAR UP) Program. Program staff will present information about the purpose of the GEAR UP Program, selection criteria, application content, submission procedures, and reporting requirements.

Although the Department has not yet announced an application deadline date in the **Federal Register** for the FY 2005 competition, the Department is holding these workshops to give potential applicants guidance for preparing applications for the competition we expect to conduct in FY 2005. Specific requirements for the FY 2005 competition will be published in a separate **Federal Register** notice. This notice announces the technical assistance workshops only.

FOR FURTHER INFORMATION CONTACT: Angela Oliphant, Gaining Early Awareness & Readiness for Undergraduate Programs (GEAR UP) Program, U.S. Department of Education, 1990 K Street, NW., room 6101, Washington, DC 20006–8513. Telephone: (202) 502–7676.

If you use a telecommunications device for the deaf (TDD), you may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

Individuals with disabilities may obtain this document in an alternative format (*e.g.*, Braille, large print, audio tape, or computer diskette) on request to the contact person listed in this section.

SUPPLEMENTARY INFORMATION: The technical assistance workshops will be held as follows:

1. Washington, DC: Monday, January 31, Registration, 8–9 a.m.

• Hilton Washington, 1919 Connecticut Avenue, NW., Washington, DC, Telephone: 202–483–3000.

2. Sacramento, CA: Wednesday, February 2, Registration, 8–9 a.m.

• Red Lion Hotel 1401 Arden Way, Sacramento, CA, Telephone: 916–922–8041

3. St. Louis, MO: Friday, February 4, Registration, 8 a.m.–9 a.m.

• Ritz Carlton 100 Carondelet Plaza, St. Louis, MO, Telephone: 314–863–6300.

All Technical Assistance Workshop sessions will be conducted from 9 a.m.–5 p.m. each day. There is no registration fee for these workshops. However, space is limited. Attendees are required to make their own reservations directly with the hotel. The Department has reserved a limited number of rooms at each of the hotel sites at a special government room rate. To reserve this rate, be certain to inform the hotel that you are attending the ''U.S. Department of Education GEAR UP Program Technical Assistance Workshop.''

Assistance to Individuals With Disabilities Attending the Technical Assistance Workshop

The technical assistance workshop site is accessible to individuals with disabilities. If you need an auxiliary aid or service to participate in the workshop (*e.g.*, interpreting service, assistive listening device, or materials in an alternative format), notify the contact person listed under **FOR FURTHER INFORMATION CONTACT** at least two weeks before the scheduled workshop date. Although we will attempt to meet a request received after that date, we may not be able to make available the requested auxiliary aid or service because of insufficient time to arrange it.

Electronic Access to This Document: You may view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at the following site: *http://www.ed.gov/news/fedregister*.

To use PDF, you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using the PDF, call the U.S. Government Printing Office (GPO), toll free, at 1–888–293–6498; or in the Washington, DC area at (202) 512–1530.

Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: *http://www.gpoaccess. gov/nara/index.html.*

Program Authority: 20 U.S.C. 1070a–21.

Dated: January 14, 2005.

Sally L. Stroup,

Assistant Secretary for Postsecondary Education.

[FR Doc. E5–210 Filed 1–19–05; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Office of Special Education and Rehabilitative Services, Individuals With Disabilities Education Act, as Amended by the Individuals With Disabilities Education Improvement Act of 2004

ACTION: Notice of public meeting to seek comments and suggestions on regulatory issues under the Individuals with Disabilities Education Act (IDEA), as amended by the Individuals with Disabilities Education Improvement Act of 2004.

SUMMARY: The Secretary announces plans to hold the third of a series of

public meetings to seek comments and suggestions from the public prior to developing and publishing proposed regulations to implement programs under the recently revised Individuals with Disabilities Education Act.

DATE AND TIME OF PUBLIC MEETING: Monday, February 7, 2005 from 3:30 p.m. to 5:30 p.m. and from 6:30 p.m. to 8:30 p.m.

ADDRESSES: Sheraton Boston Hotel, Prudential Center, 39 Dalton Street, Boston, MA 02199.

FOR FURTHER INFORMATION CONTACT: Troy R. Justesen. Telephone: (202) 245–7468.

SUPPLEMENTARY INFORMATION:

Background

On December 3, 2004, the President signed into law Public Law 108–446, the Individuals with Disabilities Education Improvement Act of 2004, amending the Individuals with Disabilities Education Act (IDEA). Copies of the new law may be obtained at the following Web site: *http://www.gpoaccess.gov/plaws/index.html*.

Enactment of the new law provides an opportunity to consider improvements in the regulations implementing the IDEA (including both formula and discretionary grant programs) that would strengthen the Federal effort to ensure every child with a disability has available a free appropriate public education that—(1) is of high quality, and (2) is designed to achieve the high standards reflected in the No Child Left Behind Act and regulations.

The Office of Special Education and Rehabilitative Services will be holding a series of public meetings during the first few months of calendar year 2005 to seek input and suggestions for developing regulations, as needed, based on the Individuals with Disabilities Education Improvement Act of 2004.

This notice provides specific information about the third of these meetings, scheduled for Boston, MA (see **DATE AND TIME OF PUBLIC MEETING** earlier in this Notice). Other informal meetings will be conducted in the following locations:

- Atlanta, GA;
- San Diego, CA;
- Laramie, WY; and
- Washington, DC.

In subsequent **Federal Register** notices, we will notify you of the specific dates and locations of each of these meetings, as well as other relevant information.

Individuals who need accommodations for a disability in order to attend the meeting (*i.e.*, interpreting services, assistive listening devices, and material in alternative format) should notify the contact person listed under **FOR FURTHER INFORMATION CONTACT.** The meeting location is accessible to individuals with disabilities.

Dated: January 14, 2005.

John H. Hager,

Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. E5–211 Filed 1–19–05; 8:45 am]

BILLING CODE 4000–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7862–6]

Agency Information Collection Activities OMB Responses

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This document announces the Office of Management and Budget's (OMB) responses to Agency clearance requests, in compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et. seq.*). An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR chapter 15.

FOR FURTHER INFORMATION CONTACT: Susan Auby (202) 566–1672, or email at *auby.susan@epa.gov* and please refer to the appropriate EPA Information Collection Request (ICR) Number.

SUPPLEMENTARY INFORMATION:

OMB Responses to Agency Clearance Requests

OMB Approvals

EPA ICR No. 1463.06; National Oil and Hazardous Substances Pollution Contingency Plan (NCP); was approved 01/04/2005; in 40 CFR part 300; OMB Number 2050–0096; expires 01/31/2008.

EPA ICR No. 1826.03; Transition Program for Equipment Manufacturers; was approved 01/03/2005; in 40 CFR part 89.102; OMB Number 2060–0369; expires 01/31/2008.

EPA ICR No. 0155.08; Certification of Pesticide Applicators; in 40 CFR part 171; was approved 12/29/2004; OMB Number 2070–0029; expires 12/31/2007.

EPA ICR No. 1808.04; Environmental Impact Assessment of Nongovernmental Activities in Antarctica; in 40 CFR part 8; was approved 12/20/2004; OMB Number 2020–0007; expires 12/31/2007.

EPA ICR No. 2174.01; Sodium Cyanide (and Related Compounds) Investigation; was approved 12/21/2004; OMB No. 2070–0168; expires 06/30/2005.

EPA ICR No. 0574.12; Pre-Manufacture Review Reporting and Exemption Requirements for New Chemical Substances and Significant New Use Reporting Requirements for Chemical Substances; in 40 CFR part 720, 721, 723 and 725; was approved 12/22/2004; OMB Number 2070–0012; expires 12/31/2007.

EPA ICR No. 0143.08; Recordkeeping Requirements for Producers of Pesticides under Section 8 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA); in 40 CFR part 169; was approved 12/22/2004; OMB Number 2070–0028; expires 12/31/2007.

EPA ICR No. 2130.02; Transportation Conformity Determinations for Federally Funded and Approved Transportation Plans, Programs and Projects under the New 8-hour Ozone and PM2.5 NAAQS (Final Rule); in 40 CFR 93, subpart A; was approved 12/22/2004; OMB Number 2060–0561; expires 12/31/2007.

EPA ICR No. 1596.06; Significant New Alternatives Policy (SNAP); in 40 CFR part 82, subpart G; was approved 12/22/2004; OMB Number 2060–0226; expires 12/31/2007.

EPA ICR No. 2078.01; Energy Star Product Labeling; was approved 12/27/2004; OMB Number 2060–0528; expires 12/31/2007.

EPA ICR No. 1086.07; NSPS for Onshore Natural Gas Processing Plants; in 40 CFR part 60 subparts KKK and LLL; was approved 12/27/2004; OMB number 2060–0120; expires 12/31/2007.

EPA ICR No. 2147.02; Pesticide Registration Fee Waivers; was approved 12/29/2004; OMB Number 2070–0167; expires 12/31/2007.

Short Term Extensions

EPA ICR No. 0619.08; Mobile Source Emission Factor Recruitment Questionnaire; OMB Number 2060–0078 was approved; on 12/16/2004; OMB extended the expiration date to 03/31/2005.

Withdrawn

EPA ICR No. 0619.10; Mobile Source Emission Factor On-Highway Recruitment; OMB No. 2060–0078; on 12/16/2004 was withdrawn from OMB.

Dated: January 11, 2005.

Oscar Morales,

Director, Collection Strategies Division.

[FR Doc. 05–1120 Filed 1–19–05; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OPPT–2004–0117; FRL–78627; Docket ID # OPPT–2004–0117]

Agency Information Collection Activities; Submission to OMB for Review and Approval; Comment Request; Correction of Misreported Chemical Substances on the Toxic Substances Control Act (TSCA) Chemical Substances Inventory; EPA ICR No. 1741.04, OMB No. 2070–0145

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that the following Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval. This is a request to renew an existing approved collection. This ICR is scheduled to expire on January 31, 2005. Under OMB regulations, the Agency may continue to conduct or sponsor the collection of information while this submission is pending at OMB. This ICR describes the nature of the information collection and its estimated cost.

DATES: Additional comments may be submitted on or before February 22, 2005.

ADDRESSES: Submit your comments, referencing docket ID Number OPPT–2004–0117, to (1) EPA online using EDOCKET (our preferred method), by email to *oppt.ncic@epa.gov* or by mail to: Document Control Office (DCO), Office of Pollution Prevention and Toxics (OPPT), Environmental Protection Agency, Mail Code: 7407T, 1200 Pennsylvania Ave., NW., Washington, DC 20460, and (2) OMB at: Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Barbara Cunningham, Acting Director, Environmental Assistance Division, Office of Pollution Prevention and Toxics, Environmental Protection Agency, Mailcode: 7408, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: 202–554–1404; e-mail address: *TSCA-Hotline@epa.gov.*

SUPPLEMENTARY INFORMATION: EPA has submitted the following ICR to OMB for review and approval according to the procedures prescribed in 5 CFR 1320.12. On October 22, 2004, EPA sought comments on this renewal ICR (69 FR 62043). EPA sought comments on this ICR pursuant to 5 CFR 1320.8(d). EPA received one comment during the comment period, which is addressed in the Supporting Statement of the ICR.

EPA has established a public docket for this ICR under Docket ID No. OPPT–2004–0117, which is available for public viewing at the OPPT Docket in the EPA Docket Center (EPA/DC), EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is 202–566–1744, and the telephone number for the Pollution Prevention and Toxics Docket is 202–566–0280. An electronic version of the public docket is available through EPA Dockets (EDOCKET) at *http://www.epa.gov/edocket.* Use EDOCKET to submit or view public comments, access the index listing of the contents of the public docket, and to access those documents in the public docket that are available electronically. Once in the system, select ''search,'' then key in the docket ID number identified above.

Any comments related to this ICR should be submitted to EPA and OMB within 30 days of this notice.

EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing in EDOCKET as EPA receives them and without change, unless the comment contains copyrighted material, CBI, or other information whose public disclosure is restricted by statute. When EPA identifies a comment containing copyrighted material, EPA will provide a reference to that material in the version of the comment that is placed in EDOCKET. The entire printed comment, including the copyrighted material, will be available in the public docket. Although identified as an item in the official docket, information claimed as CBI, or whose disclosure is otherwise restricted by statute, is not included in the official public docket, and will not be available for public viewing in EDOCKET. For further information about the electronic docket, see EPA's **Federal Register** notice describing the electronic docket at 67 FR 38102 (May 31, 2002), or go to *http://www.epa.gov/edocket.*

Title: Correction of Misreported Chemical Substances on the Toxic Substances Control Act (TSCA) Chemical Substances Inventory.

Abstract: Section 8(b) of the TSCA requires EPA to compile and keep current an Inventory of Chemical Substances in Commerce, which is a listing of chemical substances manufactured, imported, and processed for commercial purposes in the United States. The purpose of the Inventory is to define, for the purpose of TSCA, what chemical substances exist in U.S. commerce. Since the Inventory thereby performs a regulatory function by distinguishing between existing chemicals and new chemicals, which TSCA regulates in different ways, it is imperative that the Inventory be accurate.

However, from time to time, EPA or respondents discover that substances have been incorrectly described by reporting companies. Reported substances have been unintentionally misidentified as a result of simple typographical errors, the misidentification of substances, or the lack of sufficient technical or analytical capabilities to characterize fully the exact chemical substances. EPA has developed guidelines (45 FR 50544, July 29, 1980) under which incorrectly described substances listed in the Inventory can be corrected. The correction mechanism ensures the accuracy of the Inventory without imposing an unreasonable burden on the chemical industry. Without the Inventory correction mechanism, a company that submitted incorrect information would have to file a premanufacture notification (PMN) under TSCA section 5 to place the correct chemical substance on the Inventory whenever the previously reported substance is found to be misidentified. This would impose a much greater burden on both EPA and the submitter than the existing correction mechanism.

Responses to the collection of information are voluntary. Respondents may claim all or part of a notice as CBI. EPA will disclose information that is covered by a CBI claim only to the extent permitted by, and in accordance with, the procedures in 40 CFR part 2.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in title 40 of the CFR, after appearing in the **Federal Register**, are listed in 40 CFR part 9 and included on the related collection instrument or form, if applicable.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 2 hours per response. Burden means the total time, effort or financial resources expended

by persons to generate, maintain, retain or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install and utilize technology and systems for the purposes of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Entities potentially affected by this action are companies that manufacture or import chemical substances, mixtures or categories listed on the TSCA Inventory and regulated under TSCA section 8, who reported to the initial effort to establish the TSCA Inventory in 1979, and who need to make a correction to that submission.

Frequency of Collection: On occasion.

Estimated Total/Average Number of Responses for Each Respondent: 1.

Estimated No. of Respondents: 10.

Estimated Total Annual Burden on Respondents: 20 hours.

Estimated Total Annual Costs: $1,467.

Changes in Burden Estimates: This request reflects a decrease of 180 hours (from 200 hours to 20 hours) in the total estimated respondent burden from that currently in the OMB inventory. This decrease is due to a downward re-estimation of the anticipated number of annual responses to this information collection, offset in part by an upward estimation of the burden per response. This change is an adjustment.

Dated: January 11, 2005.

Oscar Morales,

Director, Collection Strategies Division.

[FR Doc. 05–1121 Filed 1–19–05; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–6659–8]

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of FederalActivities, General Information (202)564–7167 or *http://www.epa.gov/compliance/nepa/*.

Weekly receipt of Environmental Impact Statements. Filed January 10, 2005 through January 14, 2005. Pursuant to 40 CFR 1506.9.

EIS No. 050011, DRAFT EIS, FAA, VA, Washington Dulles International Airport Project, Acquisition of Land, Construction and Operation, IAD 2004. Airport Layout Plan (ALP), Dulles, VA. Comment Period Ends: March 7, 2005. Contact: Brad Mehaffy (703) 661–1364.

EIS No. 050012, DRAFT EIS, IBR, CA, Central Valley Project Long-Term Water Service Contract. Renewals—American River Division, Proposes to Renew Long-Term Water Service Contracts, Sacramento,Placer and El Dorado Counties, CA, Comment Period Ends: March 7, 2005. Contact: David Robinson (916) 989–7179.

EIS No. 050013, FINAL EIS, FHW, MN, MN–371 North Improvement Project, Reconstruction from the intersection of Crow Wing County Road 18 in Nisswa to the Intersection of Cass County Road 42 in Pine River, Funding, NPDES Permit ,and U.S. Army, COE Section 404 Permit Issuance, Crow Wing and Cass Counties, MN, Wait Period Ends: February 22, 2005. Contact: Cheryl Martin (651) 291–6120.

EIS No. 050014, DRAFT EIS, FAA, CA, Los Angeles International Airport Proposed Master Plan Improvements, Alternative D Selected, Enhanced Safety and Security Plan, Los Angeles County, CA, Wait Period Ends: February 22, 2005. Contact: David B. Kessler (310) 725–3615.

EIS No. 050015, DRAFT EIS, EPA, CA, LA–3 Ocean Dredged Material Disposal Site off Newport Bay, Proposed Site Designation, Orange County, CA, Comment Period Ends: March 7, 2005. Contact: Lawrence J. Smith (213) 452–3846.

The Environmental Protection Agency's and the Corp of Engineers are Joint Lead Agencies for the above Project.

EIS No. 050016, DRAFT EIS, FHW, OH, OH–823, Portsmouth Bypass Project, Transportation Improvements, Funding and U.S. Army COE Section 404 Permit, Appalachian Development Highway, Scioto County, OH,Due: March 07, 2005. Contact: Dennis A. Decker (614) 280–6896.

Amended Notices

EIS No. 040557, DRAFT EIS, AFS, AK, Tuxekan Island Timber Sale(s) Project, Harvesting Timber, Coast Guard Bridge Permit and U.S. Army COE Section 10 and 404 Permits, Tongass National Forest, Thorne Bay Ranger District, Thorne Bay, AK., Comment Period Ends: March 7, 2005. Contact: Forrest Cole (907) 228–6200.

Revision of FR Notice published on 12/10/2004: CEQ Comment Period Ending 01/24/2005 has been reestablished to 3/7/2005. Due to submission of replacement copies of appendix B and C.

Dated: January 14, 2005.

B. Katherine Biggs,

Associate Director, Office of Federal Activities.

[FR Doc. 05–1149 Filed 1–19–05; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–6659–7]

Public Comment Requested on the Draft Environmental Impact Statement for Proposed Site Designation of the ''LA–3'' Ocean Dredged Material Disposal Site off Newport Bay, Orange County, CA

AGENCY: U.S. Environmental Protection Agency (EPA) and U.S. Army Corps of Engineers (USACE).

ACTION: Notice of Availability and request for public comment on a draft Environmental Impact Statement (EIS) to designate ''LA–3'' as a permanent ocean dredged material disposal site (ODMDS) offshore of Newport Bay, California.

The EIS also re-evaluates an annual disposal volume limit for the existing LA–2 ODMDS offshore of the Los Angeles and Long Beach Harbors, and how to minimize cumulative environmental impacts from the two ODMDS in the region. EPA has the authority to designate ODMDS under Section 102 of the Marine Protection, Research and Sanctuaries Act (MPRSA) of 1972 (33 U.S.C. 1401 *et seq.*). It is EPA's policy to prepare NEPA documents for all ODMDS designations (63 FR 58045, October 1998). The USACE, as a cooperating agency for this action, received Congressional appropriations to fund this site designation, and managed contracts for field studies and preparation of the draft EIS. Public comments on this draft EIS evaluation will be accepted for 45 days from the date of this notice.

FOR FURTHER INFORMATION AND/OR TO SUBMIT COMMENTS, CONTACT: Mr. Allan Ota, U.S. Environmental Protection Agency, Region 9, Dredging and Sediment Management Team (WTR–8), 75 Hawthorne Street, San Francisco, California 94105–3901, Telephone: (415) 972–3476 or FAX: (415) 947–3537 or E-mail: *R9–LA3–DEIS@epa.gov.*

Purpose: EPA requests public comments and intends to conduct public meetings to collect comments on the draft EIS. Copies of this draft EIS may be viewed at the following locations:

1. Lloyd Taber-Marina del Rey Library, 4533 Admiralty Way, Marina del Rey, CA 90292.
2. Long Beach Public Library, 101 Pacific Avenue, Long Beach, CA 90822.
3. Los Angeles Public Library, Central Library, 630 West 5th Street, Los Angeles, CA 90071.
4. Los Angeles Public Library, San Pedro Regional Branch Library, 931 South Gaffey Street, San Pedro, CA 90731.
5. Newport Beach Public Library, Balboa Branch, 100 East Balboa Boulevard, Balboa, CA 92661.
6. Newport Beach Public Library, Central Library, 1000 Avocado Avenue, Newport Beach, CA 92660.
7. Newport Beach Public Library, Corona del Mar Branch, 420 Marigold Avenue, Corona del Mar, CA 92625.
8. Newport Beach Public Library, Mariners Branch, 2005 Dover Drive, Newport Beach, CA 92660.
9. U.S. Environmental Protection Agency (EPA) Library, 75 Hawthorne Street, 13th Floor, San Francisco, CA 94105.
10. U.S. EPA, Southern California Field Office, 600 Wilshire Boulevard, Suite 1460, Los Angeles, CA 90017.
11. U.S. EPA Web site: *http://www.epa.gov/region9/.*
12. U.S. Army Corps of Engineers' Web site: *http://www.spl.usace.army.mil.*

SUMMARY: Dredging is essential for maintaining safe navigation in harbors and marinas in the Los Angeles County and Orange County region. Not all dredged materials are suitable for beneficial re-use (*e.g.*, construction materials, wetlands restoration), and not all suitable materials can be deposited at the existing LA–2 ODMDS given costs and logistical constraints. The LA–3 ODMDS has been used for the disposal of dredged material by some Orange County projects in the past, but its ''interim'' status has expired. Therefore there is a need to designate LA–3 as a permanent ODMDS. No actual disposal operations are authorized by this action; and disposal can only take place after a Federal permit is secured. Before ocean disposal may take place, dredging projects must demonstrate a need for ocean disposal and the proposed dredged material must be suitable (non-toxic) according to USEPA ocean dumping criteria. Alternatives, including the option for beneficial re-use of dredged material, will be evaluated for each permit. Both LA–3 and LA–2 will be monitored periodically to ensure that each site operates as expected. This proposed site designation has been prepared pursuant to Section 102 of the Marine Protection, Research and Sanctuaries Act (MPRSA). The evaluation is based on EPA's general and specific criteria. Field studies, modeling of sediment dispersion following dredged material disposal under various scenarios, incompatible use areas, and economic considerations are included in the evaluation.

The preferred alternative location for a permanent LA–3 ODMDS is about 4.5 nautical miles offshore of Newport Bay and in water depths ranging from 1,500 to 1,675 feet. It is 2,400 meters southeast of the ''interim'' LA–3 site, and was determined to be the environmentally preferred location given its depth and stability. LA–3 will be managed regionally in conjunction with the existing LA–2 ODMDS. The preferred alternative in the draft EIS is to limit disposal of dredged material at the LA–3 ODMDS to a maximum of 2,500,000 cubic yards annually and to increase the maximum annual disposal limit at the LA–2 ODMDS to 1,000,000 cubic yards of dredged material. The draft EIS contains an evaluation of potential impacts associated with the preferred alternative, other combinations of managing LA–3 and LA–2 jointly, and the No-Action alternative.

Comments were received during the scoping comment period and four public scoping meetings were held at Los Angeles and Orange County locations in July 2003. Revisions were made to the draft EIS to address these comments.

Public Meetings: EPA is requesting written comments on this draft EIS from federal, state, and local governments, industry, non-governmental organizations, and the general public. Comments will be accepted for 45 days, beginning with the date of this Notice. Public meetings are scheduled at the following location and date:

—February 9, 2005, 2–4 p.m. and 7–9 p.m., in Orange County at the Upper Newport Bay Peter and Mary Muth Interpretive Center, 2301 University Drive, Newport Beach, California 92660 (corner of University Drive and Irvine Avenue).

Responsible Official: Wayne Nastri, Regional Administrator Environmental Protection Agency, Region 9.

Dated: January 12, 2005.

Anne Norton Miller,

Director, Office of Federal Activities.

[FR Doc. 05–1148 Filed 1–19–05; 8:45 am]

BILLING CODE 6560–50–P

EXPORT-IMPORT BANK OF THE UNITED STATES

Sunshine Act Meeting

ACTION: Notice of a Partially Open Meeting of the Board of Directors of the Export-Import Bank of the United States.

TIME AND PLACE: Wednesday, January 19, 2005 at 9:30 a.m. The meeting will be held at Ex-Im Bank in Room 1143, 811 Vermont Avenue, NW., Washington, DC 20571.

OPEN AGENDA ITEM: Ex-Im Bank Advisory Committee for 2005.

PUBLIC PARTICIPATION: The meeting will be open to public participation for Item No. 1 only.

FOR FURTHER INFORMATION CONTACT: Office of the Secretary, 811 Vermont Avenue, NW., Washington, DC 20571 (Tele. No. 202–565–3957).

Peter B. Saba,

General Counsel.

[FR Doc. 05–1193 Filed 1–14–05; 4:12 pm]

BILLING CODE 6690–01–M

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission for Extension Under Delegated Authority

January 13, 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, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper

performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Persons wishing to comment on this information collection should submit comments by March 22, 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.: 3060–0658.

Title: Section 27.1213, Designated Entity Provisions of Broadband Radio Service (BRS), (formerly Multipoint Distribution Service).

Form No.: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for profit.

Number of Respondents: 60.

Estimated Time Per Response: 1 hour.

Frequency of Response: On occasion reporting requirement and recordkeeping requirement.

Total Annual Burden: 60 hours.

Annual Cost Burden: $4,000.

Privacy Act Impact Assessment: N/A.

Needs and Uses: The Commission has changed the rule section number from 21.960 to 27.1213. Additionally, Multipoint Distribution Service is now described as Broadband Radio Service (BRS). This rule section requires winning bidders who are designated entities (small businesses) to file with its long-form application or statement of intention an exhibit which includes eligibility requirements. This exhibit should also list and summarize all agreements that affect designated entity status. The recordkeeping requirement and audit provisions of section 27.1213(f) and (g) are necessary to prevent abuse of the special measures offered to those BRS auction winners claiming designated entity status. The Commission is requesting extension (no material change) to this information collection.

OMB Control No.: 3060–0998.

Title: Section 87.109, Station Logs.

Form No.: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents: 3.

Estimated Time Per Response: 100 hours.

Frequency of Response: Recordkeeping requirement.

Total Annual Burden: 300 hours.

Annual Cost Burden: N/A.

Privacy Act Impact Assessment: N/A.

Needs and Uses: The rule section is necessary to require each fixed station in the International Aeronautical Mobile Service (IAMS) to maintain a written or automatic log in accordance with the provisions of the International Civil Aviation Organization (ICAO) Convention. The log is necessary to document the service fixed stations, including the harmful interference, equipment failure, and logging of distress and safety calls where applicable. The information is used by the Commission during inspections and investigations to insure the particular station is licensed and operated in compliance with applicable rules, statutes, and treaties. If the information were not collected, documentation concerning station operations would not be available, and the fixed stations in the IAMS can not comply with treaty requirements.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 05–1155 Filed 1–19–05; 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

January 13, 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 March 22 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: 3060–0932.

Title: Application for Authority to Make Changes in a Class A TV Broadcast Station.

Form Number: FCC Form 301–CA.

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: 650.

Estimated Time per Response: 15–20 hours.

Frequency of Response: On occasion reporting requirement.

Total Annual Burden: 4,550 hours.

Total Annual Cost: $3,703,700.

Privacy Impact Assessment: No impact(s).

Needs and Uses: The FCC Form 301–CA is to be used in all cases by a Class A television station licensees seeking to

make changes in the authorized facilities of such station. The FCC Form 301–CA requires applicants to certify compliance with certain statutory and regulatory requirements. Detailed instructions provide additional information regarding Commission rules and policies.

On September 9, 2004, the Commission adopted a Report and Order, In the Matter of Parts 73 and 74 of the Commission's Rules to Established Rules for Digital Low Power Television, Television Translator, and Television Booster Stations and to Amend Rules for Digital Class A Television Stations, FCC 04–220, MB Docket Number 03–185. To implement these amendments, the Commission is revising FCC Form 301–CA to allow licensees to use the revised FCC Form 301–CA to file for digital broadcast stations or conversion of their existing analog stations to digital.

Class A applicants are also subject to third party disclosure requirement of § 3.3580 which requires local public notice in a newspaper of general circulation of the filing of all applications for major changes in facilities. This notice must be completed within 30 days of the tendering of the application. This notice must be published at least twice a week for two consecutive weeks in a three-week period. A copy of this notice must be placed in the public inspection file along with the application.

The FCC Form 301–CA is designed to track the standards and criteria which the Commission applies to determine compliance and to increase the reliability of applicant certifications. FCC Form 301–CA is not intended to be a substitute for familiarity with the Communications Act and the Commission's regulations, policies, and precedent.

OMB Control Number: 3060–0016.

Title: Application for Authority to Construct or Make Changes to a Low Power TV, TV Translator, or TV Booster Station.

Form Number: FCC Form 346.

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: 4,500.

Estimated Time per Response: 7 hours.

Frequency of Response: On occasion reporting requirement; third party disclosure requirement.

Total Annual Burden: 31,500 hours.

Total Annual Cost: $13,491,000.

Privacy Impact Assessment: No impact(s).

Needs and Uses: Licensees/permittees/applicants use FCC Form 346 to apply for authority to construct or make changes in a Low Power Television, TV Translator, or TV Booster broadcast station. On September 9, 2004, the Commission adopted a Report and Order, In the Matter of Parts 73 and 74 of the Commission's Rules to Established Rules for Digital Low Power Television, Television Translator, and Television Booster Stations and to Amend Rules for Digital Class A Television Stations, MB Docket Number 03–185, FCC 04–220. To implement the new rules, the Commission is revising FCC Form 346 to allow licensees/permittees/applicants to use the revised FCC Form 346 to file for digital broadcast stations or for conversion of their existing analog stations to digital.

On May 13, 2002, the Commission released Public Notice DA 02–1087 announcing the mandatory electronic filing of FCC Form 346.

Applicants are also subject to the third party disclosure requirements under 47 CFR 73.3580. Within 30 days of tendering the application, the applicant is required to publish a notice in a newspaper of general circulation when filing all applications for new or major changes in facilities—the notice is to appear at least twice a week for two consecutive weeks in a three-week period. A copy of this notice must be maintained with the application. FCC staff use the data to determine if the applicant is qualified, meets basic statutory and treaty requirements, and will not cause interference to other authorized broadcast services.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 05–1163 Filed 1–19–05; 8:45 am]

BILLING CODE 6712–10–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission, Comments Requested

January 10, 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, 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 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 March 22, 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, Room 1–C804, 445 12th Street, SW., 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 collection(s), contact Judith B. Herman at 202–418–0214 or via the Internet at *Judith-B.Herman@fcc.gov.*

SUPPLEMENTARY INFORMATION:

OMB Control No.: 3060–0678.

Title: Part 25 of the Commission's Rules Governing the Licensing of, and Spectrum Usage by, Satellite Network Earth Stations and Space Stations.

Form No.: FCC Form 312, Schedule S.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit.

Number of Respondents: 2,396.

Estimated Time Per Response: 11 hours.

Frequency of Response: On occasion, annual, and other reporting requirements and third party disclosure requirement.

Total Annual Burden: 26,334 hours.

Total Annual Cost: $8,425,000.

Privacy Act Impact Assessment: N/A.

Needs and Uses: The International Bureau plans to modify the classification of filing section of the electronic FCC Form 312 to clarify and

renumber the selection options. Specifically, the following modifications are proposed: (1) Add clarifying language to Item 17b1: Application for license of New Station to Access a U.S. Satellite or to Access a Non-U.S. Satellite that is Currently Authorized to Provide the Proposed Service in the Frequencies in the United States; (2) move the existing item 17b11 line item up as the new 17b2 which reads: ''Application for Earth Station to Access a Non-U.S. Satellite Not Currently Authorized to Provide the Proposed Service in the Proposed Frequencies in the United States'; (3) add a new selection (b3) which permits filers to select both b1 and b2; and (4) move down all other items and renumber them. This collection is used by the Commission staff to carry out its duties concerning satellite communications as require by Sections 301, 308, 309 and 310 of the Communications Act of 1934, as amended. It is also used by Commission staff in carrying out its duties under the World Trade Organization (WTO) Basic Telecom Agreement. The information collection requirements accounted for in this collection are necessary to determine the technical and legal qualifications of applicants or licensees to operate a station, transfer or assign a license, and to determine whether the authorization is in the public interest, convenience and necessity. All satellite applications filed under Part 25, whether by U.S. or non-U.S. entities, and regardless of spectrum used, are included in this collection. As technology advances and new spectrum are allocated for satellite use, applicants for satellite service will continue to submit the information required in Part 25 of the Commission's rules. Without such information, the Commission could not determine whether to permit respondents to provide telecommunication services in the United States.

OMB Control No.: 3060–0734.

Title: Accounting Safeguards, CC Docket No. 96–150, 47 U.S.C. 260 and 271–276, and 47 CFR 53.209, 53.211 and 53.213.

Form No.: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit.

Number of Respondents: 27.

Estimated Time Per Response: 24–6,056 hours.

Frequency of Response: On occasion, annual and biennial reporting requirements, recordkeeping requirement and third party disclosure requirement.

Total Annual Burden: 123,859 hours.

Total Annual Cost: $633,000.

Privacy Act Impact Assessment: N/A.

Needs and Uses: In CC Docket No. 96–150, the Commission prescribed the way incumbent local exchange carriers (ILECs), including Bell Operating Companies (BOCs), must account for transactions with affiliates involving, and allocate costs incurred in the provisions of, both regulated telecommunications services and non-regulated services, including telemessaging, interLATA telecommunications and information services, telecommunications equipment and CPE manufacturing and others pursuant to 47 U.S.C. Sections 260 and 271–276. The Commission issued a Notice of Proposed Rulemaking in May 2004, which solicited comment regarding the sunset of the statutory requirements in 47 U.S.C. Section 272.

OMB Control No.: 3060–0795.

Title: Associate WTB Call Signs and Antenna Registration Numbers with Licensee's FCC Registration Number (FRN).

Form No.: FCC Form 606.

Type of Review: Revision of a currently approved collection.

Respondents: Individuals or households; business or other for-profit; not-for-profit institutions; and state, local or tribal government.

Number of Respondents: 429,000.

Estimated Time Per Response: 1 hour.

Frequency of Response: On occasion reporting requirement and third party disclosure requirement.

Total Annual Burden: 429,000 hours.

Total Annual Cost: N/A.

Privacy Act Impact Assessment: Yes.

Needs and Uses: Licensees use the FCC Form 606 to associate their FCC Registration Number (FRN) with their Wireless Telecommunications Bureau call signs and antenna structure registration numbers. In addition, those antenna structure tenant licensees subject to the Anti-Drug Abuse Act of 1998 must use FCC Form 606 to register their antenna structures. The form must be submitted before any filing any subsequent applications associated with the existing license or antenna structure registration and prior to applying for an initial Wireless Telecommunications license or antenna structure registration. The Commission is revising the FCC Form 606 and its instructions to remove information about the Taxpayer Identification Number (TIN) registration requirements (including the title of the form) due to the implementation of the Commission Registration System (CORES) and to facilitate compliance with the Debt Collection Improvement Act of 1996 (DCIA). There is no change in the estimated number of respondents or burden hours.

OMB Control No.: 3060–0798.

Title: FCC Application for Wireless Telecommunications Bureau Radio Service Authorization.

Form No.: FCC Form 601.

Type of Review: Revision of a currently approved collection.

Respondents: Individuals or households; business or other for-profit; not-for-profit institutions; and state, local or tribal government.

Number of Respondents: 250,520.

Estimated Time Per Response: 1.25 hours.

Frequency of Response: On occasion and other (10 year) reporting requirements, recordkeeping requirement, and third party disclosure requirement.

Total Annual Burden: 219,205 hours.

Total Annual Cost: $50,104,000.

Privacy Act Impact Assessment: Yes.

Needs and Uses: FCC Form 601 is a consolidated, multi-part application or ''long form'' for market-based licensing and site-by-site licensing in the Wireless Telecommunications Bureau's (WTB's) Radio Services' Universal Licensing System (ULS). The information is used by the Commission to determine whether the applicant is legally, technically, or financially qualified to be licensed. The WTB will be making a change to FCC 601 to include a question asking if the change of name is due to a change in ownership, corporate structure or entity. There is no change to the estimated number of respondents or burden hours.

OMB Control No.: 3060–0850.

Title: Quick-Form Application for Authorization in the Ship, Aircraft, Amateur, Restricted and Commercial Operator, and General Mobile Radio Services.

Form No.: FCC Form 605.

Type of Review: Revision of a currently approved collection.

Respondents: Individuals or households; business or other for-profit; not-for-profit institutions; and state, local or tribal government.

Number of Respondents: 175,000.

Estimated Time Per Response: .44 hours.

Frequency of Response: On occasion and other (5 and 10 year) reporting requirements, recordkeeping requirement, and third party disclosure requirement.

Total Annual Burden: 77,000 hours.

Total Annual Cost: $2,537,500.

Privacy Act Impact Assessment: Yes.

Needs and Uses: FCC Form 605 application is a consolidated application form for Ship, Aircraft, Amateur, Restricted and Commercial

Operator, and General Mobile Radio Services and is used to collect licensing data for the Universal Licensing System (ULS). The Commission will be making a change to FCC Form 605 to include a question asking if the change of name is due to a change in ownership, corporate structure or entity. The data collected on this form includes the date of birth for commercial operator licensees; however, this information will be redacted from public view. There is no change in the number of respondents or burden hours.

OMB Control No.: 3060–1058.

Title: FCC Wireless Telecommunications Bureau Application or Notification of Spectrum Leasing Arrangement.

Form No.: FCC Form 608 (formerly FCC Form 603–T).

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit, not-for-profit institutions, and state, local or tribal government.

Number of Respondents: 1,493.

Estimated Time Per Response: 5 hours.

Frequency of Response: On occasion reporting requirement and recordkeeping requirement.

Total Annual Burden: 7,453 hours.

Total Annual Cost: $1,221,860.

Privacy Act Impact Assessment: N/A.

Needs and Uses: The required notifications and applications will provide the Commission with use information about spectrum usage and helps to ensure that licensees and lessees are complying with Commission interference and non-interference related policies and rules. Similar information and verification requirements have been used in the past for licensees operating under authorization, and such requirements will serve to minimize interference, verify lessees are legally and technically qualified to hold licenses, and ensure compliance with Commission rules. The Commission is now renaming the form from FCC Form 603–T to FCC Form 608 and revising it including schedules to accommodate the leasing of licenses through License Manager in the Universal Licensing System (ULS). There is no change in the number of respondents or burden hours.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 05–1164 Filed 1–19–05; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL MARITIME COMMISSION

Notice of Agreements Filed

The Commission hereby gives notice of the filing of the following agreements under the Shipping Act of 1984. Interested parties may obtain copies of agreements by contacting the Commission's Office of Agreements at 202–523–5793 or via email at *tradeanalysis@fmc.gov*. Interested parties may submit comments on an agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days of the date this notice appears in the **Federal Register**.

Agreement No.: 011611–002.

Title: MOL/APL Slot Transfer Agreement.

Parties: American President Lines, Ltd.; APL Co. PTE, Ltd.; and Mitsui O.S.K. Lines, Ltd.

Filing Party: David B. Cook, Esq.; Goodwin Procter LLP; 901 New York Ave., NW.; Washington, DC 20001.

Synopsis: The modification deletes the Trans-Atlantic trades from the agreement and expands the agreement in the Latin America trades to include ports on the U.S. Atlantic Coast and the Pacific Coasts of Central America and South America.

Agreement No.: 011896.

Title: Westwood/Star Sailing and Space Charter Agreement.

Parties: Westwood Shipping Lines, Inc. and Star Shipping A.S.

Filing Party: Pamela J. Auerbach, Esq.; Kirkland & Ellis LLP; 655 Fifteenth Street, NW.; Washington, DC 20005.

Synopsis: The proposed agreement would authorize the parties to operate a service and share space in the trade between the U.S. and Canadian Pacific Coasts and ports in Japan, Korea, and China. This is a refiling of an earlier agreement that was withdrawn.

Dated: January 14, 2005.

By Order of the Federal Maritime Commission.

Bryant L. VanBrakle,

Secretary.

[FR Doc. 05–1141 Filed 1–19–05; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL MARITIME COMMISSION

Security for the Protection of the Public Indemnification of Passengers for Nonperformance of Transportation; Notice of Issuance of Certificate (Performance)

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility for Indemnification of Passengers for Nonperformance of Transportation pursuant to the provisions of Section 3, Public Law 89–777 (46 App. U.S.C. 817 (e)) and the Federal Maritime Commission's implementing regulations at 46 CFR Part 540, as amended:

American Cruise Lines, Inc.,

One Marine Park,

Haddam, CT 06438,

Vessel: AMERICAN SPIRIT.

Carnival Corporation,

3655 NW. 87th Avenue,

Miami, FL 33178,

Vessel: CARNIVAL LIBERTY.

Carnival PLC (trading as Cunard Line Limited),

24303 Town Center Drive,

Valencia, CA 91355,

Vessels: QUEEN MARY 2 and QUEEN ELIZABETH 2.

CQ River Cruises L.L.C. (d/b/a American Rivers Cruise Line),

2101 4th Avenue,

Suite 220,

Seattle, WA 98121,

Vessels: COLUMBIA QUEEN.

MSC Crociere S.p.A. of Naples (d/b/a MSC Cruises), Lycoper Holdings Inc., Panama and C.I. Cruises, International S.A. of Geneva, Switzerland,

250 Moonachie Road,

Moonachie, NJ 07074,

Vessel: MSC OPERA.

MSC Crociere S.p.A. of Naples (d/b/a MSC Cruises), Burnous Investment Corporation, Panama and Cruises International SA of Geneva, Switzerland,

250 Moonachie Road,

Moonachie, NJ 07074,

Vessel: MSC LIRICA.

Royal Caribbean Cruises Ltd. (d/b/a Royal Caribbean International),

1050 Caribbean Way,

Miami, FL 33132–2096,

Vessel: ULTRA VOYAGER.

Seabourn Cruise Line Limited,

c/o Carnival Corporation,

3655 NW. 87th Avenue,

Miami, FL 33178.

Vessel: SEABOURN LEGEND, SEABOURN PRIDE, and SEABOURN SPIRIT.

Dated: January 14, 2005.

Bryant L. VanBrakle,

Secretary.

[FR Doc. 05–1144 Filed 1–19–05; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL MARITIME COMMISSION

Security for the Protection of the Public Financial Responsibility To Meet Liability Incurred for Death or Injury To Passengers or Other Persons on Voyages; Notice of Issuance of Certificate (Casualty)

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility to Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages pursuant to the provisions of Section 2, Public Law 89–777 (46 U.S.C. 817(d)) and the Federal Maritime Commission's implementing regulations at 46 CFR Part 540, as amended:

Carnival Corporation,
3655 NW. 87th Avenue,
Miami, FL 33178,
Vessel: CARNIVAL VALOR.

Carnival PLC (trading as Cunard Line Limited),
24303 Town Center Drive,
Valencia, CA 91355,
Vessel: QUEEN MARY 2 and QUEEN ELIZABETH 2.

MSC Crociere S.p.A. Of Naples (d/b/a MSC Cruises),
Lycoper Holdings Inc., Panama and
C.I. Cruises, International S.A. of Geneva, Switzerland,
250 Moonachie Road,
Moonachie, NJ 07074,
Vessel: MSC OPERA.

MSC Crociere S.p.A. of Naples (d/b/a MSC Cruises),
Burnous Investment Corporation, Panama and
Cruises International SA of Geneva, Switzerland,
250 Moonachie Road,
Moonachie, NJ 07074,
Vessel: MSC LIRICA.

Seabourn Cruise Line Limited,
c/o Carnival Corporation,
3655 NW. 87th Avenue,
Miami, FL 33178,
Vessel: SEABOURN LEGEND, SEABOURN PRIDE, and SEABOURN SPIRIT.

Dated: January 14, 2005.

Bryant L. VanBrakle,

Secretary.

[FR Doc. 05–1143 Filed 1–19–05; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License Revocations

The Federal Maritime Commission hereby gives notice that the following Ocean Transportation Intermediary licenses have been revoked pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718) and the regulations of the Commission pertaining to the licensing of Ocean Transportation Intermediaries, effective on the corresponding date shown below:

License Number: 013861N.
Name: Eastern Transport International Inc.
Address: 144–29 156th Street, Jamaica, NY 11434.
Date Revoked: December 25, 2004.
Reason: Failed to maintain a valid bond.

License Number: 004505F.
Name: Freight Master Systems, International, Inc.
Address: 3760 Guion Road, Indianapolis, IN 46222.
Date Revoked: December 16, 2004.
Reason: Failed to maintain a valid bond.

License Number: 004608F.
Name: Gene International.
Address: 2125 Center Avenue, Suite 505, Fort Lee, NJ 07024.
Date Revoked: January 7, 2005.
Reason: Failed to maintain a valid bond.

License Number: 017260N.
Name: V.I.P. Relocations, LTD.
Address: 21–01 44 Road, Long Island City, NY 11101.
Date Revoked: January 7, 2005.
Reason: Failed to maintain a valid bond.

Sandra L. Kusumoto,

Director, Bureau of Certification and Licensing.

[FR Doc. 05–1142 Filed 1–19–05; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisition of Shares of Bank or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the office of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than February 2, 2005.

A. Federal Reserve Bank of Atlanta (Andre Anderson, Vice President) 1000 Peachtree Street, N.E., Atlanta, Georgia 30303:

1. Ghomeshi Mohammad Mehdi, Miami, Florida; to acquire voting shares of Great Financial Corporation, Miami, Florida, and thereby indirectly acquire voting shares of Great Florida Bank, Miami, Florida.

Board of Governors of the Federal Reserve System, January 13, 2005.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 05–1047 Filed 1–19–05; 8:45 am]

BILLING CODE 6210–01–S

GENERAL SERVICES ADMINISTRATION

OMB Control No. 3090–0163

General Services Administration; Information Collection; Information Specific to a Contract or Contracting Action (Not Required By Regulation)

AGENCY: Office of the Chief Acquisition Officer, GSA.

ACTION: Notice of request for comments regarding a renewal to an existing OMB clearance.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the General Services Administration has submitted to the Office of Management and Budget (OMB) a request to review and approve a renewal of a currently approved information collection requirement regarding information specific to a contract or contracting action (not required by regulation). A request for public comments was published at 69 FR 65433, November 12, 2004. No comments were received.

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: February 22, 2005.

FOR FURTHER INFORMATION CONTACT: Linda Nelson, Procurement Analyst, Contract Policy Division, at telephone (202) 501–1900 or via email at *linda.nelson@gsa.gov*.

ADDRESSES: Submit comments regarding this burden estimate or any other aspect

of this collection of information, including suggestions for reducing this burden to Ms. Jeanette Thornton, GSA Desk Officer, OMB, Room 10236, NEOB, Washington, DC 20503, and a copy to the Regulatory Secretariat (VIR), General Services Administration, Room 4035, 1800 F Street, NW., Washington, DC 20405. Please cite OMB Control No. 3090–0163, Information Specific to a Contract or Contracting Action (not required by regulation), in all correspondence.

SUPPLEMENTARY INFORMATION:

A. Purpose

The General Services Administration (GSA) has various mission responsibilities related to the acquisition and provision of supplies, transportation, ADP, telecommunications, real property management, and disposal of real and personal property. These mission responsibilities generate requirements that are realized through the solicitation and award of public contracts. Individual solicitations and resulting contracts may impose unique information collection/reporting requirements on contractors, not required by regulation, but necessary to evaluate particular program accomplishments and measure success in meeting special program objectives.

B. Annual Reporting Burden

Respondents: 126,870
Responses Per Respondent: 1.36
Total Responses: 172,500
Hours Per Response: .399
Total Burden Hours: 68,900
OBTAINING COPIES OF PROPOSALS: Requesters may obtain a copy of the information collection documents from the General Services Administration, Regulatory Secretariat (VIR), 1800 F Street, NW., Room 4035, Washington, DC 20405, telephone (202) 208–7312. Please cite OMB Control No. 3090–0163, Information Specific to a Contract or Contracting Action (not required by regulation), in all correspondence.

Dated: January 13, 2005.

Laura Auletta,

Director, Contract Policy Division.

[FR Doc. 05–1084 Filed 1–19–05; 8:45 am]

BILLING CODE 6820–61–S

HARRY S. TRUMAN SCHOLARSHIP FOUNDATION

Harry S. Truman Scholarship 2005 Competition

AGENCY: Harry S. Truman Scholarship Foundation.

ACTION: Notice of closing for nominations from eligible institutions of higher education.

SUMMARY: Notice is hereby given that, pursuant to the authority contained in the Harry S. Truman Memorial Scholarship Act, Public Law 93–642 (20 U.S.C. 2001), nominations are being accepted from eligible institutions of higher education for 2005 Truman Scholarships. Procedures are prescribed at 45 CFR part 1801.

In order to be assured consideration, the Truman Scholarship Foundation, 712 Jackson Place, NW., Washington, DC 20006, must receive all documentation in support of nominations no later than February 7, 2005, from participating institutions.

Dated: January 11, 2005.

Louis H. Blair,

Executive Secretary.

[FR Doc. 05–1048 Filed 1–19–05; 8:45 am]

BILLING CODE 6820–AD–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Meeting of the National Vaccine Advisory Committee

AGENCY: Department of Health and Human Services, Office of the Secretary.

ACTION: Notice.

SUMMARY: As stipulated by the Federal Advisory Committee Act, the Department of Health and Human Services (DHHS) is hereby giving notice that the National Vaccine Advisory Committee (NVAC) will hold a meeting. The meeting is open to the public.

DATES: The meeting will be held on February 8, 2005, from 9 a.m. to 4 p.m., and on February 9, 2005, from 9 a.m. to 4 p.m.

ADDRESSES: Department of Health and Human Services; Hubert H. Humphrey Building, Room 800; 200 Independence Avenue, SW., Washington, DC 20201.

FOR FURTHER INFORMATION, CONTACT: Ms. Emma English, Program Analyst, National Vaccine Program Office, Department of Health and Human Services, Room 725H Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201; (202) 690–5566, *nvac@osophs.dhhs.gov*.

SUPPLEMENTARY INFORMATION: Pursuant to Section 2101 of the Public Service Act (42 U.S.C. 300aa–1), the Secretary of Health and Human Services was mandated to establish the National Vaccine Program to achieve optimal prevention of human infectious diseases through immunization and to achieve optimal prevention against adverse reactions to vaccines. The National Vaccine Advisory Committee was established to provide advice and make recommendations to the Assistant Secretary for Health, as the Director of the National Vaccine Program, on matters related to the program's responsibilities.

Topics to be discussed at the meeting include influenza control, polio eradication and vaccine stockpiles, vaccine safety, and vaccine supply. Updates will be given on the NVAC Working Group on Public Participation, the NVAC Vaccine Safety and Communications Subcommittee, the NVAC Futures Vaccines Subcommittee, and the NVAC Immunization Coverage Subcommittee. A tentative agenda will be made available on or about January 25, 2005 for review on the NVAC Web site: *http://www.hhs.gov/nvpo/nvac*.

Public attendance at the meeting is limited to space available. Individuals must provide a photo ID for entry into the Humphrey Building. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the designated contact person. Members of the public will have the opportunity to provide comments at the meeting. Public comment will be limited to five minutes per speaker. Any members of the public who wish to have printed material distributed to NVAC members should submit materials to the Executive Secretary, NVAC, through the contact person listed above prior to close of business February 1, 2005. Preregistration is required for both public attendance and comment. Any individual who wishes to attend the meeting and/or participate in the public comment session should e-mail *nvac@osophs.dhhs.gov*.

Dated: January 12, 2005.

Bruce Gellin,

Director, National Vaccine Program Office.

[FR Doc. 05–1135 Filed 1–19–05; 8:45 am]

BILLING CODE 4150–28–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Toxic Substances and Disease Registry

[ATSDR–206]

Availability of Final Toxicological Profiles

AGENCY: Agency for Toxic Substances and Disease Registry (ATSDR),

Department of Health and Human Services (HHS).

ACTION: Notice of availability.

SUMMARY: This notice announces the availability of the sixteenth set of final toxicological profiles of priority hazardous substances prepared by ATSDR. This set comprises two new and three updated profiles.

FOR FURTHER INFORMATION CONTACT: Ms. Carolyn Askew, Office of Communication, Agency for Toxic Substances and Disease Registry, Mailstop E–29, 1600 Clifton Road, NE., Atlanta, Georgia 30333; telephone 1–888–422–8737 or (404)498–0259.

SUPPLEMENTARY INFORMATION: The Superfund Amendments and Reauthorization Act (SARA) (Pub. L. 99–499) amends the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA or Superfund) (42 U.S.C. 9601 *et seq.*) by establishing certain requirements for ATSDR and the U.S. Environmental Protection Agency (EPA) with regard to hazardous substances that are most commonly found at facilities on the CERCLA National Priorities List (NPL). Among these statutory requirements is a mandate for the Administrator of ATSDR to prepare toxicological profiles for each substance included on the priority list of hazardous substances. This list identifies 275 hazardous substances that ATSDR and EPA have determined pose the most significant potential threat to human health. The availability of the revised list of the 275 priority substances was announced in the **Federal Register** on November 7, 2003 (68 FR 63098). For prior versions of the list of substances, see **Federal Register** notices dated April 17, 1987 (52 FR 12866); October 20, 1988 (53 FR 41280); October 26, 1989 (54 FR 43619); October 17, 1990 (55 FR 42067); October 17, 1991 (56 FR 52166); October 28, 1992 (57 FR 48801); February 28, 1994 (59 FR 9486); April 29, 1996 (61 FR 18744; November 17, 1997 (62 FR 61332); October 21, 1999 (64 FR 56792); and October 25, 2001 (66 FR 54014).

Notice of the availability of drafts of these two new and three updated toxicological profiles for public review and comment was published in the **Federal Register** on October 24, 2002, (67 FR 65357), with notice of a 90-day public comment period for each profile, starting from the actual release date. Following the close of the comment period, chemical-specific comments were addressed, and, where appropriate, changes were incorporated into each profile. The public comments and other data submitted in response to the **Federal Register** notices bear the docket control number ATSDR–187. This material is available for public inspection at the Division of Toxicology, Agency for Toxic Substances and Disease Registry, 1825 Century Boulevard, Atlanta, Georgia, (not a mailing address) between 8 a.m. and 4:30 p.m., Monday through Friday, except legal holidays.

Availability

This notice announces the availability of two new and three updated final toxicological profiles comprising the sixteenth set prepared by ATSDR. The following toxicological profiles are now available through the U.S. Department of Commerce, National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, Virginia 22161; telephone 1–800–553–6847. There is a charge for these profiles as determined by NTIS.

SIXTEENTH SET

Toxicological profile	NTIS order No.	CAS No.
1. Ammonia	PB2004–107331	007664–41–7
Ammonia Compounds		Various
2. Chlorine Dioxide*	PB2004–107332	10049–04–4
3. Copper	PB2004–107333	007440–50–8
Cupric Sulfate		007758–98–7
4. Polybrominated Biphenyls/	PB2004–107334	067774–32–7
Polybrominated Diphenyl Ethers		Various
5. Synthetic Vitreous Fibers*	PB2004–107335	Various

*Denotes new profile.

Dated: January 12, 2005.

Georgi Jones,

Director, Office of Policy, Planning, and Evaluation, National Center for Environmental Health/Agency for Toxic Substances and Disease Registry.

[FR Doc. 05–1091 Filed 1–19–05; 8:45 am]

BILLING CODE 4163–70–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Inspector General

Program Exclusions: December 2004

AGENCY: Office of Inspector General, HHS.

ACTION: Notice of program exclusions.

During the month of December 2004, the HHS Office of Inspector General imposed exclusions in the cases set forth below. When an exclusions is imposed, no program payment is made to anyone for any items or services(other than an emergency item or service not provided in a hospital emergency room) furnished, ordered or prescribed by an excluded party under the Medicare, Medicaid, and all Federal Health Care programs. In addition, no program payment is made to any business or facility, *e.g.,* a hospital, that submits bills for payment for items or services provided by an excluded party. Program beneficiaries remain free to decide for themselves whether they will continue to use the services of an excluded party even though no program payments will be made for items and services provided by that excluded party. The exclusions have national effect and also apply to all Executive Branch procurement and non-procurement programs and activities.

Subject, city, state	Effective date
PROGRAM-RELATED CONVICTIONS	
LOCCISANO, GINA MARIA CRANSTON, RI	8/20/2003
MCGOVERN, DANA E PORT CHARLOTTE, FL	8/20/2003
MCGOVERN'S AMBULANCE SERVICE, INC PORT CHARLOTTE, FL	8/20/2003
OKOYE, PATRICK C MONTGOMERY, AL	8/20/2003
OKOYE, GODWIN S MONTGOMERY, AL	8/20/2003
CAPOBIANCO, LEO J LAS VEGAS, NV	8/20/2003
KHALATOV, LEONID WOODMERE, NY	8/20/2003
DOOLEY, MICHAEL F	8/20/2003

Subject, city, state	Effective date
CARTHAGE, NY	
GRIM THIRTY-THREE, INC SMITHTOWN, NY	8/20/2003
GRIMALDI, JOHN LAKE GEORGE, NY	8/20/2003
JDS AMBULANCE CORP WOODMERE, NY	8/20/2003
MURPHY JR, JAMES E NIVERVILLE, NY	8/20/2003
ABRAMS, BARRY FLUSHING, NY	8/20/2003
SABOT, THEODORE J PITTSFIELD, MA	8/20/2003
HOUCHINS, EDNALEE S CHARLESTON, WV	8/20/2003
BELLAMY, MARY ELIZABETH ALDERSON, WV	8/20/2003
RANCOCAS VALLEY ANESTHESIA ASSOCIATES CINNAMINSON, NJ	11/14/2002
SHEARL, COWAN W VENICE, FL	8/20/2003
HORTON, ANTHONY H MAULDING, SC	8/20/2003
VIGOREAUX, ALEJANDRO MIAMI, FL	8/20/2003
RUIZ, ROBERTO MIAMI, FL	8/20/2003
SMITH, KAREN L MIAMI, FL	8/20/2003
SUBER, RAMONA JENKINSVILLE, SC	8/20/2003
JONES, KESHEA T JACKSON, TN	8/20/2003
HORTON, SAMMIE GRENADA, MS	8/20/2003
GILMORE, RENEE LYNN COLEMAN, FL	8/20/2003
KWANGWARI, NGONI CHRISTOPHER MIAMI, FL	8/20/2003
PIPERIS, STELIOS MIAMI, FL	8/20/2003
LIPTON, ROSS HOWARD MIAMI SHORES, FL	8/20/2003
MENDEZ, EDUARDO S MIAMI, FL	8/20/2003
HERNANDEZ, JOSE R MIAMI, FL	8/20/2003
TURNER, LISA ENTERPRISE, MS	8/20/2003
OGUNDIYA, DEJI HERMITAGE, TN	8/20/2003
MAKINS, KATETINE C LAURENS, SC	8/20/2003
BUCKMON, NATASHA COLUMBIA, SC	8/20/2003
WILLIAMS, JULIUS III STONE MOUNTAIN, GA	8/20/2003
ALLEN, JACK W ESTILL, SC	8/20/2003
REDLICH, DALE PALMER CORAL SPRINGS, FL	8/20/2003
HAUGHT, BARRY D EGLIN AFB, FL	8/20/2003
NESPECA, THOMAS W TAMPA, FL	8/20/2003
STURSBURG, CHRISTOPHER C VALRICO, FL	8/20/2003
DAVID M MOSS, DPM, P C GARDEN CITY, MI	8/20/2003
JACKSON, WAYNE D DETROIT, MI	8/20/2003
PARKER, KENNETH R AKRON, OH	8/20/2003
MILLER, SUSAN M ELKHART, IL	8/20/2003
WELDY, DENNIS K BRISTOL, IN	8/20/2003
DEVORE, MARLA A SPRINGFIELD, IL	8/20/2003
MLODZIK, MARY BETH PRINCETON, WI	8/20/2003
HERMANN, RACHEL TROY, OH	8/20/2003
BLACK, DOMINICA C COLUMBUS, OH	8/20/2003
SMITH, CALVERT H JR CINCINNATI, OH	8/20/2003
EBERT, HEATHER R MOUNT GILEAD, OH	8/20/2003
PROPELLED THERAPEUTIC SERVICES DETROIT, MI	8/20/2003
COMPREHENSIVE OUTPATIENT SVCS CLEVELAND, OH	8/20/2003
GALLO, ANGELO M WILOUGHBY, OH	8/20/2003
GALLO, MARK A GRAFTON, OH	8/20/2003
MITRIONE, ROBERT T YANKTON, SD	8/20/2003
HENDERSON, MARTISA B RAYVILLE, LA	8/20/2003
PHILLIPS, RAYMOND RENE JONESBORO, LA	8/20/2003
BILLINGS, ARTHUR N MISSOURI, TX	8/20/2003
DANIEL, KRISTINA LEA FORT LUPTON, CO	8/20/2003
DRAKE, SHERMAN HOWARD CASPER, WY	8/20/2003
FLUEGEL, ERIC MICHAEL AURORA, CO	8/20/2003
DUPONT, ROBERT JOSEPH JR LEAVENWORTH, KS	8/20/2003
GARWOOD, JAN DIERKS YANKTON, SD	8/20/2003
HOUSEHOLDER, KARL OTIS LEAVENWORTH, KS	8/20/2003
LIVEOAK, KELLEY ANNE GREENVILLE, IL	8/20/2003
DINKMEIER, LOU ANN LAMAR, MO	8/20/2003
BAZAZZADEGAN, JULIA ELAINE FORTH WORTH, TX	8/20/2003
WIMBLEY, MARY E ST LOUIS, MO	8/20/2003
STEPANYAN, ARTHUR STUDIO CITY, CA	8/20/2003
DANIELS, KAREN ANN SACRAMENTO, CA	8/20/2003
STEPANIAN, ASMIK VAN NUYS, CA	8/20/2003
CANCIO, MENELEO COMETA LOMPOC, CA	8/20/2003
CANCIO, RAUL COMETA ELOY, AZ	8/20/2003
MIKAYELYAN, RAFIK TERMINAL ISLAND, CA	8/20/2003
URFALIAN, SARKIS ALTADENA, CA	8/20/2003
GOTTLIEB, JEFFREY FLORENCE, AZ	8/20/2003
BERKOVICH, LORA LONG BEACH, CA	8/20/2003
YENGIBARYAN, SARKIS ELOY, CA	8/20/2003
KANIADAKIS, STEVEN J PENSACOLA, FL	8/20/2003
PENNIMAN, VERNANELL GIBSON AZUZA, CA	8/20/2003
WHITE, VANCE KING LOS ANGELES, CA	8/20/2003
TAYLOR, GARY W LOS ANGELES, CA	8/20/2003
KIOUTOUIAN, AMBARTSOUM HOLLYWOOD, CA	8/20/2003
CHEM, PHALLA LONG BEACH, CA	8/20/2003
LEWANDOWSKI, REBECCA LYNN KLAMATH FALLS, OR	5/2/2003
BASSEY, KRISTINE A ANAHEIM, CA	5/20/2003
LOPEZ, MYRNA RAMOS CHOWCHILLA, CA	8/20/2003
LOPEZ, BENJAMIN PINEDA SOLEDAD, CA	8/20/2003
LEWANDOWSKI, JENNIFER ANN LONG BEACH, CA	8/20/2003
NDEMBA, JACKSON NTONE LOS ANGELES, CA	8/20/2003
JOHNSON, WILLIE LEE RIVERSIDE, CA	8/20/2003
AHMED, SAEED WASCO STATE PRISON, CA	8/20/2003
AHMED, BILAL WASCO, CA	8/20/2003
GABRIEL, GABRIEL LA PUENTE, CA	8/20/2003
FARZAD, PHILIP ENCINO, CA	8/20/2003
CHELZINGER, MICHA TARZANA, CA	8/20/2003
KOPILEVICH, MIKHAIL WOODLAND HILLS, CA	8/20/2003
TSATOUROVA, INGA DUBLIN, CA	8/20/2003
FELONY CONVICTION FOR HEALTH CARE FRAUD	
ORLANDER, ANDREW EGLIN AFB, FL	8/20/2003
DESIMONE, ERIK DAVID TUCKER, GA	8/20/2003
MINARCIK, JOHN ROBERT SKOKIE, FL	8/20/2003
SILVESTRO, CAROLINE L MENTOR, OH	8/20/2003
LEON, FRANK A JR LORAIN, OH	8/20/2003
NIELSEN, KATHERINE MARIE LA JUNTA, CO	8/20/2003
BROWN, GLENN CECIL ALPINE, UT	8/20/2003
KLINK, LORETTA LEE AUBURN, CA	8/20/2003
FELONY CONTROL SUBSTANCE CONVICTION	
GARLAND, TAMI A	8/20/2003

Subject, city, state	Effective date
DANBURY, CT	
NICHOLSON, LISA F ..... PENSACOLA, FL	8/20/2003
SPROUL, MELANIE LAREE .... MARIANNA, FL	8/20/2003
KEY, REBECCA LYNN ..... ANDERSON, SC	8/20/2003
MATTERA, DIANNA LYNN ..... TALLAHASSEE, FL	8/20/2003
JONES, NINA J ..... SPARTA, TN	8/20/2003
LOWE, WANDA KAY ..... PLEASANT VIEW, TN	8/20/2003
KING, VICKY M ..... MOORESBURG, TN	8/20/2003
IMHOFF, PATRICIA SUZANNE PHOENIX, AZ	8/20/2003
ERB, CHRISTOPHER JOHN ... W PALM BEACH, FL	8/20/2003
DANIELS, KIM ..... TAZEWELL, TN	8/20/2003
MYERS, LISA CHERYL ..... LITHONIA, GA	8/20/2003
SCHEIDLER, JOSEPH STANLEY ..... HAMITON, OH	8/20/2003
TOMKO, JOHN R ..... HUBBARD, OH	8/20/2003
MOLIERE-COSSE, REACHENELLE ..... MARRERO, LA	8/20/2003
LITTELL, SANDRA JANE ..... HOUSTON, TX	8/20/2003
HOUSTON, DONALD ..... SALT LAKE CITY, UT	8/20/2003
CLISE, RICHARD KEITH ..... FORT MORGAN, CO	8/20/2003
EVANS, ERIC ALLEN ..... SALT LAKE CITY, UT	8/20/2003
BOYETTE, CARL JEFFREY .... CHICO, CA	8/20/2003
PATIENT ABUSE/NEGLECT CONVICTIONS	
VASILIU, VASILIOS ..... GLEN HEAD, NY	8/20/2003
BRICE, MARK D ..... TONAWANDA, NY	8/20/2003
CAULFIELD, SHARON A ..... BALLSTON LAKE, NY	8/20/2003
RENDON, JAIRO ..... MALONE, NY	8/20/2003
CORREA, JOHANNA ..... ROCHESTER, NY	8/20/2003
GUZMAN, RUDLES FRANCIS BROOKLYN, NY	8/20/2003
HYKES, LISA ..... OKOLONA, MS	8/20/2003
CORNELIUS, CYNTHIA ..... JACKSON, MS	8/20/2003
CALDWELL, JOHNNIE M ..... NEWBERRY, SC	8/20/2003
JIMENEZ, HENRY ..... ORLANDO, FL	8/20/2003
ST JOHN, SHARON A ..... CLIFTON, CO	8/20/2003
GILL, RODNEY P ..... AKRON, OH	8/20/2003
BENOIT, LEAKISHA RENEE ... LAFAYETTE, LA	8/20/2003
PANOSKE, JASON B ..... OKEMAH, OK	8/20/2003
MARSHALL, VICTORIA K ..... DEL CITY, OK	8/20/2003
PHILLIPS, DARREN WAYNE .. PINEVILLE, LA	8/20/2003
MILEA, ADRIAN VALERIU ..... SALT LAKE CITY, UT	8/20/2003
COY, HEATHER RENEE ..... RYE, CO	8/20/2003
FRENCH, LYLE REID ..... LOUISVILLE, CO	8/20/2003
WILLARD, KARL TERRELL ..... BOWLING GREEN, MO	8/20/2003
LANDRENEAU, MICHAEL DOUGLAS ..... ST JOSEPH, MO	8/20/2003
VINZANT, ROBIN RENEE ..... MITCHELLVILLE, IA	8/20/2003
CASTILLO, JULIO CESAR ..... KENT, WA	8/20/2003
NEAULT, CHARLES CAREY ... TEMECULA, CA	8/20/2003
HUSSAIN, SHEILA KAY ..... KINGMAN, AZ	8/20/2003
HUSSAIN, RASHIDA KHATTOON ..... KINGMAN, AZ	8/20/2003
GOODMAN, REBECCA KAYE N LAS VEGAS, NV	8/20/2003
SMITH, DOLORES ..... PHOENIX, AZ	8/20/2003
CONVICTION FOR HEALTH CARE FRAUD	
FREDE, MICHAEL DENNIS ..... HAZELWOOD, MO	8/20/2003
CONVICTION—OBSTRUCTION OF AN INVESTIGATION	
NAHAS, FREDERICK J ..... LONGPORT, NJ	8/20/2003
CONTROLLED SUBSTANCE CONVICTIONS	
COMITO, LEE ANN ..... UTICA, NY	8/20/2003
GARZA, PAMELA IRENE ..... CROW AGENCY, MT	8/20/2003
LICENSE REVOCATION/SUSPENSION/SURRENDERED	
SULLIVAN, COLLEEN A ..... SAUGUS, MA	8/20/2003
TIMONS, JODIE LYNN ..... BROOKFIELD, MA	8/20/2003
CLAIRE, KELLY ..... RUTLAND, MA	8/20/2003
GREEN, JOYCE D ..... WOODBINE, NJ	8/20/2003
MCINTYRE, JOHN G JR ..... RARITAN, NJ	8/20/2003
DIFASI, LINDA C ..... SYRACUSE, NY	8/20/2003
PIERRE, LOVELY JEUDY ..... QUEENS VILLAGE, NY	8/20/2003
HARRIS-POOLE, IRENE ..... VOORHEES, NJ	8/20/2003
LAWLER, PAUL J ..... ALTAMONT, NY	8/20/2003
DUTTON, JIMMY LEE ..... MT VERNON, NY	8/20/2003
MCCLERNON, JUNE LAW ..... YARDLEY, PA	8/20/2003
KASSELL, ELEANOR A ..... BADEN, PA	8/20/2003
ALBRECHT, FRANK M ..... EASTON, MD	8/20/2003
DEPTULA, RICHARD ..... ELLICOTT CITY, MD	8/20/2003
GRAFFUM, ANN E ..... RICHMOND, VA	8/20/2003
WHITLOCK, AIMEE D ..... CHARLESTON, WV	8/20/2003
YOUNG, DENISE ..... WILLIAMSPORT, PA	8/20/2003
RUSSELL, JANET MARIE ..... CHINCHILLA, PA	8/20/2003
HAMMOND, DEBORAH ..... HOLLIDAYSBURG, PA	8/20/2003
DONOVAN, KEITH R ..... ADELPHI, MD	8/20/2003
CANTRELL, PATRICIA A ..... INMAN, SC	8/20/2003
WEEKS, WILLIAM W ..... WINTER HAVEN, FL	8/20/2003
MCQUAIG, JAMES EDWARD ST AUGUSTINE, FL	8/20/2003
MURPHY, LONNIE ..... MIAMI, FL	8/20/2003
SCOTT, ERICA L ..... JACKSON, MS	8/20/2003
GUIDRY, KAREN MARY ..... ARCADIA, FL	8/20/2003
HUMPHREYS, JANIE F ..... PEARL, MS	8/20/2003
POSEY, LISA ..... TERRY, MS	8/20/2003
STOKES, JOSEPH MICHAEL GREENWOOD, MS	8/20/2003
DAWSON, TRACIE LYNN ..... BIRMINGHAM, AL	8/20/2003
LONIE, PAULA R ..... LYLES, TN	8/20/2003
QUALLS, MIA L ..... SAVANNAH, TN	8/20/2003
WALKER, TAMMY ..... NASHVILLE, TN	8/20/2003
BOWEN, VICKIE ..... COLLINS, MS	8/20/2003
WALKER, THOMAS A ..... MERIDIAN, MS	8/20/2003
BURNS, JACKIE A ..... RIDGELAND, MS	8/20/2003
PERDOMO, ONELIO E ..... GADSDEN, AL	8/20/2003
CHEATHAM, SHERYLE D ..... SHAWNEE, TN	8/20/2003
BUTLER, MISTI D ..... OAK RIDGE, TN	8/20/2003
BOONE, RONALD C ..... HERMITAGE, TN	8/20/2003
BOONE, LISA ..... GALLATIN, TN	8/20/2003
O'BRIAN, MELODYE A ..... LANTANA, FL	8/20/2003
BELVILLE-COATES, SARAH ... BRANDON, FL	8/20/2003
HILDRETH, HOLLY ANNE ..... HIGH SPRINGS, FL	8/20/2003
RANKINE, CORAL ELONZ ..... FLAGLER BEACH, FL	8/20/2003
RUNDELL, JENNIFER FAITH .. OCALA, FL	8/20/2003
WILLIAMS, KIMBERLY SUSAN LANTANA, FL	8/20/2003
GRIFFIN, MARJORIE	8/20/2003

Subject, city, state	Effective date
LAKELAND, FL	
LUND, PHYLLIS LOOBY ..... KEY WEST, FL	8/20/2003
MOULTON, LAURIE ABBY ..... NAPLES, FL	8/20/2003
FREED, CHRYSTAL ..... FT MYERS, FL	8/20/2003
FITZGERALD, DONNA GIBSON ..... ESTERO, FL	8/20/2003
O'DONNELL, CAROL JANET .. PORT ORANGE, FL	8/20/2003
ONIEAL, JENNIFER I ..... BRANDON, FL	8/20/2003
SRINIVASAN, GOVIND ..... DELTONA, FL	8/20/2003
PHILLIPS, JAMES WINSTON .. BOYNTON BEACH, FL	8/20/2003
MADRIGAL, JAYMA M ..... MORRISTOWN, TN	8/20/2003
MILLER, KIMBERLY M ..... KINGSPORT, TN	8/20/2003
HALL, DIXIELEE L ..... VERO BEACH, FL	8/20/2003
GIOVINO, LAURA GLASSGOW ..... DUNEDIN, FL	8/20/2003
HINTZ, GIGI T ..... CLEARWATER, FL	8/20/2003
JACKSON, MARGARET ..... PUNTA GORDA, FL	8/20/2003
WARREN, STEPHANIE ..... CENTERVILLE, TN	8/20/2003
PENCE, CRETIA ..... BRADYVILLE, TN	8/20/2003
CRISPIN, JEANETTE ..... CAUTIER, MS	8/20/2003
DOYLE, KAY S ..... VICKSBURG, MS	8/20/2003
GALIPAULT, JANE ..... LAKELAND, FL	8/20/2003
DUNCAN, THOMASA JOYCE FROSTPROOF, FL	8/20/2003
DONALDSON, DORA ELISA ... CHULUOTA, FL	8/20/2003
BELAGA, NATALIE ELIZABETH ..... UNIVERSITY PARK, FL	8/20/2003
BRANT, PATRICIA JO ..... PENSACOLA, FL	8/20/2003
CITERA-DOWLER, FRANCINE HOLLYWOOD, FL	8/20/2003
COOK, DONALD CLARENCE GREEN ACRES, FL	8/20/2003
TINDLE, LISA A ..... RALEIGH, NC	8/20/2003
WISNEWSKI-JONES, TINA ..... WEST MELBOURNE, FL	8/20/2003
MILBUT, DEBORAH LYNNE ... BOCA RATON, FL	8/20/2003
FORD-HAYES, CHRISTOPHER E ..... ORLANDO, FL	8/20/2003
ROSS, CORNELIA R ..... NASHVILLE, TN	8/20/2003
FEAZELL, CHRISTOPHER A .. COOKEVILLE, TN	8/20/2003
STALLINGS, MARCELLA ..... COOKEVILLE, TN	8/20/2003
MORTON, AILEEN ..... ALCOA, TN	8/20/2003
MCLAUGHLIN, GINGER C ..... HENDERSONVILLE, TN	8/20/2003
PADAWER, JAN E ..... MEMPHIS, TN	8/20/2003
RICHARDSON, GILBERT A .... DEFUNIAK SPRINGS, FL	8/20/2003
WELLS, JUDY E MUNCIE ..... WINCHESTER, KY	8/20/2003
JOHNSON, STACEY MARIE CAVOTE ..... THE PLAINS, OH	8/20/2003
BILLINGSLEY, RENEE ..... PRATTVILLE, AL	8/20/2003
MALCOMB, SHEILA REBECCA HOLLAND ..... TRUSSVILLE, AL	8/20/2003
BLAKENEY, SHERRY JEAN MCMANUS ..... SWEETWATER, AL	8/20/2003
ESTOK, MARY ..... SPRING HILL, FL	8/20/2003
ARANDIA, RODRIGO S ..... CHICAGO, IL	8/20/2003
SMITH, DANNELLY C ..... WYANDOTTE, MI	8/20/2003
SONE, JANET LEE ..... PORTAGE, IN	8/20/2003
KAY, WILLIAM EZRA ..... PEPPER PIKE, OH	8/20/2003
LINNEMANN, BRUCE MICHAEL ..... CINCINNATI, OH	8/20/2003
CUSMA, JOSEPH A ..... MASSILLON, OH	8/20/2003
WOJCIK, DAVID G ..... ELGIN, IL	8/20/2003
VEACH, CAROLINE S ..... OAKLAND, IL	8/20/2003
STEELE, JACQUELINE E ..... CHICAGO, IL	8/20/2003
SEARS, JENNIFER L ..... CHAMPAIGN, IL	8/20/2003
BLACKMOND, ANTONIO ..... CHICAGO, IL	8/20/2003
BARRON, JOEL ..... GLENDALE, AZ	8/20/2003
BROWN, LAKISHA ANTONETTE ..... CHAMPAIGN, IL	8/20/2003
ANDERSON, TISHA L ..... ROCKFORD, IL	8/20/2003
AALDERS, NANCY BLOCK ..... OAK LAWN, IL	8/20/2003
DAVIDSON, MYSTI D ..... ROAMOKE, TX	8/20/2003
JONES, KAREN DENISE ..... MARRERO, LA	8/20/2003
WOOD, LISA KATHLEEN ADAIR ..... LITTLE ROCK, AR	8/20/2003
HEBERT, DAPHNE BROOK .... KAPLAN, LA	8/20/2003
CHANDLER, MARY KATHERINE ..... SHREVEPORT, LA	8/20/2003
JONES, LESLIE ADELE ..... METAIRIE, LA	8/20/2003
DOWNS, DORIS IRENE ..... MARTHAVILLE, LA	8/20/2003
HART, DILLIS LEROY ..... BOISE CITY, OK	8/20/2003
SNYDER, GARY LEE ..... LITTLETON, CO	8/20/2003
SKUZA, RICHARD S ..... COLORADO SPRNGS, CO	8/20/2003
NOIPERMPOON, SAMAPORN AURORA, CO	8/20/2003
KING, ROCHELLE SHAVON ... TOPEKA, KS	8/20/2003
WAMBEKE, FLORENCE ..... RAPID CITY, SD	8/20/2003
REILLY, SETH ..... THERMOPOLIS, WY	8/20/2003
ROSE, LINDA ..... MEETEETSE, WY	8/20/2003
THORNTON, MICHAEL KENT ST PETERS, MO	8/20/2003
ELLIS, BRIAN J ..... SPRINGFIELD, MO	8/20/2003
VILLARREAL, REINALDA R .... COLLBRAN, CO	8/20/2003
MOORE, STACI L ..... PLEASANT HILL, MO	8/20/2003
CURL, DENISE M ..... DUBUQUE, IA	8/20/2003
KING, TERESSA A ..... YREKA, CA	8/20/2003
DU, JOHN ZHENG ..... SACRAMENTO, CA	8/20/2003
BODY CARE CENTER, CLINIC COSTA MESA, CA	8/20/2003
LACY, KAREN N ..... PASADENA, CA	8/20/2003
FREED, STEPHEN W ..... IDAHO FALLS, ID	8/20/2003
WISE, LESLIE EUGENE ..... NEWPORT BEACH, CA	8/20/2003
MASLANA, JOANNE ELIZABETH ..... TUCSON, AZ	8/20/2003
PETERS, KATHERINE ..... ESCONDIDO, CA	8/20/2003
MCGEE-JONES, BARBARA DALE ..... DEL MAR, CA	8/20/2003
JESSE, ROSALIE C ..... EL CAJON, CA	8/20/2003
WEAVER, DEANNA E ..... TUCSON, AZ	8/20/2003
DOYLE, WENDY ANN ..... LA CRESCENTA, CA	8/20/2003
SCHAVE, BARBARA ..... BEVERLY HILLS, CA	8/20/2003
ARIAS, KERRY LYNN ..... TUCSON, AZ	8/20/2003
HIMALAYA, JOLYN ..... RANCHO PALOS VERDES, CA	8/20/2003
FRAUD/KICKBACKS/PROHIBITED ACTS/SETTLEMENT AGREEMENTS	
WEINSTEIN, LEONARD ..... MONROE TWP, NJ	5/29/2003
OWNED/CONTROLLED BY CONVICTED ENTITIES	
BGF TRANSPORTATION, INC BROOKLYN, NY	8/20/2003
M & D FAMILY PHARMACY, INC ..... REGO PARK, NY	8/20/2003
KENDALL BEHAVIORAL HEALTHCARE CTR, INC ..... COLEMAN, FL	8/20/2003
KENDALL PHYSICAL THERAPHY CTR, INC	8/20/2003

Subject, city, state	Effective date
MIAMI, FL	
CHUCK'S SUPER RITE DRUGS, INC ATLANTA, GA	8/20/2003
BEHAVIORAL HEALTH PROVIDERS ESTILL, SC	8/20/2003
ARLINGTON HOUSE, INC ESTILL, SC	8/20/2003
WEST MIAMI MEDICAL SUPPLY, INC TALLAHASSEE, FL	8/20/2003
READY MEDICAL EQUIPMENT CORP TALLAHASSEE, FL	8/20/2003
SUNSHINE MEDICAL ENTERPRISE GROUP, INC MIAMI, FL	8/20/2003
ADVANCED FAMILY DENTAL CARE IDAHO FALLS, ID	8/20/2003
HEALTH PRO MEDICAL LABS LA HABRA, CA	8/20/2003
JOSEPH E COBBS CHIROPRATCIC SAN DIEGO, CA	8/20/2003
CHIRO ACU CENTER GARDEN GROVE, CA	8/20/2003
DEFAULT ON HEAL LOAN	
CLARK, FREEMAN L EGLIN AFB, FL	5/16/2003
BOWERS, JOHN BENJAMIN HAYSVILLE, KS	8/20/2003
DAVIS, GEORGIA A RANDALLSTOWN, MD	6/12/2003
MARK, JEFFREY PORTLAND, OR	7/16/2003
DOYLE, TIMOTHY P BELLEVUE, WA	7/22/2003
STRONG-FIELDS, MICHELLE A PHILADELPHIA, PA	6/23/2003

Dated: January 6, 2005.

Katherine B. Petrowski,

Director, Exclusion Staff, Office of Inspector General.

[FR Doc. 05–1066 Filed 1–19–05; 8:45 am]

BILLING CODE 4150–04–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Request for Public Comment on a Written Request Issued by the Food and Drug Administration on the Use of Meropenem for the Treatment of Complicated Intra-Abdominal Infections in Preterm and Term Newborn and Infant Patients Younger Than 91 Days of Age

ACTION: Notice.

SUMMARY: The National Institutes of Health (NIH) is requesting public comment on the following Written Request issued by the Food and Drug Administration (FDA) for off-patent drugs as defined in the Best Pharmaceuticals for Children Act (BPCA). The Written Request was referred to the NIH by the FDA as required by the BPCA. The Written Request was developed following formulation of an NIH-generated priority list, which prioritizes certain drugs most in need of study for use by children. The priority list was produced in consultation with the FDA, other NIH Institutes and Centers, and pediatric experts, as mandated by the BPCA. The studies that are described in the Written Request are intended to characterize the safety, efficacy, and pharmacokinetics of the drug for optimum use in pediatric patients.

DATES: Comments are requested within 30 days of publication of this notice.

ADDRESSES: Submit comments to: Anne Zajicek, M.D., Pharm.D., National Institute of Child Health and Human Development (NICHD), 6100 Executive Boulevard, Suite 4B—09, Bethesda, MD 20892–7510, telephone 301–435–6865 (not a toll-free number), e-mail *BestPharmaceuticals@mail.nih.gov*.

FOR FURTHER INFORMATION CONTACT: Anne Zajicek, M.D., Pharm.D., National Institute of Child Health and Human Development (NICHD), 6100 Executive Boulevard, Suite 4B—09, Bethesda, MD 20892–7510, telephone 301—435–6865 (not a toll-free number), e-mail *BestPharmaceuticals@mail.nih.gov*.

SUPPLEMENTARY INFORMATION: The NIH is providing notice of Written Requests issued by the FDA, and is requesting public comment. On January 4, 2002, President Bush signed into law the Best Pharmaceuticals for Children Act (BPCA). The BPCA mandates that NIH, in consultation with the FDA and experts in pediatric research, shall develop, prioritize, and publish an annual list of certain approved drugs for which pediatric studies are needed. In response to this list, the FDA then issues a Written Request to holders of the New Drug Application (NDA) or abbreviated New Drug Application (aNDA) to request that pediatric studies be performed to provide needed safety and efficacy information for pediatric labeling. If the Written Request is declined by the NDA/aNDA holder (s), the Written Request is referred to the NIH, specifically the NICHD. A Request for Proposal (RFP) is then issued based on the Written Request and proposals are reviewed by a peer-review process for contract award.

To assure that the most appropriate pediatric studies are delineated in the RFP, public comment on the Written Request for the use of Meropenem for the treatment of complicated intra-abdominal infections in preterm and term newborn and infant patients younger than 91 days of age is hereby requested by the NIH.

Duane Alexander,

Director, National Institute for Child Health and Human Development, National Institutes of Health.

Meropenem Written Request

Dear Contact:

To obtain needed pediatric information on the use of meropenem, the Food and Drug Administration (FDA) is hereby making a formal Written Request, pursuant to section 505A of the Federal Food, Drug, and Cosmetic Act that you submit information from studies in pediatric patients described below.

Rationale:

The last 30 years have seen a dramatic rise in antibiotic resistance by common bacterial pathogens. This increasing microbial drug resistance requires the use of antibiotics with broad spectrum activity that can be relied upon when first line antimicrobials fail.

Imipenem-cilastatin and meropenem are carbapenems with widespread pediatric use. Imipenem-cilastatin has been labeled for use in pediatric patients (including newborns) for many serious infections such as pneumonia, skin and skin structure infections, osteomyelitis and complicated intra-abdominal infections. Meropenem is labeled for pediatric patients from three months of age through adolescence as single agent antimicrobial therapy for meningitis and complicated intra-abdominal infections, and is a recommended option for monotherapy of high severity complicated intra-abdominal infections in adults.[9]

There is significant off-label use of meropenem in newborn and infant patients younger than three months of age. For example, in 2003, the Child Health Corporation of America Pediatric Health Information System dataset (inpatient data from 31 free-standing children's hospitals) mentions 589 uses in this population for serious infections such as necrotizing enterocolitis and peritonitis. This off-label use occurs despite the lack of adequate pharmacokinetic, dosing, tolerability and safety data for this vulnerable age group. Collecting this data through the study of newborns and young infants with complicated intra-abdominal infections will fill this knowledge gap.

Complicated intra-abdominal infections are heterogeneous in etiology. By definition, these infections are characterized by systemic inflammation and an intra-abdominal process extending into the peritoneal space that necessitates a surgical or percutaneous drainage procedure. The post-procedure findings of purulent exudates with inflamed or necrotic tissue confirms the diagnosis.[8] Examples of intra-abdominal processes in the youngest patients that can result in peritonitis include: Necrotizing enterocolitis, bowel obstruction with perforation, Hirschsprung's disease with perforation, meconium ileus with perforation, and others.

Though complicated intra-abdominal infections in the youngest pediatric patients are more severe than in older infants and children, the bacterial pathogens that contribute to this disease process are similar. Thus, the efficacy of antimicrobial agents such as meropenem for the treatment of complicated intra-abdominal infections can be extrapolated from older children to the youngest.

Administration of antimicrobials prior to enrollment is a common problem in clinical trials of antibiotics and a concern for the studies requested below. The onset of complicated intra-abdominal infections in the youngest patients may range from an acute and fulminant presentation to a more indolent process that progresses over hours to days. The indolent presentation often begins with a non-specific pattern of signs and symptoms suggestive of an infectious process; only later does the intra-abdominal nature of the infection become apparent. During this period of sub-acute infection, infants with a possible intra-abdominal infection may receive antibiotic treatment. Such early antibiotic treatment complicates the design of clinical trials to evaluate efficacy and safety of specific antimicrobials. As a result, clinical trials of complicated infections routinely require a design strategy that minimizes the influence of early therapy on the later interpretation of safety and efficacy data.

We request the following studies of meropenem for use in complicated intra-abdominal infection in preterm and term newborn and infant patients younger than three months of age.

Indication to be studied:

Meropenem for the treatment of complicated intra-abdominal infections in preterm and term newborn and infant patients younger than 91 days of age.

Types of Studies and Study Objectives:

1. Single Dose Pharmacokinetic (PK), Safety, and Tolerability Study (Study 1): To characterize single dose meropenem PK, safety, and tolerability in preterm and term newborn and infant patients with complicated intra-abdominal infections.

2. Safety and Multi-dose PK Study (Study 2):

a. To characterize the safety profile of meropenem in the treatment of complicated intra-abdominal infections in comparison to an alternative standard antibiotic regimen.

b. To characterize meropenem multiple-dose PK in patients with complicated intra-abdominal infections.

c. To assess collected efficacy data for meropenem for the treatment of complicated intra-abdominal infections.

Age group in which studies will be performed:

Study 1:

Premature to term gestation male and female newborn and infant patients who are younger than 91 days of age and have a suspected or early complicated intra-abdominal infection. These patients must be subdivided into the following four groups:

Group 1: Gestational age at birth below 32 weeks and post-natal age younger than 8 days;

Group 2: Gestational age at birth below 32 weeks and post-natal age of 8 days through 90 days;

Group 3: Gestational age at birth 32 weeks or older and post-natal age younger than 8 days; and

Group 4: Gestational age at birth 32 weeks or older and post-natal age of 8 days through 90 days.

Study 2:

Premature and term gestation newborn and infant patients younger than 91 days of age with complicated intra-abdominal infections, including patients from all four groups described above. For the PK substudy, patients in study 2 should be enrolled based on the age groups described above under study 1.

Inclusion Criteria:

Study 1 will include male and female patients with physical, radiological, and/or bacteriological findings of a suspected or early complicated intra-abdominal infection who require antimicrobial therapy and who have no physiological changes that would significantly alter the elimination of meropenem.

Study 2 will include male and female patients with physical, radiological, and/or bacteriological findings of a complicated intra-abdominal infection as defined in the ''Rationale'' section. The protocol will specify additional criteria for study inclusion/exclusion, and will specifically address the presence of viral or fungal infections and the method for addressing antibiotic administration prior to enrollment or randomization.

Study Design:

PK studies within Study 1 and Study 2 will utilize sparse sampling and a population PK approach to minimize blood loss for individual patients. Sparse blood samples should be obtained at defined time intervals rather than at fixed times. Bio-analytical methods to determine meropenem concentrations must be capable of evaluating the smallest possible sample volumes (preferably less than 100 microliters). Measurements of renal function are to be done in conjunction with PK determinations. Multiple-dose PK will be assessed in a subset of patients in Study 2. Confirmation of adequate steady-state levels is a primary endpoint of Study 2.

Study 1 will evaluate at least three clinically relevant doses of meropenem in the four subgroups described in the ''Age group in which studies will be performed'' section above. The doses to be studied will be guided by extrapolation from the data of meropenem use in older infants and will be justified in the protocol. For example, one possible range of single doses is 10 mg/kg, 20 mg/kg, and 40 mg/kg.[1 3] These studies are most commonly conducted as an add-on dose of study drug among patients who are already receiving antimicrobial therapy.

Study 2 will be a multi-center, prospective, randomized, parallel-arm, preferably blinded, and active controlled safety study of meropenem for the treatment of complicated intra-abdominal infections in comparison to an alternative standard antibiotic regimen. The definition of complicated intra-abdominal infections for this study is provided in the ''Rationale'' section above and has been derived from the current Infectious Diseases Society of America (IDSA) guidelines[8] with modifications to adjust the definition for the newborn and infant population in this study. Investigators are strongly encouraged to identify and incorporate methods for blinding to treatment assignment into the design and analysis. Efficacy data will also be collected.

Currently meropenem is approved for single-agent antimicrobial therapy for complicated intra-abdominal infections in pediatric patients older than three months. The protocol will specify a standard antibiotic regimen for both study arms, a rationale for each antibiotic to be used, and whether meropenem will be used alone or in combination with a second antibiotic. If

a second antibiotic is used with meropenem, a microbiological justification for its use must be provided and this additional antibiotic must also be included in the comparator regimen. The protocol will also justify the selection of antibiotics for the comparator arm which may consist of two or more antimicrobial agents.

As mentioned in the ''Rationale'', antibiotic administration prior to enrollment or randomization may occur and will complicate the interpretation of safety and efficacy data collected for meropenem. Therefore, the protocol must be designed to minimize the influence of prior antibiotic exposure on the evaluation of meropenem safety and efficacy.

The empiric use of vancomycin within 72 hours prior to enrollment is strongly discouraged. Any change in antibiotic therapy while on study drug will be considered a treatment failure except the addition of vancomycin to treat organisms that require it and have been isolated from a non-abdominal source (including coagulase-negative staphylococcus and methicillin resistant Staphylococcus aureus). The protocol must specify how all use of vancomycin will be addressed in the design, conduct and analysis of this study.

The protocol must specify and justify the duration of antibiotic therapy. At four to six weeks following the initial dose, all patients must be followed for safety and those patients who completed the full treatment course of study drug must have an efficacy determination.[8] The protocol will specify and justify other criteria for determining treatment success or failure and their related efficacy endpoints.

Preferably patients will be enrolled and randomized either at the time of surgery or peritoneal drain placement or immediately afterwards. For these patients, fungal, aerobic and anaerobic bacterial cultures of peritoneal fluid and/or intraoperative specimens must be obtained prior to administration of study drug. Patients may be enrolled and randomized pre-operatively if the complicated intra-abdominal infection is confirmed by surgical intervention within 24 hours of study entry and intraoperative specimens are obtained for culture as described above. Investigators must specify criteria for microbiological cure or resolution and are strongly encouraged to obtain repeat peritoneal fluid and other cultures.

The protocol will address how patients with prior seizures will be followed.

The protocols for Study 1 and Study 2 will be submitted to and assessed by the FDA and agreed upon prior to study initiation. Results from the single dose PK studies of meropenem (Study 1) will be used to guide dosing in Study 2 and must be reviewed by the FDA prior to initiating Study 2.

Criteria for withdrawal of individual patients from Study 1 and 2 must be defined in the protocol. An independent Data Monitoring Committee (DMC) must be established for these studies. The study stopping rules used by the DMC must be specified in the protocol.

Number of Patients:

Study 1: A sufficient number of patients to conduct a dose-ranging study and to adequately characterize single-dose PK of meropenem in the four gestational and post-natal age groups described in the section entitled, ''Age group in which studies will be performed'' must be studied. A minimum of 12 patients per group per dose must be studied. Investigators are strongly encouraged to assure an even distribution of gestational and post-natal age within each PK study group.

Study 2: This study is powered to assess safety as the primary endpoint and will enroll a sufficient number of patients with complicated intra-abdominal infections to detect serious adverse events in the meropenem arm occurring at the frequency of one percent. Efficacy data will be collected, however the study is not powered to be an efficacy trial. Each study arm must enroll a minimum of 300 treated patients who receive 48 hours or more of study drug. Patients who drop out of the trial prior to 48 hours of study treatment should be replaced until the minimum of 300 patients per study arm is achieved. Patients who receive at least one dose of study drug should be followed for safety until the trial is completed. The multi-dose PK study must include at least 12 patients from each of the four age groups described for Study 1. If enrollment of patients within any of these four age groups is unfeasible, then the sponsor/investigator must formally discuss this enrollment problem with the FDA.

Statistical information:

These studies must have a pre-specified detailed statistical analysis plan appropriate for the study design and outcome measures. The plan will be discussed with the FDA and agreed upon prior to initiating studies. Descriptive statistics of the PK data must also be provided and dose-response relationships and relationships between PK parameters and patient characteristics including renal function will also be explored.

Assessment Parameters:

Pharmacokinetics (All studies): The plasma clearance and volume of distribution of meropenem will be calculated and other PK parameters such as the maximum plasma concentration (C_{max}), time of C_{max} (T_{max}), area under the plasma concentration-time curve from zero to the last quantifiable concentration (AUC_{o-t}), the elimination rate constant (Ke), terminal elimination half-life ($t_{1/2}$), and AUC extrapolated to infinity (AUC_{o-oo}), will be determined to the extent possible. The sponsor/investigator is strongly encouraged to study the correlation between pharmacokinetic parameters and pharmacodynamic parameters such as MIC for various doses of meropenem.

Efficacy:

The protocol will specify and justify the method for identifying severity of acute illness to assist in measuring improvement or resolution of infection, clearly delineate criteria and endpoints for treatment success and failure, and provide definitions of evaluable patients and microbial clearance.

Safety (all studies):

Safety assessments will track the occurrence of any adverse events (AEs) including: Seizures; the incidence of superinfections (particularly fungal infections); vital signs including heart rate, blood pressure, and respiratory rate; pulse oximetry; apnea monitoring; standard laboratory assessments of hematologic, liver, and renal function; assessments of hearing and growth (weight, length, and head circumference). Criteria for identification and clinical evaluation of suspected seizures will be described in the protocol. AEs will be followed to their resolution or stabilization. Nosocomial infections will be tracked by pathogen.

Drug-Specific Safety Concerns (all studies):

1. In older susceptible patients, treatment with carbapenems (including meropenem) may decrease the seizure threshold.[4 5] In meningitis treatment studies of patients without CNS abnormalities, the rate of seizures among those patients receiving meropenem was similar to that of patients treated with cefotaxime or ceftriaxone.[2 6 7] The clinical manifestation of seizures in newborn and young infants can be subtle. The protocol must specify the definition of seizures and the criteria for identification and documentation of possible seizures and must address the role of electroencephalograms and other diagnostic methods in seizure diagnosis. Collection of a serum meropenem level at time of suspected seizure is strongly encouraged.

2. The use of carbapenems and other similar broad spectrum antimicrobials

poses a risk of fungal superinfection. The protocol will specify the method of tracking the incidence of superinfections, both bacterial and fungal.

3. In children, the most common adverse events occurring with meropenem treatment are diarrhea, rash, nausea, and emesis. Hemolytic anemia in pediatric patients on meropenem has been reported.

Drug information:

• Dosage form: Powder for injection. Reconstitute with a compatible diluent.

• Route of administration: intravenous.

• Regimen: The pharmacokinetic data from Study 1 will guide dosing in Study 2.

Labeling that may result from these studies:

Appropriate sections of the label may be changed to incorporate the findings of the studies performed in response to this written request.

Format of reports to be submitted:

Full study reports with analysis, assessment, and interpretation, not previously submitted to the Agency addressing the issues outlined in this request, will be submitted. Pharmacokinetic study reports should include analytical method and assay validation, individual drug and/or metabolite concentration-time data and individual pharmacokinetic parameters. In addition, the reports are to include information on the representation of pediatric patients of ethnic and racial minorities. All pediatric patients enrolled in the study (studies) should be categorized using one of the following designations for race: American Indian or Alaska Native, Asian, Black or African American, Native Hawaiian or other Pacific Islander or White. For ethnicity one of the following designations should be used: Hispanic/Latino or Not Hispanic Latino.

Response to Written Request:

As per the Best Pharmaceuticals for Children Act, section 3, if we do not hear from you within 30 days of the date of this Written Request, we will refer this Written Request to the Director of the NIH. If you agree to the request, then you must indicate when the pediatric studies will be initiated.

Please submit protocols for the above studies to an investigational new drug application (IND) and clearly mark your submission ''PEDIATRIC PROTOCOL SUBMITTED IN RESPONSE TO WRITTEN REQUEST'' in large, bold type at the beginning of the cover letter of the submission. Please notify us as soon as possible if you wish to enter into a written agreement by submitting a proposed written agreement. Clearly mark your submission ''PROPOSED WRITTEN AGREEMENT FOR PEDIATRIC STUDIES'' in large, bold type at the beginning of the cover letter of the submission.

Reports of the studies should be submitted as a new drug application (NDA) or as a supplement to an approved NDA with the proposed labeling changes you believe would be warranted based on the data derived from these studies. When submitting the reports, please clearly mark your submission ''SUBMISSION OF PEDIATRIC STUDY REPORTS—COMPLETE RESPONSE TO WRITTEN REQUEST'' in large font, bolded type at the beginning of the cover letter of the submission and include a copy of this letter.

In accordance with section 9 of the Best Pharmaceuticals for Children Act, Dissemination of Pediatric Information, if a pediatric supplement is submitted in response to a Written Request and filed by FDA, FDA will make public a summary of the medical and clinical pharmacology reviews of pediatric studies conducted. This disclosure, which will occur within 180 days of supplement submission, will apply to all supplements submitted in response to a Written Request and filed by FDA, regardless of the following circumstances:

1. The type of response to the Written Request (complete or partial);

2. The status of the supplement (withdrawn after the supplement has been filed or pending);

3. The action taken (*i.e.* approval, approvable, not approvable); or

4. The exclusivity determination (*i.e.* granted or denied).

FDA will post the medical and clinical pharmacology review summaries on the FDA website at *http://www.fda.gov/cder/pediatric/Summaryreview.htm* and publish in the **Federal Register** a notification of availability.

If you wish to discuss any amendments to this Written Request, please submit proposed changes and the reasons for the proposed changes to your application. Submissions of proposed changes to this request should be clearly marked ''PROPOSED CHANGES IN WRITTEN REQUEST FOR PEDIATRIC STUDIES'' in large font, bolded type at the beginning of the cover letter of the submission. You will be notified in writing if any changes to this Written Request are agreed upon by the Agency.

We hope you will fulfill this pediatric study request. We look forward to working with you on this matter in order to develop additional pediatric information that may produce health benefits in the pediatric population.

Reference List

1. Blumer, J.L., M. D. Reed, G.L. Kearns, R.F. Jacobs, W.M. Gooch, III, R.Yogev, K. Williams, and B.J. Ewing. 1995. Sequential, single-dosepharmacokinetic evaluation of meropenem in hospitalized infants and childrenAntimicrob Agents Chemother 39:1721–1725.
2. Klugman, K.P. and R. Dagan. 1995. Carbapenem treatment of meningitis. Scand.J Infect.Dis.Suppl. 96:45–8.:45–48.
3. Martinkova, J., R. de Groot, J. Chladek, et al. 1995. Meropenem pharmacokinetics in pre-term and full-term neonates [Abstract 686]. Program andabstracts of the 7th European Conference of Clinical Microbiology and Infectious Diseases, Vienna.
4. Norrby, S.R. and K.M. Gildon. 1999. Safety profile of meropenem: a review of nearly 5,000 patients treated with meropenem. Scand.J Infect.Dis. 31:3–10.
5. Norrby, S.R. 2000. Neurotoxicity of carbapenem antibiotics: consequences fortheir use in bacterial meningitis. Journal of Antimicrobial Chemotherapy 45:5–7.
6. Odio, C.M., J.R. Puig, J.M. Feris, W.N. Khan, W.J. Rodriguez, G.H.McCracken, Jr., and J.S. Bradley. 1999. Prospective, randomized, investigator-blindedstudy of the efficacy and safety of meropenem vs. cefotaxime therapy inbacterial meningitis in children. Meropenem Meningitis Study Group. Pediatr InfectDis J 18:581–590.
7. Schmutzhard, E., K.J. Williams, G. Vukmirovits, V. Chmelik, B. Pfausler, andA. Featherstone. 1995. A randomised comparison of meropenem with cefotaximeor ceftriaxone for the treatment of bacterial meningitis in adults. MeropenemMeningitis Study Group. J Antimicrob. Chemother 36 Suppl A:85–97.:85–97.
8. Solomkin, J.S., D.L. Hemsell, R. Sweet, F. Tally, and J. Bartlett. 1992.Evaluation of new anti-infective drugs for the treatment of intraabdominalinfections. Infectious Diseases Society of America and the Food and DrugAdministration. Clin.Infect.Dis 15 Suppl 1:S33–42.:S33–S42.
9. Solomkin, J.S., J.E. Mazuski, E.J. Baron, R.G. Swayer, A.B. Nathens, J.T.DiPiro, T. Buchman, E.P. Dellinger, J. Jernigan, S. Gorbach, A.W. Chow,and J. Bartlett. 2003. Guidelines for the selection of anti-infective agents forcomplicated intra-abdominal infections. Clin Infect Dis 37:997–1005.

[FR Doc. 05–1093 Filed 1–19–05; 8:45 am]

BILLING CODE 4167–01–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 contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Special Emphasis Panel, Portable e-Technology Tools for Real-Time Energy Balance Research.

Date: March 29, 2005.

Time: 10 a.m. to 6 p.m.

Agenda: To review and evaluate contract proposals.

Place: Bethesda Marriott Suites, 6711 Democracy Boulevard, Bethesda, MD 20817.

Contact Person: Marvin L. Salin, PhD, Scientific Review Administrator, Special Review and Logistics Branch, Division of Extramural Activities, 6116 Executive Boulevard, Room 7073, MSC 8329, Bethesda, MD 20892–8329, 301–496–0694, *msalin@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: January 11, 2005.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 05–1069 Filed 1–19–05; 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 Special Emphasis Panel; Industry-Academic Partnerships for Development of Biomedical Imaging Systems and Methods that are Cancer Specific.

Date: March 14, 2005.

Time: 8 a.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: Kenneth L. Bielat, PhD, Scientific Review Administrator, Division of Extramural Activities, National Cancer Institute, National Institutes of Health, 6116 Executive Boulevard, Room 7147, Bethesda, MD 20892, (301) 496–7576, *bielatk@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: January 11, 2005.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 05–1070 Filed 1–19–05; 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 contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Special Emphasis Panel; Preclinical Efficacy & Intermediate Endpoints Assays.

Date: February 24, 2005.

Time: 1 p.m. to 4 p.m.

Agenda: To review and evaluate contract proposals.

Place: National Institutes of Health, 6116 Executive Boulevard, Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Lalita D. Palekar, PhD, Scientific Review Administrator, Special Review and Resources Branch, Division of Extramural Activities, National Cancer Institute, National Institutes of Health, 6116 Executive Boulevard, Room 8105, Bethesda, MD 20892–7405, (301) 496–7575.

(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: January 11, 2005.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 05–1071 Filed 1–19–05; 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 Special Emphasis Panel; Behavioral Research in Cancer Control.

Date: March 15–16, 2005.

Time: 10 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Gaithersburg Marriott Washingtonian Center, 9751 Washingtonian Boulevard, Gaithersburg, MD 20878.

Contact Person: Marvin L. Salin, PhD, Scientific Review Administrator, Special Review and Logistics Branch, Division of Extramural Activities, 6116 Executive Boulevard, Room 7073, MSC8329, Bethesda, MD 20892–8329, 301–496–0694, *msalin@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: January 11, 2005.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 05–1072 Filed 1–19–05; 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 H—Clinical Groups, EORTC.

Date: March 2–3, 2005.

Time: 6:30 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: Double Tree Rockville, 1750 Rockville Pike, Rockville, MD 20852.

Contact Person: Deborah R. Jaffe, PhD., Scientific Review Administrator, Resources and Training Review Branch, National Cancer Institute, Division of Extramural Activities, 6116 Executive Blvd., Rm. 8135, Bethesda, MD 20892; (301) 496–7721, *jaffed@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: January 12, 2005.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 05–1074 Filed 1–19–05; 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 contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Special Emphasis Panel, Systems to Enhance Data Collection & Medication Compliance in Clinical Trials.

Date: March 30, 2005.

Time: 10 a.m. to 6 p.m.

Agenda: To review and evaluate contract proposals.

Place: Bethesda Marriott Suites, 6711 Democracy Boulevard, Bethesda, MD 20817.

Contact Person: Marvin L. Salin, PhD, Scientific Review Administrator, Special Review and Logistics Branch, Division of Extramural Activities, 6116 Executive Boulevard, Room 7073, MSC8329, Bethesda, MD 20892–8329, 301–496–0694, *msalin@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: January 12, 2005.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 05–1077 Filed 1–19–05; 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 Special Emphasis Panel, Reducing Barriers to Symptom Management and Palliative Care.

Date: February 15–16, 2005.

Time: 10 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Gaithersburg Marriott Washingtonian Center, 9751 Washingtonian Boulevard, Gaithersburg, MD 20878.

Contact Person: Lalita D. Palekar, PhD, Scientific Review Administrator, Special Review and Resources Branch, Division of Extramural Activities, National Cancer Institute, National Institutes of Health, 6116 Executive Boulevard, Room 8105, Bethesda, MD 20892–7405, (301) 496–7575.

(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: January 12, 2005.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 05–1078 Filed 1–19–05; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Alcohol Abuse and Alcoholism; Notice of 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 a meeting of the National Advisory Council on Alcohol Abuse and Alcoholism.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

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 Advisory Council on Alcohol Abuse and Alcoholism.

Date: February 2–3, 2005.

Closed: February 2, 2005, 5:30 p.m. to 7:30 p.m.

Agenda: To review and evaluate grant applications and/or proposals.

Place: Fishers Building Conference Center, Fishers Lane Building, 5635 Fishers Lane, Terrace Level, Rockville, MD 20852.

Closed: February 3, 2005, 8:30 a.m. to 9 a.m.

Agenda: To review and evaluate the Board of Scientific Counselor's Report.

Place: Fishers Building Conference Center, Fishers Lane Building, 5635 Fishers Lane, Terrace Level, Rockville, MD 20852.

Open: February 3, 2005, 9 a.m. to 2 p.m.

Agenda: Program reports and presentations; Business of the Council.

Place: Fishers Building Conference Center, Fishers Lane Building, 5635 Fishers Lane, Terrace Level, Rockville, MD 20852.

Contact Person: Karen P. Peterson, PhD, Executive Secretary, NIAAA Council, National Institute of Alcohol Abuse and Alcoholism, National Institutes of Health, Bethesda, MD 20892–7003, (301) 451–3883, *kp177z@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.

Any member of the public interested in presenting oral comments to the committee may notify the Contact Person listed on this notice at least 10 days in advance of the meeting. Interested individuals and representatives of organizations may submit a letter of intent, a brief description of the organization represented, and a short description of the oral presentation. Only one representative of an organization may be allowed to present oral comments and if accepted by the committee, presentations may be limited to five minutes. Both printed and electronic copies are requested for the record. In addition, any interested person may file written comments with the committee by forwarding their statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

Information is also available on the Institute's/Center's home page: *silk.nih.gov/silk/niaaa1/about/roster.htm,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.271, Alcohol Research Career Development Awards for Scientists and Clinicians; 93.272, Alcohol National Research Service Awards for Research Training; 93.273, Alcohol Research Programs; 93.891, Alcohol Research Center Grants, National Institutes of Health, HHS)

Dated: January 12, 2005.

Anna P. Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 05–1073 Filed 1–19–05; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Dental and Craniofacial Research; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice ishereby 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 individualsassociated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion ofpersonal privacy.

Name of Committee: National Institute of Dental and Craniofacial Research Special Emphasis Panel; 05–32, Review R21s.

Date: February 11, 2005.

Time: 1 p.m. to 2 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Natcher Building, 45 Center Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Rebecca Roper, MS, MPH, Scientific Review Administrator, Scientific Review Branch, Division of Extramural Research, National Inst. of Dental and Craniofacial Research, National Institutes of Health, 45 Center Dr., room 4AN32E, Bethesda, MD 20892, (301) 451–5096.

Name of Committee: National Institute of Dental and Craniofacial Research Special Emphasis Panel; 05–46, Review R03s.

Date: February 11, 2005.

Time: 3 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Natcher Building, 45 Center Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Rebecca Roper, MS, MPH, Scientific Review Administrator, Scientific Review Branch, Division of Extramural Research, National Inst. of Dental and Craniofacial Research, National Institutes of Health, 45 Center Dr., room 4AN32E, Bethesda, MD 20892, (301) 451–5096.

Name of Committee: National Institute of Dental and Craniofacial Research Special Emphasis Panel; 05–50, Review R03s.

Date: February 14, 2005.

Time: 2 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Natcher Building, 45 Center Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Rebecca Roper, MS, MPH, Scientific Review Administrator, Scientific Review Branch, Division of Extramural Research, National Inst. of Dental and Craniofacial Research, National Institutes of Health, 45 Center Dr., room 4AN32E, Bethesda, MD 20892, (301) 451–5096.

Name of Committee: National Institute of Dental and Craniofacial Research Special Emphasis Panel; 05–26, Review R03s.

Date: February 23, 2005.

Time: 1:30 p.m. to 2:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Natcher Building, 45 Center Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Rebecca Roper, MS, MPH, Scientific Review Administrator, Scientific Review Branch, Division of Extramural Research, National Inst. of Dental and Craniofacial Research, National Institutes of Health, 45 Center Dr., room 4AN32E, Bethesda, MD 20892, (301) 451–5096.

Name of Committee: National Institute of Dental and Craniofacial Research Special Emphasis Panel; 05–45, Review R03s.

Date: February 25, 2005.

Time: 1 p.m. to 2 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Natcher Building, 45 Center Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Rebecca Roper, MS, MPH, Scientific Review Administrator, Scientific

Review Branch, Division of Extramural Research, National Inst. of Dental and Craniofacial Research, National Institutes of Health, 45 Center Dr., room 4AN32E, Bethesda, MD 20892, (301) 451–5096.

Name of Committee: National Institute of Dental and Craniofacial Research Special Emphasis Panel; 05–40, Review R03s.

Date: March 1, 2005.

Time: 10 a.m. to 11 a.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Natcher Building, 45 Center Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Lynn M. King, PhD, Scientific Review Administrator, Scientific Review Branch, 45 Center Dr., room 4AN–38K, National Institute of Dental and Craniofacial Research, National Institutes of Health, Bethesda, MD 20892–6402, (301) 594–5006.

Name of Committee: National Institute of Dental and Craniofacial Research Special Emphasis Panel; 05–38, Review K23s.

Date: March 3, 2005.

Time: 1 p.m. to 2 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Natcher Building, 45 Center Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Lynn M. King, PhD, Scientific Review Administrator, Scientific Review Branch, 45 Center Dr., room 4AN–38K, National Institutes of Dental and Craniofacial Research, National Institutes of Health, Bethesda, MD 20892–6402, (301) 594–5006.

Name of Committee: National Institute of Dental and Craniofacial Research Special Emphasis Panel; 05–37, Review K22s.

Date: April 4, 2005.

Time: 1 p.m. to 2 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Natcher Building, 45 Center Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Lynn M. King, PhD, Scientific Review Administrator, Scientific Review Branch, 45 Center Dr., room 4AN–38K, National Institute of Dental and Craniofacial Research, National Institutes of Health, Bethesda, MD 20892–6402, (301) 594–5006.

(Catalogue of Federal Domestic Assistance Program Nos. 93.121, Oral Diseases and Disorders Research, National Institutes of Health, HHS)

Dated: January 13, 2005.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 05–1075 Filed 1–19–05; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Drug Abuse; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel; ''Mucosal Delivery of Drugs Using Novel Film Composites (STRIP)''.

Date: January 19, 2005.

Time: 1:30 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6101 Executive Boulevard, Rockville, MD 20852, (Telephone Conference Call.)

Contact Person: Eric Zatman, Contract Review Specialist, Office of Extramural Affairs, National Institute on Drug Abuse, NIH, DHHS, Room 220, MSC 8401, 6101 Executive Boulevard, Bethesda, MD 20892–8401, (301) 435–1438.

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: National Institute on Drug Abuse Special Emphasis Panel, ''Clinical Coordinating Center for NIDA Clinical Trials Network''.

Date: January 25, 2005.

Time: 9 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Double Tree Rockville, 1750 Rockville Pike, Rockville, MD 20852.

Contact Person: Richard C. Harrison, Chief, Contract Review Branch, Office of Extramural Affairs, National Institute on Drug Abuse, NIH, DHHS, Room 220, MSC 8401, 6101 Executive Boulevard, Bethesda, MD 20892–8401, (301) 435–1437.

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: National Institute on Drug Abuse Special Emphasis Panel, SBIR—''Prevention Training''.

Date: January 25, 2005.

Time: 9 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Residence Inn Bethesda, 7335 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Lyle Furr, Contract Review Specialist, Office of Extramural Affairs, National Institute on Drug Abuse, NIH, DHHS, Room 220, MSC 8401, 6101 Executive Boulevard, Bethesda, MD 20892–8401, (301) 435–1439.

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: National Institute on Drug Abuse Special Emphasis Panel, ''A Low Cost Novel Imaging System for Neuroscience''.

Date: January 26, 2005.

Time: 1:30 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6101 Executive Boulevard, Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Eric Zatman, Contract Review Specialist, Office of Extramural Affairs, National Institute on Drug Abuse, NIH, DHHS, Room 220, MSC 8401, 6101 Executive Boulevard, Bethesda, MD 20892–8401, (301) 435–1438.

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: National Institute on Drug Abuse Special Emphasis Panel, ''SBIR Phase II–''Multi-Problem Youth Screening Assessment Package''.

Date: February 1, 2005.

Time: 9:30 a.m. to 11:30 a.m.

Agenda: To review and evaluate contract proposals.

Place: National of Institutes of Health, 6101 Executive Boulevard, Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Lyle Furr, Contract Review Specialist, Office of Extramural Affairs, National Institute on Drug Abuse, NIH, DHHS, Room 220, MSC 8401, 6101 Executive Boulevard, Bethesda, MD 20892–8401, (301) 435–1439.

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: National Institute on Drug Abuse Special Emphasis Panel, ''Data and Statistics Center for CTN''.

Date: February 8–9, 2005.

Time: 9 a.m. to 5 p.m.

Agenda: To review and evaluate contract proposals.

Place: Double Tree Rockville, 1750 Rockville Pike, Rockville, MD 20852.

Contact Person: Eric Zatman, Contract Review Specialist, Office of Extramural Affairs, National Institute on Drug Abuse, NIH, DHHS, Room 220, MSC 8401, 6101 Executive Boulevard, Bethesda, MD 20892–8401, (301) 435–1438.

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel, SBIR—''Development of Science Education Materials or Programs''.

Date: February 15, 2005.

Time: 9 a.m. to 5 p.m.

Agenda: To review and evaluate contract proposals.

Place: Residence Inn Bethesda, 7335 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Lyle Furr, Contract Review Specialist, Office of Extramural Affairs, National Institute on Drug Abuse, NIH, DHHS, Room 220, MSC 8401, 6101 Executive Boulevard, Bethesda, MD 20892–8401, (301) 435–1439.

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel, SBIR—''Develop New Technologies for Screening and Assessing Drug Abuse and Matching Patients with Appropriate Treatment Services''.

Date: March 15, 2005.

Time: 9 a.m. to 5 p.m.

Agenda: To review and evaluate contract proposals.

Place: Double Tree Rockville, 1750 Rockville Pike, Rockville, MD 20852.

Contact Person: Lyle Furr, Contract Review Specialist, Office of Extramural Affairs, National Institute on Drug Abuse, NIH, DHHS, Room 220, MSC 8401, 6101 Executive Boulevard, Bethesda, MD 20892–8401, (301) 435–1439.

(Catalogue of Federal Domestic Assistance Program Nos. 93.277, Drug Abuse Scientist Development Award for Clinicians, Scientist Development Awards, and Research Scientist Awards; 93.278, Drug Abuse National Research Service Awards for Research Training; 93.279, Drug Abuse Research Programs, National Institutes of Health, HHS)

Dated: January 12, 2005.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 05–1076 Filed 1–19–05; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[CGD08–04–045]

Houston-Galveston Area Maritime Security Committee

AGENCY: Coast Guard, DHS.

ACTION: Solicitation for membership.

SUMMARY: This notice requests individuals interested in serving on the Houston-Galveston Area Maritime Security Committee (AMSC) to submit their application for membership to the COTP Houston-Galveston. The AMSC advises and assists the Houston-Galveston Federal Maritime Security Coordinator (FMSC) in developing the Area Maritime Security Plan for the Ports of Houston, Texas City, Freeport, and Galveston. Specific vacancies are listed under supplemental information.

DATES: Requests for membership should reach the U.S. Coast Guard Captain of the Port Houston-Galveston on or before February 22, 2005.

ADDRESSES: Applications for membership should be submitted to the Captain of the Port at the following address: MSO Houston-Galveston, AMSC Executive Administrator, P.O. Box 446, Galena Park, TX 77547–0446. AMSC meetings are currently held at the Port of Houston Authority, 111 East Loop, Houston, TX.

FOR FURTHER INFORMATION CONTACT: For questions about submitting an application or about the AMSC in general, contact Ms. Tobi Moore, AMSC Executive Administrator, at 713–671–5118.

SUPPLEMENTARY INFORMATION:

Authority

Section 102 of the Maritime Transportation Security Act (MTSA) of 2002 (Pub. L. 107–295) added section 70112 to Title 46 of the U.S. Code, and authorizes the Secretary of the Department in which the Coast Guard is operating to establish AMSCs for any port area of the United States. (See 33 U.S.C. 1226; 46 U.S.C Chapter 701; 33 CFR 1.05–1, 6.01; Department of Homeland Security Delegation No. 0170.1). The MTSA includes a provision exempting these AMSCs from the Federal Advisory Committee Act (FACA), Public Law 92–436, 86 Stat. 470 (5 U.S.C. App.2).

The AMSCs shall assist the FMSC in the review and update of the AMS Plan for the Houston, Galveston, Freeport and Texas City area of responsibility. Such matters may include, but are not limited to: Identifying critical port infrastructure and operations; Identifying risks (threats, vulnerabilities, and consequences); Determining mitigation strategies and implementation methods; Developing and describing the process to continually evaluate overall port security by considering consequences and vulnerabilities, how they may change over time, and what additional mitigation strategies can be applied; and Providing advice to, and assisting the FMSC in, reviewing and updating the Houston-Galveston Area Maritime Security Plan.

AMS Committee Membership

At least seven of the members of the AMSC must have at least five years of experience related to maritime or port security operations. We are seeking to fill the following vacancies with this solicitation:

(1) Texas City Port Police representative primary and alternate;

(2) Galveston Port Police representative, alternate;

(3) Freeport Port Police representative, primary and alternate;

(4) Galveston and Harris County Law Enforcement representative, primary and alternate (other counties surrounding waterways are eligible);

(5) Trucking industry, primary;

(6) Offshore carriers, alternate; and

(7) City Police Department—multiple opportunities (any city surrounding waterways are eligible) primary and alternate.

Applicants may be required to pass an appropriate security background check prior to appointment to the committee.

Members' terms of office will be for five years; however, a member is eligible to serve an additional term or office. Members serve voluntarily and will not receive any salary or other compensation for their service on the AMS Committee from the Federal Government.

In support of the policy of the USCG on gender and ethnic diversity, we encourage qualified women and members of minority groups to apply.

Meetings

The AMSC meets the last Thursday of odd-numbered months. Subcommittees and work groups convene between meetings of the parent committee. AMSC meetings start at 9 a.m. and are currently held at the Port of Houston Authority, 111 East Loop, Houston, TX.

Request for Applications

It is requested that applicants possess experience related to maritime or port security operations. Those seeking membership are not required to submit formal applications to the local FMSC, however, because we do have an obligation to ensure that a specific number of members have the prerequisite maritime security experience, we encourage the submission of resumes highlighting experience in the maritime and security industries.

Dated: December 28, 2004.

Kevin L. Marshall,

Captain, U.S. Coast Guard, Acting Commander, 8th Coast Guard Dist.

[FR Doc. 05–1150 Filed 1–19–05; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[USCG–2005–20035]

National Offshore Safety Advisory Committee; Charter Renewal

AGENCY: Coast Guard, DHS.

ACTION: Notice of charter renewal.

SUMMARY: The Secretary of Homeland Security has renewed the charter for the National Offshore Safety Advisory Committee (NOSAC) for 22 months from January 17, 2005, until October 18, 2007. NOSAC is a Federal advisory committee created under the Federal Advisory Committee Act, 5 U.S.C. App. 2 (Pub. L. 92–463, 86 Stat. 770, as amended). It advises the Coast Guard on safety, security, and environmental protection issues relating to the offshore mineral and energy industries.

DATES: NOSAC charter renewed from January 17, 2005, until October 18, 2007.

ADDRESSES: You may request a copy of the charter by writing to Commandant (G–MSO), U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593–0001; by calling 202–267–0214; or by faxing 202–267–4570. This notice and the charter are available on the Internet at *http://dms.dot.gov*.

FOR FURTHER INFORMATION CONTACT: Commander John Cushing, Executive Director of NOSAC, or Mr. Jim Magill, Assistant to the Executive Director, telephone 202–267–1082, fax 202–267–4570.

Dated: December 12, 2004.

Joseph J. Angelo,

Director of Standards, Marine Safety, Security and Environmental Protection.

[FR Doc. 05–1055 Filed 1–19–05; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[USCG–2005–20086]

Meeting of the Office of Boating Safety's Goal-Setting Recommendation Panel

AGENCY: Coast Guard, DHS.

ACTION: Notice of meeting.

SUMMARY: The Coast Guard's Office of Boating Safety (we) is sponsoring a panel of representatives of the recreational boating community. This panel will discuss, analyze, and propose performance measurement goals that we may use to improve boating safety. This meeting is open to the public.

DATES: This meeting will occur on Tuesday and Wednesday, February 8 and 9, 2005, from 9 a.m. to 5 p.m.

ADDRESSES: This meeting will occur in the Crystal II room at the Crystal City Sheraton Hotel, 1800 Jefferson Davis Highway, in Arlington, VA. This notice is available on the Internet at *http://dms.dot.gov* and at *http://uscgboating.org*.

FOR FURTHER INFORMATION CONTACT: Lynne Carliss, Program Coordinator, Office of Boating Safety, U.S. Coast Guard telephone 202–267–6010, fax 202–267–4285. If you have questions on viewing material in the docket, call Andrea M. Jenkins, Program Manager, Docket Operations, Department of Transportation, telephone 202–366–0271.

SUPPLEMENTARY INFORMATION: At the 2004 Fall meeting of the National Boating Safety Advisory Council (NBSAC), the Office of Boating Safety proposed to assemble a Goal-Setting Recommendation Panel. The National Boating Safety Advisory Council (NBSAC) endorsed this proposal. To facilitate this, we invited representatives of the recreational boating community to participate on this panel. A professional facilitator will moderate the meeting. The panel will consider, analyze, and propose recreational boating safety performance measurement goals that can be supported by the government, industry, and the boating public. A representative of this panel will present its conclusions at the April, 2005 NBSAC meeting. We will prepare minutes of the meeting. You may obtain them from the person listed above under **FOR FURTHER INFORMATION CONTACT**.

Procedural

The meeting is open to the public. Please note that the meeting may close early if all business is finished.

Information on Services for Individuals With Disabilities

For information on facilities or services for individuals with disabilities or to request special assistance at the meeting, contact the persons listed under **FOR FURTHER INFORMATION CONTACT** as soon as possible.

Dated: January 12, 2005.

James W. Underwood,

Rear Admiral, U.S. Coast Guard, Director of Operations Policy.

[FR Doc. 05–1056 Filed 1–19–05; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[COTP Port Arthur–04–018]

Notice and Request for Comments; Letter of Recommendation, LNG Jefferson County, TX

AGENCY: Coast Guard, DHS.

ACTION: Notice and request for public comment.

SUMMARY: The U.S. Coast Guard Captain of the Port (COTP), Port Arthur, is preparing a letter of recommendation as to the suitability of the Sabine Pass Channel waterway for liquefied natural gas (LNG) marine traffic. The COTP is looking for comments and related material pertaining specifically to the Maritime Operation, Waterways Management, and Port Security aspects of the proposed LNG Facility.

DATES: Comments and related material pertaining specifically to the Maritime Operation, Waterways Management, and Port Security aspects of the proposed LNG Facility must reach the Coast Guard on or before February 22, 2005.

ADDRESSES: You may mail comments and related material to: Commanding Officer, U.S. Coast Guard Marine Safety Office, 2901 Turtle Creek Drive, Port Arthur, TX 77642, ATTN: Waterways Management Branch.

You may send comments and related material by fax to:U.S. Coast Guard Marine Safety Office (MSO) Port Arthur Attention: Waterways Management Branch (409) 723–6532. U.S. Coast Guard MSO Port Arthur maintains a file for this notice. Comments and material received from the public during the comment period will become part of this file and will be available for inspection or copying at U.S. Coast Guard MSO Port Arthur, Waterways Management Branch, between the hours of 7:30 a.m. to 4 p.m., Monday through Friday, excluding federal holidays.

FOR FURTHER INFORMATION CONTACT: Lieutenant (LT) Kevin Smith or LT Constance Ruckstuhl at U.S. Coast Guard MSO Port Arthur, (409) 723–6501.

SUPPLEMENTARY INFORMATION:

Request for Comments

We encourage you to participate by submitting comments and related material pertaining specifically to the Maritime Operation, Waterways Management, and Port Security aspects of the proposed LNG Facility. If you do so, please include your name and address, identify the docket number

[COTP Port Arthur–04–018], indicate the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and related material in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. For a returned receipt, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. The recommendation made by this office may be affected by comments received.

Public Meeting

We do not now plan to hold public meetings or hearings. But you may submit a request for meetings or hearing by writing to Commanding Officer, U.S. Coast Guard MSO Port Arthur at the address under **ADDRESSES** explaining why they would be beneficial. If we determine that public hearings or meetings would benefit the recommendation process, we will hold them at a time and place announced by a later notice in the **Federal Register**.

The Federal Energy Regulatory Commission (FERC) is responsible for authorizing the siting and construction of onshore LNG facilities under Section 3 (15 U.S.C. 717b) of the Natural Gas Act (NGA) (15 U.S.C. 717 *et seq.*). FERC also authorizes the construction and operation of interstate natural gas pipelines that may be associated with the LNG facilities under Section 7 (15 U.S.C. 717b) of the NGA. The FERC conducts environmental, safety, and security reviews of LNG plants and related pipeline facilities, and as the Lead Federal Agency prepares the overall National Environmental Policy Act (NEPA) documentation (18 CFR part 380). As required by NEPA, FERC will issue a Draft Environmental Impact Statement (DEIS) for review and comment by the public. After issuing the DEIS for this proposed LNG facility and pipeline project, FERC will hold a public meeting. The date, time, and location of this meeting will be published on FERC's Web site, *http://www.ferc.gov*, under Docket Nos. CP04–386–000, CP04–400–000 (''Golden Pass LNG and Pipeline Project'').

Background and Purpose

Under 33 CFR 127.009, the U.S. Coast Guard COTP Port Arthur, is preparing a letter of recommendation as to the suitability of the Sabine Pass Channel waterway for liquefied natural gas (LNG) marine traffic. The letter of recommendation is in response to a Letter of Intent to operate a LNG facility in Jefferson County, TX. This facility would consist of an LNG import terminal and storage facilities and approximately 75 miles of 36-inch diameter pipeline crossing four counties in Texas and one parish in LA. The Letter of Intent is available in the docket where indicated under **ADDRESSES.**

Golden Pass LNG Terminal LP propose to build a new LNG import, storage, and vaporization terminal in a rural part of Jefferson County, Texas, across the Sabine Neches Ship Channel, Jefferson County, Texas; and a natural gas pipeline to transfer up to 2.7 billion cubic feet per day of imported natural gas. Golden Pass has acquired a 477-acre tract of land, for the proposed LNG terminal facility. The facility property is approximately 10 miles south of Port Arthur, Texas and 2 miles northeast of Sabine, Texas. The LNG import terminal would import, store, and vaporize an average of approximately 2,000 million standard cubic feet per day (MMscfd) of LNG, with an installed capacity of 2,700 MMscfd, for supply to U.S. natural gas markets. Golden Pass seeks authority to construct and operate the following new facilities:

1. A new marine basin connected to the Sabine Pass Channel that would include a ship maneuvering area and two protected berths to unload up to 200 LNG ships per year with a ship capacity ranging up to 250,000 cubic meters (m^3) of LNG;
2. Two 30-inch-diameter single wall, 304 stainless steel, insulated LNG transfer lines to transfer the LNG from the berth facilities to the LNG storage tanks;
3. Five insulated full-containment LNG storage tanks, each with a working capacity of approximately 155,000 m^3 and each with secondary containment dikes to contain the gross tank volume;
4. A boil-off gas (BOG) recovery system consisting of three BOG compressors (141,783 ft^3/hr), one return gas blower and a 271 bbl direct-contact re-condenser;
5. Ancillary utilities, buildings, and service facilities, including hazard detection and fire response systems;
6. Approximately 77 miles of 36-inch-diameter pipeline extending from the LNG import terminal to an interconnection with an existing Transcontinental Gas Pipe Line Corporation interstate pipeline near Starks, Louisiana;
7. Approximately a 43 mile, 36-inch diameter pipeline commencing at the LNG import terminal send-out metering station parallel to and looping the Golden Pass Pipeline as far as the Sabine Gas Pipeline Meter Station in Jefferson County, Texas; and,
8. Associated pipeline facilities including pig launchers/receivers and metering equipment.

Construction of the LNG terminal facilities would take approximately 3 years and the pipeline would take approximately 12 months. Golden Pass proposes to place the project in service in the 2008–2009 timeframe.

In preparation for issuance of the letter of recommendation, the COTP will consider all information submitted by the owner or operator under the requirements of 33 CFR 127.007, as well as comments received from the public.

Additional Information

Additional information can be found in the Federal Energy Regulatory Commission document entitled ''Notice of Intent to Prepare an Environmental Impact Statement for the Proposed Golden Pass LNG and Pipeline Project and Request for Comments on Environmental Issues and Notice of Public Scoping Meeting and Site Visit'', published in the **Federal Register** September 27, 2004 (69 FR 57684) and available for download at *http://www.ferc.gov* under Docket Nos. CP04–386–000, CP04–400–000.

Dated: January 6, 2005.

Sharon K. Richey,

Captain, U.S. Coast Guard, Captain of the Port, Port Arthur.

[FR Doc. 05–1104 Filed 1–19–05; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Bureau of Customs and Border Protection

Notice of Cancellation of Customs Broker License

AGENCY: Bureau of Customs and Border Protection, U.S. Department of Homeland Security.

ACTION: General notice.

SUMMARY: Pursuant to section 641 of the Tariff Act of 1930, as amended, (19 U.S.C. 1641) and the Customs Regulations (19 CFR 111.51), the following Customs broker licenses are cancelled without prejudice.

Name	License #	Issuing port
FSP Customs Brokerage, Inc.	22250	San Francisco.
Nathan Levine.	3913	New York.

Name	License #	Issuing port
American Customs Service, Inc.	14532	Los Angeles.

Dated: January 12, 2005.

Jayson P. Ahern,

Assistant Commissioner, Office of Field Operations.

[FR Doc. 05–1097 Filed 1–19–05; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF HOMELAND SECURITY

Bureau of Customs and Border Protection

Notice of Cancellation of Customs Broker Permit

AGENCY: Bureau of Customs and Border Protection, U.S. Department of Homeland Security.

ACTION: General Notice.

SUMMARY: Pursuant to section 641 of the Tariff Act of 1930, as amended, (19 U.S.C. 1641) and the Customs Regulations (19 CFR 111.51), the following Customs broker local permits are cancelled without prejudice.

Name	Permit #	Issuing port
FSP Customs Brokerage, Inc.	28–04–BEX	San Francisco.
James MacNeill.		
Solaris Import Management Group.	27–03–GF6	Los Angeles.
AEI Drawback Services, Inc.		
Danzas Drawback Services.	12654–P	San Francisco.
Air Cargo Sales, Inc.	09–04–MJ8	Buffalo.
MEC Transport Corp.	53–03–DH1	Houston.

Dated: January 12, 2005.

Jayson P. Ahern,

Assistant Commissioner, Office of Field Operations.

[FR Doc. 05–1101 Filed 1–19–05; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF HOMELAND SECURITY

Bureau of Customs and Border Protection

Notice of Cancellation of Customs Broker Permit

AGENCY: Bureau of Customs and Border Protection, U.S. Department of Homeland Security.

ACTION: General notice.

SUMMARY: Pursuant to section 641 of the Tariff Act of 1930, as amended, (19 U.S.C. 1641) and the Customs Regulations (19 CFR 111.51), the following Customs broker local permits are cancelled with prejudice.

Name	Permit #	Issuing port
Eric Guillermety-Perez.	4914529	San Juan.
Sherri Boynton	98038	Los Angeles.

Dated: January 12, 2005.

Jayson P. Ahern,

Assistant Commissioner, Office of Field Operations.

[FR Doc. 05–1098 Filed 1–19–05; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF HOMELAND SECURITY

Bureau of Customs and Border Protection

Cancellation of Customs Broker License Due to Death of the License Holder

AGENCY: Bureau of Customs and Border Protection, Department of Homeland Security.

ACTION: General notice.

SUMMARY: Notice is hereby given that, pursuant to Title 19 of the Code of Federal Regulations § 111.51(a), the following individual Customs broker licenses and any and all permits have been cancelled due to the death of the broker:

Name	License #	Port name
Nardo Soriano.	9216	San Francisco.
Ronald C. Spitz.	3988	New York.
Irwin M. Wortman.	3243	New York.

Dated: January 12, 2005.

Jayson P. Ahern,

Assistant Commissioner, Office of Field Operations.

[FR Doc. 05–1100 Filed 1–19–05; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF HOMELAND SECURITY

Bureau of Customs and Border Protection

Notice of Cancellation of Customs Broker License

AGENCY: Bureau of Customs and Border Protection, U.S. Department of Homeland Security.

ACTION: General notice.

SUMMARY: Pursuant to section 641 of the Tariff Act of 1930, as amended, (19 U.S.C. 1641) and the Customs Regulations (19 CFR 111.51), the following Customs broker license is cancelled with prejudice.

Name	License #	Issuing port
Virginia A. Miller & Co., Inc.	08049	Houston.

Dated: January 12, 2005.

Jayson P. Ahern,

Assistant Commissioner, Office of Field Operations.

[FR Doc. 05–1099 Filed 1–19–05; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4980–N–03]

Federal Property Suitable as Facilities To Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

DATES: *Effective Date:* January 21, 2005.

FOR FURTHER INFORMATION CONTACT: Kathy Ezzell, Department of Housing and Urban Development, Room 7262, 451 Seventh Street SW., Washington, DC 20410; telephone (202) 708–1234; TTY number for the hearing- and speech-impaired (202) 708–2565, (these telephone numbers are not toll-free), or

call the toll-free Title V information line at 1–800–927–7588.

SUPPLEMENTARY INFORMATION: In accordance with the December 12, 1988 court order in *National Coalition for the Homeless* v. *Veterans Administration.* No. 88–2503–OG (D.D.C.), HUD publishes a Notice, on a weekly basis, identifying unutilized, underutilized, excess and surplus Federal buildings and real property that HUD has reviewed for suitability for use to assist the homeless. Today's Notice is for the purpose of announcing that no additional properties have been determined suitable or unsuitable this week.

Dated: January 13, 2005.

Mark R. Johnston,

Director, Office of Special Needs Assistance Programs.

[FR Doc. 05–1044 Filed 1–19–05; 8:45 am]

BILLING CODE 4210–29–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Information Collection Renewal To Be Submitted to the Office of Management and Budget (OMB) for Approval Under the Paperwork Reduction Act; USFWS Training Records: Application for FWS Training Request; 1018–0115

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice; request for comments.

SUMMARY: We (Fish and Wildlife Service, Service) plan to submit to OMB a request to renew approval for information collection associated with our Training Application (FWS Form 3–2193). Applicants who wish to participate in training sponsored by the Fish and Wildlife Service National Conservation Training Center complete a training application, which is offered in both electronic (Web) and hard copy versions. The Web application form is at *http://training.fws.gov/catalog/app99.html.* Information collection requirements for this submission implement the requirements of 5 U.S.C. 41 and 5 CFR 410.

DATES: You must submit comments on or before March 22, 2005.

ADDRESSES: Send your comments on the specific information collection to Hope Grey, Information Collection Clearance Officer, Fish and Wildlife Service, MS 222-ARLSQ, 4401 N. Fairfax Drive, Arlington, VA 22203 (mail); *hope_grey@fws.gov* (e-mail); or (703) 358–2269 (fax).

FOR FURTHER INFORMATION CONTACT: To request a copy of the information collection requirements, explanatory information, or related forms, contact Hope Grey, Information Collection Clearance Officer, at the above addresses or by telephone at (703) 358–2482.

SUPPLEMENTARY INFORMATION: OMB regulations at 5 CFR 1320, which implement the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), require that interested members of the public and affected agencies have an opportunity to comment on information collection and recordkeeping activities (see 5 CFR 1320.8(d)). Federal agencies may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

The National Conservation Training Center (NCTC) in Shepherdstown, West Virginia, provides natural resource and other professional training for Service employees, employees of other Federal agencies, and other affiliations. While most training is for Service employees, NCTC offers student slots to State agencies, private individuals, not-for-profit organizations, and university personnel.

NCTC designed FWS Form 3–2193 (Training Application) as a quick and easy method for prospective students to request training. We encourage applicants to use FWS Form 3–2193 and to submit their requests electronically. However, we do not require applicants to complete both a training form required by their agency and FWS Form 3–2193. NCTC will accept any single training request as long as each submission identifies the name, address, and phone number of the applicant, sponsoring agency, class and start date, and financial payment information.

NCTC uses data from the form to generate class rosters, class transcripts, and statistics, and as a budgeting tool for projecting training requirements. It is also used to track attendance, mandatory requirements, tuition, and invoicing for all NCTC sponsored courses both on- and off-site.

Title: USFWS Training Records: Application for FWS Training Request.

OMB Control Number: 1018–0115.

Form Number: FWS Form 3–2193.

Frequency: When applying for training.

Description of Respondents: Persons who wish to participate in training given at or sponsored by the NCTC.

Total Annual Burden Hours: 60.33 hours.

Total Annual Responses: 724.

During the past 3 months, we conducted limited public outreach directed at various personnel who have completed FWS Form 3–2193 to request training at the NCTC. All respondents indicated that the information we collect is necessary and appropriate and that the reporting burden is not excessive. In addition, we have revised FWS Form 3–2193 to accommodate some of their comments.

We invite your comments concerning this information collection on: (1) Whether or not the collection of information is necessary for the proper performance of the functions of the agency, including whether or not the information will have practical utility; (2) the accuracy of the agency's estimate of burden, (3) ways to enhance the quality, utility and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond. The information collections in this program are part of a system of records covered by the Privacy Act (5 U.S.C. 552a).

Dated: January 7, 2005.

Hope Grey,

Information Collection Clearance Officer, Fish and Wildlife Service.

[FR Doc. 05–1133 Filed 1–19–05; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Information Collection Renewal To Be Submitted to the Office of Management and Budget (OMB) for Approval Under the Paperwork Reduction Act; Private Stewardship Grants Program; 1018–0118

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice; request for comments.

SUMMARY: The Fish and Wildlife Service (We/Service) plans to submit the collection of information described below to OMB for approval under the provisions of the Paperwork Reduction Act. We use the information collected for the Private Stewardship Grants Program (PSGP) to review requests for funding and to comply with Federal reporting requirements for grants awarded under this program.

DATES: You must submit comments on or before March 23, 2005.

ADDRESSES: Send your comments on the information collection requirement via mail to the Information Collection Clearance Officer, Fish and Wildlife Service, Mail Stop 222–ARLSQ, 4401

North Fairfax Drive, Arlington, Virginia 22203; via fax at (703) 358–2269; or via 3-mail at *Hope_Grey@fws.gov.*

FOR FURTHER INFORMATION CONTACT: To request a copy of the proposed information collection requirement or explanatory material, contact Hope Grey, Information Collection Clearance Officer, at the address above or by telephone at (703) 358–2482.

SUPPLEMENTARY INFORMATION: OMB regulations at 5 CFR 1320, which implement provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), require that interested members of the public and affected agencies have an opportunity to comment on information collection and recordkeeping activities (*see* 5 CFR 1320.8(d)). We plan to submit a request to OMB to renew approval of the collection of information for the Private Stewardship Grants Programs (PSGP), which expires on July 31, 2005. The OMB control number for this collection of information is 1018–0118. We are requesting a 3-year term of approval for this information collection activity. Federal agencies may not conduct or sponsor and a person is not required to a collection of information unless its displays a currently valid OMB control number.

The PSGP provides grants and other assistance on a competitive basis to individuals and groups engaged in private conservation efforts that benefit species listed or proposed as endangered or threatened under the Endangered Species Act, candidate species, or other at-risk species. In implementing the PSGP, we request project proposals from the public. For projects selected for funding, we also request information to satisfy Federal reporting requirements. These requests constitute an information collection requiring OMB approval under the Paperwork Reduction Act.

Congress established the Private Stewardship Grants Program (PSGP) in 2002. Pending appropriations, a notice of funding availability is posted annually on the *http://www.grants.gov* website. The information collection associated with the PSGP is authorized by the 2005 Consolidated Appropriations Act (H.R. 4818; Pub. L. 108–447). The information collection associated with the PSGP is voluntary, but is required to receive benefits in the form of a grant. The funding provided to private landowners through this program will address threats to many critically imperiled species. Taking action to establish partnerships with private landowners through the PSGP is central to our mission.

The information collected in the request for proposals is used in a competitive funding process to determine the eligibility and relative value of conservation projects as described in the project proposals. The information is used by Service employees. Additionally, a diverse panel of representatives from State and Federal government, conservation organizations, agriculture and development interests, and the science community assesses project proposals and makes funding recommendations to the Service. Information collected under this program is used to respond to such needs as: Government Performance and Results Act (GPRA) reporting, grant agreements, budget reports and justification, public and private requests for information, data provided to other programs for databases on similar programs, Congressional inquiries, and other informational reports. We also collect information from award recipients on an annual basis to fulfill Federal grant reporting requirements.

If we did not collect the information, we would have to eliminate the PSGP because it would not be possible to determine eligibility and the scale of resource values or relative worth of the proposed projects. Reducing the frequency of the information collection would only reduce the frequency of windows for grant opportunities as the information is unique to each project.

Title: Stewardship Grants Program.

OMB Control Number: 1018–0118.

Form Number: None.

Frequency: A request for proposals is issued annually. In addition, grant recipients must submit reports on an annual basis.

Description of Respondents: Private landowners, including individuals and nonprofit organizations.

Total Annual Burden Hours: 12,400 hours.

Total Annual Responses: Approximately 300 respondents.

We consulted four previous respondents about the availability of the information requested, the clarity of the instructions, and the annual hour burden for the application materials and the annual reports. All respondents said that the application instructions are clear and the information is easily available. The respondents estimated the hour burden for the application from 1 day to 3 weeks. We believe that this variance results from some respondents estimating the entire time it took them to develop the project as well as to present that information in the form of an application, whereas other respondents only included the actual time to write the application materials. The average hour burden estimated by respondents is approximately 40 hours. The average number of applicants is about 300. The hour burden estimated by the respondents for the reporting requirements varied between 2 hours and 8 hours, with an average of about 4 hours. The average number of award recipients is about 100. The total annual burden hours is 12,000 hours for the project proposals and 400 hours for reporting activities.

We invite your comments on: (1) Whether or not the collection of information is necessary for the proper performance of the Private Stewardship Grants Program, including whether or not the information will have practical utility; (2) the accuracy of our estimate of the burden of the collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents. The information collections in this program are part of a system of records covered by the Privacy Act (5 U.S.C. 552(a)).

Dated: January 5, 2005.

Hope Grey,

Information Collection Clearance Officer, Fish and Wildlife Service.

[FR Doc. 05–1134 Filed 1–19–05; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Receipt of Applications for Permit

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of applications for permit.

SUMMARY: The public is invited to comment on the following applications to conduct certain activities with endangered species.

DATES: Written data, comments or requests must be received by February 22, 2005.

ADDRESSES: Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents within 30 days of the date of publication of this notice to: U.S. Fish and Wildlife Service, Division of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203; fax 703/358–2281.

FOR FURTHER INFORMATION CONTACT: Division of Management Authority, telephone 703/358–2104.

SUPPLEMENTARY INFORMATION:

Endangered Species

The public is invited to comment on the following application(s) for a permit to conduct certain activities with endangered species. This notice is provided pursuant to Section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*). Written data, comments, or requests for copies of these complete applications should be submitted to the Director (address above).

PRT–094572

Applicant: Albert Einstein College of Medicine, Bronx, NY.

The applicant requests a permit to import samples obtained from wild Kemp's ridley sea turtle *(Lepidochelys kempii)*, olive ridley sea turtle *(Lepidochelys olivacea)*, hawksbill sea turtle *(Eretmochelys imbricata)*, green sea turtle *(Chelonia mydas)*, leatherback sea turtle *(Dermochelys coriacea)*, for the purpose of scientific research. This notification covers activities to be conducted by the applicant over a five-year period.

PRT–700877

Applicant: Bishop Museum, Honolulu, HI.

The applicant requests renewal of a permit to export and re-import museum specimens of endangered and threatened species previously accessioned into the applicant's collection for scientific research. This notification covers activities to be conducted by the applicant over a five-year period.

PRT–095598

Applicant: Saint Louis Zoo, MO.

The applicant requests a permit to import biological samples from selected species of lemurs and aye-aye within the genera, *Daubentonia*, *Eulemer*, *Hapalemur*, *Lemur*, *Lepilemur*, *Propithecus*, and *Varecia*, collected from wild specimens in Madagascar for scientific research. This notification covers activities to be conducted by the applicant over a five-year period.

PRT–094969

Applicant: Henry Doorly Zoo, Omaha, NE.

The applicant requests a permit to import biological samples from several species of lemurs of the genera, *Allocebus*, *Avahi*, *Cheirogaleus*, *Eulemer*, *Hapalemur*, *Indri*, *Lemur*, *Lepilemur*, *Microcebus*, *Phaner*, *Propithecus*, and *Varecia*; from the aye-aye, (*Daubentonia madagascariensis)*; and from the tortoises, *Geochelone radiata* and *G. yniphora*; collected from wild specimens in Madagascar for scientific research. This notification covers activities to be conducted by the applicant over a five-year period.

PRT–096480

Applicant: Matthew R. Ochs, Worthville, PA.

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus pygargus*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

PRT–097298

Applicant: The Dallas Zoo, Dallas, TX.

The applicant requests a permit to import one male and two female captive born Sumatran tigers (*Panthera tigris sumatrae*) from the Toronto Zoo, Toronto, Ontario, Canada, for the purpose of the enhancement of propagation and survival of the species.

PRT–096003

Applicant: USDA Forest Service, Pacific SW Research Station, Arcata, CA.

The applicant requests a permit to export biological samples from Point Arena Mountain Beaver (*Aplodontia rufa nigra*) collected from specimens in the wild for the purpose of scientific research. This notification covers activities to be conducted by the applicant over a five-year period.

Dated: December 3, 2004.

Monica Farris,

Senior Permit Biologist, Branch of Permits, Division of Management Authority.

[FR Doc. 05–1132 Filed 1–19–05; 8:45 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: A PAWG Transportation Task Group meeting is scheduled for February 15, 2005, from 1 p.m. until 5 p.m.

ADDRESSES: The meeting 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., PO 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.

After the ROD was issued, Interior determined that a Federal Advisory Committees Act (FACA) charter was required for this group. The charter was signed by Secretary of the Interior, Gale Norton, on August 15, 2002, and renewed on August 13, 2004. An announcement of committee initiation and call for nominations was published in the **Federal Register** on February 21, 2003, (68 FR 8522). PAWG members were appointed by Secretary Norton on May 4, 2004.

At their second business meeting, the PAWG established seven resource-or activity-specific Task Groups, including one for Transportation. Public participation on the Task Groups was solicited through the media, letters, and word-of-mouth.

The agenda for this meeting will include information gathering and discussion related to developing a transportation 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: January 12, 2005.

Priscilla E. Mecham,

Field Office Manager.

[FR Doc. 05–1067 Filed 1–19–05; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

Notice of Proposed Information Collection

AGENCY: Office of Surface Mining Reclamation and Enforcement.

ACTION: Notice and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the Office of Surface Mining Reclamation and Enforcement (OSM) is announcing its intention to request renewed approval for the collection of information under 30 CFR part 842 which allows the collection and processing of citizen complaints and requests for inspection.

DATES: Comments on the proposed information collection must be received by March 22, 2005, to be assured of consideration.

ADDRESSES: Comments may be mailed to John A. Trelease, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Ave., NW., Room 210–SIB, Washington, DC 20240. Comments may also be submitted electronically to *jtreleas@osmre.gov.*

FOR FURTHER INFORMATION CONTACT: To request a copy of the information collection request, explanatory information and related form, contact John A. Trelease, at (202) 208–2783.

SUPPLEMENTARY INFORMATION: The Office of Management and Budget (OMB) regulations at 5 CFR 1320, which implement provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104–13), require that interested members of the public and affected agencies have an opportunity to comment on information collection and recordkeeping activities [see 5 CFR 1320.8(d)]. This notice identifies information collections that OSM will be submitting to OMB for approval. These collections are contained in 30 CFR Part 842, Federal inspections and monitoring. OSM will request a 3-year term of approval for each information collection activity.

Comments are invited on: (1) The need for the collection of information for the performance of the functions of the agency; (2) the accuracy of the agency's burden estimates; (3) ways to enhance the quality, utility and clarity of the information collection; and (4) ways to minimize the information collection burden on respondents, such as use of automated means of collection of the information. A summary of the public comments will accompany OSM's submission of the information collection request to OMB.

The following information is provided for the information collection: (1) Title of the information collection; (2) OMB control number; (3) summary of the information collection activity; and (4) frequency of collection, description of the respondents, estimated total annual responses, and the total annual reporting and recordkeeping burden for the collection of information.

Title: Federal inspections and monitoring—30 CFR part 842.

OMB Control Number: 1029–0118.

Summary: For purposes of information collection, this part establishes the procedures for any person to notify the Office of Surface Mining in writing of any violation that may exist at a surface coal mining operation. The information will be used to investigate potential violations of the Act or applicable State regulations.

Bureau Form Number: None.

Frequency of Collection: Once.

Description of Respondents: Citizens, State governments.

Total Annual Responses: 119.

Total Annual Burden Hours: 89 hours.

Dated: January 13, 2005.

John R. Craynon,

Chief, Division of Regulatory Support.

[FR Doc. 05–1095 Filed 1–19–05; 8:45 am]

BILLING CODE 4310–05–M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–282 (Second Review)]

Petroleum Wax Candles From China

AGENCY: United States International Trade Commission.

ACTION: Scheduling of a full five-year review concerning the antidumping duty order on petroleum wax candles from China.

SUMMARY: The Commission hereby gives notice of the scheduling of a full review pursuant to section 751(c)(5) of the Tariff Act of 1930 (19 U.S.C. 1675(c)(5)) (the Act) to determine whether revocation of the antidumping duty order on petroleum wax candles from China would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time. For further information concerning the conduct of this review and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207).

DATES: *Effective Date:* January 13, 2005.

FOR FURTHER INFORMATION CONTACT: Vincent Honnold (202–205–3314), Office of Investigations, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record for this review may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION:

Background. On November 5, 2004, the Commission determined that responses to its notice of institution of the subject five-year review were such that a full review pursuant to section 751(c)(5) of the Act should proceed (69 FR 68175, November 23, 2004). A record of the Commissioners' votes, the Commission's statement on adequacy, and any individual Commissioner's statements are available from the Office of the Secretary and at the Commission's Web site.

Participation in the review and public service list. Persons, including industrial users of the subject merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in this review as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11 of the Commission's rules, by 45 days after publication of this notice. A party that filed a notice of appearance following publication of the Commission's notice of institution of the review need not file an additional notice of appearance. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the review.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list. Pursuant to section

207.7(a) of the Commission's rules, the Secretary will make BPI gathered in this review available to authorized applicants under the APO issued in the review, provided that the application is made by 45 days after publication of this notice. Authorized applicants must represent interested parties, as defined by 19 U.S.C. 1677(9), who are parties to the review. A party granted access to BPI following publication of the Commission's notice of institution of the review need not reapply for such access. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Staff report. The prehearing staff report in the review will be placed in the nonpublic record on May 4, 2005, and a public version will be issued thereafter, pursuant to section 207.64 of the Commission's rules.

Hearing. The Commission will hold a hearing in connection with the review beginning at 9:30 a.m. on May 24, 2005, at the U.S. International Trade Commission Building. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before May 16, 2005. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should attend a prehearing conference to be held at 9:30 a.m. on May 18, 2005, at the U.S. International Trade Commission Building. Oral testimony and written materials to be submitted at the public hearing are governed by sections 201.6(b)(2), 201.13(f), 207.24, and 207.66 of the Commission's rules. Parties must submit any request to present a portion of their hearing testimony *in camera* no later than 7 days prior to the date of the hearing.

Written submissions. Each party to the review may submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of section 207.65 of the Commission's rules; the deadline for filing is May 13, 2005. Parties may also file written testimony in connection with their presentation at the hearing, as provided in section 207.24 of the Commission's rules, and posthearing briefs, which must conform with the provisions of section 207.67 of the Commission's rules. The deadline for filing posthearing briefs is June 2, 2005; witness testimony must be filed no later than three days before the hearing. In addition, any person who has not entered an appearance as a party to the review may submit a written statement of information pertinent to the subject of the review on or before June 2, 2005. On June 24, 2005, the Commission will make available to parties all information on which they have not had an opportunity to comment. Parties may submit final comments on this information on or before June 28, 2005, but such final comments must not contain new factual information and must otherwise comply with section 207.68 of the Commission's rules. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means, except to the extent permitted by section 201.8 of the Commission's rules, as amended, 67 FR 68036 (November 8, 2002).

Additional written submissions to the Commission, including requests pursuant to section 201.12 of the Commission's rules, shall not be accepted unless good cause is shown for accepting such submissions, or unless the submission is pursuant to a specific request by a Commissioner or Commission staff.

In accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the review must be served on all other parties to the review (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: This review is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.62 of the Commission's rules.

Issued: January 14, 2005.

By order of the Commission.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 05–1137 Filed 1–19–05; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–55,921]

AG World Support Systems, LLC, a Subsidiary of Ag World Group, On-Site Workers at J.R. Simplot Company, Hermiston, OR; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273), the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on December 14, 2004, applicable to workers of Ag World Support Systems, LLC, a subsidiary of Ag World Group, on-site at J. R. Simplot Company, Hermiston, Oregon. This notice will be published soon in the **Federal Register**.

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. The workers are on-site inspectors in support of the production of potato products.

Information shows that the Oregon Employment Department requested Alternative Trade Adjustment Assistance (ATAA) on behalf of the workers of the subject firm, but that request was not addressed in the decision document.

Information obtained from the company states that a significant number of workers of the subject firm are age 50 or over, workers have skills that are not easily transferable, and conditions in the industry are adverse. Review of this information shows that all eligibility criteria under section 246 of the Trade Act of 1974 (26 U.S.C. 2813), as amended, have been met.

Accordingly, the Department is amending the certification to reflect its finding.

The amended notice applicable to TA–W–55,921 is hereby issued as follows:

Workers employed by Ag World Support Systems, LLC, a subsidiary of Ag World Group, Hermiston, Oregon, working at J.R. Simplot Company, Hermiston, Oregon, who became totally or partially separated from employment on or after November 2, 2003, through December 14, 2006, are eligible to apply for adjustment assistance under section 223 of the Trade Act of 1974, and are also eligible to apply for alternative trade adjustment assistance under Section 246 of the Trade Act of 1974.

Signed in Washington, DC, this 28th day of December, 2004.

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E5–205 Filed 1–19–05; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–55,696]

Ametek Aerospace and Power Instruments, a Division of Ametek Aerospace and Defense, a Division of Ametek, Wilmington, MA; Notice of Revised Determination of Alternative Trade Adjustment Assistance

By letter dated November 19, 2004, a representative of the International Union of Electronic/Communication Workers of America, Local 201, requested administrative reconsideration regarding Alternative Trade Adjustment Assistance (ATAA). The certification for Trade Adjustment Assistance was signed on October 22, 2004. The notice of determination was published in the **Federal Register** on November 12, 2004 (69 FR 65463).

The initial investigation determined that subject worker group possess skills that are easily transferable.

The petitioner provided new information to show that the workers possess skills that are not easily transferable.

At least five percent of the workforce at the subject firm is at least fifty years of age. Competitive conditions within the industry are adverse.

Conclusion

After careful review of the additional facts obtained on reconsideration, I conclude that the requirements of Section 246 of the Trade Act of 1974, as amended, have been met for workers at the subject firm.

In accordance with the provisions of the Act, I make the following certification:

All workers of Ametek Aerospace and Power Instruments, A Division of Ametek Aerospace and Defense, A Division of Ametek, Wilmington, Massachusetts, who became totally or partially separated from employment on or after September 24, 2003, through October 22, 2006, are eligible to apply for adjustment assistance under section 223 of the Trade Act of 1974, and are also eligible to apply for alternative trade adjustment assistance under section 246 of the Trade Act of 1974.

Signed in Washington, DC, this 30th day of December, 2004.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E5–200 Filed 1–19–05; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–55,774]

Capitol Records, Inc., Customer Fulfillment Operations, a Subsidiary of Emi Music, Including On-Site Leased Workers of Adecco, Jacksonville, IL; Notice of Revised Determination of Alternative Trade Adjustment Assistance on Reconsideration

By letter dated December 1, 2004, a petitioner requested administrative reconsideration regarding Alternative Trade Adjustment Assistance (ATAA). The certification for Trade Adjustment Assistance was signed on November 5, 2004. The notice of determination was published in the **Federal Register** on December 9, 2004 (69 FR 71429).

The initial investigation determined that subject worker group possess skills that are easily transferable.

The Department has received new information that indicates that the workers possess skills that are not easily transferable.

At least five percent of the workforce at the subject firm is at least fifty years of age. Competitive conditions within the industry are adverse.

Conclusion

After careful review of the additional facts obtained on reconsideration, I conclude that the requirements of Section 246 of the Trade Act of 1974, as amended, have been met for workers at the subject firm.

In accordance with the provisions of the Act, I make the following certification:

All workers of Capitol Records, Inc., Customer Fulfillment Operations, A Subsidiary of EMI Music, including on-site leased workers of Adecco, Jacksonville, Illinois, who became totally or partially separated from employment on or after September 29, 2003, through November 5, 2006, are eligible to apply for adjustment assistance under section 223 of the Trade Act of 1974, and are also eligible to apply for alternative trade adjustment assistance under section 246 of the Trade Act of 1974.

Signed in Washington, DC, this 30th day of December, 2004.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E5–201 Filed 1–19–05; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–55,799]

CDI Professional Services, Workers at General Dynamics Land Systems, California Technical Center, Goleta, CA; Notice of Affirmative Determination Regarding Application for Reconsideration

By application of December 10, 2004, a petitioner requested administrative reconsideration of the Department of Labor's Notice of Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance, applicable to workers of the subject firm. The denial was signed on November 17, 2004, and the notice of determination was published in the **Federal Register** on December 9, 2004 (69 FR 71428).

The Department carefully reviewed the petitioner's request for reconsideration and has determined that the Department will conduct further investigation based on new information provided.

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 in Washington, DC, this 30th day of December, 2004.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E5–204 Filed 1–19–05; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–55,216]

ITW Insulation Systems, Nitro, WV; Notice of Affirmative Determination Regarding Application for Reconsideration

By application of October 4, 2004, the United Steelworkers of America, Local Union 14614, Nitro, West Virginia requested administrative reconsideration of the Department of Labor's Notice of Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance, applicable to workers of the subject firm. The denial was signed on August 11, 2004, and the notice of determination was published in the **Federal Register** on September 8, 2004 (69 FR 54320).

The petitioner has alleged that because the last separations occurred in August 2004, the relevant time period extends to the end of August 2004. The Union also alleged that the customer survey should have included primary customers located in the northeast part of the United States.

Because the investigatory period is limited to the petition date (July 7, 2004), the first request cannot be accommodated. However, the Department will conduct an expanded customer survey.

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 in Washington, DC, this 11th day of January, 2005.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E5–202 Filed 1–19–05; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–55,611]

KM Company, Including On-Site Leased Workers of AngKor, San Francisco, CA; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance on October 19, 2004, applicable to workers of KM Company, San Francisco, California. The notice was published in the **Federal Register** on November 12, 2004 (69 FR 65462).

At the request of a company official, the Department reviewed the certification for workers of the subject firm. New information shows that leased employees of AngKor were working on-site at KM Company, San Francisco, California.

Based on these findings, the Department is amending this certification to include workers of AngKor working on-site at KM Company, San Francisco, California.

The intent of the Department's certification is to include all workers at KM Company, who were adversely affected by increased imports.

The amended notice applicable to TA–W–55,611 is hereby issued as follows:

All workers of KM Company, San Francisco, California, including leased on-site workers of AngKor, who became totally or partially separated from employment on or after September 1, 2003, through October 19, 2006, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974, and are also eligible to apply for alternative trade adjustment assistance under Section 246 of the Trade Act of 1974.

Signed at Washington, DC, this 5th day of January 2005.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E5–208 Filed 1–19–05; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–55,344]

R&W Fashions, Inc., Formerly Known as Raymond Garment Cutting, San Francisco, CA; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on September 9, 2004, applicable to workers of R&W Fashion, Inc., San Francisco, California. The notice was published in the **Federal Register** on October 8, 2004 (69 FR 60426).

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. The workers were engaged in women's and girls' apparel.

The subject firm originally named Raymond Garment Cutting was renamed R&W Fashion, Inc. following an earlier corporate decision. The State agency reports that some workers separated from employment at the subject firm had their wages reported under a separate unemployment insurance (UI) tax account for Raymond Garment Cutting, San Francisco, California.

Accordingly, the Department is amending the certification to properly reflect this matter.

The intent of the Department's certification is to include all workers of R&W Fashion, Inc., formerly known as Raymond Garment Cutting, who were adversely affected by increased imports.

The amended notice applicable to TA–W–55,344 is hereby issued as follows:

All workers of R&W Fashion, Inc., formerly known as Raymond Garment Cutting, San Francisco, California, who became totally or partially separated from employment on or after July 22, 2003, through September 9, 2006, are eligible to apply for adjustment assistance under section 223 of the Trade Act of 1974.

Signed in Washington, DC, this 10th day of December, 2004.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E5–199 Filed 1–19–05; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–55,495]

Tesco Technologies, LLC, Headquarters Office, Auburn Hills, MI; Notice of Negative Determination on Reconsideration

On December 7, 2004, the Department issued a Notice of Affirmative Determination Regarding Application for Reconsideration for the workers and former workers of the subject firm. The notice was published in the **Federal Register** on December 20, 2004 (69 FR 76017).

The Department initially denied workers of Tesco Technologies, LLC, Headquarters Office, Auburn Hills, Michigan due to the lack of shift of production of assembly line equipment abroad and lack of import purchases during the relevant period.

In the request for reconsideration, the petitioner alleged that the workers worked ''strictly on General Motors Programs'' and that work shifted to India.

During the reconsideration investigation, the Department contacted the company and was informed that there was no shift of production abroad.

The Department contacted the two individuals of General Motors identified by the petitioner. One informed the Department that there was no outsourcing to India and the other contact advised that he was not a General Motors official and declined to make any comment.

The Department contacted another General Motors official that stated the subject company lost a major contract to a domestic competitor and that some design work was moved in-house.

Conclusion

After reconsideration, I affirm the original notice of negative determination of eligibility to apply for worker adjustment assistance for workers and former workers of Tesco Technologies, LLC, Headquarters Office, Auburn Hills, Michigan.

Signed in Washington, DC, this 11th day of January, 2005.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E5–203 Filed 1–19–05; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–55,781]

Walker Systems, Inc., Div of The Wiremold Company, Including Leased Workers of Manpower, Inc., and Leased Worker Mr. Charles Giersz, Williamstown, WV; 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 U.S.C. 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 18, 2004, applicable to workers of Walker Systems, Inc., division of The Wiremold Company, including leased workers of Manpower, Inc., Williamstown, West Virginia. The notice was published in the **Federal Register** on November 12, 2004 (69 FR 65463).

At the request of Mr. Charles Giersz, the Department reviewed the certification for workers of the subject firm. New information shows that a worker separation will occur involving a leased employee of the Williamstown, West Virginia facility of Walker Systems, Inc., division of The Wiremold Company. Mr. Charles Giersz provides engineering support services for the production of wire and cable systems for building at the Williamstown, West Virginia location of the subject firm.

Based on these findings, the Department is amending this certification to include a leased employee, Mr. Charles Giersz, of the Williamstown, West Virginia facility of Walker Systems, Inc., division of The Wiremold Company.

The intent of the Department's certification is to include all workers of Walker Systems, Inc., division of The Wiremold Company, including leased workers of Manpower, Inc., Williamstown, West Virginia, who were adversely affected by a shift in production to Mexico.

The amended notice applicable to TA–W–55,781 is hereby issued as follows:

All workers of Walker Systems, Inc., a division of The Wiremold Company, including leased workers of Manpower, Inc. and leased worker Mr. Charles Giersz, Williamstown, West Virginia, who became totally or partially separated from employment on or after October 12, 2003, through October 18, 2006, are eligible to apply for adjustment assistance under section 223 of the Trade Act of 1974, and are also eligible to apply for alternative trade adjustment assistance under section 246 of the Trade Act of 1974.

Signed in Washington, DC, this 5th day of January, 2005.

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E5–206 Filed 1–19–05; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–55,674 and TA–W–55,674A]

Winchester Electronics, a Subsidiary of Northrop Grumman Including Leased Workers of Hamilton Connections and Agentry, Wallingford, CT; Including an Employee of Winchester Electronics, Wallingford, CT, Located In Portsmouth, NH; Amended Notice of Certification Regarding Eligibility To Apply for Worker Adjustment Assistance and Negative Determination Regarding Eligibility To Apply for Alternative Trade Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Notice of Certification Regarding Eligibility to Apply for Worker Adjustment Assistance and Negative Determination Regarding Eligibility to Apply for Alternative Trade Adjustment Assistance on October 13, 2004, applicable to workers of Winchester Electronics, a subsidiary of Northrop Grumman, including leased workers of Hamilton Connections and Agentry, Wallingford, Connecticut. The notice was published in the **Federal Register** on November 12, 2004 (69 FR 65463).

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 Wallingford, Connecticut facility of Winchester Electronics located in Portsmouth, New Hampshire. Mr. Gregory Pollack provided sales support services for the production of connectors and cable assemblies at the Wallingford, Connecticut location of the subject firm.

Based on these findings, the Department is amending this certification to include an employee of the Wallingford, Connecticut facility of Winchester Electronics, a subsidiary of

Northrop Grumman, located in Portsmouth, New Hampshire.

The intent of the Department's certification is to include all workers of Winchester Electronics, a subsidiary of Northrop Grumman, Wallingford, Connecticut, who was adversely affected by a shift in production to Mexico.

The amended notice applicable to TA–W–55,674 is hereby issued as follows:

All workers of Winchester Electronics, a subsidiary of Northrop Grumman, including leased workers of Hamilton Connections and Agentry, Wallingford, Connecticut (TA–W–55,674), including an employee of Winchester Electronics, a subsidiary of Northrop Grumman, Wallingford, Connecticut, located in Portsmouth, New Hampshire (TA–W–55,674A), who became totally or partially separated from employment on or after September 22, 2003, through October 13, 2006, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

I further determine that all workers of Winchester Electronics, a subsidiary of Northrop Grumman, including leased workers of Hamilton Connections and Agentry, Wallingford, Connecticut, including an employee of Winchester Electronics, a subsidiary of Northrop Grumman, Wallingford, Connecticut, located in Portsmouth, New Hampshire, are denied eligibility to apply for alternative trade adjustment assistance under Section 246 of the trade Act of 1974, as amended.

Signed in Washington, DC, this 17th day of December 2004.

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E5–207 Filed 1–19–05; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment Standards Administration

Proposed Collection; Comment Request

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c)(2)(A)]. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Employment Standards Administration is soliciting comments concerning the proposed collection: Notice of Recurrence (CA–2a). A copy of the proposed information collection request can be obtained by contacting the office listed below in the addresses section of this Notice.

DATES: Written comments must be submitted to the office listed in the addresses section below on or before March 22, 2005.

ADDRESSES: Ms. Hazel M. Bell, U.S. Department of Labor, 200 Constitution Ave., NW, Room S–3201, Washington, DC 20210, telephone (202) 693–0418, fax (202) 693–1451, *E-mail bell.hazel@dol.gov.* Please use only one method of transmission for comments (mail, fax, or E-mail).

SUPPLEMENTARY INFORMATION: I. *Background:* The Office of Workers' Compensation Programs (OWCP) administers the Federal Employees' Compensation Act (FECA) (5 U.S.C. 8101, *et seq.*), which provides for continuation of pay or compensation for work related injury or disease resulting from Federal employment. Regulation 20 CFR 10.121 designates form CA–2a to request information from claimants with previously accepted injuries who claim a recurrence of disability, and from supervisors. This information collection is currently approved for use through July 31, 2005.

II. *Review Focus:* The Department of Labor is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submissions of responses.

III. *Current Actions:* The Department of Labor seeks the extension of approval to collect this information in order to determine if a claimant has suffered a recurrence of disability related to an accepted injury, and, if so, the appropriate benefits payable.

Type of Review: Extension.

Agency: Employment Standards Administration.

Title: Notice of Recurrence.

OMB Number: 1215–0167.

Agency Number: CA–2a.

Affected Public: Individuals or Households.

Total Respondents: 708.

Total Annual responses: 708.

Average Time per Response: 30 minutes.

Estimated Total Burden Hours: 354.

Frequency: Once per recurrence.

Total Burden Cost (capital/startup): $0.

Total Burden Cost (operating/maintenance): $283.00.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: January 13, 2005.

Bruce Bohanon,

Chief, Branch of Management Review and Internal Control, Division of Financial Management, Office of Management, Administration and Planning, Employment Standards Administration.

[FR Doc. 05–1129 Filed 1–19–05; 8:45 am]

BILLING CODE 4510–CH–P

DEPARTMENT OF LABOR

Employment Standards Administration; Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determination in these decisions of prevailing rates and fringe benefits have been made in accordance with 29

CFR part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR Part 1, Appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedeas decisions thereto, contain no expiration dates and are effective from their date of notice in the **Federal Register**, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled ''General Wage Determinations Issued Under The Davis-Bacon And Related Acts,'' shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue, NW., Room S–3014, Washington, DC 20210.

Modification to General Wage Determination Decisions

The number of the decisions listed to the Government Printing Office document entitled ''General Wage Determinations Issued Under the Davis-Bacon and Related Acts'' being modified are listed by volume and State. Dates of publication in the **Federal Register** are in parentheses following the decisions being modified.

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General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled ''General Wage Determinations Issued Under the Davis-Bacon and Related Acts''. This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the country.

General wage determinations issued under the Davis-Bacon and related Acts are available electronically at no cost on the Government Printing Office site at *http://www.access.gpo.gov/davisbacon*. They are also available electronically by subscription to the Davis-Bacon Online Service (*http://davisbacon.fedworld.gov*) of the National Technical Information Service (NTIS) of the U.S. Department of Commerce at 1–800–363–2068. This subscription offers value-added features such as electronic delivery of modified wage decisions directly to the user's desktop, the ability to access prior wage decisions issued during the year, extensive Help Desk Support, etc.

Hard-copy subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402. (202) 512–1800.

When ordering hard-copy subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the six separate Volumes, arranged by State. Subscriptions include an annual edition (issued in January or February) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates will be distributed to subscribers.

Signed in Washington, DC, this 13th day of January, 2005.

John Frank,

Acting Chief, Branch of Construction Wage Determinations.

[FR Doc. 05–1024 Filed 1–19–05; 8:45 am]

BILLING CODE 4510–27–M

LIBRARY OF CONGRESS

Copyright Office

[Docket No. 2005–1]

Registration of Claims to Copyright: New Format for Certain Copyright Registration Certificates

AGENCY: Copyright Office, Library of Congress.

ACTION: Policy decision.

SUMMARY: The Copyright Office of the Library of Congress is changing the format of certain copyright registration certificates issued under the Copyright Act. Certificates in the new format will be issued only for motion pictures and other audiovisual works registered in class PA, as part of a pilot project. For all other categories of registrations, the certificate format will not change. The substantive content of all certificates will remain the same.

DATES: *Effective Date:* February 14, 2005.

FOR FURTHER INFORMATION CONTACT: Jeff Cole, Acting Reengineering Program Manager, or Kent Dunlap, Principal Legal Advisor to the General Counsel. Telephone: (202) 707–8350. Telefax: (202) 707–8366.

SUPPLEMENTARY INFORMATION:

1. Background

Section 410(a) of the copyright law provides that after the Register of Copyrights examines a submitted copyright claim and determines that it can be registered, ''the Register shall register the claim and issue to the applicant a certificate of registration under the seal of the Copyright Office. The certificate shall contain the information given in the application, together with the number and effective date of registration.'' Under practices in place since 1978, registration certificates are reproductions of the paper application form.

The Copyright Office is reengineering its business processes to improve the efficiency and timeliness of its public services. The Office is seeking to provide more copyright services online, ensure the prompt availability of copyright records, provide better tracking of items in the workflow, and reduce paper handling. Reengineering is a multi-year effort that began in 2000, and full implementation is scheduled for the fall of 2006.

Under the reengineered process, copyright registration certificates will be generated from the registration data stored in an electronic information system. The data will be entered into the system either directly from an online electronic application, or by the scanning of a revised paper application form. Unlike the current certificate, the new certificate will not be a reproduction of the paper application form.

2. Pilot for Registration of Motion Pictures and Other Audiovisual Works

To test the new processes, a pilot will begin on February 14, 2005, involving registrations for motion pictures and other audiovisual works registered in class PA. During the pilot, applicants will continue to file claims using the current Form PA paper application. Online electronic applications will be the subject of a later pilot.

In the pilot, the certificate will be generated from the registration data scanned into the system from the Form PA paper application. While the substantive content of the new certificate will be almost identical to that of the current one, the format and general appearance will be significantly different. A sample of the new certificate may be viewed on the Copyright Office Web site at *http://www.copyright.gov/docs/mp-pilot-cert.html.*

All of the substantive registration information entered on the paper form by the applicant will appear on the certificate, organized by the same space numbers and headings. At the top of the certificate, the same elements will appear: the registration number, the effective date of registration, and the

certification, including the Copyright Office seal and the signature of the Register of Copyrights.

Certain incidental information unrelated to the substance of the copyright claim will be eliminated from the new certificate. The omitted material may include the instructional text found on the paper form, some headings of lines left blank where the information is not required, the ''checked by'' line in the ''Copyright Office use only'' space, the deposit account name and number, and the handwritten signature. Also, the mailing address for the certificate will be printed on a separate sheet of paper to facilitate mailing.

3. Copyright Office Practices in Administering the Pilot

When appropriate, the Copyright Office will continue to make amendments to information on the Form PA application, with the authorization of the applicant by telephone call, letter, or email. In a change from the current procedure, such amendments will no longer appear as annotations on the certificate; instead, the certificate will show only the corrected information. The applicant's authorization for the amendment, as well as all correspondence and records of phone calls, will be stored in a permanent electronic file created for every registration. This information will be part of the public record, and persons wishing to obtain access to or copies of this information may do so under existing procedures set forth at 37 CFR 201.2.

In limited situations, following existing practices, the Copyright Office will make annotations without contacting the applicant, when the information is clear from the deposit copy or other registration materials. In addition, annotations may be added to the certificate to clarify the scope of the copyright claim in accordance with the copyright law or Copyright Office regulations. Examples include: noting the nature of the deposit copy; noting the presence of preexisting material clearly identified as such in the deposit copy; and commenting on a reference to an element not subject to copyright protection under 17 USC 102(b), *e.g.* ''idea,'' or 37 CFR 202.1, *e.g.* ''title.''

4. Transition Period

Certificates in the new format will be produced only for applications included in the pilot project and initially received in the Copyright Office on or after the start date, February 14, 2005. For applications for motion pictures and other class PA audiovisual works already in process in the Copyright Office on that date, including those for which correspondence is pending, certificates will continue to be issued in the current format, even after the pilot begins.

Dated: January 14, 2005.

Marybeth Peters,

Register of Copyrights.

[FR Doc. 05–1131 Filed 1–19–05; 8:45 am]

BILLING CODE 1410–30–M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards; Subcommittee Meeting on Planning and Procedures; Notice of Meeting

The ACRS Subcommittee on Planning and Procedures will hold a meeting on February 9, 2005, Room T–2B1, 11545 Rockville Pike, Rockville, Maryland.

The entire meeting will be open to public attendance, with the exception of a portion that may be closed pursuant to 5 U.S.C. 552b(c) (2) and (6) to discuss organizational and personnel matters that relate solely to the internal personnel rules and practices of the ACRS, and information the release of which would constitute a clearly unwarranted invasion of personal privacy.

The agenda for the subject meeting shall be as follows:

Wednesday, February 9, 2005—3 p.m.–4:30 p.m.

The Subcommittee will discuss proposed ACRS activities and related matters. The Subcommittee will gather information, analyze relevant issues and facts, and formulate proposed positions and actions, as appropriate, for deliberation by the full Committee.

Members of the public desiring to provide oral statements and/or written comments should notify the Designated Federal Official, Mr. Sam Duraiswamy (telephone: 301–415–7364) between 7:30 a.m. and 4:15 p.m. (ET) five days prior to the meeting, if possible, so that appropriate arrangements can be made. Electronic recordings will be permitted only during those portions of the meeting that are open to the public.

Further information regarding this meeting can be obtained by contacting the Designated Federal Official between 7:30 a.m. and 4:15 p.m. (ET). Persons planning to attend this meeting are urged to contact the above named individual at least two working days prior to the meeting to be advised of any potential changes in the agenda.

Dated: January 12, 2005.

John H. Flack, Acting Branch Chief, ACRS/ACNW.

[FR Doc. 05–1088 Filed 1–19–05; 8:45 am]

BILLING CODE 7590–01–P

OVERSEAS PRIVATE INVESTMENT CORPORATION

Sunshine Act Meeting; January 27, 2005 OPIC Annual Public Hearing

OPIC's Sunshine Act notice of its annual public hearing was published in the **Federal Register** (Volume 70, Number 3, Page 928) on January 5, 2005. No requests were received to provide testimony or submit written statements for the record; therefore, OPIC's annual public hearing scheduled for 2 p.m. on January 19, 2005 has been cancelled.

CONTACT FOR FURTHER INFORMATION: Information on the hearing cancellation may be obtained from Connie M. Downs at (202) 336–8438, via facsimile at (202) 218–0136, or via e-mail at *cdown@opic.gov.*

Dated: January 14, 2005.

Connie M. Downs,

OPIC Corporate Secretary.

[FR Doc. 05–1212 Filed 1–18–05; 12:28 pm]

BILLING CODE 3210–01–M

OVERSEAS PRIVATE INVESTMENT CORPORATION

Sunshine Act Meeting; January 19, 2005, Public Hearing

OPIC's Sunshine Act notice of its Public Hearing in conjunction with each Board meeting was published in the **Federal Register** (Volume 70, Number 3, Page 982) on January 5, 2005. No requests were received to provide testimony or submit written statements for the record; therefore, OPIC's public hearing in conjunction with OPIC's January 27, 2005 Board of Directors meeting scheduled for 9:30 a.m. on January 27, 2005 has been cancelled.

FOR FURTHER INFORMATION CONTACT: Information on the hearing cancellation may be obtained from Connie M. Downs at (202) 336–8438, via facsimile at (202) 218–0136, or via e-mail at *cdown@opic.gov.*

Dated: January 14, 2005.

Connie M. Downs,

OPIC Corporate Secretary.

[FR Doc. 05–1213 Filed 1–18–05; 12:28 pm]

BILLING CODE 3210–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–51029; File No. SR–ISE–2004–29)]

Self-Regulatory Organizations; Order Approving Proposed Rule Change and Notice of Filing and Order Granting Accelerated Approval to Amendment No. 2 to the Proposed Rule Change by the International Securities Exchange, Inc., Relating to Proposed Amendments to Its Certificate of Incorporation and Constitution and ISE Rule 303

January 12, 2005.

I. Introduction

On October 22, 2004, the International Securities Exchange, Inc., (''Exchange'' or ''ISE'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 [1] (''Act''), and Rule 19b–4 thereunder,[2] a proposed rule change to amend its Certificate of Incorporation (''Certificate of Incorporation'') and Constitution (''Constitution''). The proposed rule change was published for comment in the **Federal Register** on November 12, 2004.[3] On December 21, 2004, ISE filed Amendment No. 1 to the proposal. On December 22, 2004, ISE withdrew Amendment No. 1 and filed Amendment No. 2 to the proposal.[4] No comment letters were received on the proposed rule change. This order approves the proposed rule change, as amended.[5]

II. Description of Proposed Rule Change

The purpose of the proposed rule change is to amend ISE's Certificate of Incorporation and Constitution (also serving as the Exchange's bylaws), as well as ISE Rule 303, in connection with ISE's contemplated initial public offering (''IPO'') of its Class A common stock, par value $.01 per share (the ''Class A Common Stock''), of the Exchange.[6] The Exchange represents that the proposed rule change, if approved, would become effective concurrently with the IPO.[7]

Following the IPO, the Exchange will continue to operate as a registered ''national securities exchange'' under Section 6 of the Act,[8] and will maintain its current regulatory authority over its members. All persons using the Exchange will continue to be subject to the Exchange's rules. The Exchange also will continue to interpret its rules to require that any revenues it receives from regulatory fees or regulatory penalties will be segregated and applied to fund the legal, regulatory and surveillance operations of the Exchange and will not be used to pay dividends to the holders of Class A Common Stock.[9] Certain of the proposed changes to the Certificate of Incorporation and Constitution, as well as the proposed changes to ISE Rule 303, are intended to ensure that the IPO of the Exchange will not unduly interfere with or restrict the ability of the Exchange or the Commission to effectively carry out their respective regulatory oversight responsibilities under the Act and generally to enable the Exchange to operate in a manner that complies with the federal securities laws, including furthering the objectives of Section 6(b)(5) of the Act.[10] ISE also represents that some of the proposed changes to the Certificate of Incorporation and Constitution are intended to facilitate the IPO or otherwise relate to the Exchange's status as a public company following its IPO.

A. Current Capital Stock and Board Structure of ISE [11]

The Exchange currently has two classes of common stock, Class A Common Stock and Class B common stock, par value $.01 per share (''Class B Common Stock'').[12] The Class A Common Stock has the traditional features of common stock, including voting, dividend and liquidation rights.[13] Subject to certain limitations, holders of Class A Common Stock are entitled to vote on all matters submitted to stockholders for a vote.[14]

The Exchange has three series of Class B Common Stock, each series representing certain trading rights and privileges and limited voting rights. Ownership of the Class B Common Stock, Series B–1 (''Series B–1 Common Stock''), is a predicate to obtaining the trading rights and privileges associated with a Primary Market Maker.[15] Ownership of the Class B Common Stock, Series B–2 (''Series B–2 Common Stock''), is a predicate to obtaining the trading rights and privileges associated

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 50641 (November 5, 2004), 69 FR 65481.

[4] In Amendment No. 2, ISE made typographical corrections to the proposed Amended and Restated Certificate of Incorporation (the ''Amended Certificate'') and proposed Amended and Restated Constitution (''Amended Constitution''), previously filed as part of the proposal, and revised Section 2 of its Form 19b–4 (Procedures of the Self-Regulatory Organization) to reflect actions by the ISE Board and ISE's stockholders approving the final forms of the Amended Certificate and Amended Constitution. In Amendment No. 2, ISE also proposed changes to ISE Rule 303(b) to incorporate the 20% limit on the number of trading rights associated with ISE's Series B–1 and Series B–2 Common Stock that may be exercised by a Member of ISE that currently is imposed by Section 14(b) of the Constitution, and amended related portions of its Form 19b–4. Exhibit 5 to Amendment No. 2, which sets forth the text of the Amended Certificate, the Amended Constitution and Rule 303, as proposed to be amended, is available on the Commission's Web site (*http://www.sec.gov/rules/sro.shtml*), at the Commission and at ISE. The complete text of Amendment No. 2 is available at the Commission and the ISE.

At the request of the ISE, the Commission staff corrected the description of certain typographical corrections to the amended rule text provided in Amendment No. 2. Telephone conversation between Katherine Simmons, Vice President and Assistant Secretary, ISE and Jennifer C. Dodd, Attorney, Division of Market Regulation, Commission on January 4, 2005.

[5] The proposed rule change includes the Amended Certificate, Amended Constitution (also serving as the ''Exchanges Bylaws''), and proposed amendments to Rule 303.

[6] Separately, the Exchange also is contemplating a reorganization into a holding company structure, the completion of which is contingent upon receipt of a favorable tax ruling from the Internal Revenue Service and Commission approval. The Exchange will separately file a proposed rule change seeking Commission approval of that reorganization. The Exchange currently anticipates that the reorganization will occur sometime following the IPO.

[7] In connection with the proposed IPO, the Exchange filed a registration statement on Form S–1 with the Commission on July 2, 2004 (File No. 333–117145); as amended from time to time (the ''Registration Statement'').

[8] 15 U.S.C. 78f.

[9] The Exchange adopted this interpretation in connection with its demutualization in 2002. *See* Securities Exchange Act Release No. 45803 (April 23, 2002), 67 FR 21306 (April 30, 2002).

[10] 15 U.S.C. 78f(b)(5).

[11] For a discussion of the Exchange's current capital board structure, *see* Securities Exchange Act Release No. 45803, *supra* note 9.

[12] The Exchange represents that some owners of shares of Class A Common Stock also own shares of Class B Common Stock. For a list of principal stockholders and their ownership of Class A and Class B Common Stock, *see* the Registration Statement, ''Principal and Selling Stockholders.''

[13] The Amended Certificate will clarify that, as is currently the case, holders of shares of Class A Common Stock are entitled to all residual interests in the event of a liquidation, winding up or dissolution of the Exchange after payment of or provision for the obligations of the Exchange, any preferential amounts payable to holders of shares of preferred stock and amounts payable to the holders of any outstanding shares of Class B Common Stock.

[14] For the provisions relating to the Class A Common Stock, *see* Certificate of Incorporation, Article Fourth, Subdivision II(a). The holders of shares of Class A Common Stock are not entitled to vote with respect to the Core Rights (as defined in note 19, *infra*), the definition of ''Core Rights,'' or the election of Industry Directors (as defined herein, *see infra* note 22 and accompanying text).

[15] ''Primary Market Makers'' are market makers with significant responsibilities, including overseeing the opening of trading in their assigned options classes, providing continuous quotations in all of their assigned options classes, and handling customer orders that are not automatically executed. *See* Chapter 8 of the ISE Rules and the Registration Statement, ''Business,'' for a discussion of the role of Primary Market Makers on the Exchange.

with a Competitive Market Maker.[16] Ownership of the Class B Common Stock, Series B–3 (the ''Series B–3 Common Stock''), is a predicate to obtaining the trading rights and privileges associated with an Electronic Access Member.[17]

The holders of the Class B Common Stock are not entitled to receive dividends; rather, the holders of such stock are only entitled to receive an amount equal to the par value of each share of Class B Common Stock (*i.e.*, $.01) held upon the liquidation, dissolution or winding up of the Exchange.[18] Also, such holders are entitled to vote on the election of directors representing the applicable series of Class B Common Stock, with each series of Class B Common Stock being entitled to elect two directors to the Board of Directors of ISE (the ''ISE Board'').

The owners of Series B–1 Common Stock and Series B–2 Common Stock also are entitled to vote on any change in, or amendment or modification to, the ''Core Rights'' [19] or the definition of Core Rights. In such a case, the Exchange must obtain the approval of the holders of a majority of both the of Series B–1 Common Stock and the Series B–2 Common Stock, each voting as a separate class with respect to such action.[20]

The ISE Board consists of 15 members, eight of whom are elected by the holders of the Class A Common stock (the ''Non-Industry Directors''),[21] six of whom are elected by the holders of the Class B Common Stock (the ''Industry Directors'') [22] and the Chief Executive Officer of the Exchange. In accordance with the current Certificate of Incorporation and Constitution of the Exchange, each director, other than the Chief Executive Officer, holds office for a term of two years.[23] The Chief Executive Officer holds office for a term of one year, or such earlier time as such person no longer serves as Chief Executive Officer. The directors, other than the Chief Executive Officer, are divided into two classes, designated as Class I and Class II directors.[24] At each annual meeting of stockholders, the successors of the class of directors whose term expires at that meeting will be elected to hold office for a term expiring at the annual meeting of stockholders held in the second year following the year of their election, and until their successors are elected and qualified. Directors, other than the Chief Executive Officer, may not hold office for more than three consecutive terms.[25]

In addition, the Exchange currently has an Audit Committee (which is proposed to be renamed as the Finance & Audit Committee), a Corporate Governance Committee and a Compensation Committee, all of which are governed by charters.[26]

B. Proposed Amendments to Certificate of Incorporation and Constitution

The Exchange proposes to amend its current Certificate of Incorporation and Constitution to:

- Increase the number of authorized shares of Class A Common Stock from 5,000,000 to 150,000,000;
- Remove the term limits of the Non-Industry Directors;
- Adopt certain limitations on the ownership and voting of shares of Class A Common Stock and of Class B Common Stock;
- Require the Board to consider applicable requirements of the Act in managing the business and affairs of the Exchange;
- Clarify that the Exchange has a Corporate Governance Committee and Compensation Committee, and that these committees, as well as the Finance & Audit Committee of the Exchange, are governed by charters;
- Adopt certain anti-takeover provisions, including with respect to the nomination of Non-Industry Directors by the holders of Class A Common Stock; and
- Reduce the vote of the holders of Class A Common Stock required to amend certain provisions of the Amended Constitution from two-thirds of the outstanding shares of Class A Common Stock to a majority of such shares.[27]

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[16] ''Competitive Market Makers'' are market makers that add depth and liquidity to the market and are required to provide continuous quotations in at least 60% of the options classes in their assigned group. *See* Chapter 8 of the ISE Rules and the Registration Statement, ''Business,'' for a discussion of the role of Competitive Market Makers on the Exchange.

[17] ''Electronic Access Members'' are broker-dealers that represent agency and proprietary orders on the Exchange, and cannot enter quotations or otherwise engage in market making activities on the Exchange. *See* Chapter 8 of the ISE Rules and the Registration Statement, ''Business,'' for a discussion of the role of Electronic Access Members on the Exchange.

[18] The Amended Certificate will clarify that, as is currently the case, such amount will be paid before any proceeds from the liquidation, dissolution or winding up of the Exchange are paid to the holders of Class A Common Stock.

[19] ''Core Rights'' as defined in Article Fourth, Subdivision II(a)(i) of the Certificate of Incorporation means any ''increase in the number of authorized shares of the Series B–1 Stock or the Series B–2 Stock.''

[20] For the provisions relating to the Class B Common Stock, *see* Certificate of Incorporation, Article Fourth, Subdivision II(b). The Amended Certificate proposes to make certain technical amendments to clarify that, as is currently the case, neither the holders of Class A Common Stock nor the holders of Series B–3 Common Stock are entitled to vote on the Core Rights.

Additionally, the vote required with respect to the Core Rights would be increased from a majority of the votes cast by each of the holders of the Series B–1 Stock and Series B–2 Stock to a majority of the then outstanding shares of each of the Series B–1 Stock and Series B–2 Stock. *See* Amended Certificate, Article Fourth, Subdivision II(a) and (b). As is now the case, any increase or decrease in the overall number of authorized shares of Class B Common Stock would require approval of the holders of a majority of the outstanding shares of Class A Common Stock, voting as a separate class, and the holders of a majority of the outstanding shares of Series B–1 Stock and Series B–2 Stock, voting together as a separate class; any decrease in the number of authorized shares of Series B–1 Stock or Series B–2 Stock would require approval of the holders of a majority of the outstanding shares of Class A Common Stock; and any increase or decrease in the number of authorized shares of Series B–3 Stock would require approval of the holders of a majority of the outstanding shares of Class A Common Stock. The Exchange also may issue preferred stock in the future, the terms of which would be determined by the ISE Board, subject to Commission approval. *See* Certificate of Incorporation, Article Fourth, Subdivision I.

[21] Nominees for election to the ISE Board to serve as Non-Industry Directors are currently made by the Exchange's Corporate Governance Committee, on which all of the Non-Industry Directors serve. Stockholders also may nominate Non-Industry Director candidates for election to the ISE Board by petition. *See* Section 3.10 of the Constitution.

[22] Nominees for election to the ISE Board to serve as Industry Directors are currently made by the Exchange's Nominating Committee, which is not a committee of the ISE Board, and is comprised of representatives of the holders of each series of Class B Common Stock. Stockholders also may nominate Industry Director candidates for election to the ISE Board by petition. *See* Section 3.10 of the Constitution.

[23] The Amended Certificate would clarify that the ISE Board is authorized to fill any vacancies on the ISE Board. *See* Amended Certificate, Article Fourth, Subdivision II(a)(i) and (b)(v)(A). The Amended Certificate also would provide that directors may only be removed for cause by the stockholders to the extent permitted under applicable law, and not by a vote of two-thirds of the directors as is currently the case. *See* Amended Certificate, Article Fifth, paragraph (b).

[24] For a list of the Exchange's current directors and their respective classes, *see* Registration Statement, ''Management.'' As currently and prospectively constructed, each class will be composed of half of the Non-Industry Directors and half of each of the Series B–1, Series B–2 and Series B–3 directors.

[25] For the provisions relating to the ISE Board, see Certificate of Incorporation, Article Fifth and Constitution, Section 3.2.

[26] For a discussion of these committees and their responsibilities, *see* Registration Statement, ''Management.'' The Exchange represents that the ISE Board designated these committees pursuant to its authority under Section 5.1 of the Constitution, though the Corporate Governance and Compensation Committees are not specifically designated in the current Constitution itself.

[27] The Exchange also would correct certain typographical and grammatical errors, eliminate outdated or irrelevant references and make certain non-material changes to the Certificate of Incorporation and Constitution. Such changes include, among others, the flexibility to provide notice of ISE Board meetings by several alternate means (*see* Section 3.6 of the Amended Constitution); the empowerment of the ISE Board

The Exchange also proposes to amend ISE Rule 303 to provide for certain member trading concentration limits with respect to shares of Class B Common Stock currently provided for in the Constitution, as discussed below.

1. Increase in Number of Authorized Shares of Class A Common Stock of ISE

The Exchange proposes to increase the number of authorized shares of ISE's Class A Common Stock in the Amended Certificate from 5,000,000 to 150,000,000.[28] The Exchange represents that this increase will provide the ISE Board with the flexibility to declare a stock dividend that, in the opinion of the underwriters of its IPO, will be sufficient to result in an appropriate market price per share of the Class A Common Stock. The Exchange also represents that the increase in the number of authorized shares of Class A Common Stock will provide shares: (1) To be offered in ISE's IPO, as well as additional shares that can be used by the Exchange for future acquisitions that may be approved by the Board (and by Class A stockholders to the extent required by the rules of the marketplace for the shares of Class A Common Stock); and (2) to be used by ISE for stock options, stock purchase and other equity compensation plans that are approved by the ISE Board (and by Class A stockholders to the extent required by the rules of the marketplace for the shares of Class A Common Stock).

2. Change in the Term Limits of the ISE Board

The Exchange represents that in order to maintain continuity with respect to its Non-Industry Directors during the transition of the Exchange to a public company, the Exchange proposes that the three-term limit (a total of six years of service) currently in the Certificate of Incorporation and Constitution with respect to all directors, other than the Chief Executive Officer, would apply only to Industry Directors.[29] The Exchange also represents that currently, all of ISE's Non-Industry Directors face term limits that would result in a total turn-over of such directors over a two-year period. The Exchange believes that removing term limits for Non-Industry Directors will allow the ISE Board to continue to function with experienced Non-Industry Directors, thereby facilitating a smooth transition to a public company structure. Once it becomes a public company, the Exchange represents that it will address term limits for Non-Industry Directors through amendments to its Corporate Governance Principles.[30]

3. Ownership and Voting Limitations With Respect to the Exchange's Capital Stock [31]

a. *Ownership Limitations.* Under the proposed Amended Certificate, no ''Person'' [32] either alone or together with its ''Related Persons'' [33] would be permitted to own, directly or indirectly, of record or beneficially,[34] shares of capital stock (whether common or preferred stock) of the Exchange (1) constituting more than 40 percent of the then outstanding shares of any class or series of capital stock (the ''40 percent ownership limitation''); or (2) constituting more than 20 percent of the then outstanding shares of any class or series of capital stock if such holder also is a member of the Exchange (that is, a Primary Market Maker, Competitive Market Maker or Electronic Access Member) (the ''20 percent member ownership limitation'').[35]

Furthermore, pursuant to the Amended Certificate, any Person, alone or together with its Related Persons, who owns more than five percent of the then outstanding shares of any class or series of the Exchange's capital stock will be required to provide certain information to the Board and will have an ongoing obligation to update such information.[36] The Exchange believes these provisions will enable it to obtain information necessary to determine whether there has been a violation of the voting or ownership limitations described herein.

The Exchange represents that it would apply standard corrective procedures used by public companies with similar

(instead of the Chief Executive Officer) to appoint and remove officers (*see* Sections 4.2 and 4.3 of the Amended Constitution); the consolidation of the positions of Chief Executive Officer and President (*see* Section 4.1 of the Amended Constitution); and the prohibition on ownership of shares of Class B Common Stock by officers of the Exchange (*see* Section 4.5 of the Amended Constitution).

[28] *See* Amended Certificate, Article Fourth.

[29] *See* Amended Certificate, Article Fifth, and Amended Constitution, Section 3.2.

[30] Because the ISE Board believes it is important that following the Exchange's IPO there be a smooth transition from the Non-Industry Directors serving at the time of the IPO to their successors, the ISE Board has adopted Corporate Governance Principles providing that it may be appropriate for up to four of the eight original Non-Industry Directors to serve one additional term. This would result in a transition to new Non-Industry Directors over a four-year period, rather than a two-year period. The ISE Corporate Governance Committee will determine whether, and how, to provide for this phased transition.

[31] Currently, with the exception of certain exemptions for Founders (as defined in the Constitution), no holder of Class A Common Stock, together with any affiliate (as defined in the Constitution), shall vote or give any proxy in relation to a vote with respect to any shares owned in excess of 20 percent of the Class A Common Stock, and no holder of Class B Common Stock, together with any affiliate (as defined in the Constitution) may own more than 20 percent of Series B–1 Stock or Series B–2 Stock. In addition, no Member (as defined in the Constitution), together with any affiliate (as defined in the Constitution), may be approved to exercise trading rights associated with more than 20 percent of Series B–1 Stock or Series B–2 Stock (the ''member trading concentration limit''). Certificate of Incorporation, Article Fourth, Subdivision II(a)(iv) and Constitution, Article XIV. *See also* Securities Exchange Act Release No. 45803, *supra* note 9. As discussed herein, the Exchange proposes to amend ISE Rule 303 to provide for the member concentration limit that is currently provided for in the Constitution.

[32] ''Person'' as defined in Article Fourth, Subdivision III of the Amended Certificate means any ''individual, partnership (general or limited), joint stock company, corporation, limited liability company, trust or unincorporated organization or any governmental entity or agency or political subdivision thereof.''

[33] ''Related Person'' as defined in Article Fourth, Subdivision III of the Amended Certificate means ''(1) with respect to any Person, all 'affiliates' and 'associates' of such Person (as such terms are defined in Rule 12b–2 under the Act); (2) with respect to any Person constituting a Member, any broker or dealer with which such Member is associated; and (3) any two or more Persons that have any agreement, arrangement or understanding (whether or not in writing) to act together for the purpose of acquiring, voting, holding or disposing of shares of the capital stock of the [Exchange].''

[34] Beneficial ownership (and derivative or similar words) as defined in Article Fourth, Subdivision III of the Amended Certificate, would have the meaning set forth in Regulation 13D–G under the Act. The Exchange believes that use of this existing Commission definition will aid it in verifying the ownership of its capital stock by monitoring filings on Schedules 13D and 13G by its stockholders.

[35] *See* Amended Certificate, Article Fourth, Subdivisions III(a)(i) and (a)(ii).

[36] Article Fourth, Subdivision III(a)(iii) of the Amended Certificate requires that any Person, either alone or together with its Related Persons, that at any time owns 5 percent or more of the then outstanding shares of any class or series of capital stock of ISE, that has the right by its terms to vote in the election of members of the ISE Board, must, immediately upon so owning 5 percent or more, give the ISE Board written notice of such ownership stating: (1) Such Person's full legal name; (2) such Person's title or status and the date on which such title or status was acquired; (3) such Person's approximate ownership interest in the Exchange; and (4) whether such Person has the power, directly or indirectly, to direct the management or policies of the Exchange, whether through ownership of securities, by contract or otherwise. Each such Person must notify the ISE Board of any changes in ownership except when such change is an increase or decrease of less than 1 percent in the ownership percentage so reported (such increase or decrease to be measured cumulatively from the amount shown on the last such report) unless any increase or decrease of less than 1 percent results in such Person so owning more or less than 20 percent or more than 40 percent of the shares of any class or series of capital stock then outstanding (at a time when such Person so owned less than such percentages), as the case may be. The Exchange represents that it also will consider, among other things, any filings made with the Commission under Section 13(d) and Section 13(g) of the Act by such Person and its Related Persons and will aggregate all shares owned or voted by such Person and its Related Persons deemed to be beneficially owned by them. For information on ISE's current principal stockholders, *see* also the Registration Statement, ''Principal and Selling Stockholders.''

ownership limits if any Person, alone or together with its Related Persons, purports to sell, transfer, assign or pledge any shares of capital stock in the Exchange in violation of the ownership limits. Specifically, pursuant to the Amended Certificate, any such sale, transfer, assignment or pledge would be void, and that number of shares in excess of the ownership limitation would be deemed to have been transferred to the Exchange, as special trustee of a charitable trust, for the exclusive benefit of a charitable beneficiary to be determined by the Exchange.[37] These corrective procedures also would apply if there is any other event causing any holder of capital stock to exceed the ownership limits, such as a repurchase of shares by the Exchange.[38] The automatic transfer would be deemed to be effective as of the close of business on the business day prior to the date of the violative transfer or other event.

The special trustee of the trust would be required to sell the excess shares to a person whose ownership of shares is not expected to violate the ownership limitations, subject to the right of the Exchange to repurchase those shares.[39] The net proceeds of the sale would be distributed first to the original prohibited transferee or holder, who would receive the lesser of (1) the price per share received by the Exchange from the transfer of the excess shares, (2) the price per share the prohibited transferee or holder paid for the shares in the violative transfer, or (3) if the prohibited transferee or holder did not give value for such excess shares, a price per share equal to the market price for the excess shares on the date of the purported transfer or other event that resulted in the excess shares, except that in the case of a prohibited holder holding excess shares solely as the result of an action or event by the Exchange (such as an action resulting in a reduction in the number of outstanding shares), such prohibited holder would receive the greater of (1) or (3) above for the excess shares. After such distribution, any proceeds in excess of the amount payable to the prohibited transferee or holder would be payable to the charitable beneficiary. Prior to the sale, the special trustee would be entitled to receive, in trust for the beneficiary, all dividends and other distributions paid by the Exchange with respect to the excess shares, and also would be entitled to exercise all voting rights with respect to the excess shares.[40]

In addition, excess shares (including any shares deemed to be excess shares by reason of a reduction in outstanding shares caused by a purchase of excess shares by the Exchange) would be deemed to have been offered for sale to the Exchange.[41] The Exchange shall have the right to accept such offer until the special trustee has sold the shares held in the charitable trust.[42] If the Exchange accepts such offer, it would determine the additional number of shares (if any) that become excess shares by reason of the reduction in outstanding shares caused by the Exchange's purchase of excess shares (whether any Person, either alone or together with its Related Persons, holds such excess shares in connection with a purported transfer or is deemed to hold such excess shares as a result of the Exchange's purchase of excess shares) and take all action reasonably necessary to ensure that such additional excess shares are added to the initial number of excess shares subject to the Exchange's corrective procedures.[43]

As applied to the current outstanding capital stock of the Exchange, the 40 percent ownership limitation would apply to any holder of Class A Common Stock, other than an Exchange member. The 20 percent member ownership limitation would apply to any member, and would limit to that amount such holder's ownership of each of the Class A Common Stock and each Series of Class B Common Stock. The Exchange represents that currently no Person, either alone or together with its Related Persons, owns more than 40 percent of the outstanding shares of Class A Common Stock, and no member, either alone or together with its Related Persons, owns more than 20 percent of the outstanding shares of Class A Common Stock or any series of Class B Common Stock.[44]

b. *Voting Limitations.* The proposed rule change would prohibit any Person, either alone or together with its Related Persons, from voting, or causing the voting of, shares of capital stock of the Exchange (or giving a consent or proxy with respect to shares) representing more than 20 percent of the voting power of any class or series of capital stock (the ''20 percent voting limitation'').[45] In the event that a stockholder purports to vote, grant any proxy or enter into any other agreement for the voting of shares that would violate the 20 percent voting limitation, such vote, proxy or agreement would not be honored by the Exchange to the extent that the 20 percent voting limitation provision would be violated. The 20 percent voting limitation would not apply to any solicitation of any revocable proxy from any stockholder of the Exchange by the Exchange or by any

[37] *See* Article Fourth, Subdivision III(c) of the Amended Certificate. The Exchange may also determine to appoint as special trustee an entity unaffiliated with the Exchange and any Person or its Related Persons owning excess shares. *See* Article Fourth, Subdivision III(c)(ii) of the Amended Certificate.

[38] Any holders owning excess shares as a result of any event other than a sale, transfer, assignment or pledge would cease to have rights in such shares.

[39] *See infra* note 41 and accompanying text.

[40] Any excess shares held by the special trustee would be entitled to be voted by the special trustee and would be deemed outstanding for purposes of determining a quorum or minimum vote required for the transaction of any business at any stockholders' meeting. *See* Article Fourth, Subdivision III(c)(v) of the Amended Certificate.

[41] The excess shares would be deemed to be offered to the Exchange at a price per share equal to the lesser of (1) the price per share the purported transferee or holder paid for the shares in the purported transfer or other event that resulted in excess shares (or in the case of an event not involving any payment, the market price at the time of the transfer or other event) and (2) the market price of the shares on the date the Exchange accepts such offer. The Exchange may accept the offer in whole or in part.

[42] *See* Article Fourth, Subdivision III(c)(vi) of the Amended Certificate.

[43] The Exchange believes that this mechanism will prevent repeated violations (*i.e.*, an endless loop) of the ownership provisions in connection with repurchases by the Exchange (both generally and with respect to excess shares). In practice, the Exchange represents that it would structure repurchases, if any, in a manner designed not to trigger any new violations of the ownership restrictions set forth in Article Fourth, Subdivision III, or if triggered, to include such new violations in its repurchase. For example, if there were 100 shares of Class A Common Stock outstanding and two members of the Exchange (Member A and Member B) each currently owned 20% of the outstanding shares of Class A Common Stock, and Member A purchased 5 shares of Class A Common Stock (increasing his ownership to 25%), the Exchange could either (a) repurchase the 5 shares from Member A and permit the special trustee to sell one share from Member A and one share from Member B to third parties or (b) repurchase 9 shares of Class A Common Stock from Member A and 3 shares of Class A Common Stock from Member B, all of which would be deemed excess shares pursuant to the mechanism described above.

[44] *See* Amendment No. 2, *supra* note 4.

[45] The 20 percent voting limitation also would prohibit any Person, either alone or together with its Related Persons, from entering into any agreement, plan or other arrangement with another Person that would result in the shares of any class or series of capital stock that are subject to such agreement, plan or arrangement not being voted on any matter or matters where the effect of such agreement, plan or other arrangement would be to enable any Person to vote, possess the right to vote or cause the voting of shares of any class or series of capital stock that would, as a result thereof, represent more than 20 percent of any class or series of capital stock available to be voted.

The Amended Certificate and the Amended Constitution clarify that only those shares entitled to vote would be counted for purposes of determining a quorum or a minimum vote required for the transaction of any business at any stockholders' meeting, including, without limitation, when specified business is to be voted on by a class or a series voting as a class. See Article Fourth, Subdivision III(b)(iii) of the Amended Certificate and Section 2.4 of the Amended Constitution. *See also* Amendment No. 2, *supra* note 4.

stockholder of the Exchange pursuant to Regulation 14A under the Act.[46]

c. *Board Notice Regarding Certain Limitations.* The proposed rule change would impose certain requirements on Persons to give notice of events regarding ownership that would exceed the proposed ownership or voting threshold. Specifically, any Person intending to exceed these ownership or voting limitations must provide the ISE Board with written notice of the fact at least 45 days (or such shorter period to which the Board expressly consents) prior to either the proposed acquisition of shares or the proposed exercise of voting rights, as the case may be.[47]

d. *Board Waiver of Certain Limitations.* The ISE Board may adopt a resolution specifying that it has determined that the 40 percent ownership limitation or the 20 percent voting limitation or both should be waived if it finds that such waiver (1) will not impair the ability of the Exchange to carry out its functions and responsibilities as an ''exchange'' under the Act; (2) is otherwise in the best interests of the Exchange and its stockholders; (3) will not impair the ability of the Commission to enforce the Act; and (4) will apply to a Person and its Related Persons who are not subject to any applicable ''statutory disqualification'' (within the meaning of Section 3(a)(39) of the Act). In the event of such a finding, the waiver would take the form of an amendment to the Constitution, which would not be effective until approved by the Commission. The Board may not waive the 20 percent member ownership limitation.[48]

e. *Elimination of Founders Exemption.* The Amended Certificate also eliminates the ''founders exemption'' that permitted the original founders of the Exchange to own shares of Class A Common Stock and Class B Common Stock in excess of the stated limits for a certain period of time.[49] The Exchange represents that because all of the founders have fallen below the ownership thresholds in place, the exemption is no longer necessary.

4. Exchange Act Obligations

The proposed rule change would provide that the ISE Board shall, in managing the affairs and business of the Exchange, consider requirements applicable to its registration and operation as a national securities exchange under the Act, including without limitation, the requirements that (a) the rules of the Exchange be designed to protect investors and the public interest, and (b) the Exchange be so organized and have the capacity to carry out the purposes of the Act and (subject to such exceptions as are set forth in the Act or the rules and regulations thereunder) to enforce compliance by its members and persons associated with its members with the provisions of the Act, the rules and regulations thereunder, and the rules of the Exchange. These provisions in the Amended Certificate shall not be construed to create the basis for any cause of action against any director, and no director shall be liable, by virtue of these provisions, for such director's consideration or failure to consider the matters referred to therein.[50]

5. Board Committees

The proposed rule change would include provisions relating to specific Board committees in connection with the contemplated listing of the Exchange on a national securities exchange or national securities association following its IPO. In particular, the Exchange proposes to add the Corporate Governance Committee and the Compensation Committee to its list of specifically designated ISE Board committees in the Amended Constitution, and require that each of the Finance & Audit, Corporate Governance and Compensation Committees be governed by charters.[51]

6. Certain Anti-Takeover Provisions

The Exchange proposes that the Amended Certificate and the Amended Constitution include certain anti-takeover provisions for protection against certain types of coercive corporate takeover practices and inadequate takeover bids. The proposed provisions relate to special meetings of stockholders and the required stockholder vote with respect to certain actions. In view of the limitations on ownership and voting described above, the provisions proposed do not include a ''poison pill'' arrangement. The Exchange represents that the ISE Board does, however, maintain the authority under its current organizational documents to adopt such an arrangement with Commission approval.

a. *Elimination of a Stockholder's Right to Call a Special Meeting.* The Exchange proposes to deny the Exchange's stockholders the right to call a special meeting of stockholders, and provide that only the Chairman of the Board or a majority of the Board may call a special meeting of the stockholders.[52]

b. *Advance Notice Requirement for Stockholder Proposals.* The Amended Constitution establishes advance notice procedures with regard to stockholder proposals relating to the nomination of candidates for election as Non-Industry Directors or new business to be brought before meetings of stockholders. The Exchange's advance notice requirement would not apply to nominations of Industry Director nominees for election to the Board by the Exchange's Nominating Committee (which is not a committee of the Board) or stockholders pursuant to Sections 3.10(a) and 5.3(c) of the Constitution.

Following the IPO, pursuant to the Exchange's Corporate Governance Committee charter and Section 3.10(b) of the Constitution, the Corporate Governance Committee would nominate for election to the Board a slate of Non-Industry Directors pursuant to Section 2.7(a) and (b).[53] These procedures also provide that notice of stockholder nominations for election of Non-Industry Directors and stockholder proposals must be given in writing to the Secretary of the Exchange prior to the meeting at which the action is to be taken.[54] Generally, such notice would have to be received at the principal executive offices of the Exchange not fewer than 60 days nor more than 90 days prior to the meeting. Any such notice must comply with certain additional informational and descriptive requirements set out in the Amended

[46] *See* Amended Certificate, Article Fourth, Subdivision III(b).

[47] *See* Amended Certificate, Article Fourth, Subdivisions III(a)(i)(E) and (b)(i).

[48] *See* Amended Certificate, Article Fourth, Subdivisions III(a)(i)(B) and (b)(i).

[49] The founders exemption, which applied to persons or entities that purchased LLC memberships directly from the Exchange on or prior to August 1, 1998 and extended to May 26, 2010, was approved by the Commission in connection with the Exchange's demutualization in 2002. *See supra* note 9.

[50] *See* Amended Certificate, Article Twelfth.

[51] *See* Amended Constitution, Sections 5.4, 5.5 and 5.6. The Exchange represents that it currently has a Corporate Governance and Compensation Committee, designated by the ISE Board pursuant to its authority under Section 5.1 of the Constitution; the Amended Constitution will specifically provide for these committees.

[52] *See* Amended Certificate, Article Eighth and Amended Constitution, Section 2.2.

[53] Class A stockholders also would be able to nominate Non-Industry Directors pursuant to Sections 2.7 and 3.10(b) of the Constitution.

[54] With the institution of Section 2.7 of the Amended Constitution, Non-Industry Director nominations by Class A stockholders will likely be required to be made in advance of the selection or announcement of a slate of Non-Industry Director candidates by the Corporate Governance Committee. Currently, Non-Industry Director nominations by Class A stockholders must be made in advance of the stockholders' meeting, but generally after the Corporate Governance Committee announces its slate.

Constitution.[55] Additionally, stockholders shall comply with all applicable requirements of the Act and the rules and regulations thereunder with respect to any proposals submitted pursuant to the advance notice procedures.[56]

The requirement in Section 2.7(c) of the Amended Constitution, which states that only persons who are nominated in accordance with the procedures set forth in Section 2.7 shall be eligible to serve as directors, will not apply to nominations of Industry Director nominees for election to the Board. Such Industry Directors are, instead, nominated by the Exchange's Nominating Committee (which is not a committee of the Board) or stockholders pursuant to Sections 3.10(a) and 5.3(c) of the Constitution.

c. *Increase in Required Vote for Certain Stockholder Actions.* In addition to other currently required items,[57] the Amended Certificate would require a two-thirds vote of stockholders to amend, repeal or adopt any provisions inconsistent with (1) the limitations on ownership and voting of capital stock contained in the Amended Certificate, as described above in Section II.B.3, (2) the provision in the Amended Certificate providing the Board with the authority to create and issue rights under a rights plan, and (3) the advance notice provision contained in the proposed Amended Constitution as described above in Section II.B.6.b.[58]

7. Reduction in Votes Required To Approve Amendments to the Amended Constitution

The Exchange proposes that the current vote required to approve amendments to the Constitution be reduced from two-thirds of the voting power of each class of capital stock of ISE entitled to vote on such amendment to a majority vote of the voting power of each class or series of stock entitled to vote, voting together as a single class, in order to amend certain provisions of the Amended Constitution that are not subject to a required two-thirds vote under the Amended Certificate.[59] Such amendments to the current Constitution may be accomplished by a two-thirds vote of the stockholders or by action of the Board. The two-thirds vote requirement for an amendment to the current Constitution was deemed appropriate for a private securities exchange owned primarily by its members, in order to assure substantial agreement as to changes in significant aspects of corporate governance. However, the Exchange believes that the continuation of such a high vote requirement, in the context of a publicly traded company with a widely diverse stockholder base and the likelihood of lower voting participation, makes it unduly difficult to effect any necessary changes by stockholder vote to these corporate governance provisions in the future.

8. Confidential Information and Books and Records

Pursuant to the Amended Certificate, all confidential information pertaining to the self-regulatory function of the Exchange (including but not limited to disciplinary matters, trading data, trading practices and audit information) contained in the books and records of the Exchange shall: (1) Not be made available to any Persons other than to those officers, directors, employees and agents of the Exchange that have a reasonable need to know the contents thereof and to the Commission; and (2) be retained in confidence by the Exchange and the officers, directors, employees and agents of the Exchange; and (3) not be used for any commercial purposes.[60] In addition, the ISE's books and records shall be maintained within the United States.[61]

C. Amendment to ISE Rule 303

The Exchange proposes to amend ISE Rule 303(b) to include the member trading concentration limit currently included in the Constitution. Currently, pursuant to Section 14.1(b) of the Constitution, no Member (as defined in the Constitution), together with any affiliate (as defined in the Constitution), may be approved to exercise trading rights associated with more than 20 percent of Series B–1 Stock or Series B–2 Stock (the ''member trading concentration limit''). Section 14.1(b) also permits the Exchange to establish further limitations relating to its approval of a Member's ability to effect transaction on or through the facilities of ISE. Article XIV of the Constitution, including Section 14.1(b), is being deleted from the Amended Constitution. Rule 303 currently provides for a stricter member trading concentration limit than 20% but permits the ISE Board to waive such member trading concentration limit for good cause shown.[62] The Exchange proposes to amend Rule 303(b) to include the member trading concentration limit currently provided for in Section 14.1(b) and to state that the Board shall not waive the Exchange's member trading concentration limit if such a waiver would result in the applicant or approved Member (as defined in the Constitution) (together with any of its affiliates) being approved to exercise the trading privileges associated with more than 20% of the outstanding Primary Market Maker memberships (which memberships are associated with the shares of Series B–1 Stock as set forth in Article XIII of the Amended Certificate) or more than 20% of the outstanding Competitive Market Maker memberships (which memberships are associated with the shares of Series B–2 Stock as set forth in Article XIII of the Amended Constitution). Rule 303(b), as amended, will not permit the Exchange to establish further limitations, as the current Constitution does. ISE represents that the amendment to Rule 303(b) will enable the Exchange and the Commission to protect the integrity of the Exchange's and the Commission's regulatory oversight responsibilities in much the same way as the proposed ownership and voting limitations discussed above will.[63]

[55] In particular, the notice must set forth (1) as to each person whom the stockholder proposes to nominate for election or reelection as a director all information relating to such person that is required to be disclosed in solicitations of proxies for election of directors, or is otherwise required, in each case pursuant to Regulation 14A under the Act, including such person's written consent to being named in the proxy statement as a nominee and to serving as a director if elected and a statement that such nominee complies with the requirements set forth in the Amended Certificate; (2) as to any other business that the stockholder proposes to bring before the meeting, a brief description of the business desired to be brought before the meeting, the reasons for conducting such business at the meeting and any material interest in such business of such stockholder and the beneficial owner, if any, on whose behalf the proposal is made; and (3) as to the stockholder giving the notice and the beneficial owner, if any, on whose behalf the nomination or proposal is made (i) the name and address of such stockholder, as they appear on the Corporation's books, and of such beneficial owner and (ii) the class and number of shares of the Corporation which are owned beneficially and of record by such stockholder and such beneficial owner. *See* Amended Constitution, Section 2.7.

[56] *See* Amended Constitution, Section 2.7. Previously, Section 2.7 of the Constitution addressed stockholder record dates; that matter will now be addressed in Section 7.4 of the Amended Constitution.

[57] Pursuant to the Certificate of Incorporation, Article Seventh (b), the affirmative vote of the holders of at least two-thirds of the voting power of the then outstanding shares of Class A Common Stock shall be required to amend, repeal or adopt Article Seventh of the Certificate of Incorporation or Sections 2.2, 2.4, 2.5, 2.9, 3.2, 3.3, 3.5 or Article XI of the Constitution.

[58] *See* Amended Certificate, Article Seventh.

[59] *See* Amended Certificate, Article Seventh and Amended Constitution, Section 11.1.

[60] *See* Amended Certificate, Article Thirteenth.

[61] *See* Amended Constitution, Section 1.3.

[62] *See infra* Section IV.D for further discussion of the current requirements of ISE Rule 303.

[63] *See* Amendment No. 2, *supra* note 4.

III. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning Amendment No. 2, including whether this submission is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

• Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–ISE–2004–29 on the subject line.

Paper Comments

• Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609.

All submissions should refer to File Number SR–ISE–2004–29. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal office of the ISE. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to Amendment No. 2 of File Number SR–ISE–2004–29 and should be submitted on or before February 10, 2005.

IV. Discussion

The Commission has considered the ISE's proposed rule change, as amended, and finds that the proposal is consistent with the Act and the rules and regulations thereunder applicable to a national securities exchange.[64] In particular, the Commission finds that the proposal is consistent with Section 6(b)(1) of the Act,[65] which requires a national securities exchange to be so organized and have the capacity to be able to carry out the purposes of the Act and to enforce compliance by its members and persons associated with its members with the provisions of the Act, the rules or regulations thereunder, and the rules of the Exchange. In addition, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,[66] which requires, among other things, that the rules of an exchange be designed to promote just and equitable principles of trade; to facilitate transactions in securities; to remove impediments to and perfect the mechanisms of a free and open market and a national market system; and, in general, to protect investors and the public interest.

The Commission discusses below significant aspects of the proposed rule change.

A. Exchange Governance Structure

The proposed rule change would clarify in the Amended Constitution that the ISE Board, in addition to an Executive Committee, has a Corporate Governance Committee, Finance & Audit Committee[67] and Compensation Committee. The Exchange also has a Nominating Committee which is not a committee of the ISE Board. Pursuant to the Amended Constitution, each of the Finance & Audit and Compensation Committees will be comprised of three (3) and no more than five (5) Non-Industry Directors. The Corporate Governance Committee will be comprised of three (3) and no more than eight (8) Non-Industry Directors. The ISE Board will adopt a charter setting forth the responsibilities of each of these committees.[68] The Commission notes that information about the existence of the Corporate Governance and Compensation Committee was previously not widely available or specified in the Constitution. Thus, the proposed amendments would serve to increase transparency with respect to these key committees and, thus, serve to improve their accountability to the benefit of the Exchange and the investing public. The Exchange also has proposed certain other changes to facilitate its conversion to a public company.[69]

The Commission generally believes ISE's proposed changes should serve to strengthen and improve the Exchange's governance structure and are consistent with the Act. The Commission notes, however, that it is in the process of reviewing a range of governance issues relating to self-regulatory organizations (''SROs''), including possible steps to strengthen the framework for the governance of SROs and ways to improve the transparency of the governance procedures of all SROs and has proposed rules in furtherance of this goal.[70] Depending upon the results of the proposed rules, the ISE may be required to make further changes to further strengthen its governance structure. The Commission also believes that the ISE Board should continue to monitor and evaluate the Exchange's governance structure and processes on an ongoing basis, and propose further changes as appropriate.

B. Changes in Control of the ISE

The proposed Amended Certificate would impose limitations on direct and indirect changes in control of the ISE through voting and ownership limitations placed on ISE's capital stock (whether common stock or preferred stock) and allow the ISE Board to monitor potential changes in control through a notification requirement, once a threshold percentage of ownership of capital stock is reached.[71] The Commission believes that the limitations on direct and indirect changes in control of the ISE, which are designed to prevent any shareholder (or shareholders acting together) from exercising undue control over the operation of the exchange and to help ensure that the ISE and the Commission are able to carry out their regulatory

[64] In approving the proposed rule change, the Commission has considered its impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[65] 15 U.S.C. 78f(b)(1).

[66] 15 U.S.C. 78f(b)(5).

[67] The Finance & Audit Committee is referred to as the Audit Committee under the current Constitution. *See* Section 5.4 of the Constitution.

[68] *See* Sections 5.4, 5.5 and 5.6 of the Amended Constitution.

[69] *See supra* Section II.B for a discussion of the other proposed changes.

[70] *See* Securities Exchange Act Release No. 50699 (November 18, 2004), 69 FR 71126 (December 8, 2004).

[71] The Amended Certificate requires that any Person, either alone or together with its Related Persons), who at any time owns five percent (5%) or more of the then outstanding shares of the capital stock and who has the right to vote in the election of the ISE Board of the Exchange shall, immediately upon so owning five percent (5%) or more of the then outstanding shares of such stock give the ISE Board written notice of such ownership and update the notice promptly after an ownership change of a specified percentage. *See* Article Fourth, Subdivision III(a)(iii)–(iv) of the Amended Certificate.

responsibilities, are consistent with the Act.[72]

Specifically, the proposed Amended Certificate provides that, unless approved by the ISE Board and effective under Section 19(b) of the Act,[73] no person, either alone or together with its related persons, has any right to vote, or to give any consent or proxy with respect to, more than 20% of the then outstanding shares of any class or series of capital stock of ISE.[74] Moreover, no person, either alone or together with its related persons, unless approved by the ISE Board and effective under Section 19(b) of the Act,[75] may own, of record or beneficially, whether directly or indirectly, more than 40% of the then outstanding shares of any class or series of capital stock of ISE.[76] To the extent that such person, or its related person, purports to acquire or own more than 40% of the then outstanding shares of any class or series of capital stock of ISE, the person, and its related persons, will not have any rights incident to ownership of shares in excess of the 40% limit.[77]

The ISE Board will only be able to waive the 20% voting and 40% ownership limitations if it adopts an amendment to ISE's Constitution after making certain findings that doing so would not impair the ability of ISE and the Commission to carry out their respective regulatory obligations and is otherwise in the best interests of the Exchange. The ISE Board, however, will not be permitted to approve a member or person subject to a statutory disqualification to exceed the limits.[78] The resolution would then be filed with the Commission as a proposed rule change under Rule 19b–4 of the Act,[79] and the resolution would not become effective until the proposed rule change becomes effective thereunder.[80] The proposed rule change would present the Commission with an opportunity to determine what additional measures, if any, might be necessary to provide sufficient regulatory jurisdiction over the proposed controlling persons.

Furthermore, the Amended Certificate also contains provisions designed to provide a disincentive for persons to exceed these limitations without the requisite prior approval.[81] Specifically, pursuant to the Amended Certificate, shares in excess of the ownership limitations would be deemed to have been transferred to the Exchange, as special trustee of a charitable trust, for the exclusive benefit of a charitable beneficiary to be determined by the Exchange.[82] The purchaser would cease to have voting and economic rights in the excess shares, other than the right to receive proceeds from the sale of such shares by the trustee.[83] In addition, if votes were cast in excess of the 20% voting limitation, ISE would be required to disregard such votes cast in excess of the 20% voting limitation.[84]

The proposed Amended Certificate also provides that no member of ISE, either alone or together with its related persons, will be allowed to own, of record or beneficially, whether directly or indirectly, more than 20% of the then outstanding shares of any class or series of capital stock of ISE.[85] To the extent any member, or its related persons, purports to acquire or own more than 20% of the then outstanding shares of any class or series of capital stock of ISE, that member, and its related persons, will not have any rights incident to ownership of shares in excess of the 20% limit.[86] Furthermore, the Amended Certificate also contains provisions designed to provide a disincentive for persons to exceed this limitation.[87]

The Commission believes that the 20% ownership (and thus voting) limitation restriction on ISE members is reasonable and consistent with the Act. Members who trade on an exchange or through a facility of an exchange have traditionally had ownership interests in such exchange or facility. However, a member's interest could become so large as to cast doubt on whether the exchange can fairly and objectively exercise its self-regulatory responsibilities with respect to that member. An exchange may hesitate to diligently monitor and surveil the trading conduct of a member that is a controlling shareholder of the exchange, or to diligently enforce its rules and the federal securities laws with regard to conduct by such member that violates these provisions. The Commission believes that the proposed limitation would help mitigate the conflict of interest that could occur if a member were to control a significant stake in the Exchange, and are necessary and appropriate to help ensure that the Exchange can effectively carry out its statutory obligations under Section 6(b) of the Act.[88] The Commission notes that the Exchange represented that no member currently owns shares in excess of the 20% limitation.

The Amended Certificate of Incorporation also would require shareholders to report ownership interest of 5% or more to ISE. This provision would help the ISE Board more readily monitor ownership of its shares of stock in order to determine whether a person, either alone or with its related persons, would exceed these voting and ownership limitations.[89] The

[72] The Commission notes that it is in the process of reviewing issues relating to new ownership structures of SROs, and has proposed rules relating to the ownership of SROs, including imposing limitations on member ownership of an SRO or facility of an SRO. *See* Securities Exchange Act Release No. 50699, *supra* note 70.

[73] 15 U.S.C. 78s(b).

[74] *See* Article Fourth, Subdivision III(b) of the Amended Certificate. The terms ''person'' and ''related persons'' are defined in Article Fourth, Subdivision III(a) of the Amended Certificate, and are described in Section II.B.3.a above.

[75] 15 U.S.C. 78s(b).

[76] *See* Article Fourth, Subdivision III(a) of the Amended Certificate.

[77] *See* Article Fourth, Subdivision III(c) of the Amended Certificate. *See also supra* Section III.B.3.a.

[78] In making such determinations, the ISE Board may impose any conditions and restrictions on such person and its related persons owning any shares of stock of ISE entitled to vote on any matter as the ISE Board in its sole discretion deems necessary, appropriate or desirable. *See* Article Fourth, Subdivision III(a)(i) and (b)(i) of the Amended Certificate.

[79] 17 CFR 240.19b–4.

[80] *See* Article Fourth, Subdivision III(a)(i) and (b)(i) of the Amended Certificate.

[81] *See* Article Fourth, Subdivision III(c) of the Amended Certificate.

[82] *See* Article Fourth, Subdivision III(c) of the Amended Certificate. These corrective procedures also would apply if there is any other event causing any holder of capital stock to exceed the ownership limits, such as a repurchase of shares by the Exchange. Any holders owning excess shares as a result of any event other than a sale, transfer, assignment or pledge would cease to have rights in such shares.

[83] *See supra* Section II.B.3.a for a more detailed description of how this process works.

[84] Article Fourth, Subdivision III(b)(ii) of the Amended Certificate provides that the 20% voting limitation provisions would not apply to (1) any solicitation of any revocable proxy from any stockholder of ISE by the ISE or by any stockholder of the ISE that is conducted pursuant to, and in accordance with, Regulation 14A promulgated pursuant to the Act. This provision is designed to ensure that the voting limitations will not restrict the exercise of proxy rights under Regulation 14A of the Act.

Article Fourth, Subdivision III(b)(iii) of the Amended Certificate provides that, to the fullest extent permitted by applicable law, shares of capital stock that are not entitled to be voted as a result of the 20% voting limitation shall not be deemed to be outstanding for the purposes of determining a quorum or a minimum vote required for the transaction of any business at any meeting of stockholders of ISE, including, without limitation, when specified business is to be voted on by a class or a series voting as a class.

[85] *See* Article Fourth, Subdivision III(a)(ii) of the Amended Certificate.

[86] *See* Article Fourth, Subdivision III(c) of the Amended Certificate.

[87] *See supra* notes 82–83 and accompanying text.

[88] 15 U.S.C. 78f(b).

[89] *See supra* note 71 and accompanying text. In addition, upon consummation of ISE's proposed IPO, the information required to be filed by shareholders pursuant to Regulations 13D and 13G will be available to ISE for purposes of determining whether any person, along or together with its related persons, has exceeded the voting and ownership limitations. The Commission also notes

Commission believes that this approach is consistent with the Act in that it allows the ISE to comply with the reporting requirements of Form 1, the application for (and amendments to application for) registration as a national securities exchange. Exhibit K of Form 1 requires any exchange that is a corporation or partnership to list any persons that have an ownership interest of five percent (5%) or more in the exchange, and Rule 6a–2(a)(2) under the Act requires an exchange to update its Form 1 within ten days after any action that renders inaccurate the information previously filed in Exhibit K.[90]

C. Self-Regulatory Function of the ISE

After its IPO, the Exchange will continue to operate as a registered national stock exchange under Section 6 of the Act[91] and will maintain its current regulatory authority over members. All persons effecting transactions on or through the facilities of the Exchange will continue to be subject to the Exchange's rules. Certain provisions in the Amended Certificate and Amended Constitution are designed to facilitate the ability of ISE and the Commission to fulfill their regulatory obligations under the Act, and in particular under Sections 6(b)[92] and 19(g)[93] of the Act, with respect to the Exchange. Specifically, Article Twelfth of the Amended Certificate expressly requires the Directors, in managing the business and affairs of the ISE, to consider applicable requirements for registration as a national securities exchange under the Act, including the requirements that the rules of the ISE be designed to protect investors and the public interest and the ISE shall be so organized and have the capacity to carry out the purposes of the Act and (subject to exceptions set forth in the Act and rules and regulations thereunder) to enforce compliance with it members and persons associated with its members, with the provisions of the Act and the rules and regulations thereunder and with the ISE's Rules. In the Commission's view, this provision will serve to remind the Directors that they must consider the requirements of the Act when taking actions on behalf of the ISE and thus promote greater awareness and accountability on the part of the Directors.

Additionally, pursuant to the Amended Certificate, all confidential information pertaining to the self-regulatory function of the Exchange (including but not limited to disciplinary matters, trading data, trading practices and audit information) contained in the books and records of the Exchange shall: (1) Not be made available to any persons other than to those officers, directors, employees and agents of the Exchange that have a reasonable need to know the contents thereof; (2) be retained in confidence by the Exchange and the officers, directors, employees and agents of the Exchange; and (3) not be used for any commercial purposes.[94] In addition, the ISE's books and records shall be maintained within the United States.[95] The Commission believes that these provisions, which are designed to help maintain the independence and effectiveness of ISE's self-regulatory function, are appropriate and consistent with the Act.

The Exchange also will continue to interpret its rules to require that any revenues it receives from regulatory fees or regulatory penalties will be segregated and applied to fund the legal, regulatory and surveillance operations of the Exchange and will not be used to pay dividends to the holders of Class A Common Stock.[96] The Commission finds that the prohibition on the use of regulatory fines, fees or penalties to fund dividends is consistent with Section 6(b)(3) of the Act[97] because it will further advance ISE's ability to effectively comply with its statutory requirements by helping to ensure the regulatory authority of the Exchange is not improperly used.

D. Membership Trading Concentration Limits

Currently, pursuant to ISE Rule 303, the ISE Board may not approve a member to operate more than one Primary Market Maker Membership or more than 10 Competitive Market Maker Memberships, unless the restriction is waived by the ISE Board for good cause. In addition, Section 14.1(b) of the Constitution requires that ISE may not approve an ISE member, together with any affiliate, to exercise the trading rights associated with more than twenty percent (20%) of ISE's Series B–1 Stock, nor more than twenty (20%) of ISE's Series B–2 Stock, and permits the Exchange to establish further limitations relating to the Exchange's approval of a member's ability to effect transactions on or through the facilities of the Exchange.

Pursuant to the proposed rule change, ISE would delete the 20% limitation from Section 14.1(b) of the Constitution, and would move it to Rule 303(b). Specifically, Rule 303(b) would not permit the ISE Board to waive the Primary Market Maker and Competitive Market Maker Membership concentration limits in Rule 303(b) if such waiver would result in an ISE member, together with any of its affiliates, being approved to exercise trading privileges associated with more than twenty percent (20%) of ISE's outstanding Primary Market Maker Memberships or more than twenty (20%) of ISE's outstanding Competitive Market Maker Memberships. The Commission believes this limitation on the ability to operate more than a certain percentage of memberships will serve to protect the integrity of the Exchange's regulatory oversight responsibilities by preventing the Exchange from becoming overly dependent on the business generated by any one member. Without such a provision, the Exchange may be reluctant to surveil and enforce its rules against such a member.

V. Accelerated Approval of Amendment No. 2

Pursuant to Section 19(b)(2) of the Act,[98] the Commission may not approve any proposed rule change, or amendment thereto, prior to the thirtieth day after the date of publication of the notice of filing thereof, unless the Commission finds good cause for so finding. The Commission hereby finds good cause for approving Amendment No. 2 to the proposed rule change prior to the thirtieth day after publishing notice of the same in the **Federal Register** pursuant to Section 19(b)(2) of the Act.[99] Specifically, Amendment No. 2 provides technical, non-substantive amendments to correct typographical errors in the Amended Certificate and Amended Constitution, previously filed as part of the original proposed rule change,[100] and revises Section 2 of ISE's

that, upon completion of its IPO, the Exchange would be required to publicly disclose on a quarterly basis information regarding the number of outstanding shares of its Common Stock, so that persons with a stake in the Common Stock can determine whether they are reaching, or have reached, any of the thresholds that restrict that person's ability to vote or own shares. *See* 17 CFR 240.13a–13.

[90] 17 CFR 240.6a-2(a)(2).

[91] 15 U.S.C. 78f.

[92] 15 U.S.C. 78f(b).

[93] 15 U.S.C. 78s(g).

[94] *See* Amended Certificate, Article Thirteenth.

[95] *See* Amended Constitution, Section 1.3.

[96] The Exchange adopted this interpretation in connection with its demutualization in 2002. *See infra* note 9. The Commission also notes that the Exchange represents that the holders of the Class B Common Stock are not entitled to receive dividends. *See* Section II.A of Securities Exchange Act Release No. 50641, *supra* note 3.

[97] 15 U.S.C. 78f(b)(3).

[98] 15 U.S.C. 78s(b)(2).

[99] *Id.*

[100] The Commission notes that the Exchange also undertakes to present to the ISE Board and

Continued

Form 19b–4 (Procedures of the Self-Regulatory Organization) to reflect actions by the ISE Board and ISE's stockholders approving the final forms of the Amended Certificate and Amended Constitution. Amendment No. 2 also proposes changes to ISE Rule 303(b) and amended related portions of its Form 19b–4. Specifically, Amendment No. 2 amends ISE Rule 303(b) to incorporate the 20% limit on the trading privileges associated with Primary Market Maker and Competitive Market Maker Memberships that may be exercised by a member of ISE that currently is imposed by ISE's Constitution.[101] Because Amendment No. 2 moves the substance of an existing rule from ISE's Constitution to its Rules, the Commission believes that there is no new novel issue. Therefore, the Commission finds that good cause exists to accelerate approval of Amendment No. 2 to the proposed rule change, pursuant to Section 19(b)(2) of the Act.[102]

VI. Conclusion

For the foregoing reasons, the Commission finds that the proposed rule change, as amended, is consistent with the Act and rules and regulations thereunder applicable to a national securities exchange.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[103] that the proposed rule change, including Amendment No. 2 thereto (SR–ISE–2004–29) be, and hereby is, approved, and that Amendment No. 2 thereto is approved on an accelerated basis. The proposed rule change shall be effective upon the closing of ISE's IPO as described herein.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[104]

J. Lynn Taylor,

Assistant Secretary.

[FR Doc. E5–198 Filed 1–19–05; 8:45 am]

BILLING CODE 8010–01–P

stockholders for approval the correction of certain typographical errors in the Amended Certificate at the next meetings of the ISE Board and stockholders at which other amendments to the Amended Certificate are also proposed, and will promptly file such corrections with the Commission pursuant to Section 19(b) of the Exchange Act. Specifically, the Exchange undertakes to propose to correct: Article Fourth, Subdivision III(a)(i) of the Amended Certificate to add a comma between the words ''Person'' and ''either''; Article Fourth, Subdivision III(b)(i) of the Amended Certificate to delete a comma appearing between the words ''ability of the Corporation'' and ''to carry out its functions''; and Article Fourth, Subdivision III(a)(i)(E) of the Amended Certificate to insert the word ''would'' between the words ''or preferred) that'' and ''result in such.'' The Exchange also undertakes to present to the ISE Board for approval the insertion of the word ''a'' between the words ''the meeting until'' and ''quorum is present'' in Section 5.5(b) of the Amended Constitution at the next meeting of the Board at which other amendments to the Amended Constitution are also proposed. *See* Amendment No. 2, *supra* note 4.

[101] *See* Section 14.1(b) of the Constitution. Pursuant to Section 14.1(b), ISE may not approve a Member of ISE, together with any affiliate, to exercise the trading rights associated with more than 20% of ISE's Series B–1 Stock, nor more than 20% of ISE's Series B–2 Stock, and may establish further limitations relating to ISE's approval of an ISE Member's ability to effect transactions executed on or through the facilities of the Exchange. The 20% limitation will be moved to Rule 303(b) of ISE's rules. Rule 303(b), as amended, would not permit the Exchange to establish further limitations, as the current Constitution does. The Exchange represents that it does not believe it will be necessary to establish further limitations. The language also reflects the current language of Rule 303(b) in that it refers to the exercise of trading privileges associated with a Primary Market Maker or Competitive Market Maker Membership, rather than the exercise of trading rights associated with series B–1 or B–2 stock.

[102] *Id.*

[103] *Id.*

[104] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

Public Federal Regulatory Enforcement Fairness Hearing; Region VI Regulatory Fairness Board

The Small Business Administration Region VI Regulatory Fairness Board and the SBA Office of the National Ombudsman will hold a Public Hearing on Monday, January 31, 2005 at 8:30 a.m. at Texas Tech University, Animal and Food Sciences Building, Room 101, located on the Southwest corner of Indiana Blvd. and Brownfield Highway, Lubbock, TX 79401, phone (806) 742–2513, 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 Scotty Arnold in writing or by fax, in order to be put on the agenda. Scotty Arnold, Economic Development Specialist, SBA Lubbock District Office, Mahon Federal Building, 1205 Texas Ave., Room 408, Lubbock, TX 79401, phone (806) 472–7462 Ext. 102, fax (806) 472–7487, e-mail: *Scotty.arnold@sba.gov.*

For more information, see our Web site at *http://www.sba.gov/ombudsman.*

Dated: January 11, 2005.

Peter Sorum,

Senior Advisor, Office of the National Ombudsman.

[FR Doc. 05–1096 Filed 1–19–05; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF STATE

[Public Notice 4957]

Culturally Significant Objects Imported for Exhibition Determinations: ''Defining Yongle: Imperial Art in Early Fifteenth-Century China''

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.*; 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236 of October 19, 1999, as amended, and Delegation of Authority No. 257 of April 15, 2003 (68 FR 19875), I hereby determine that the objects to be included in the exhibition ''Defining Yongle: Imperial Art in Early Fifteenth-Century China,'' imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to a loan agreement with the foreign owner. I also determine that the exhibition or display of the exhibit objects at the Metropolitan Museum of Art, New York, New York, from on or about April 1, 2005, to on or about July 10, 2005, and at possible additional venues yet to be determined, is in the national interest. Public notice of these determinations is ordered to be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, including a list of the exhibit objects, contact Wolodymyr R. Sulzynsky, the Office of the Legal Adviser, Department of State, (telephone: 202/453–8050). The address is Department of State, SA–44, 301 4th Street, SW., Room 700, Washington, DC 20547–0001.

Dated: January 11, 2005.

C. Miller Crouch,

Principal Deputy Assistant Secretary for Educational and Cultural Affairs, Department of State.

[FR Doc. 05–1136 Filed 1–19–05; 8:45 am]

BILLING CODE 4710–08–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Aviation Proceedings, Agreements Filed the Week Ending January 7, 2005

The following Agreements were filed with the Department of Transportation under the provisions of 49 U.S.C. 412 and 414. Answers may be filed within

21 days after the filing of the application.

Docket Number: OST–2005–20051.

Date Filed: January 6, 2005.

Parties: Members of the International Air Transport Association.

Subject: PTC123 0303 dated 30 November 2004

Mail Vote 426

USA-Korea (Rep. of), Malaysia Resolutions r1–r9

PTC123 0305 dated 31 December 2004

TC123 Minutes

PTC123 Fares 0124 dated 30 November 2004

USA-Korea (Rep. of), Malaysia Specified Fares Tables

Intended effective date: 1 March 2005

Docket Number: OST–2005–20058.

Date Filed: January 6, 2005.

Parties: Members of the International Air Transport Association.

Subject: PTC31 N&C/CIRC 0289 dated 26 November 2004

Japan-North America, Caribbean Resolutions

PTC31 N&C/CIRC 0290 dated 4 January 2005

Korea (Rep. of)-Canada, Caribbean, Mexico Resolutions

PTC31 N&C/CIRC 0291 dated 26 November 2004

Korea (Rep. of)-USA Resolutions

PTC31 N&C/CIRC 0292 dated 10 December 2004

Japan, Korea (Rep. of)-Central America, South America Resolutions

PTC31 N&C/CIRC 0293 dated 26 November 2004

Mail Vote 422

North and Central, Circle Pacific Areawide Resolutions

PTC31 N&C/CIRC 0294 dated 10 December 2004

Mail Vote 423

South Asian Subcontinent, South East Asia-Central America, South America Resolutions

PTC31 N&C/CIRC 0295 dated 26 November 2004

Mail Vote 424

Malaysia-USA Resolutions r1–r91

Minutes: PTC31 N&C/CIRC 0296 dated 31 December 2004

North & Central, Circle Pacific Minutes

Tables: PTC31 N&C/CIRC Fares 0140 dated 30 November 2004

Japan-North America, Caribbean Specified Fares Tables

PTC31 N&C/CIRC Fares 0141 dated 7 December 2004

Korea (Rep. of), Malaysia-USA Specified Fares Tables

PTC31 N&C/CIRC Fares 0142 dated 10 December 2004

TC3–Central America, South America

Specified Fares Tables

PTC31 N&C/CIRC Fares 0143 dated 21 December 2004

Circle Pacific Specified Fares Tables

PTC31 N&C/CIRC Fares 0144 dated 4 January 2005

Korea (Rep. of)-Canada, Caribbean, Mexico

Specified Fares Tables

Intended effective date: 1 April 2005

Renee V. Wright,

Acting Program Manager, Federal Register Liaison.

[FR Doc. 05–1152 Filed 1–19–05; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Notice of Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart B (Formerly Subpart Q) During the Week Ending January 7, 2005

The following Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits were filed under subpart B (formerly subpart Q) of the Department of Transportation's Procedural Regulations (See 14 CFR 301.201 *et. seq.*). The due date for Answers, Conforming Applications, or Motions To Modify Scope are set forth below for each application. Following the Answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket Number: OST–2005–20072.

Date Filed: January 7, 2005.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: January 28, 2005.

Description: Application of Skybus Airlines, LLC, requesting a certificate of Public convenience and necessity to engage in interstate scheduled air transportation of person, property, and mail between Port Columbus International Airport, and other points in the U.S.

Renee V. Wright,

Acting Program Manager, Federal Register Liaison.

[FR Doc. 05–1153 Filed 1–19–05; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No. FAA–1999–5836; Notice No. 05–01]

RIN 2120–AC38

Repair Stations

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of availability of AC; extension of comment period.

SUMMARY: This action extends the comment period for an Advisory Circular (AC) that was published on December 22, 2004. In that document, the FAA provided guidance to repair stations to establish their training programs. This extension is a result of requests from multiple commenters to extend the comment period for the AC.

DATES: Comments must be received on or before March 22, 2005.

ADDRESSES: Send all comments on AC 145–RSTP to Mr. Herbert E. Daniel, Aircraft Maintenance Division, General Aviation and Repair Station Branch (AFS–340), Federal Aviation Administration, 800 Independence Ave., SW., Washington, DC 20591; facsimile (202) 267–5115; e-mail *Herbert.E.Daniel@faa.gov.*

FOR FURTHER INFORMATION CONTACT: Mr. Herbert E. Daniel, AFS–340, at the address, facsimile, or e-mail listed above, or by telephone at (202) 267–3109; or Mr. Dan Bachelder, AFS–340, at the address or facsimile listed above or e-mail *Dan.Bachelder@faa.gov* or by telephone at (202) 267–7027.

SUPPLEMENTARY INFORMATION: *Comments Invited:* The proposed AC 145–RSTP is available on the FAA's Regulatory Guidance Library Web site at: *http://www.airweb.faa.gov/Regulatory_and_Guidance_Library/rgDAC.nsf/MainFrame?OpenFrameSet.* under the Open for Comment link. Interested persons are invited to comment on the AC by submitting written data, views, or suggestions, as they may desire. Please identify AC 145–RSTP, Repair Station Training Program, and submit comments, either hardcopy or electronic, to the appropriate address listed above.

Background

On December 22, 2004, the Federal Aviation Administration (FAA) issued the draft Advisory Circular AC 145–RSTP Repair Station Training Program (69 FR 76829, 12/22/2004). Comments to that document were to be received on or before January 21, 2005.

By letters dated January 3 and January 5, 2005, the Aircraft Electronics Association, Washington, DC and the National Air Transportation Association, Alexandria, VA requested that the FAA extend the comment period for AC 145–RSTP for 60 days. These and other industry associations stated that the original 30-day comment period did not allow repair stations adequate time to consider, review, and respond to the draft Advisory Circular while continuing to operate their businesses. All commenters requested an extension of the comment period by 60 days to provide sufficient time to evaluate this document before submitting comments to the FAA.

The FAA concurs with the requests for an extension of the comment period on AC 145–RSTP. The FAA agrees that additional time for comments will allow repair stations to review the document and formulate their comments while continuing to conduct their business. This will also allow commenters who may have anticipated an extension in the comment period to submit their comments by a certain date. Absent unusual circumstances, the FAA does not anticipate any further extension of the comment period for this AC.

Extension of Comment Period

Commenters have shown a substantive interest in the proposed AC and good cause for the extension. The FAA also has determined that extension of the comment period is consistent with the public interest, and that good cause exists for taking this action.

Accordingly, the comment period for AC 145–RSTP Repair Station Training Program is extended until March 22, 2005.

Issued in Washington, DC, January 14, 2005.

John M. Allen,

Acting Director, Flight Standards Service.

[FR Doc. 05–1130 Filed 1–14–05; 1:40 pm]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Availability for the O'Hare Modernization Draft Environmental Impact Statement, Chicago O'Hare International Airport, Chicago, IL; Notice of Availability; and Notice of Public Hearing Dates, Times, and Locations

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of availability of the O'Hare Modernization Draft Environmental Impact Statement (DEIS) and notice of intent to conduct public hearings.

Location of Proposed Action: O'Hare International Airport, Des Plaines and DuPage River Watersheds, Cook and DuPage Counties, Chicago, Illinois (Sections 4, 5, 6, 7, 8, 9, 16, 17, and 18, Township 41 North, Range 10 East, 3rd P.M.). Please see the airport location maps showing the locations of the wetlands and Waters of the U.S. potentially affected by the Build Alternatives from the DEIS available on the FAA's Web site at *http://www.agl.faa.gov/OMP/DEIS.htm* under the title of Notice of Availability of the Draft EIS and Notice of Intent to Hold Public Hearings.

SUMMARY: The Federal Aviation Administration (FAA) announces that the O'Hare Modernization Draft Environmental Impact Statement for Chicago O'Hare International Airport, Chicago, Illinois is available for public review and comment.

The DEIS identifies alternatives intended to address the projected needs of the Chicago region by reducing delays at O'Hare, thereby enhancing capacity of the National Airspace System, and ensuring that terminal facilities and supporting infrastructure can efficiently accommodate airport users. All of the development alternatives would result in wetland, property acquisition, air quality and noise impacts, as well as other impacts.

The FAA intends to host public hearings on the DEIS with the U.S. Army Corps of Engineers (USACE) and the Illinois Environmental Protection Agency (IEPA) Bureau of Water. The public hearings on the DEIS will be held on the following dates: Tuesday, February 22, 2005, at the Avalon Banquets, 1905 East Higgins Road, Elk Grove Village, Illinois 60007; Wednesday, February 23, 2005, at the Waterford Conference Center, 933 South Riverside Drive, Elmhurst, Illinois 60126; and Thursday, February 24, 2005, at the White Eagle, 6839 North Milwaukee Avenue, Niles, Illinois 60714. All three of these hearings will start at 2 p.m. (central standard time), and registration to participate in the hearings will conclude by 9 p.m. (central standard time). Representatives of FAA, USACE and IEPA will be available to provide information about the DEIS at an informational session held at the same time as the public hearings. Spanish language translators will be available at the hearings. The procedural rules governing the hearing are available from Michael W. MacMullen.

The comment period is open as of the date of this Notice of Intent and closes Wednesday, March 23, 2005. All comments are to be submitted to Michael W. MacMullen of the FAA, at the address shown below. The USACE and IEPA have requested that the FAA be the recipient of all comments regarding their actions. These comments must be sent to Michael W. MacMullen of the FAA at the address shown below, and the comments must be postmarked and email must be sent by no later than midnight, Wednesday, March 23, 2005.

The USACE is participating in the public hearings because implementation of any development alternatives, if selected, would require the USACE to approve issuance of a permit to fill wetlands under section 404 of the Clean Water Act Section. The IEPA is participating in the public hearings because implementation of any wetland development alternative, if selected, would also require IEPA to issue a Water Quality Certification under section 401 of the Clean Water Act.

SUPPLEMENTARY INFORMATION: The city of Chicago (City), Department of Aviation, as owner and operator of Chicago O'Hare International Airport (O'Hare or the Airport), PO Box 66142, Chicago, IL, 60666, proposes to modernize O'Hara to address existing and future capacity and delay problems. The City initiated master planning and the process of seeking FAA approval to amend its airport layout plan to depict the O'Hara Modernization Program (OMP). The City is also seeking the other necessary FAA approvals to implement the OMP and associated capital improvements and procedures. The FAA has prepared a DEIS addressing specific improvements at and adjacent to Chicago O'Hare International Airport, Chicago, Illilnois. FAA's DEIS presents an evaluation of the City's proposed project and reasonable alternatives. Under the City's concept, O'Hare's existing seven-runway configuration would be replaced by an eight-runway configuration, in which six runways would be oriented generally in the east/west direction, the existing northeast/southwest-oriented Runways 4L/22R and 4R/22L would remain, and Runways 14L/32R and 14R/32L would be closed.

Please see the airport location maps showing the locations of the wetlands and Waters of the U.S. kpotentially affected by the Build Alternatives from the DEIS available on the FAA's Web site at *http://www.agl.faa.gov/OMP/DEIS.htm* under the title Notice of Availability of the Draft EIS and Notice of Intent to Hold Public Hearings.

The Draft EIS is available for review until March 23, 2005, at the following libraries:

Arlington Heights Memorial Library, 500 North Dunton Ave., Arlington Heights;

Bellwood Public Library, 600 Bohland Ave., Bellwood;

Bentsenville Community Public Library, 200 S. Church Rd., Bensenville;

Berkeley Public Library, 1637 Taft Ave., Berkeley;

Bloomingdale Public Library, 101 Fairfield Way, Bloomingdale;

College of DuPage Library, 425 Fawell Blvd., Glen Ellyn;

Des Plaines Public Library, 1501 Ellinwood Ave., Des Plaines;

Eisenhower Public Library, 4652 N. Olcutt Ave., Harwood Heights;

Elk Grove Village Public Library, 1001 Wellington Ave., Elk Grove;

Elmhurst Public Library, 211 Prospect Ave., Elmhurst;

Elmwood Park Public Library, 4 W. Conti Pkwy., Elmwood Park;

Franklin Park Public Library, 10311 Grand Ave., Franklin Park;

Glendale Heights Library, 25 E. Fullerton Ave., Glendale Heights;

Glenview Public Library, 1930 Glenview Rd., Glenview;

Harold Washington Library, 400 S. State St., Chicago;

Hoffman Estates Library, 1550 Hassell Rd., Hoffman Estates;

Itasca Community Library, 500 W. Irving Park Rd., Itasca;

Lombard Public Library, 110 W. Maple St., Lombard;

Maywood Public Library, 121 S. 5th Ave., Maywood;

Melrose Park Public Library, 801 N. Broadway, Melrose Park;

Morton Grove Public Library, 6140 Lincoln Ave., Morton Grove;

Mount Prospect Public Library, 10 S. Emerson St., Mount Prospect;

Niles Public Library, 6960 W. Oakton St., Niles;

Northlake Public Library, 231 N. Wolf Rd., Northlake;

Oak Park Public Library, 834 Lake St., Oak Park;

Oakton Community College Library, 1616 E. Golf Rd., Des Plaines;

Park Ridge Public Library, 20 S. Prospect Ave., Park Ridge;

River Forest Public Library, 735 Lathrop Ave., River Forest;

River Grove Public Library, 8638 W. Grant Ave., River Grove;

Schamburg Townshhip District Library, 130 S. Roselle Rd., Schaumburg;

Schiller Park Public Library, 4200 Old River Rd., Schiller Park;

Villa Park Public Library, 305 S. Ardmore Ave., Villa Park; and

Wood Dale Public Library, 520 N. Wood Dale Rd., Wood Dale.

The public will be afforded the opportunity to present oral testimony and/or written testimony pertinent to the subject of the hearing. Testimony from a group or agency representative will be limited to 5 minutes. All others will be given 3 minutes. Written comments, faxes and e-mails should be submitted to Michael W. MacMullen of the FAA. The comment period is open as of the date of this Notice of Intent and closes Wednesday, March 23, 2005. Forms for providing written comments will also be available at the public hearings. Comments received via e-mail can only be accepted with the full name and address of the individual commenting. Additional court reporters will be present outside of the main hearing room to record oral testimony. Spanish language translators will be available at the hearings.

FOR FURTHER INFORMATION CONTACT: Michael W. MacMullen, Airports Environmental Program Manager, Federal Aviation Administration, Chicago Airports District Office, 2300 East Devon Avenue, Des Plaines, IL 60018. Telephone: 847–294–8339, FAX: 847–294–7046; e-mail address: *ompeis@faa.gov.*

Issued in Des Plaines, Illinois on January 14, 2005.

Barry Cooper,

Manager, Chicago Area Modernization Program Office, Great Lakes Region.

[FR Doc. 05–1161 Filed 1–79–05; 8:45 am]

BILLING CODE 7910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Availability of Final Environmental Impact Statement and Final Air Quality Conformity Determination for Los Angeles International Airport, Los Angeles, Los Angeles County, CA

AGENCY: Federal Aviation Administration.

ACTION: Notice of Availability of Final Environmental Impact Statement and Final General Conformity Determination.

SUMMARY: The Federal Aviation Administration (FAA) along with the Federal Highway Administration is issuing this notice to advise the public that a Final Environmental Impact Statement (EIS) and Final General Conformity Determination has been prepared for the proposed Master Plan Improvements at Los Angeles International Airport (LAX), Los Angeles, Los Angeles County, California. FAA is seeking comments on revised and updated information and analyses disclosed in Volume A of the Final EIS and related appendices (Appendices A–1, A–2a, A–2b, A–3a, A–3b, A–3c, A–3d, and A–4).

FOR FURTHER INFORMATION CONTACT: David B. Kessler, AICP, Regional Environmental Protection Specialist, AWP–611, Airports Division, Federal Aviation Administration, Western-Pacific Region, P.O. Box 92007, Los Angeles, California 90009–2007, Telephone: 310/725–3615. Comments on Volume A of the Final EIS and associated appendices must be submitted to the address above and must be received no later than 5 p.m. Pacific standard time, Tuesday, February 22, 2005.

SUPPLEMENTARY INFORMATION: The Federal Aviation Administration (FAA) as lead agency and the Federal Highway Administration, as a cooperating agency has prepared a Final Environmental Impact Statement (EIS) for the proposed Master Plan Improvements at Los Angeles International Airport (LAX). FAA has also prepared its Final General Conformity Determination for Alternative D of the LAX Master Plan. The need to prepare an EIS is based on the procedures described in FAA Order 5050.4A, Airport Environmental Handbook. LAX is located in Los Angeles, Los Angeles County, California. FAA, in conjunction with Los Angeles World Airports (LAWA), a unit of the City of Los Angeles government that is responsible for management of City-owned airports published a joint Draft EIS/Environmental Impact Report (EIR) in January 2001. The Draft EIS/EIR was prepared by FAA pursuant to the National Environmental Policy Act of 1969 and by LAWA pursuant to the California Environmental Policy Act of 1970 (CEQA). The Draft EIS/EIR assessed the potential impacts of three proposed Master Plan development alternatives (Alternatives A, B, and C) and the No Action/No Project Alternative. Pursuant to NEPA and CEQA, in July 2003, the FAA and LAWA published a joint Supplement to the Draft EIS/EIR to address the potential impacts of a new LAX Master Plan Alternative (Alternative D). In April 2004, LAWA issued a Final EIR for use in the local decision-making process.

Information and analyses have been updated and/or refined for purposes of the Final EIS to comply with particular aspects of Federal law and regulation. That information and analysis is

presented in a separate volume, entitled Volume A, and related appendices (Appendices A–1, A–2a, A–2b, A–3a, A–3b, A–3c, A–3d, and A–4), of the Final EIS. FAA will accept comments on the information disclosed in Volume A and its associated appendices until 5 p.m. Pacific Standard Time, Tuesday, February 22, 2005.

FAA will not make a decision on the Proposed Action for a minimum of 30-days following publishing the Notice of Availability of the Final EIS (40 CFR 1506.10) in the **Federal Register**. FAA will record the appropriate decision or decisions in a Record of Decision.

The FAA is also announcing the availability of its Final General Conformity Determination for Alternative D of the LAX Master Plan.

Copies of the Final EIS and the Final General Conformity Determination are available for public review at the following locations during normal business hours:

U.S. Department of Transportation, Federal Aviation Administration, Western-Pacific Region, Office of the Airports Division, 15000 Aviation Boulevard, Hawthorne, California 90261;

U.S. Department of Transportation, Federal Aviation Administration, National Headquarters, Community and Environmental Needs Division, 800 Independence Avenue, SW., Washington, DC 20591; and

Administrative Offices of Los Angeles World Airports, One World Day, Los Angeles, California.

The documents are also available at the following libraries:

County of Orange Public Library Admin. Headquarters 1501 E. Saint Andrew Place, Santa Ana, CA 92701;

County of Riverside Public Library, 3581 Mission Inn Avenue, Riverside, CA 92501;

County of San Bernardino, 104 W. Fourth Street, San Bernardino, CA 92415;

County of Ventura Public Library, 651 East Main Street, Ventura, CA 93001;

City of Los Angeles Central Library, 630 W. Fifth Street, Los Angeles, CA 90071;

Arroyo Seco Regional Branch Library 6145 N. Figueroa Street, Los Angeles, CA 90042;

Eagle Rock Library 5027 Caspar Avenue, Los Angeles, CA 90041;

Exposition Park Library, 3665 S. Vermont Avenue Los Angeles, CA 90007;

Frances Howard Goldwyn Library, 1623 N. Ivar Avenue, Hollywood, CA 90028;

San Pedro Regional Branch Library, 931 S. Gaffey Street, San Pedro, CA 90731;

Mar Vista Branch Library, 12006 Venice Blvd., Los Angeles, CA 90066;

Mid-Valley Regional Branch Library, 16244 Nordhoff Street, North Hills, CA 91343;

North Hollywood Regional Library, 5211 Tujunga Avenue, North Hollywood, CA 91601;

Venice Abbott Kinney Library, 501 South Venice Blvd., Venice, CA 90291;

Westchester Branch Library, 7114 W. Manchester Avenue, Los Angeles, CA 90045;

West L.A. Regional Branch Library, 11360 Santa Monica Blvd. Los Angeles, CA 90025;

West Valley Regional Branch Library, 19036 Vanowen Street, Reseda, CA 91335;

Compton Library, 240 W. Compton Blvd. Compton, CA 90220;

Carson Regional Library, 151 E. Carson Street, Carson, CA 90745;

Claremont Library, 208 N. Harvard Avenue, Claremont, CA 91711;

Culver City Library, 4975 Overland Avenue, Culver City, CA 90230;

El Monte Library, 3224 Tyler Avenue, El Monte, CA 91731;

El Segundo Public Library, 111 W. Mariposa Avenue, El Segundo, CA 90245;

Hacienda Heights Library, 16010 La Monde Street, Hacienda Heights, CA 91745;

Hawthorne Library, 12700 Grevillea Avenue, Hawthorne, CA, 90250;

Hermosa Beach Library, 550 Pier Avenue, Hermosa Beach, 90254;

Inglewood Library, 101 W. Manchester Blvd., Inglewood, CA 90301;

Lancaster Library, 601 West Lancaster Blvd., Lancaster, CA 93534;

Lennox Library, 4359 Lennox Blvd., Lennox, CA 90304;

Lomita Library, 24200 Narbonne Avenue, Lomita, CA 90717;

Beverly Hills Library, Reference Desk, 444 N. Rexford Drive Beverly Hills, CA 90210;

Helen Miller Bailey Library, 1301 Avenida Cesar Chavez, Monterey Park, CA 91754;

Gardena Main Library, 1731 W. Gardena Blvd. Gardena, CA 90247;

Huntington Park Library, 6518 Miles Avenue, Huntington Park, CA 90255;

Lawndale Library, 14615 Burin Avenue Lawndale, CA 90260;

Malibu Library, 23519 West Civic Center Way, Malibu, CA 90265;

Manhattan Beach Library, 1320 Highland Avenue, Manhattan Beach, CA 90266;

Lloyd Taber Marina Del Rey Library, 4533 Admiralty Way, Marina Del Rey, CA 90292;

Montebello Library, 1550 West Beverly Blvd., Montebello, CA 90640;

Mt. San Antonio College Library, 1100 N. Grand Avenue, Walnut, CA 91789;

Palmdale Library, 700 E. Palmdale Blvd. Palmdale, CA 93550;

Redondo Beach Library, 303 N. Pacific Coast Highway, Redondo Beach, CA, 90277;

San Dimas Library, 145 North Walnut Avenue, San Dimas, CA 91773;

Santa Monica Library, 1324 Fifth Street, Santa Monica, CA 90401;

Torrance Civic Center Library, 3301 Torrance Blvd. Torrance, CA 90503;

View Park Library, 3854 West 54th Street, Los Angeles, CA 90043;

West Hollywood Library, 715 N. San Vicente Blvd., West Hollywood, CA 90069;

Willowbrook Library, 11838 Wilmington Avenue, Los Angeles, CA 90059;

Wiseburn Library, 5335 West 135th Street, Hawthorne, CA 90250;

Woodcrest Library, 1340 West 106th Street, Los Angeles, CA 90044; and

UCLA Young Research Library, 280 E. Charles Young Drive, Los Angeles, CA 90095.

The Final EIS will be available for public review for 30-days. Written comments on Volume A of the Final EIS should be submitted to the address above under the heading **FOR FURTHER INFORMATION CONTACT** and must be received no later than 5 p.m. Pacific standard time, Tuesday, February 22, 2005.

Issued in Hawthorne, California on January 13, 2005.

Mark A. McClardy,

Manager, Airports Division, Western—Pacific Region, AWP–600.

[FR Doc. 05–1159 Filed 1–19–05; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Aviation Rulemaking Advisory Committee Meeting on Transport Airplane and Engine Issues

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of public meeting.

SUMMARY: This notice announces a public meeting of the FAA's Aviation Rulemaking Advisory Committee (ARAC) to discuss transport airplane and engine (TAE) issues.

DATES: The meeting is scheduled for Thursday, February 10, 2005, starting at 8:30 a.m. Arrange for oral presentations by February 8, 2005.

ADDRESSES: The Boeing Company, 1200 Wilson Boulevard, Room 234, Arlington, VA.

FOR FURTHER INFORMATION CONTACT: John Linsenmeyer, Office of Rulemaking, ARM–207, FAA, 800 Independence Avenue, SW., Washington, DC 20591, Telephone (202) 267–5174, FAX (202) 267–5075, or e-mail at *john.linsenmeyer@faa.gov.*

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. app. III), notice is given of an ARAC meeting to be held February 10, 2005 at The Boeing Company in Arlington, Virginia.

The agenda will include:

- Opening Remarks.
- FAA Report.
- European Aviation Safety Agency Report.
- Transport Canada Report.
- Executive Committee Report.
- Ice Protection Harmonization Working Group (HWG) Report.
- Airworthiness Assurance HWG Report.
- Avionics Systems HWG Report.
- § 25.1309 Summary of Recent Activity on Specific Risk.
- Written or verbal reports, as required, from the following HWGs: General Structures, Engine, Electromagnetic Effects, Flight Test, Seat Test, Flight Control, Flight Guidance, System Design and Analysis, Electrical Systems, Design for Security, Powerplant Installation, Mechanical Systems, and Human Factors.
- Review of Action Items and 2005 Meeting Schedule.

Attendance is open to the public, but will be limited to the availability of meeting room space. Please confirm your attendance with the person listed in the **FOR FURTHER INFORMATION CONTACT** section no later than February 8, 2005. Please provide the following information: Full legal name, country of citizenship, and name of your industry association, or applicable affiliation. If you are attending as a public citizen, please indicate so.

For persons participating domestically by telephone, the call-in number is (425) 717–7000; the Passcode is ''36952#.'' Details are also available on the ARAC calendar at *http://www.faa.gov/avr/arm/arac/calendarxml.cfm.* To insure that sufficient telephone lines are available, please notify the person listed in the **FOR FURTHER INFORMATION CONTACT** section of your intent by February 8. Anyone participating by telephone will be responsible for paying long-distance charges.

The public must make arrangements by February 8 to present oral statements at the meeting. Written statements may be presented to the committee at any time by providing 25 copies to the person listed in the **FOR FURTHER INFORMATION CONTACT** section or by providing copies at the meeting. Copies of the document to be presented to ARAC for decision by the FAA may be made available by contacting the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

If you are in need of assistance or require a reasonable accommodation for the meeting or meeting documents, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Sign and oral interpretation, as well as a listening device, can be made available if requested 10 calendar days before the meeting.

Issued in Washington, DC on January 11, 2005.

Tony F. Fazio,

Director, Office of Rulemaking.

[FR Doc. 05–1058 Filed 1–19–05; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Application 05–08–C–00–DFW To Impose and Use the Revenue From a Passenger Facility Charge (PFC) at Dallas/Fort Worth International Airport, DFW Airport, TX

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Dallas/Fort Worth International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

DATES: Comments must be received on or before February 22, 2005.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate copies to the FAA at the following address: Mr. G. Thomas Wade, Federal Aviation Administration, Southwest Region, Airports Division, Planning and Programming Branch, ASW–611, Fort Worth, Texas 76193–0610.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Jeffery P. Fegan, Manager, Dallas/Fort Worth International Airport at the following address: 3200 E. Airfield Drive, DFW Airport, Texas 75261.

Air carriers and foreign air carriers may submit copies of the written comments previously provided to the Airport under Section 158.23 of Part 158.

FOR FURTHER INFORMATION CONTACT: Mr. G. Thomas Wade, Federal Aviation Administration, Southwest Region, Airports Division, Planning and Programming Branch, ASW–611, Fort Worth, Texas 76193–0610, (817) 222–5613.

The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public coment on the application to impose and use the revenue from a PFC at Dallas/Fort Worth International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

On January 12, 2005, the FAA determined that the application to impose and use the revenue from a PFC submitted by the Airport was substantially complete within the requirements of 158.25 of Part 158. The FAA will approve or disapprove the application, in whole or in part, no later than April 28, 2005.

The following is a brief overview of the application.

Level of the proposed PFC: $4.50.

Proposed charge effective date: May 1, 2016.

Proposed charge expiration date: December 1, 2032.

Total estimated PFC revenue: $2,892,040,000.

PFC application number: 05–08–C–00–DFW.

Brief description of proposed project(s):

Projects To Impose and Use PFC'S: Terminal D Apron and Associated Development, Wetlands Mitigation, Terminal D Major Storm Drain, Surface Movement Guidance and Control System, Terminal D Building, Terminal D Skybridge and Pedestrian Bridges, Terminal D Interior Signage, Central Utility Plan Modifications, Terminal D Roadway Development, Hotel Condemnation and Demolition, SkyLink Flight Information Display System, and Taxiway K Rehabilitation.

Proposed class or classes of air carriers to be exempted from collecting PFC's: Air Taxi/Commercial Operators Filing FAA Form 1800–31.

Any person may inspect the application in person at the FAA office

listed above under **FOR FURTHER INFORMATION CONTACT** and at the FAA regional Airports office located at: Federal Aviation Administration, Southwest Region, Airports Division, Planning and Programming Branch, ASW–610, 2601 Meacham Blvd., Fort Worth, Texas 76137–4298.

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at Dallas/Fort Worth International Airport.

Issued in Fort worth, Texas on January 12, 2005.

Rick Marinelli,

Acting Manager, Airports Division.

[FR Doc. 05–1158 Filed 1–19–05; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement: Shelby County, TN

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of Intent.

SUMMARY: The FHWA is issuing this notice to advise the public that a supplement to a Final Environmental Impact Statement will be prepared for a proposed highway project in Shelby County, Tennessee.

FOR FURTHER INFORMATION CONTACT: Walter Boyd, Field Operations Team Leader, Federal Highway Administration, 640 Grassmere Park Road, Suite 112, Nashville, Tennessee 37211, Telephone: (615) 781–5770.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Tennessee Department of Transportation, the City of Memphis, and Shelby County, Tennessee, will prepare a supplement to the Final Environmental Impact Statement (EIS) for the proposed Kirby Parkway in Shelby County, Tennessee. The original EIS for the Kirby Parkway project, a new north-south route in the East Memphis area (FHWA–TN–EIS–86–02–F) was approved on August 21, 1991. The proposed route, which begins at Split Oak Drive and proceeds northward approximately 10 miles to Stage Road, would consist of improving some existing roads and some construction on new alignment. The project would provide two to three traffic lanes in each direction and either a continuous center lane or a raised median with turning lanes.

The EIS supplement will be prepared for Kirby Parkway from I–240 north to I–40. The portion of the project from Macon Road south of I–40 to Stage Road north of I–40 has been constructed and opened to traffic. A Walnut Grove Road bridge over the Wolf River has been designed and will be constructed beginning in 2005. The segment from Walnut Grove Road at the Wolf River to Macon Road, passing through Shelby Farms, has not been designed and will be reassessed to determine if a new route location farther to the west would be appropriate. This alignment shift through Shelby Farms will be considered in response to public comments and to minimize potential adverse effects. The purpose for preparing the EIS supplement is to determine whether there are new circumstances in the project area and to study modified alternative alignments to determine whether new significant impacts would occur as a result of the modification to the proposed project.

Alternatives under consideration include (1) taking no action to construct a new facility between Walnut Grove Road and Macon Road; (2) constructing a multi-lane highway on the approved location; and (3) constructing a multi-lane highway partially on the approved location and on new location through Shelby Farms. Various design options of grade, alignment, and typical section will be incorporated into and studied with the proposed build alternatives. Roadway design will be in conformance with the major road plan for Shelby County. The primary purpose of the proposed project is to relieve congestion in the East Memphis area.

Letters describing the proposed action and soliciting comments will be sent to appropriate Federal, State, and local agencies, and to private organizations and citizens who have previously expressed or are known to have interest in this proposal. Public meetings are planned for February and July of 2005. In addition, a public hearing will be held. Public notice will be given of the time and place of the meeting and hearing. The draft Supplemental EIS will be available for public and agency review and comment prior to the public hearing. No formal scoping meeting will be held.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA at the address provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation of Federal programs and activities apply to this program.)

Issued on: January 13, 2005.

Laurie Schroeder,

Assistant Division Administrator, Nashville, Tennessee.

[FR Doc. 05–1090 Filed 1–19–05; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

Preparation of Environmental Impact Statement for the E Street Transit Corridor in San Bernardino, CA

AGENCY: Federal Transit Administration, DOT.

ACTION: Notice of intent to prepare an environmental impact statement (EIS).

SUMMARY: The Federal Transit Administration (FTA) and Omnitrans are issuing this notice to advise agencies and the public that, in accordance with the National Environmental Policy Act, FTA and Omnitrans, in cooperation with San Bernardino Association of Governments, Southern California Association of Governments and other public entities, will complete the Alternatives Analysis, adopt a Locally Preferred Alternative (LPA) and then prepare an Environmental Impact Statement (EIS) to evaluate transit improvements, including a potential bus rapid transit (BRT) line and other alternatives in the E Street corridor from California State University at San Bernardino to the City of Loma Linda in San Bernardino County, California. This Notice of Intent is being published at this time to notify all interested parties and to invite them to participate in the study. Conceptual alternatives to be considered may include No Action/No Build, transportation system management (TSM), bus rapid transit (BRT), and light rail transit (LRT). Other conceptual alternatives may be identified during the scoping sessions.

SCOPING: Scoping for the studies will be developed during a process that will include an extensive review of previous and existing plans, consultation with affected agencies and interested persons, interviews with community leaders, public meetings and other outreach/involvement activities.

DATES: Two public scoping meetings, one at the Radisson Hotel & Convention Center 295 NE., Street, San Bernardino, CA 92401, on February 7, 2005, from 8 a.m. to 2 p.m. and the other to be held at the Feldheym Central Library, 555 W.

6th Street, San Bernardino, CA 92401, on February 9, 2005, at 5:30 p.m. Details of the public scoping meetings will be advertised in local newspapers and other media. An interagency scoping meeting will be held on February 17, 2005 at 1:30 p.m. (See **ADDRESSES** below). Written comments on the scope of the studies may be sent to Rohan Kuruppu, Director of Planning, Omnitrans within forty-five days of the meeting dates (See **ADDRESSES** below).

ADDRESSES: Written comments on the project should be sent to Rohan Kuruppu, Director of Planning, Omnitrans, Omnitrans Metro Facility, 1700 West Fifth Street, San Bernardino, CA 92411. The interagency scoping meeting will be held on February 17, 2005 at 1:30 p.m. at Southern California Association of Governments (SCAG), 818 West Seventh Street, 12th Floor, Los Angeles, CA, 90017. All scoping meetings will be held in facilities meeting the requirements of Americans with Disabilities Act.

SUPPLEMENTARY INFORMATION:

I. Notice of Intent

The Notice of intent is to prepare an Alternatives Analysis leading to an Environmental Impact Statement and is being published at this time to advise interested parties of the study and invite their participation. FTA regulations and guidance in accordance with the National Environmental Policy Act will be used in the analysis and preparation of the E Street Corridor studies.

II. Scoping

The FTA, Omnitrans, SANBAG, SCAG and other public entities invite comments both at the public meetings listed above and in writing for a period of 45 days following the date of the meetings. Comments should focus on identifying specific social, economic, or environmental concerns to be addressed, the types of alternatives to be considered as well as the scope and impacts of the alternatives.

If you wish to be placed on a mailing list to receive further information as the study progresses, contact Rohan Kuruppu at Omnitrans, 1700 West Fifth Street, San Bernardino, CA 92411.

III. Study Area

The study area is approximately 14 miles long, extending from California State University on the north to the City of Loma Linda on the south generally following Kendall Drive, E Street, Hospitality Lane and then south crossing under I–10 on one of three alternative alignments.

IV. Purpose and Need

Numerous key deficiencies and needs have been identified in the E Street Corridor. Existing transit services are slower than auto travel. Given that the corridor has high transit dependency and an aging population, this translates into reduced mobility for many residents. It also results in low usage by choice riders, particularly during lunchtime and mid-day periods. The corridor is in need of a catalyst to help accelerate revitalization efforts that have not yet been successful. Depressed economic conditions in the central corridor creates a disconnect of development between south and north. Portions of the corridor are viewed as unsafe. Scheduling of existing transit routes is difficult because of the potential for delays, particularly crossing the I–10 Freeway. This problem will get much worse as population and employment grow. Parking capacity is also a problem at the university and hospital campuses.

The purpose of the project is to mitigate the deficiencies identified above. Alternative transit scenarios to be evaluated must be designed to address the corridor's deficiencies and needs. Therefore each alternative will be designed to meet the following project goals:

- Enhance Mobility and Accessibility;
- Encourage Economic Growth and Redevelopment;
- Improve Transit Operations; and
- Provide a Cost Effective Solution.

V. Alternatives

As provided in the FTA major investment project development process, this Alternatives Analysis will focus on narrowing a range of conceptual alternatives to a manageable number to carry forward into detailed analysis. Conceptual alternatives to be considered may include:

- A No Action Alternative, including only existing and committed projects and services;
- A Transportation Systems Management (TSM) alternative that will include existing and committed projects, the most recent Omnitrans Short Range Transit Plan and other non capital improvements;
- One or more Bus Rapid Transit (BRT) alternatives in the E Street Corridor, with major improvements in the corridor; and
- A Light Rail Transit (LRT) alternative.

VI. Probable Effects

The purpose of the EIS is to fully disclose the environmental consequences of building and operating a premium transit system in the E Street Corridor in advance of any decisions to commit substantial financial or other resources towards its implementation. The Environmental Impact Statement will allow the project sponsors to evaluate the projects potential for significant adverse impacts during construction and operation and to identify feasible mitigation measures for those impacts. The specific analyses that would take place are land use, neighborhood character, social conditions and displacement, visual and aesthetic considerations, historic resources, archaeological resources, transit, traffic, parking, air quality, noise and vibration, energy, hazardous materials, water quality, natural resources, construction and construction impacts, cumulative impacts and environmental justice.

Depending on the outcome of the scoping process and the analysis of conceptual alternatives, a Locally Preferred Alternative (LPA) will be selected and evaluated in the Draft EIS. The Draft EIS will be prepared simultaneously with Preliminary Engineering for the project, including station and alignment options. The Draft EIS process will address the potential use of federal funds for the proposed action, as well as assess the social, economic, and environmental impacts of the station and alignment alternatives. Station designs and any alignment options will be refined to minimize and mitigate any adverse impacts.

VII. FTA Procedures

After publication, the Draft EIS will be available for public and agency review and comment, and a public hearing will be held. Based on the Draft EIS and comments received, the LPA may be refined, and Omnitrans will further assess the LPA in the Final EIS and will apply for FTA approval to initiate Final Design of the LPA.

Issued on: January 12, 2005.

Edward Carranza, Jr.,

Acting Regional Administrator.

[FR Doc. 05–1154 Filed 1–19–05; 8:45 am]

BILLING CODE 4910–57–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. 2005–20093]

Requested Administrative Waiver of the Coastwise Trade Laws

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Invitation for public comments on a requested administrative waiver of the Coastwise Trade Laws for the vessel EAT EM UP II.

SUMMARY: As authorized by Public Law 105–383 and Public Law 107–295, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below. The complete application is given in DOT docket 2005–20093 at *http://dms.dot.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with Public Law 105–383 and MARAD's regulations at 46 CFR part 388 (68 FR 23084; April 30, 2003), that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR part 388.

DATES: Submit comments on or before February 22, 2005.

ADDRESSES: Comments should refer to docket number MARAD–2005 20093. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. DOT Dockets, Room PL–401, Department of Transportation, 400 7th St., SW., Washington, DC 20590–0001. You may also send comments electronically via the Internet at *http://dmses.dot.gov/submit/.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: Michael Hokana, U.S. Department of Transportation, Maritime Administration, MAR–830 Room 7201, 400 Seventh Street, SW., Washington, DC 20590. Telephone 202–366–0760.

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel ''EAT EM UP II'' is:

Intended Use: ''Carry passengers and sport fishing with fish caught not being sold commercially.''

Geographic Region: ''Great Lakes (Lake Erie, Lake Huron, Lake Michigan, Lake Ontario).''

Dated: January 14, 2005.

By order of the Maritime Administrator.

Joel C. Richard,

Secretary, Maritime Administration.

[FR Doc. 05–1122 Filed 1–19–05; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket Number 2005–20090]

Requested Administrative Waiver of the Coastwise Trade Laws

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Invitation for public comments on a requested administrative waiver of the Coastwise Trade Laws for the vessel NORTHERN LIGHTS.

SUMMARY: As authorized by Public Law 105–383 and Public Law 107–295, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below. The complete application is given in DOT docket 2005–20090 at *http://dms.dot.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with Public Law 105–383 and MARAD's regulations at 46 CFR part 388 (68 FR 23084; April 30, 2003), that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR part 388.

DATES: Submit comments on or before February 22, 2005.

ADDRESSES: Comments should refer to docket number MARAD–2005 20090. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. DOT Dockets, Room PL–401, Department of Transportation, 400 7th St., SW., Washington, DC 20590–0001. You may also send comments electronically via the Internet at *http://dmses.dot.gov/submit/.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except Federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: Michael Hokana, U.S. Department of Transportation, Maritime Administration, MAR–830 Room 7201, 400 Seventh Street, SW., Washington, DC 20590. Telephone 202–366–0760.

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel NORTHERN LIGHTS is:

Intended Use: The vessel will be used for passenger service including sightseeing, parties, corporate and social events, sunset cruises, weekend and weekly charters.

Geographic Region: Coastwise along the east coast. New England summers and Florida in the winter months. ME, NH, MA, RI, VT, CT, NY, NJ, DE, VA, NC, SC, GA, FL.

Dated: January 14, 2005.

By order of the Maritime Administrator.

Joel C. Richard,

Secretary, Maritime Administration.

[FR Doc. 05–1124 Filed 1–19–05; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket Number 2005–20092]

Requested Administrative Waiver of the Coastwise Trade Laws

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Invitation for public comments on a requested administrative waiver of the Coastwise Trade Laws for the vessel PARROT HEAD.

SUMMARY: As authorized by Public Law 105–383 and Public Law 107–295, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build

requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below. The complete application is given in DOT docket 2005 20092 at *http://dms.dot.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with Public Law 105–383 and MARAD's regulations at 46 CFR part 388 (68 FR 23084; April 30, 2003), that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR part 388.

DATES: Submit comments on or before February 22, 2005.

ADDRESSES: Comments should refer to docket number MARAD–2005 20092. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. DOT Dockets, Room PL–401, Department of Transportation, 400 7th St., SW., Washington, DC 20590–0001. You may also send comments electronically via the Internet at *http://dmses.dot.gov/submit/.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except Federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: Michael Hokana, U.S. Department of Transportation, Maritime Administration, MAR–830 Room 7201, 400 Seventh Street, SW., Washington, DC 20590. Telephone 202–366–0760.

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel PARROT HEAD is:

Intended Use: ''Transportation of passengers to allow them to commit creamains (ashes) to the sea.''

Geographic Region: ''Puget Sound, Washington Coastal Waters, inside passage to SE Alaska.''

Dated: January 15, 2005.

By order of the Maritime Administrator.

Joel C. Richard,

Secretary, Maritime Administration.

[FR Doc. 05–1125 Filed 1–19–05; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket Number 2005–20089]

Requested Administrative Waiver of the Coastwise Trade Laws

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Invitation for public comments on a requested administrative waiver of the Coastwise Trade Laws for the vessel PIQUERO.

SUMMARY: As authorized by Public Law 105–383 and Public Law 107–295, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below. The complete application is given in DOT docket 2005–20089 at *http://dms.dot.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with Public Law 105–383 and MARAD's regulations at 46 CFR Part 388 (68 FR 23084; April 30, 2003), that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR Part 388.

DATES: Submit comments on or before February 22, 2005.

ADDRESSES: Comments should refer to docket number MARAD–2005–20089. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. DOT Dockets, Room PL–401, Department of Transportation, 400 7th St., SW., Washington, DC 20590–0001. You may also send comments electronically via the Internet at *http://dmses.dot.gov/submit/.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: Michael Hokana, U.S. Department of Transportation, Maritime Administration, MAR–830 Room 7201, 400 Seventh Street, SW., Washington, DC 20590. Telephone 202–366–0760.

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel PIQUERO is:

Intended Use: Carrying passengers primarily for the purpose of offering team building and personal development cruises aboard a sailing vessel. In all cases this sailing vessel will be under the command of a USCG licensed captain. The team building and personal development aspects of these cruises are co-developed with a Washington State licensed professional psychologist to provide a unique, optimum experience with maximum benefit to the passenger.

Geographic Region: State of Washington waters specifically Strait of Juan de Fuca, Georgia Strait, North Puget Sound (San Juan Islands), Bellingham Bay.

Dated: January 14, 2005.

By order of the Maritime Administrator.

Joel C. Richard,

Secretary, Maritime Administration.

[FR Doc. 05–1128 Filed 1–19–05; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket Number 2005–20087]

Requested Administrative Waiver of the Coastwise Trade Laws

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Invitation for public comments on a requested administrative waiver of the Coastwise Trade Laws for the vessel QUIXOTE.

SUMMARY: As authorized by Public Law 105–383 and Public Law 107–295, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by

MARAD. The vessel, and a brief description of the proposed service, is listed below. The complete application is given in DOT docket 2005–20087 at *http://dms.dot.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with Public Law 105–383 and MARAD's regulations at 46 CFR part 388 (68 FR 23084; April 30, 2003), that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR Part 388.

DATES: Submit comments on or before February 22, 2005.

ADDRESSES: Comments should refer to docket number MARAD–2005 20087. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. DOT Dockets, Room PL–401, Department of Transportation, 400 7th St., SW., Washington, DC 20590–0001. You may also send comments electronically via the Internet at *http://dmses.dot.gov/submit/.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., e.t., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: Michael Hokana, U.S. Department of Transportation, Maritime Administration, MAR–830 Room 7201, 400 Seventh Street, SW., Washington, DC 20590. Telephone 202–366–0760.

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel QUIXOTE is:

Intended Use: Six person charters.

Geographic Region: The States of ME, NH, MA, RI, CT, NY, NJ, DE, MD, VA, NC, SC, GA, FL, AL, MS, LA, TX, and USVI, PR.

Dated: January 14, 2005.

By order of the Maritime Administrator.

Joel C. Richard,

Secretary, Maritime Administration.

[FR Doc. 05–1127 Filed 1–19–05; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket Number 2005–20088]

Requested Administrative Waiver of the Coastwise Trade Laws

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Invitation for public comments on a requested administrative waiver of the Coastwise Trade Laws for the vessel UNBELIEVABLE.

SUMMARY: As authorized by Public Law 105–383 and Public Law 107–295, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below. The complete application is given in DOT docket 2005–20088 at *http://dms.dot.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with Public Law 105–383 and MARAD's regulations at 46 CFR Part 388 (68 FR 23084; April 30, 2003), that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR Part 388.

DATES: Submit comments on or before February 22, 2005.

ADDRESSES: Comments should refer to docket number MARAD–2005 20088. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. DOT Dockets, Room PL–401, Department of Transportation, 400 7th St., SW., Washington, DC 20590–0001. You may also send comments electronically via the Internet at *http://dmses.dot.gov/submit/.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., e.t., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: Michael Hokana, U.S. Department of Transportation, Maritime Administration, MAR–830 Room 7201, 400 Seventh Street, SW., Washington, DC 20590. Telephone 202–366–0760.

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel UNBELIEVEABLE is:

Intended Use: ''Charter fishing.''

Geographic Region: ''Florida, Alabama, Mississippi, Louisiana.''

Dated: January 14, 2005.

By order of the Maritime Administrator.

Joel C. Richard,

Secretary, Maritime Administration.

[FR Doc. 05–1126 Filed 1–19–05; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket Number 2005–20091]

Requested Administrative Waiver of the Coastwise Trade Laws

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Invitation for public comments on a requested administrative waiver of the Coastwise Trade Laws for the vessel ZANE GREY.

SUMMARY: As authorized by Public Law 105–383 and Public Law 107–295, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below. The complete application is given in DOT docket 2005–20091 at *http://dms.dot.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with Public Law 105–383 and MARAD's regulations at 46 CFR part 388 (68 FR 23084; April 30, 2003), that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state

the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR part 388.

DATES: Submit comments on or before February 22, 2005.

ADDRESSES: Comments should refer to docket number MARAD–2005 20091. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. DOT Dockets, Room PL–401, Department of Transportation, 400 7th St., SW., Washington, DC 20590–0001. You may also send comments electronically via the Internet at *http://dmses.dot.gov/submit/.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except Federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: Michael Hokana, U.S. Department of Transportation, Maritime Administration, MAR–830 Room 7201, 400 Seventh Street, SW., Washington, DC 20590. Telephone 202–366–0760.

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel ZANE GREY is:

Intended Use: Day charters, occasional overnight trips with private charter parties.

Geographic Region: ''Maine Coast, Casco Bay to Muscongus Bay''.

Dated: January 14, 2005.

By order of the Maritime Administrator.

Joel C. Richard,

Secretary, Maritime Administration.

[FR Doc. 05–1123 Filed 1–19–05; 8:45 am]

BILLING CODE 4910–81–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 February 22, 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 January 13, 2005.

R. Ryan Posten,

Exemptions Program Officer, Office of Hazardous Materials Safety Exemptions & Approvals.

NEW EXEMPTION

Application No.	Docket No.	Applicant	Regulation(s) affected	Nature of exemption thereof
14076–N		Florida Power & Light Company Florida City, FL.	49 CFR 173.403, 173.427(a), 173.465(c) and (d).	To authorize the transportation in commerce of two Class 7 nuclear reactor heads in alternative packaging. (modes 1, 3).
14096–N		United States Enrichment Corporation (USEC) Paducah, KY.	49 CFR 173.420	To authorize the one-time, one-way transportation in commerce of uranium hexafloride in alternative packaging. (mode 1).
14097–N		S.C. Johnson & Sons, Inc. Racine, WI.	49 CFR 173.306	To authorize the transportation in commerce of Division 2.2 aerosols of less than 20 ounce capacity in plastic packagings. (modes 1, 2, 4).

[FR Doc. 05–1059 Filed 1–19–05; 8:45 am]

BILLING CODE 4909–60–M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration Office of Hazardous Materials Safety

Notice of Applications for Modification of Exemption

AGENCY: Research and Special Programs Administration, DOT.

ACTION: List of application 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. The applications have been separated from the new application for exemption to facilitate processing.

DATES: Comments must be received on or before February 7, 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 application 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 January 13, 2005.

R. Ryan Posten,

Exemptions Program Officer, Office of Hazardous Materials Safety Exemptions & Approvals.

Application No.	Docket No.	Applicant	Regulation(s) affected	Modification of exemption	Nature of exemption thereof
7041–M		Albemarle Corporation Baton Rouge, LA.	49 CFR 173.244	7041	To modify the exemption to authorize additional proper shipping names for the Division 4.2 and 4.3 materials transported in non-DOT specification cargo tanks equipped with an agitator.
9198–M		U.S. Dept. of the Interior, National Business Center, Aviation Management Boise, ID.	49 CFR Subchapter C; 175.5(a)(2).	9198	To modify the exemption to eliminate the requirement for an extra person on board the aircraft during transport of hazardous materials and to update the DOI–USDA Handbook/Guide.
9672–M		Albemarle Corp. Baton Rouge, LA.	49 CFR 178.337–8(a)(3).	9672	To modify the exemption to authorize additional proper shipping names for the Division 4.2 and 4.3 materials transported in DOT Specification cargo tanks with a filling/discharge opening without a remote self-closing internal valve.
11383–M		NASA Washington, DC.	49 CFR 173.40(a) & (c); 173.158(b), (g), (h); 173.192(a); 173.336.	11383	To modify the exemption to authorize the transportation of an additional Division 2.3 material in non-DOT specification stainless steel cylinders.
11799–M		Cryonix, Inc. Rockville, MD.	49 CFR 173.196	11799	To modify the exemption to authorize alternatives in packaging types, operating temperatures, quantity of specimens, and in transport vehicles for transporting infectious substances by private motor vehicle.
11993–M	RSPA–97–3100	Key Safety Systems, Inc. (formerly BREED Tech.) Lakeland, FL.	49 CFR 173.301(a)(1); 173.302a.	11993	To modify the exemption to update the PSNs and section cites, authorize relief from certain marking and bracket welding process requirements and add passenger-carrying aircraft as a mode of transportation.
12124–M	RSPA–98–4309	Albemarle Corporation Baton Rouge, FL.	49 CFR 173.242; 178.245–1(c); 178.245–1(d)(4).	12124	To modify the exemption to authorize additional proper shipping names for the Division 4.2 and 4.3 materials transported in non-DOT specification portable tanks.
12245–M	RSPA–99–5489	GE Betz (formerly BetzDearborn) Trevose, PA.	49 CFR 177.834(h); 172.302(c).	12245	To modify the exemption to add a Division 6.1 material which may be discharged from composite Intermediate Bulk Containers (IBCs) without removing the IBC from the vehicle on which it is transported.
13246–M	RSPA–03–15625	McLane Company, Inc. Temple, TX.	49 CFR 172.102(c)(4) N10.	13246	To modify the exemption to authorize the use of an additional plastic non-DOT specification outer packaging for the transportation of lighters.
13327–M	RSPA–03–16602	Hawk FRP LLC Ardmore, OK.	49 CFR 172.203(a); 178.345–1; 180.413.	13327	To modify the exemption to authorize modification of rollover damage protection, as approved by a DCE, when necessary for existing exempted manways.
13337–M	RSPA–04–1687	Albemarle Corporation Baton Rouge, LA.	49 CFR 172.301(c); 172.302(c); 17683(b)&(d).	13337	To modify the exemption to authorize additional proper shipping names for the Division 4.2 and 4.3 materials transported in certain authorized packaging without meeting ‘‘away from’’ segregation requirements.

Application No.	Docket No.	Applicant	Regulation(s) affected	Modification of exemption	Nature of exemption thereof
13961–M	RSPA–04–19297	3AL Testing Corporation Denver, CO.	49 CFR 172.203(a); 172.301(c); 180.205(f),(g); 180.209(a).	13961	To reissue the exemption originally issued on an emergency basis for the transportation of DOT Specification 3AL cylinders containing Division 2.1, 2.2 and 2.3 materials when retested by a 100% ultrasonic examination in lieu of the internal visual and hydrostatic retest.
13997–M	RSPA–04–19643	Maritime Helicopters Homer, AK.	49 CFR 172.101(9b); 172.302(c).	13997	To reissue the exemption originally issued on an emergency basis for the transportation of a Division 2.1 mateial in DOT Specification 51 portable tanks that exceed the quantities limitation by cargo aircraft.
13998–M	RSPA–04–19651	3 AL Testing Corp. Denver, CO.	49 CFR 172.203(a); 172.302a(b)(2), (4)(5); 180.205(f)(g); 180.209(a), (b)(1)(iv).	13998	To reissue the exemption originally issued on an emergency basis for the transportation of DOT Specification 3A, 3AA, 3BN cylinders containing Division 2.1, 2.2 and 2.3 materials when retested by a 100% ultrasonic examination in lieu of the internal visual and hydrostatic retest.
14005–M	RSPA–04–19585	Scientific Cylinder International, LLC Castle Rock, CO.	49 CFR 17.203(a), 172.301(c), 180.205(f)(4), 180.205(g), 180.209(a).	14005	To reissue the exemption originally issued on an emergency basis for the transportation of DOT Specification 3A, 3AA, 3BN cylinders containing Division 2.1, 2.2 and 2.3 materials when retested by a 100% ultrasonic examination in lieu of the internal visual and hydrostatic retest.
14006–M	RSPA–04–19586	Scientific Cylinder International, LLC Castle Rock, CO.	49 CFR 172.203(a), 172.301(c), 180.205(f)(4), 180.205(g), 180.209(a).	14006	To reissue the exemption originally issued on an emergency basis for the transportation of DOT Specification 3 AL cylinders containing Division 2.1, 2.2 and 2.3 materials when retested by a 100% ultrasonic examination in lieu of the internal visual and hydrostatic retest.

[FR Doc. 05–1060 Filed 1–19–05: 8:45am]
BILLING CODE 4909–60–M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

Pipeline Safety: Semi-Annual Reporting of Performance Measures for Gas Transmission Pipeline Integrity Management

AGENCY: Office of Pipeline Safety (OPS), Research and Special Programs Administration (RSPA), DOT.

ACTION: Notice; issuance of advisory bulletin.

SUMMARY: This document provides guidance to operators of gas transmission pipelines regarding semi-annual reporting of performance measures for integrity management. Operators of gas transmission pipelines subject to Subpart O, ''Pipeline Integrity Management,'' must submit four overall measures of their integrity management performance on a semi-annual basis. The first report was due August 31, 2004, and was the subject of RSPA/OPS Advisory Bulletin ADB–04–02 (69 FR 43881) which published on July 22, 2004. This document provides additional guidance for operators regarding on-line reporting that will be available for the report due in February 2005 and subsequent reports.

FOR FURTHER INFORMATION CONTACT: Zach Barrett by phone at (405) 954–5559 or by e-mail at *zbarrett@tsi.jccbi.gov,* regarding the subject matter of this Advisory Bulletin. General information about the RSPA/OPS programs may be obtained by accessing RSPA's home page at *http://RSPA.dot.gov.*

SUPPLEMENTARY INFORMATION:

Background

On December 15, 2003 (68 FR 69778) RSPA/OPS published a new Subpart O to the regulations governing safety of gas pipelines in 49 CFR part 192. Subpart O establishes requirements governing integrity management programs for gas transmission pipelines. Included among these provisions (49 CFR 192.945) are requirements for each transmission pipeline operator to maintain quantitative measures of its integrity management performance, including at least four overall performance measures specified in ASME/ANSI B31.8S, ''Managing System Integrity of Gas Pipelines'', Section 9.4. The same regulation requires that each operator submit the four overall performance measures to RSPA/OPS semi-annually.

The acceptable means for submitting reports required by Subpart O are in 49 CFR 192.951. That regulation specifies an address for submission by mail, includes a facsimile number, and provides that submissions may be made through the online reporting system provided by RSPA/OPS for electronic reporting. The electronic system is available at the RSPA/OPS Home Page at *http://ops.dot.gov.* The electronic submission form for integrity management performance measures is available from the ''Gas IMP Reporting'' link on that page.

Advisory Bulletin ADB–04–02 informed natural gas transmission pipeline operators that the initial performance measures submission required by August 31, 2004, could be abbreviated, in recognition of the developmental state of operator integrity

management programs. This advisory bulletin provides additional information concerning on-line reporting of performance measures for the report due in February 2005.

Advisory Bulletin (ADB–05–01)

To: Operators of gas transmission pipelines.

Subject: Semi-Annual Reporting of Integrity Management Performance Measures in 49 CFR 192.945.

Purpose: To provide guidance to operators for making required semi-annual submission of performance measures for integrity management.

Advisory: Operators are required by 49 CFR 192.945 to submit integrity management performance measures semi-annually. RSPA/OPS developed an electronic form to facilitate submission of the required measures. This form is available on the RSPA/OPS Home Page (*http://ops.dot.gov*) for ''Gas IMP Reporting''. RSPA/OPS strongly encourage operators to submit data using the electronic form, since this minimizes future transcription and handling, and lessens the chance for error. Operators may also submit the information by mail or facsimile, addressed to RSPA/OPS, 400 7th Street, SW., Room 2103, Washington, DC 20590. The fax number is (202) 366–4566. Please clearly notate your correspondence with ''Gas IMP Reporting''.

The four overall performance measures that gas transmission pipeline operators are required to submit are the:

1. Number of pipeline miles inspected versus program requirements;
2. Number of immediate repairs completed as a result of the integrity management inspection program;
3. Number of scheduled repairs completed as a result of the integrity management program; and
4. Number of leaks, failures, and incidents (classified by cause).

With respect to the first performance measure, the phrase ''versus program requirements'' refers to the number of miles of the operator's pipeline system that require assessment in accordance with Subpart O, (*i.e.*, the number of miles in high consequence areas.) Operators were not required to have developed their integrity management programs and baseline inspection plans until December 17, 2004, and thus may not have known the total number of miles that would require assessment at the time the first report was due (August 31, 2004). Similarly, operators may not have known, at that time, what repairs were reportable, since they may not have known which were made in high consequence areas. For these reasons, Advisory Bulletin ADB–04–02 advised operators that the quantitative performance measures would not be required for the first (August 31, 2004) report. That report, instead, allowed operators to report that they had begun assessment activities by June 17, 2004, in conformance with the Pipeline Safety Improvement Act of 2002 (codified at 49 U.S.C. 60109(c)).

The December 17, 2004, deadline for identifying high consequence areas has now passed. Operators should be aware of how many miles of their pipeline system are in high consequence areas and where those areas are located. Operators should have all of the information needed for the overall quantitative performance measures required by the rule. Operators must include the quantitative information in their February 2005 reports and in subsequent semi-annual submissions, unless the requirement is changed by future rulemaking. The February 2005 report should include data covering all of calendar year 2004, (*i.e.*, it should include the quantitative data that would have been reported in August 2004 but for which reporting was deferred by the earlier advisory bulletin.) Failure to submit performance measures in accordance with the rule could result in enforcement action.

The electronic report form provides a template with data fields that operators can complete to submit the required quantitative performance measures for 2004 (report due February 28, 2005). Operators who submit by mail or facsimile should similarly include all of the quantitative information required by the rule and the referenced standard.

The rule does not now require that performance measures be submitted separately for each state in which a pipeline operator operates. State pipeline safety authorities will have significant involvement in oversight of the implementation of integrity management requirements for gas transmission pipelines and performance measure information for their state will be useful for prioritizing and managing this work. RSPA/OPS is considering a change to the rule that would require operators to report separately for each state in which they have transmission pipeline. In the meantime, RSPA/OPS encourages operators with transmission pipeline in more than one state to submit their integrity management performance measure information separately for each state.

Issued in Washington, DC, on January 12, 2005.

Stacey L. Gerard,

Associate Administrator for Pipeline Safety.

[FR Doc. 05–1061 Filed 1–14–05; 9:11 am]

BILLING CODE 4910–60–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34641]

Nicholas B. Temple and Eric Temple—Control Exemption—Central Washington Railroad Company

Nicholas B. Temple and Eric Temple (Petitioners), noncarrier individuals, have filed a verified notice of exemption for Petitioners to control Central Washington Railroad Company (CWA), upon CWA's becoming a Class III rail carrier.

The transaction was expected to be consummated on or after December 29, 2004.

This transaction is related to the concurrently filed verified notice of exemption in STB Finance Docket No. 34640, *Central Washington Railroad Company—Lease and Operation Exemption—The Burlington Northern and Santa Fe Railway Company.* In that proceeding, CWA seeks to lease, from The Burlington Northern and Santa Fe Railway Company, and operate approximately 41.57 miles of rail line in Washington State and to acquire specified incidental trackage rights.

Petitioners also control the Columbia Basin Railroad Company, Inc. (CBRW), which leases and operates property in the State of Washington.[1]

Petitioners state that: (1) The railroads do not connect with each other or any railroad in their corporate family; (2) the transaction is not part of a series of anticipated transactions that would connect the railroads with each other or any railroad in their corporate family; and (3) the transaction does not involve a Class I carrier. Therefore, the transaction is exempt from the prior approval requirements of 49 U.S.C. 11323. *See* 49 CFR 1180.2(d)(2).

Under 49 U.S.C. 10502(g), the Board may not use its exemption authority to relieve a rail carrier of its statutory obligation to protect the interests of its employees. Section 11326(c), however, does not provide for labor protection for transactions under sections 11324 and 11325 that involve only Class III rail carriers. Accordingly, the Board may not impose labor protective conditions here,

[1] Each Petitioner has a 50% ownership interest in CBRW.

because all of the carriers involved are Class III carriers.

If the verified notice contains false or misleading information, the exemption is void *ab initio.* Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34641, must be filed with the Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Rose-Michele Weinryb, Esq., Weiner Brodsky Sidman Kider PC, 1300 19th St., NW., Fifth Floor, Washington, DC 20036–1609.

Board decisions and notices are available on our website at ''*http://www.stb.dot.gov.*''

Decided: January 12, 2005.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 05–1112 Filed 1–19–05; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34640]

Central Washington Railroad Company—Lease and Operation Exemption—The Burlington Northern and Santa Fe Railway Company

Central Washington Railroad Company (CWA), a noncarrier, has filed a verified notice of exemption under 49 CFR 1150.31 to lease, from The Burlington Northern and Santa Fe Railway Company (BNSF), and operate approximately 41.57 miles of rail line extending: (1) From approximately milepost 33.5 at or near Gibbon, WA, to approximately milepost 63.5 at or near Granger, WA; (2) from approximately milepost 0.0 at or near Yakima, WA, to approximately milepost 2.97 at or near Fruitvale, WA; (3) from approximately milepost 0.0 at or near Yakima to approximately milepost 8.6 at or near Moxee City, WA, as well as certain related yard, industry, side and spur tracks (including the Boise Spur).

In addition, CWA will acquire by assignment from BNSF certain incidental trackage rights over the lines of the Union Pacific Railroad Company (UP) [1] as follows: (1) At Biggam, WA, from approximately UP milepost 48.2 to approximately UP milepost 49.52; (2) at Grandview, WA, from approximately UP milepost 57.3 at Elm Street to approximately UP milepost 58.75; (3) at Midvale, WA, from approximately UP milepost 62.75 to approximately UP milepost 63.75 (4) from approximately UP milepost 73.4 at Granger, WA, to approximately UP milepost 78.5 at Zillah, WA ; (5) at Sunnyside, WA, from approximately UP milepost 0.0 to approximately UP milepost 3.21, which trackage rights provide CWA with limited access to UP customers from the CWA leased line from Granger to Gibbon, WA;[2] and (6) from approximately UP milepost 94.5 at Union Gap, WA, to approximately UP milepost 98.07 at the end of the line at Yakima (as well as the yard tracks in UP's Yakima Yard) (Union Gap Trackage), which will provide CWA with limited access to UP customers.[3]

CWA will also acquire incidental overhead trackage rights from BNSF over the BNSF line at Yakima from approximately milepost 89.0 to approximately milepost 92.0 (as well as adjacent running and yard tracks), which connect the separate elements of the CWA leased lines at Yakima, provide interchange acess with BNSF at BNSF's Yakima Yard, and facilitate CWA reaching the Union Gap Trackage.

This transaction is related to STB Finance Docket No. 34641, *Nicholas B. Temple and Eric Temple—Control Exemption—Central Washington Railroad Company* wherein Nicholas B. Temple and Eric Temple have filed a verified notice of exemption to control CWA upon its becoming a Class III rail carrier.

CWA certifies that its projected revenues as a result of this transaction will not exceed those that would qualify it as a Class III rail carrier and states that such revenues will not exceed $5 million annually. The transaction was scheduled to be consummated on or after December 29, 2004.

If the verified notice contains false or misleading information, the exemption is void *ab initio.* Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34640, must be filed with the Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Rose-Michele Weinryb, Esq., Weiner Brodsky Sidman Kider PC, 1300 19th St., NW., Fifth Floor, Washington, DC 20036–1609.

Board decisions and notices are available on our website at ''*http://www.stb.dot.gov.*''

Decided: January 12, 2005.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 05–1111 Filed 1–19–05; 8:45 am]

BILLING CODE 4915–01–P

[1] The assignment of the incidental trackage rights over the UP lines is subject to the consent of UP, which was anticipated to occur on or before December 30, 2004.

[2] This UP traffic will be interchanged with BNSF at Gibbon.

[3] This UP traffic will be interchanged with BNSF at BNSF's Yakima Yard.

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34639]

Calumet Transload and Railroad, LLC—Lease and Operation Exemption—Rail Line of Calumet Transfer, LLC

Calumet Transload and Railroad, LLC (CTRR), a noncarrier, has filed a verified notice of exemption under 49 CFR 1150.31 to lease, from Calumet Transfer, LLC (CT), also a noncarrier, and operate a 1-mile line of railroad located on property owned by CT abutting the Calumet River in Chicago, IL.

CTRR certifies that its projected revenues as a result of this transaction will not exceed those that would qualify it as a Class III rail carrier. The transaction was scheduled to be consummated on January 1, 2005.

If the verified notice contains false or misleading information, the exemption is void *ab initio.* Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34639, must be filed with the Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on David C. Dillon, Dillon & Nash, Ltd., 111 West Washington Street, Suite 719, Chicago, IL 60602.

Board decisions and notices are available on our Web site at ''*www.stb.dot.gov.*''

Decided: January 12, 2005.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 05–1210 Filed 1–19–05; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34642]

Locust Valley Coal Company d/b/a Locust Valley Line—Acquisition Exemption—Rail Lines in Schuykill County, PA

Locust Valley Coal Company d/b/a Locust Valley Line (Locust Valley), a noncarrier, has filed a verified notice of exemption under 49 CFR 1150.31 to acquire approximately 5 miles of rail line owned by Locust Valley, between milepost 0.0, at Laurel Jct. (also known as Maria Jct.) in Delano Township, and milepost 5.5, beyond Newton Jct., south of Mahanoy City, in Schuykill County, PA. Locust Valley states that the line is currently out of service and there is no operator for the line at this time.[1] However, Locust Valley is in the process of rehabilitating the rail line for service, and developing and marketing the adjacent property along the line to potential shippers. Locust Valley also states that it does not intend to operate the line, but that it intends to lease the rail line to an existing Class III carrier which will provide common carrier service over the subject line.[2]

Locust Valley certifies that its projected annual revenues will not exceed those that would qualify it as a Class III rail carrier and that its annual revenues are not projected to exceed $5 million.

Consummation of the transaction was scheduled to take place on or after December 30, 2004, the effective date of the exemption (7 days after the exemption was filed).

If the notice contains false or misleading information, the exemption is void *ab initio.* Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34642, must be filed with the Surface Transportation Board, 1925 K Street NW., Washington, DC 20423–0001. In addition, one copy of each pleading must be served on Eric M. Hocky, Esquire, Gollatz, Griffin & Ewing, P.C., Four Penn Center, Suite 200, 1600 John F. Kennedy Blvd., Philadelphia, PA 19103–2808.

Board decisions and notices are available on the Board's website at ''*http://www.stb.dot.gov.*''

Decided: January 12, 2005.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 05–1110 Filed 1–19–05; 8:45 am]

BILLING CODE 4915–01–P

[1] It appears that the line has been out of service for many years and was never abandoned. According to Locust, service has been provided over a 1-mile section near Laurel Jct., as a spur to serve one customer.

[2] According to Locust Valley, a request for authority to lease and operate the line will be filed separately with the Board prior to restoration of service. Locust Valley states that at that time it will have a residual common carrier obligation only.

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34643]

Central New York Railroad Corporation—Lease and Operation Exemption—Norfolk Southern Railway Company

Central New York Railroad Corporation (CNY), a Class III carrier, has filed a verified notice of exemption under 49 CFR 1150.41 to lease and operate approximately 123.1 miles of rail line currently owned by Norfolk Southern Railway Company (NS) between milepost 89.9 at or near Port Jervis, NY, and milepost 213.0 at Binghamton, NY, in Broome, Sullivan, Delaware and Orange, Counties, NY, and Pike and Susquehanna, Counties, PA.[1] NS is retaining overhead trackage rights over the line.

CNY certifies that its projected revenues as a result of this transaction will not result in the creation of a Class II or Class I rail carrier and that its total annual revenues after the transaction will not exceed $5 million. The transaction was scheduled to be consummated on or after December 31, 2004 (more than 7 days after the exemption was filed).

If the verified notice contains false or misleading information, the exemption is void *ab initio.* Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34643, must be filed with the Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Eric M. Hocky, Four Penn Center, Suite 200, 1600 John F. Kennedy Blvd., Philadelphia, PA 19103–2808.

Board decisions and notices are available on our Web site at *http://www.stb.dot.gov.*

Decided: January 12, 2005.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 05–1008 Filed 1–19–05; 8:45 am]

BILLING CODE 4915–01–P

[1] CNY indicates that it has entered into an agreement with NS for CNY's lease of the line.

DEPARTMENT OF THE TREASURY

Departmental Offices; Debt Management Advisory Committee Meeting

Notice is hereby given, pursuant to 5 U.S.C. App. 2 § 10(a)(2), that a meeting will be held at the Hay-Adams Hotel, 16th and Pennsylvania Avenue, NW., Washington, DC, on February 1, 2005 at 1 p.m. of the following debt management advisory committee:

Treasury Borrowing Advisory Committee of The Bond Market Association (''Committee'').

The agenda for the meeting provides for a charge by the Secretary of the Treasury or his designate that the Committee discuss particular issues, and a working session. Following the working session, the Committee will present a written report of its recommendations. The meeting will be closed to the public, pursuant to 5 U.S.C. App. 2 section 10(d) and Public Law 103–202, § 202(c)(1)(B) (31 U.S.C. 3121 note).

This notice shall constitute my determination, pursuant to the authority placed in heads of agencies by 5 U.S.C. App. 2 section 10(d) and vested in me by Treasury Department Order No. 101–05, that the meeting will consist of discussions and debates of the issues presented to the Committee by the Secretary of the Treasury, pursuant to Public Law 103–202, section 202(c)(1)(B). Thus, this information is exempt from disclosure under that provision and 5 U.S.C. 552b(c)(3)(B). In addition, the meeting is concerned with information that is exempt from disclosure under 5 U.S.C. 552b(c)(9)(A). The public interest requires that such meetings be closed to the public because the Treasury Department requires frank and full advice from representatives of

the financial community prior to making its final decisions on major financing operations. Historically, this advice has been offered by debt management advisory committees established by the several major segments of the financial community. When so utilized, such a committee is recognized to be an advisory committee under 5 U.S.C. App. 2 section 3.

Although the Treasury's final announcement of financing plans may not reflect the recommendations provided in reports of the Committee, premature disclosure of the Committee's deliberations and reports would be likely to lead to significant financial speculation in the securities market. Thus, this meeting falls within the exemption covered by 5 U.S.C. 552b(c)(9)(A).

Treasury staff will provide a technical briefing to the press on the day before the Committee meeting, following the release of a statement of economic conditions, financing estimates and technical charts. This briefing will give the press an opportunity to ask questions about financing projections and technical charts. The day after the Committee meeting, Treasury will release the minutes of the meeting, any charts that were discussed at the meeting, and the Committee's report to the Secretary.

The Office of Debt Management is responsible for maintaining records of debt management advisory committee meetings and for providing annual reports setting forth a summary of Committee activities and such other matters as may be informative to the public consistent with the policy of 5 U.S.C. 552(b). The Designated Federal Officer or other responsible agency official who may be contacted for additional information is Jeff Huther, Director, Office of Debt Management, at (202) 622–1868.

Dated: January 13, 2005.

Timothy Bitsberger,

Assistant Secretary, Financial Markets.

[FR Doc. 05–1085 Filed 1–19–05; 8:45 am]

BILLING CODE 4810–25–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Joint Committee of the Taxpayer Advocacy Panel

AGENCY: Internal Revenue Service (IRS) Treasury.

ACTION: Notice.

SUMMARY: An open meeting of the Joint Committee of the Taxpayer Advocacy Panel will be conducted via teleconference. The Taxpayer Advocacy Panel is soliciting public comment, ideas, and suggestions on improving customer service at the Internal Revenue Service.

DATES: The meeting will be held Wednesday, February 16, 2005, at 1 p.m., eastern daylight time.

FOR FURTHER INFORMATION CONTACT: Barbara Toy at 1–888–912–1227, or 414–297–1611.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an open meeting of the Joint Committee of the Taxpayer Advocacy Panel (TAP) will be held Wednesday, February 16, 2005, at 1 p.m. eastern daylight time via a telephone conference call. If you would like to have the Joint Committee of TAP consider a written statement, please call 1–888–912–1227 or 414–297–1611, or write Barbara Toy, TAP Office, MS–1006–MIL, 310 West Wisconsin Avenue, Milwaukee, WI 53203–2221, or FAX to 414–297–1623, or you can contact us at *http://www.improveirs.org*. Due to limited conference lines, notification of intent to participate in the telephone conference call meeting must be made with Barbara Toy. Ms. Toy can be reached at 1–888–912–1227 or 414–297–1611, or FAX 414–297–1623.

The agenda will include the following: monthly committee summary report, discussion of issues brought to the joint committee, office report, and discussion of next meeting.

Dated: January 14, 2005.

Bernard Coston,

Director, Taxpayer Advocacy Panel.

[FR Doc. 05–1145 Filed 1–19–05; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Taxpayer Advocacy Panel Multilingual Initiative (MLI) Issue Committee Will Be Conducted (via Teleconference); Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correction to notice.

SUMMARY: This document contains a correction to an open meeting of the Taxpayer Advocacy Panel Multilingual Initiative (MLI) Issue Committee being conducted (via teleconference) which was published in the **Federal Register** on Thursday, January 13, 2005 (70 FR 2465). This notice relates to the solicitation of public comments, ideas, and suggestions on improving customer service at the Internal Revenue Service.

FOR FURTHER INFORMATION CONTACT: Inez E. DeJesus at 1–888–912–1227, or (954) 423–7977.

SUPPLEMENTARY INFORMATION:

Background

The notice that is the subject of this correction is given pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988).

Need for Correction

As published, the notice, contains errors that may prove to be misleading and are in need of clarification.

Correction of Publication

Accordingly, the publication of the notice, which was the subject of FR Doc. 05–740, is corrected as follows:

1. On page 2465, column 1, under the caption **DATES:**, lines 2 and 3, the language ''Tuesday, February 8, 2005 from 3 p.m. to 4 p.m. e.t.'' is corrected to read ''Tuesday, February 8, 2005, from 2:30 p.m. to 3:30 p.m. e.t.''

2. On page 2465, column 1, under the caption **SUPPLEMENTARY INFORMATION:**, line 8, the language ''February 8, 2005 from 3 p.m. to 4 p.m.'' is corrected to read ''February 8, 2005, from 2:30 p.m. to 3:30 p.m.''

Cynthia Grigsby,

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

[FR Doc. 05–1146 Filed 1–14–05; 2:34 pm]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Area 7 Taxpayer Advocacy Panel (Including the State of California)

AGENCY: Internal Revenue Service (IRS) Treasury.

ACTION: Notice.

SUMMARY: An open meeting of the Area 7 committee of the Taxpayer Advocacy Panel will be conducted (via teleconference). The Taxpayer Advocacy Panel (TAP) is soliciting public comments, ideas, and suggestions on improving customer service at the Internal Revenue Service. The TAP will use citizen input to make recommendations to the Internal Revenue Service.

DATES: The meeting will be held Wednesday, February 16, 2005.

FOR FURTHER INFORMATION CONTACT: Mary Peterson O'Brien at 1–888–912–1227, or 206–220–6096.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an open meeting of the Area 7 Taxpayer Advocacy Panel will be held Wednesday, February 16, 2005 from 9 a.m. Pacific Time to 10 a.m. Pacific Time via a telephone conference call. The public is invited to make oral comments. Individual comments will be limited to 5 minutes. If you would like to have the TAP consider a written statement, please call 1–888–912–1227 or 206–220–6096, or write to Mary Peterson O'Brien, TAP Office, 915 2nd Avenue, MS W–406, Seattle, WA 98174 or you can contact us at *http://www.improveirs.org.* Due to limited conference lines, notification of intent to participate in the telephone conference call meeting must be made with Mary Peterson O'Brien. Ms. O'Brien can be reached at 1–888–912–1227 or 206–220–6096.

The agenda will include the following: Various IRS issues.

Dated: January 14, 2005.

Tersheia Carter,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. 05–1147 Filed 1–19–05; 8:45 am]

BILLING CODE 4830–01–P

Corrections

Federal Register

Vol. 70, No. 13

Friday, January 21, 2005

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF DEFENSE

Office of the Secretary

Submission for OMB Review; Comment Request

Correction

In notice document 04–27758 appearing on page 75935 in the issue of Monday, December 20, 2004, make the following correction:

On page 75935, in the **DATES** section, in the second line, ''June 19, 2005'' should read ''January 19, 2005.''

[FR Doc. C4–27758 Filed 1–19–05; 8:45 am]

BILLING CODE 1505–01–D

Federal Register

Friday,
January 21, 2005

Part II

Department of Housing and Urban Development

Annual Indexing of Basic Statutory Mortgage Limits for Multifamily Housing Programs; Notice

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4964–N–01]

Annual Indexing of Basic Statutory Mortgage Limits for Multifamily Housing Programs

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Notice.

SUMMARY: In accordance with section 206A of the National Housing Act, HUD has adjusted the basic statutory mortgage limits for multifamily housing programs for calendar year 2005.

EFFECTIVE DATE: January 1, 2005.

FOR FURTHER INFORMATION CONTACT: Michael L. McCullough, Director, Office of Multifamily Development, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–8000, telephone (202) 708–1142 (this is not a toll-free number). Hearing-or speech-impaired individuals may access this number through TTY by calling the toll-free Federal Information Relay Service at (800) 877–8339.

SUPPLEMENTARY INFORMATION: The FHA Downpayment Simplification Act of 2002 (Pub. L. 107–326, approved December 4, 2002) amended the National Housing Act by adding a new section 206A (12 U.S.C. 1712a). Under section 206A, the following are affected:

(1) section 207(c)(3)(A) (12 U.S.C. 1713(c)(3)(A));

(2) section 213(b)(2)(A) (12 U.S.C. 1715e(b)(2)(A));

(3) section 220(d)(3)(B)(iii)(I) (12 U.S.C. 1715k(d)(3)(B)(iii)(I));

(4) section 221(d)(3)(ii)(I) (12 U.S.C. 1715l(d)(3)(ii)(I));

(5) section 221(d)(4)(ii)(I) (12 U.S.C. 1715l(d)(4)(ii)(I));

(6) section 231(c)(2)(A) (12 U.S.C. 1715v(c)(2)(A)); and

(7) section 234(e)(3)(A) (12 U.S.C. 1715y(e)(3)(A)).

The dollar amounts in these sections, which are collectively referred to as the 'Dollar Amounts,' shall be adjusted annually (commencing in 2004) on the effective date of the Federal Reserve Board's adjustment of the $400 figure in the Home Ownership and Equity Protection Act of 1994 (HOEPA) (Pub.L. 103–325, approved September 23, 1994). The adjustment of the Dollar Amounts shall be calculated using the percentage change in the Consumer Price Index for All Urban Consumers (CPI–U) as applied by the Federal Reserve Board for purposes of the above-described HOEPA adjustment.

HUD has been notified of the percentage change in the CPI-U used for the HOEPA adjustment and the effective date of the HOEPA adjustment. The percentage change in the CPI–U is 2.29 percent and the effective date of the HOEPA adjustment is January 1, 2005. The Dollar Amounts have been adjusted correspondingly and have an effective date of January 1, 2005.

The adjusted Dollar Amounts for calendar year 2005 are shown below:

Basic Statutory Mortgage Limits for Calendar Year 2005

Multifamily Loan Program

- Section 207—Multifamily Housing
- Section 207 pursuant to section 223(f)—Purchase or refinance housing
- Section 220—Housing in urban renewal areas

Bedrooms	Non-elevator	Elevator
0	$39,759	45,876
1	44,040	51,380
2	52,603	63,002
3	64,837	78,906
4+	73,401	89,218

- Section 213—Cooperatives

Bedrooms	Non-elevator	Elevator
0	$43,085	45,876
1	49,677	51,976
2	59,913	63,201
3	76,687	81,762
4+	85,433	89,750

- Section 221(d)(3)—Moderate income housing
- Section 234—Condominium housing

Bedrooms	Non-elevator	Elevator
0	$43,964	46,267
1	50,691	53,036
2	61,134	64,492
3	78,252	83,430
4+	87,176	91,581

- Section 221(d)(4)—Moderate income housing

Bedrooms	Non-elevator	Elevator
0	$39,567	42,739
1	44,912	48,995
2	54,287	59,576
3	68,140	77,071
4+	77,213	84,602

- Section 231—Housing for the Elderly

Bedrooms	Non-elevator	Elevator
0	$37,618	42,739
1	42,053	48,995
2	50,218	59,576
3	60,432	77,071
4+	71,048	84,602

- Section 207—Manufactured Home Parks

Per Space: $18,255.

Dated: January 11, 2005.

Sean Cassidy,

General Deputy, Assistant Secretary for Housing.

[FR Doc. 05–1086 Filed 1–19–05; 8:45 am]

BILLING CODE 4210–27–P

Federal Register

Friday,
January 21, 2005

Part III

Department of Housing and Urban Development

24 CFR Part 203
Change in Default Reporting Period; Proposed Rule

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Part 203

[Docket No. FR–4916–P–01]

HUD–2004–0022

RIN 2502–AI20

Change in Default Reporting Period

AGENCY: Office of the Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

ACTION: Proposed rule.

SUMMARY: This proposed rule would revise the regulations under the single-family mortgage insurance program that require mortgagees to report the status of all single-family mortgages insured by HUD that are in default after 60 days or that are 90 or more days delinquent, as applicable. The rule would require mortgagees to report to HUD mortgages that are 30 or more days delinquent on the last day of the month. The Department believes that the rule would, among other things, provide HUD with more recent delinquency information. The receipt of more up-to-date information will enable HUD to better monitor its loss mitigation program and strengthen the soundness of the Federal Housing Administration (FHA) Mortgage Insurance Funds.

DATES: Comment Due Date: February 22, 2005.

ADDRESSES: Interested persons are invited to submit comments regarding this rule to the Regulations Division, Office of General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–0500. Interested persons may also submit comments electronically through either:

- The Federal eRulemaking Portal at: *http://www.regulations.gov;* or
- The HUD electronic Web site at: *http://www.epa.gov/feddocket.* Follow the link entitled ''View Open HUD Dockets.'' Commenters should follow the instructions provided on that site to submit comments electronically.

Facsimile (FAX) comments are not acceptable. In all cases, communications must refer to the docket number and title. All comments and communications submitted will be available, without revision, for public inspection and copying between 8 a.m. and 5 p.m. weekdays at the above address. Copies are also available for inspection and downloading at *http://www.epa.gov/feddocket.*

FOR FURTHER INFORMATION CONTACT: Joseph McCloskey, Director, Office of the Deputy Assistant Secretary for Single Family Housing, Office of Housing, Department of Housing and Urban Development, Room 9172, 451 Seventh Street, SW., Washington, DC 20410–8000; telephone 202–708–1672 (this is not a toll-free number). Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Information Relay Service at 800–877–8339.

SUPPLEMENTARY INFORMATION:

I. Background

Under HUD's existing regulations at 24 CFR 203.332, 203.439(c), and 203.468, mortgagees are required to report to HUD the status of all FHA single-family mortgages that are delinquent. Section 203.332 provides that a monthly report is to be made to the FHA Commissioner (Commissioner) by the mortgagee with respect to ''mortgages insured under this part that are 90 or more days delinquent.'' The report also must list the ''status of all mortgages which were reported as 90 or more days delinquent the previous month.''

Under section 203.439(c), mortgagees are required to notify the Department of Hawaiian Home Lands each month of those mortgages insured under section 247 of the National Housing Act (12 U.S.C. 1715z–12) on leaseholds of Hawaiian home lands that are 90 or more days delinquent, including mortgages reported the previous month as 90 or more days delinquent. The regulation provides that the notice is in addition to the report required under § 203.332.

With regard to default, § 203.468 requires that the lender notify the Commissioner of a default within 60 days after its occurrence, unless the default has been cured or unless the Commissioner has been notified of a previous default that remains uncured.

The delinquency and default information is used to identify status and trends of FHA insured mortgages. Default reporting is also an effective indicator of FHA lenders' origination and servicing activities along with potential risks to the FHA Mutual Mortgage Insurance Fund. HUD's Single Family Default Monitoring System, through the submission of data by the mortgagees, captures loan level default data and feeds this information to other HUD portfolio management and lender monitoring systems, including Credit Watch and Neighborhood Watch. Accurate default reporting is essential to HUD's portfolio and lender monitoring activities.

II. This Proposed Rule

This rule would revise 24 CFR 203.330 and 203.331 by changing the data reporting period for delinquent mortgages and defaulted mortgages to once each month on a day prescribed by HUD. The report shall be made in a manner prescribed by HUD. In light of the proposed revisions to §§ 203.330 and 203.331, this rule would remove § 203.332 to avoid unnecessarily duplicative sections.

This rule would also revise paragraph (c) of 203.439 to state that the mortgagee shall notify the Department of Hawaiian Home Lands once a month on a day prescribed by HUD of all mortgages insured under section 247 of the National Housing Act on leaseholds of Hawaiian home lands that are delinquent on the last day of the month. The notice would be in addition to the requirements in §§ 203.330 and 203.331.

Finally, §§ 203.466 and 203.467 also would be revised to conform them to the proposed revisions of §§ 203.330 and 203.331, with respect to the definitions and notice requirements, respectively, of the former sections. In light of the proposed revisions to §§ 203.466 and 203.467, this rule would remove § 203.468 to avoid unnecessarily duplicative sections.

The revisions proposed by this rule would require mortgagees to begin their delinquency reporting of all loans in which the monthly payment is due but not paid by the last day of the month. HUD believes that the proposed regulatory changes should be welcomed by mortgagees. These changes would bring FHA's requirements closer to Fannie Mae, Freddie Mac, the Mortgage Bankers Association, and industry standards for delinquency reporting requirements. As such, FHA would be in a better position to integrate itself, should it choose to do so, into a single platform for industry-wide default data reporting. Additionally, mortgagees should better understand references to payments due and unpaid rather than being required to count days from the due date.

HUD also believes that the proposed revisions would also contribute to FHA's efforts in protecting the financial integrity of the FHA Mutual Mortgage Insurance Fund. The revisions proposed in this rule would result in the Department's receiving more recent and timely delinquency and default information thereby increasing FHA's ability to forecast default volume, future defaults, and potential insurance losses. More timely information will also enable FHA to better monitor its loss mitigation program. This is important

since FHA insures 100 percent of a mortgage loan as compared to private mortgage insurers that insure only 10 to 20 percent of a loan.

Findings and Certifications

Paperwork Reduction Act

The information collection requirements contained in this rule have been submitted to the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). In accordance with the Paperwork Reduction Act, HUD may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a currently valid OMB control number.

The burden of the information collections in this proposed rule is estimated as follows:

Section reference	Number of parties	Number of responses per respondent	Estimated average time for requirement (in hours)	Estimated annual burden (in hours)
All activity under this rule	600	7200	1	7200

In accordance with 5 CFR 1320.8(d)(1), HUD is soliciting comments from members of the public and affected agencies concerning this collection of information to:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

Interested persons are invited to submit comments regarding the information collection requirements in this rule. Under the provisions of 5 CFR part 1320, OMB is required to make a decision concerning this collection of information between 30 and 60 days after today's publication date. Therefore, a comment on the information collection requirements is best assured of having its full effect if OMB receives the comment within 30 days of today's publication. This time frame does not affect the deadline for comments to the agency on the interim rule, however. Comments must refer to the proposal by name and docket number (FR–4712) and must be sent to:

Mark Menchik, HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503–0001, Fax number: (202) 395–6947, E-mail: *Mark_D._Menchik@omb.eop.gov*

and

Kathleen McDermott, Reports Liaison Officer, Office of Housing-Federal Housing Commissioner, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 9116, Washington, DC 20410–8000.

Environmental Impact

This rule is categorically excluded from environmental review under the National Environmental Policy Act (42 U.S.C. 4321). In keeping with the exclusion provided for in 24 CFR 50.19(c)(1), this rule does not direct, provide for assistance or loan and mortgage insurance for, or otherwise govern or regulate, real property acquisition, disposition, leasing, rehabilitation, alteration, demolition, or new construction, or establish, revise or provide for standards for construction or construction materials, manufactured housing, or occupancy. Accordingly, under 24 CFR 50.19(c)(2), this rule is categorically excluded because it amends an existing document where the existing document as a whole would not fall within the exclusion in 24 CFR 50.19(c)(1) but the amendment by itself would do so.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) establishes requirements for federal agencies to assess the effects of their regulatory actions on state, local, and tribal governments and on the private sector. This rule does not impose a federal mandate on any state, local, or tribal government, nor on the private sector, within the meaning of the Unfunded Mandates Reform Act of 1995.

Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. This proposed rule would not impose any new obligation small entities participating in the FHA single-family mortgage insurance programs. Although the rule would require timelier reporting by servicers of delinquent mortgages, the information that the servicers will report is already in their possession. As a result, any new expense to small entities caused by this rule would be negligible. Further, there are no anti-competitive discriminatory aspects of the rule with regard to small entities. Accordingly, the undersigned certifies that this rule will not have a significant economic impact on a substantial number of small entities.

Notwithstanding HUD's determination that this rule will not have a significant economic impact on a substantial number of small entities, HUD specifically invites comments regarding less burdensome alternatives to this rule that will meet HUD's objectives as described in this preamble.

Executive Order 13132, Federalism

Executive Order 13132 (entitled ''Federalism'') prohibits an agency from publishing any rule that has federalism implications if the rule either imposes substantial direct compliance costs on state and local governments and is not required by statute, or the rule preempts state law, unless the agency meets the consultation and funding requirements of section 6 of the Executive Order. This rule does not have federalism implications and does not impose substantial direct compliance costs on state and local governments nor preempt state law within the meaning of the executive order.

Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance number is 14.117.

List of Subjects in 24 CFR Part 203

Hawaiian Natives, Home improvement, Indians-lands, Loan programs-housing and community development, Mortgage insurance, Reporting and record keeping requirements, Solar energy.

Accordingly, for the reasons described in the preamble, HUD proposes to amend 24 CFR part 203 to as follows:

PART 203—SINGLE FAMILY MORTGAGE INSURANCE

1. The authority citation for part 203 continues to read as follows:

Authority: 12 U.S.C. 1709, 1710, 1715b, and 1715u; 42 U.S.C. 3535(d).

2. Revise § 203.330 to read as follows:

§ 203.330 Definition of delinquency and requirement for notice of delinquency to HUD.

(a) A mortgage account is delinquent any time a payment is due and not paid.

(b) Once each month on a day prescribed by HUD, the mortgagee shall report to HUD all mortgages insured under this part that were delinquent on the last day of the month. The report shall be made in a manner prescribed by HUD.

3. Revise 203.331 to read as follows:

§ 203.331 Definition of default, date of default, and requirement of notice of default to HUD.

(a) *Default.* If the mortgagor fails to make any payment or to perform any other obligation under the mortgage, and such failure continues for a period of 30 days, the mortgage shall be considered in default for the purposes of this subpart.

(b) *Date of default.* For the purposes of this subpart, the date of default shall be considered as 30 days after-

(1) The first uncorrected failure to perform any obligation under the mortgage; or

(2) The first failure to make a monthly payment that subsequent payments by the borrower are insufficient to cover when applied to the overdue monthly payments in the order in which they became due.

(c) *Notice of default.* Once each month, on a day prescribed by HUD, the mortgagee shall report to HUD all mortgages that were in default on the last day of the month. The report shall be made in a manner prescribed by HUD.

(d) *Number of days in month.* For the purposes of this section, each month shall be considered to have 30 days.

§ 203.332 [Removed and reserved]

4. Remove and reserve § 203.332.

5. Amend § 203.439 by revising paragraph (c) to read as follows:

§ 203.439 Mortgages on Hawaiian home lands insured pursuant to section 247 of the National Housing Act.

* * * * *

(c) *Notice of delinquency.* Once each month on a day prescribed by HUD, the mortgagee shall notify the Department of Hawaiian Home Lands of all mortgages insured pursuant to section 247 of the National Housing Act on leaseholds of Hawaiian home lands that are delinquent on the last day of the month. The notice is in addition to the requirement in §§ 203.330 and 203.331.

6. Revise 203.466 to read as follows:

§ 203.466 Definition of delinquency and requirement for notice of delinquency to HUD.

(a) A mortgage account is delinquent any time a payment is due and not paid.

(b) Once each month on a day prescribed by HUD, the mortgagee shall report to HUD all mortgages insured under this part that were delinquent on the last day of the month. The report shall be made in a manner prescribed by HUD.

7. Revise 203.467 to read as follows:

§ 203.467 Definition of default, date of default, and requirement of notice of default to HUD.

(a) *Default.* If the borrower fails to make any payment or to perform any other obligation under the mortgage, and such failure continues for a period of 30 days, the mortgage shall be considered in default for the purposes of this subpart.

(b) *Date of default.* For the purposes of this subpart, the date of default shall be considered as 30 days after-

(1) The first uncorrected failure to perform any obligation under the mortgage; or

(2) The first failure to make a monthly payment that subsequent payments by the borrower are insufficient to cover when applied to the overdue monthly payments in the order in which they became due.

(c) *Notice of default.* Once each month, on a day prescribed by HUD, the mortgagee shall report to the Secretary all mortgages that were in default on the last day of the month. The report shall be made on a form prescribed by HUD.

(d) *Number of days in month.* For the purposes of this section, each month shall be considered to have 30 days.

§ 203.468 [Removed and reserved]

8. Remove and reserve § 203.468.

Dated: December 20, 2004.

John C. Weicher,

Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 05–1046 Filed 1–19–05; 8:45 am]

BILLING CODE 4916–01–P

Federal Register

Friday,
January 21, 2005

Part IV

The President

Proclamation 7862—Martin Luther King, Jr., Federal Holiday, 2005

Proclamation 7863—National Sanctity of Human Life Day, 2005

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Notice of January 17, 2005—Continuation of the National Emergency With Respect to Terrorists Who Threaten To Disrupt the Middle East Peace Process

Federal Register
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Presidential Documents

Title 3—

The President

Proclamation 7862 of January 14, 2005

Martin Luther King, Jr., Federal Holiday, 2005

By the President of the United States of America

A Proclamation

Dr. Martin Luther King, Jr., was a visionary American and a dedicated leader who believed deeply in liberty and dignity for every person. His faith and courage continue to inspire America and the world. We honor his life and his work.

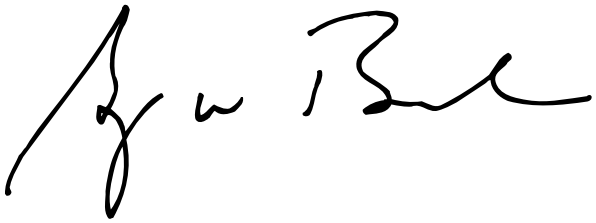
Growing up in Atlanta, Georgia, Dr. King witnessed firsthand the injustice of a segregated society. He realized that change was necessary to ensure the full promise of our Constitution for all Americans, and his charismatic leadership awakened the conscience of America.

Dr. King's dream inspired our Nation with what he called ''a certain kind of fire that no water could put out.'' Since Dr. King's involvement in the civil rights movement in the 1950s and 1960s, Americans have witnessed the power of the law to prevent injustice and encourage the finest qualities of our Nation. Last year, we celebrated the 40th anniversary of the Civil Rights Act of 1964. Once this landmark legislation was signed into law, Americans could no longer be denied a room in a hotel or a table at a restaurant because of their race.

Our Nation has accomplished much over the past 40 years. Our journey toward justice and equality has not always been an easy one, and it is not over. However long the journey, our destination is set: liberty and justice for all. Dr. Martin Luther King, Jr., believed in the good that exists in all men and women. We will remember the work of Dr. King as we continue striving to meet the founding ideals of our great Nation.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim Monday, January 17, 2005, as the Martin Luther King, Jr., Federal Holiday. I encourage all Americans to observe this day with appropriate activities and programs that honor the memory and legacy of Dr. King.

IN WITNESS WHEREOF, I have hereunto set my hand this fourteenth day of January, in the year of our Lord two thousand five, and of the Independence of the United States of America the two hundred and twenty-ninth.



[FR Doc. 05–1254
Filed 1–19–05; 9:29 am]
Billing code 3195–01–P

Presidential Documents

Proclamation 7863 of January 14, 2005

National Sanctity of Human Life Day, 2005

By the President of the United States of America

A Proclamation

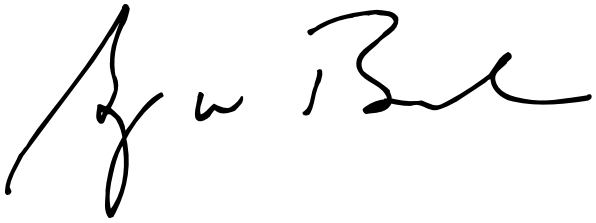
The Declaration of Independence proclaimed that all Americans are endowed by the Creator with the unalienable rights to life, liberty, and the pursuit of happiness. On National Sanctity of Human Life Day, we celebrate the sacred gift of life.

We have a responsibility in America to defend the life of the innocent and the powerless. Our Nation has made significant progress in recent years toward building a culture of life. Last year, I signed into law the Unborn Victims of Violence Act of 2004, which provides that any person who causes death or injury to a pregnant woman commits two separate offenses. I worked with members of both parties to ban the brutal practice of partial-birth abortion, and I signed the Born-Alive Infants Protection Act. Working with the Congress, my Administration has halted spending of taxpayers' money on international programs that promote abortions overseas. We continue to promote abstinence education, adoption programs, crisis pregnancy programs, and other efforts to help protect life.

My Administration remains committed to the steadfast belief in the dignity of every human being and the promise of every life. Across our country, we must continue to encourage our citizens to make ours a more just and welcoming society in which every child is born into a loving family and protected by law. We will work with decency and respect to change hearts and minds, one person at a time. In doing so, we will build a lasting culture of life and a more compassionate society.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim Sunday, January 16, 2005, as National Sanctity of Human Life Day. I call upon all Americans to recognize this day with appropriate ceremonies in our homes and places of worship and to reaffirm our commitment to respecting the life and dignity of every human being.

IN WITNESS WHEREOF, I have hereunto set my hand this fourteenth day of January, in the year of our Lord two thousand five, and of the Independence of the United States of America the two hundred and twenty-ninth.



[FR Doc. 05–1255
Filed 1–19–05; 9:29 am]
Billing code 3195–01–P

Presidential Documents

Proclamation 7864 of January 14, 2005

Religious Freedom Day, 2005

By the President of the United States of America

A Proclamation

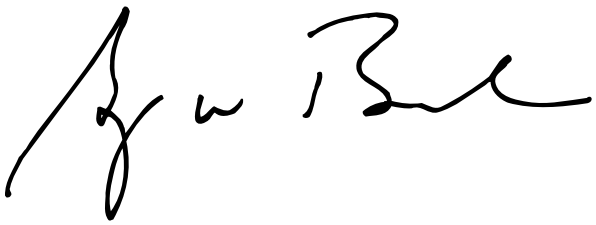
George Washington wrote, ''The liberty enjoyed by the people of these States, of worshipping Almighty God agreeably to their consciences, is not only among the choicest of their blessings, but also of their rights.'' On Religious Freedom Day, Americans commemorate the passage of the Virginia Statute for Religious Freedom in 1786, which helped set the course for freedom of religion to be included in the First Amendment to our Constitution.

Our Founding Fathers knew the importance of freedom of religion to a stable and lasting Union. Our Constitution protects individuals' rights to worship as they choose. Today, we continue to welcome the important contributions of people of faith in our society. We reject religious bigotry in every form, striving for a society that honors the life and faith of every person. As we maintain the vitality of a pluralistic society, we work to ensure equal treatment of faith-based organizations and people of faith.

As the United States advances the cause of liberty, we remember that freedom is not America's gift to the world, but God's gift to each man and woman in this world. This truth drives our efforts to help people everywhere achieve freedom of religion and establish a better, brighter, and more peaceful future for all.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim January 16, 2005, as Religious Freedom Day. I encourage all Americans to reflect on the great blessing of religious freedom, to endeavor to preserve this freedom for future generations, and to commemorate this day through appropriate events and activities in homes, schools, and places of worship.

IN WITNESS WHEREOF, I have hereunto set my hand this fourteenth day of January, in the year of our Lord two thousand five, and of the Independence of the United States of America the two hundred and twenty-ninth.



[FR Doc. 05–1256

Filed 1–19–05; 9:29 am]

Billing code 3195–01–P

Presidential Documents

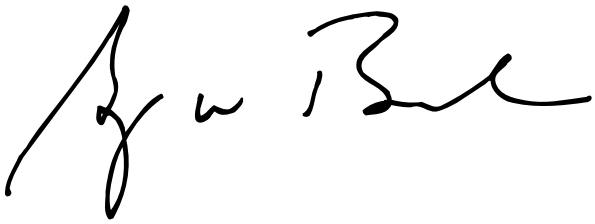
Notice of January 17, 2005

Continuation of the National Emergency With Respect to Terrorists Who Threaten To Disrupt the Middle East Peace Process

On January 23, 1995, by Executive Order 12947, the President declared a national emergency pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701–1706) to deal with the unusual and extraordinary threat to the national security, foreign policy, and economy of the United States constituted by grave acts of violence committed by foreign terrorists who threaten to disrupt the Middle East peace process. On August 20, 1998, by Executive Order 13099, the President modified the Annex to Executive Order 12947 to identify four additional persons, including Usama bin Laden, who threaten to disrupt the Middle East peace process.

Because these terrorist activities continue to threaten the Middle East peace process and continue to pose an unusual and extraordinary threat to the national security, foreign policy, and economy of the United States, the national emergency declared on January 23, 1995, as expanded on August 20, 1998, and the measures adopted on those dates to deal with that emergency must continue in effect beyond January 23, 2005. Therefore, in accordance with section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)), I am continuing for 1 year the national emergency with respect to foreign terrorists who threaten to disrupt the Middle East peace process.

This notice shall be published in the **Federal Register** and transmitted to the Congress.



THE WHITE HOUSE,
January 17, 2005.

[FR Doc. 05–1257
Filed 1–19–05; 9:29 am]
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LIST OF PUBLIC LAWS

This is the first in a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "P L U S" (Public Laws Update Service) on 202–741–6043. This list is also available online at *http://www.archives.gov/federal_register/public_laws/public_laws.html*.

A cumulative List of Public Laws for the second session of the 108th Congress will appear in the issue of January 31, 2005.

The text of laws is not published in the **Federal Register** but may be ordered in "slip law" (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO Access at *http://www.gpoaccess.gov/plaws/index.html*. Some laws may not yet be available.

H.R. 241/P.L. 109-1

To accelerate the income tax benefits for charitable cash contributions for the relief of victims of the Indian Ocean tsunami. (Jan. 7, 2005; 119 Stat. 3)

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