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Rules and Regulations

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

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2004–18786; Directorate Identifier 2004–NM–26–AD; Amendment 39–13947; AD 2005–02–02]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 767–200, –300, and –300F Series Airplanes

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

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain Boeing Model 767–200, –300, and –300F series airplanes. This AD requires repetitive high frequency eddy current inspections and detailed inspections of the left and right butt line (BL) 25 vertical chords for cracks, and corrective actions if necessary. This AD is prompted by findings of cracks in the fillet radii of the left and right BL 25 vertical chords common to the nose wheel well bulkhead at station 287. We are issuing this AD to detect and correct cracks in the left and right BL 25 vertical chords, which could grow downward into a critical area that serves as a primary load path for the nose landing gear (NLG) and result in the collapse of the NLG during landing.

DATES: This AD becomes effective March 1, 2005.

The incorporation by reference of a certain publication listed in the AD is approved by the Director of the Federal Register as of March 1, 2005.

ADDRESSES: For service information identified in this AD, contact Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124–2207. You can examine this information at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call (202) 741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

DOCKET: The AD docket contains the proposed AD, comments, and any final disposition. You can examine the AD docket on the Internet at *http://dms.dot.gov,* or in person at the Docket Management Facility office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Management Facility office (telephone (800) 647–5227) is located on the plaza level of the Nassif Building at the U.S. Department of Transportation, 400 Seventh Street SW., Room PL–401, Washington, DC. This docket number is FAA–2004–18786; the directorate identifier for this docket is 2004–NM–26–AD.

FOR FURTHER INFORMATION CONTACT:
Technical information: Suzanne Masterson, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 917–6441; fax (425) 917–6590.
Plain language information: Marcia Walters, *marcia.walters@faa.gov.*

SUPPLEMENTARY INFORMATION: The FAA proposed to amend 14 CFR part 39 with an AD for certain Boeing Model 767–200, –300, and –300F series airplanes. That action, published in the **Federal Register** on August 6, 2004 (69 FR 47804), proposed to require repetitive high frequency eddy current inspections and detailed inspections of the left and right butt line (BL) 25 vertical chords for cracks, and corrective actions if necessary.

Comments

We provided the public the opportunity to participate in the development of this AD. We have considered the comments that have been submitted on the proposed AD.

Request To Include the Line Numbers of the Affected Airplanes in the Applicability

One commenter, the manufacturer, requests that we include the line numbers of the affected airplanes in the applicability of this AD. The commenter states that including this information (line numbers 1 through 757 inclusive) will help operators quickly identify the airplanes affected by this AD.

While we agree with the intent of the request, we do not agree that the line numbers should be included in the applicability of the final rule. Although the commenter has provided the correct line numbers for the affected airplanes in this AD, we have determined, in coordination with the manufacturer, that we should use the manufacturer-assigned, variable numbers in the applicability of an AD. In the past, using line numbers has caused errors in the effectivity of the service bulletin, and consequently in the applicability of the AD, because the manufacturer's database generates the list of affected airplanes by variable number. To eliminate these errors and the additional work in revising a service bulletin, the manufacturer has chosen to identify affected airplanes by variable number in future service bulletins. We anticipate this will also save time and work for operators and us because fewer ADs will be superseded for applicability errors. Therefore, no change to this AD is necessary in this regard.

Request To Update the Discussion Section

The same commenter also requests that we update the Discussion section of the proposed AD. The commenter states that, since issuance of the proposed AD, three operators have also reported finding cracks on the vertical chords of one Boeing Model 767–200 series airplane and several Model 767–300 series airplanes.

We do not agree with the request, since the Discussion section of a proposed AD is not included in a final rule. We thank the commenter for the information, but no change is necessary to this final rule.

Explanation of Change to This AD

Boeing has received a Delegation Option Authorization (DOA). We have revised this final rule to delegate the authority to approve an alternative method of compliance for any repair required by this AD to the Authorized Representative for the Boeing DOA Organization rather than the Designated Engineering Representative (DER).

Conclusion

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

Costs of Compliance

This AD affects about 743 airplanes worldwide and 312 airplanes of U.S. registry. The required actions take about 8 work hours per airplane, at an average labor rate of $65 per work hour. No parts are required. Based on these figures, the estimated cost of the AD for U.S. operators is $162,240, or $520 per airplane, per inspection cycle.

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in title 49 of the United States Code. Subtitle I, section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority.

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2005–02–02 Boeing: Amendment 39–13947. Docket No. FAA–2004–18786; Directorate Identifier 2004–NM–26–AD.

Effective Date

(a) This AD becomes effective March 1, 2005.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Boeing Model 767–200, –300, and –300F series airplanes, certificated in any category; as listed in Boeing Alert Service Bulletin 767–53A0113, dated February 26, 2004.

Unsafe Condition

(d) This AD was prompted by findings of cracks in the fillet radii of the left and right butt line (BL) 25 vertical chords common to the nose wheel well bulkhead at station 287. We are issuing this AD to detect and correct cracks in the left and right BL 25 vertical chords, which could grow downward into a critical area that serves as a primary load path for the nose landing gear (NLG) and result in the collapse of the NLG during landing.

Compliance

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

Service Bulletin Reference

(f) The term ''service bulletin,'' as used in this AD, means the Accomplishment Instructions of Boeing Alert Service Bulletin 767–53A0113, dated February 26, 2004.

Initial Inspections

(g) At the later of the compliance times specified in paragraphs (g)(1) and (g)(2) of this AD: Do a high frequency eddy current inspection and a detailed inspection of the left and right BL 25 vertical chords common to the nose wheel well bulkhead at station 287 for cracks, in accordance with the service bulletin.

(1) Within 72 months since the date of issuance of the original Airworthiness Certificate or the date of issuance of the original Export Certificate of Airworthiness.

(2) Within 18 months after the effective date of this AD.

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

No Cracks Found

(h) For any BL 25 vertical chord in which no crack is found during any inspection required by paragraph (g) of this AD: Thereafter at intervals not to exceed 48 months, repeat the inspections required by paragraph (g) of this AD for any BL 25 vertical chord that has not been repaired according to paragraph (i) or (j) of this AD.

Cracks Found: Extending Below Water Line (WL) 159

(i) If any crack is found on any BL 25 vertical chord during any inspection required by paragraph (g) or (h) of this AD, and the crack extends below WL 159: Before further flight, repair according to a method approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA; or according to data meeting the certification basis of the airplane approved by an Authorized Representative for the Boeing Delegation Option Authorization Organization who has been authorized by the Manager, Seattle ACO, to make those findings. For a repair method to be approved, the approval must specifically reference this AD.

Cracks Found: Not Extending Below WL 159

(j) If any crack is found in any BL 25 vertical chord during any inspection required by paragraph (g) or (h) of this AD, and the crack does not extend below WL 159: Before further flight, repair any damaged BL 25 vertical chord in accordance with the service bulletin.

Repaired BL 25 Vertical Chords

(k) Repair of any BL 25 vertical chord in accordance with paragraph (i) or (j) of this AD, as applicable, terminates the repetitive inspections required by paragraph (h) of this AD for the repaired vertical chord only. If both the left and right BL 25 vertical chords are repaired as required by paragraph (i) or (j) of this AD, as applicable, no more work is required by this AD.

Alternative Methods of Compliance (AMOCs)

(l)(1) The Manager, Seattle Aircraft Certification Office (ACO), FAA, has the

authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19.

(2) An AMOC that provides an acceptable level of safety may be used for any repair required by this AD, if it is approved by an Authorized Representative for the Boeing Delegation Option Authorization Organization who has been authorized by the Manager, Seattle ACO, to make those findings.

Material Incorporated by Reference

(m) You must use Boeing Alert Service Bulletin 767–53A0113, dated February 26, 2004, to perform the actions that are required by this AD, unless the AD specifies otherwise. The Director of the Federal Register approves the incorporation by reference of this document in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. For copies of the service information, contact Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124–2207. For information on the availability of this material at the National Archives and Records Administration (NARA), call (202) 741–6030, or go to *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

You may view the AD docket at the Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street SW., Room PL–401, Nassif Building, Washington, DC.

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

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 05–1207 Filed 1–24–05; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 9176]

RIN 1545–BC35

Elimination of Forms of Distribution in Defined Contribution Plans

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations that would modify the circumstances under which certain forms of distribution previously available are permitted to be eliminated from qualified defined contribution plans. These final regulations affect qualified retirement plan sponsors, administrators, and participants.

DATES: These regulations are effective January 25, 2005.

FOR FURTHER INFORMATION CONTACT: Vernon S. Carter, 202–622–6060 (not a toll free number).

SUPPLEMENTARY INFORMATION:

Background

This document contains final amendments to 26 CFR part 1 under section 411(d)(6) of the Internal Revenue Code of 1986 (Code) as amended by the Economic Growth and Tax Relief Reconciliation Act of 2001 (EGTRRA) (115 Stat. 117).

Section 411(d)(6)(A) of the Code generally provides that a plan will not be treated as satisfying the requirements of section 411 if the accrued benefit of a participant is decreased by a plan amendment. Section 411(d)(6)(B) prior to amendment by EGTRRA provided that an amendment is treated as reducing an accrued benefit if, with respect to benefits accrued before the amendment is adopted, the amendment has the effect of either eliminating or reducing an early retirement benefit or a retirement-type subsidy, or, except as provided by regulations, eliminating an optional form of benefit.

The IRS published TD 8900 in the **Federal Register** on September 6, 2000 (65 FR 53901). TD 8900, which amended § 1.411(d)–4 of the Income Tax Regulations, added paragraph (e) of Q&A–2 to provide for additional circumstances under which a defined contribution plan can be amended to eliminate or restrict a participant's right to receive payment of accrued benefits under certain optional forms of benefit.

Section 1.411(d)–4, Q&A–2(e)(1), provides that a defined contribution plan may be amended to eliminate or restrict a participant's right to receive payment of accrued benefits under a particular optional form of benefit without violating the section 411(d)(6) anti-cutback rules if, once the plan amendment takes effect for a participant, the alternative forms of payment that remain available to the participant include payment in a single-sum distribution form that is otherwise identical to the eliminated or restricted optional form of benefit. The amendment cannot apply to a participant for any distribution with an annuity starting date before the earlier of the 90th day after the participant receives a summary that reflects the plan amendment and that satisfies Department of Labor's requirements for a summary of material modifications under 29 CFR 2520.104b–3, or the first day of the second plan year following the plan year in which the amendment is adopted. Section 1.411(d)–4, Q&A–2(e)(2), provides that a single-sum distribution form is otherwise identical to the optional form of benefit that is being eliminated or restricted only if it is identical in all respects (or would be identical except that it provides greater rights to the participant), except for the timing of payments after commencement. A single-sum distribution form is not otherwise identical to a specified installment form of benefit if the single-sum form:

- Is not available for distribution on any date on which the installment form could have commenced;
- Is not available in the same medium as the installment form; or
- Imposes any additional condition of eligibility.

Further, an otherwise identical distribution form need not retain any rights or features of the eliminated or restricted optional form of benefit to the extent those rights or features would not be protected from elimination under the anti-cutback rules. The single-sum distribution form would not, however, be disqualified from being an otherwise identical distribution form if the single-sum form provides greater rights to participants than did the eliminated or restricted optional form of benefit.

Section 645(a)(1) of EGTRRA added section 411(d)(6)(E), which provides that, except to the extent provided in regulations, a defined contribution plan is not treated as reducing a participant's accrued benefit where a plan amendment eliminates a form of distribution previously available under the plan if a single-sum distribution is available to the participant at the same time as the form of distribution eliminated by the amendment and the single-sum distribution is based on the same or greater portion of the participant's account as the form of distribution eliminated by the amendment. Thus, section 411(d)(6)(E) includes conditions that are similar to those in existing § 1.411(d)–4, Q&A–2(e), but without the advance notice condition.

On July 8, 2003, a notice of proposed rulemaking (REG–112039–03) was published in the **Federal Register** (68 FR 40581) to reflect the addition of section 411(d)(6)(E) by EGTRRA. The proposed regulations amended § 1.411(d)–4, Q&A–2(e) to eliminate the 90-day advance notice condition on plan amendments otherwise permitted under § 1.411(d)–4, Q&A–2(e). Following publication of the proposed regulations, comments were received, but no public hearing was requested. After consideration of the comments received, the proposed regulations are adopted as revised by this Treasury decision.

Explanation of Provisions

These final regulations retain the general structure and much of the substance of the proposed regulations, including an example illustrating the provisions. Some changes have been made in connection with a specific recommendation for modification and clarification. The comments received in response to the proposed regulations are generally summarized below.

Two commentators were concerned that, following the elimination of the 90-day notice requirement, plan participants who counted on being able to retire with an annuity could discover that option is suddenly gone. The commentators argued that the participant may have made plans based on the expectation of receiving an annuity, and that, although participants can purchase annuities with their lump sums, they may find that annuities purchased outside the plan cost more or pay lower amounts than what they were expecting from the plan. The commentators recommended that, to the extent plan sponsors adopt amendments that terminate an annuity option, those plan sponsors should allow participants within 90 days of retiring at the time of the amendment to be permitted to elect that annuity.

The legislative history to section 645(a)(1) of EGTRRA shows that Congress was aware of the notice requirement in existing § 1.411(d)–4, Q&A–2(e)(2), and adopted all of the same provisions in section 411(d)(6)(E) as are in existing § 1.411(d)–4, Q&A–2(e)(2), except for the notice requirement. See Conference Report No. 107–84, 107th Cong., 1st Session 253–254. Accordingly, these final regulations adopt the amendments in the proposed regulation. The regulations retain the rules under which a defined contribution plan may be amended to eliminate or restrict a participant's right to receive payment of accrued benefits under a particular optional form of benefit without violating the section 411(d)(6) anti-cutback rules if, once the plan amendment takes effect for a participant, the alternative forms of payment that remain available to the participant include payment in a single-sum distribution. The regulations clarify that such an amendment can apply only to distributions with annuity starting dates after the amendment is adopted and, therefore, cannot apply to distributions that have already commenced. However, these final regulations remove the 90-day notice condition previously applicable to these plan amendments.[1]

One commentator commented on the example in § 1.411(d)–4, Q&A–2(e), of the proposed regulations. The commentator stated it is not clear from the example why the amendment does not apply to P (the participant in the Plan) if P elects to have annuity payments begin before July 1, 2004. The commentator stated that the confusion may result because the example provided that the amendment is adopted on May 2, 2004, but does not provide when the amendment is effective. The example has been revised to reflect the comment.

Under section 101 of Reorganization Plan No. 4 of 1978 (43 FR 47713), the Secretary of the Treasury has interpretive jurisdiction over the subject matter addressed in these regulations for purposes of the Employee Retirement Income Security Act of 1974 (ERISA). Section 204(g)(2) of ERISA, as amended by EGTRRA, provides a parallel rule to section 411(d)(6)(E) of the Code that applies under Title I of ERISA, and authorizes the Secretary of the Treasury to provide exception to this parallel ERISA requirement. Therefore, regulations issued under section 411(d)(6)(E) of the Code apply for purposes of the parallel requirements of section 204(g)(2) of ERISA, as well as for section 411(d)(6)(E) of the Code.

Special Analyses

It has been determined that this Treasury decision is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations, and because the regulation does not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Pursuant to section 7805(f) of the Code, the notice of proposed rulemaking preceding these regulations was submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Drafting Information

The principal author of these regulations is Vernon S. Carter of the Office of the Division Counsel/Associate Chief Counsel (Tax Exempt and Government Entities). However, other personnel from the IRS and Treasury participated in their development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Amendments to the Regulations

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

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

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

■ **Par. 2.** Section 1.411(d)–4, Q&A–2(e) is revised to read as follows:

§ 1.411(d)–4 Section 411(d)(6) protected benefits.

* * * * *

A–2: * * *

(e) *Permitted plan amendments affecting alternative forms of payment under defined contribution plans*—(1) *General rule.* A defined contribution plan does not violate the requirements of section 411(d)(6) merely because the plan is amended to eliminate or restrict the ability of a participant to receive payment of accrued benefits under a particular optional form of benefit for distributions with annuity starting dates after the date the amendment is adopted if, after the plan amendment is effective with respect to the participant, the alternative forms of payment available to the participant include payment in a single-sum distribution form that is otherwise identical to the optional form of benefit that is being eliminated or restricted.

(2) *Otherwise identical single-sum distribution.* For purposes of this paragraph (e), a single-sum distribution form is otherwise identical to an optional form of benefit that is eliminated or restricted pursuant to paragraph (e)(1) of this Q&A–2 only if the single-sum distribution form is identical in all respects to the eliminated or restricted optional form of benefit (or would be identical except that it provides greater rights to the participant) except with respect to the timing of payments after commencement. For example, a single-sum distribution form is not otherwise identical to a specified installment form of benefit if the single-sum distribution form is not available for distribution on the date on which the installment form would have been available for commencement, is not available in the same medium of distribution as the installment form, or imposes any

[1] The Department of Labor has advised Treasury and the IRS that plans covered by Title I of ERISA are subject to the requirement under Title I that plan amendments be described in a timely summary of material modifications (SMM) or a revised summary plan description (SPD) to be distributed to plan participants and beneficiaries in accordance with applicable Department of Labor disclosure rules (see 29 CFR 2520.104b–3).

condition of eligibility that did not apply to the installment form. However, an otherwise identical distribution form need not retain rights or features of the optional form of benefit that is eliminated or restricted to the extent that those rights or features would not be protected from elimination or restriction under section 411(d)(6) or this section.

(3) *Example.* The following example illustrates the application of this paragraph (e):

Example. (i) P is a participant in Plan M, a qualified profit-sharing plan with a calendar plan year that is invested in mutual funds. The distribution forms available to P under Plan M include a distribution of P's vested account balance under Plan M in the form of distribution of various annuity contract forms (including a single life annuity and a joint and survivor annuity). The annuity payments under the annuity contract forms begin as of the first day of the month following P's severance from employment (or as of the first day of any subsequent month, subject to the requirements of section 401(a)(9)). P has not previously elected payment of benefits in the form of a life annuity, and Plan M is not a direct or indirect transferee of any plan that is a defined benefit plan or a defined contribution plan that is subject to section 412. Distributions on the death of a participant are made in accordance with plan provisions that comply with section 401(a)(11)(B)(iii)(I). On September 2, 2004, Plan M is amended so that, effective for payments that begin on or after November 1, 2004, P is no longer entitled to any distribution in the form of the distribution of an annuity contract. However, after the amendment is effective, P is entitled to receive a single-sum cash distribution of P's vested account balance under Plan M payable as of the first day of the month following P's severance from employment (or as of the first day of any subsequent month, subject to the requirements of section 401(a)(9)).

(ii) Plan M does not violate the requirements of section 411(d)(6) (or section 401(a)(11)) merely because, as of November 1, 2004, the plan amendment has eliminated P's option to receive a distribution in any of the various annuity contract forms previously available.

(4) *Effective date.* This paragraph (e) is applicable on January 25, 2005.

* * * * *

Mark E. Matthews,

Deputy Commissioner for Services and Enforcement.

Approved: January 10, 2005.

Eric Solomon,

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

[FR Doc. 05–1327 Filed 1–24–05; 8:45 am]

BILLING CODE 4830–01–P

NATIONAL LABOR RELATIONS BOARD

29 CFR Parts 101 and 102

Final Rules Governing Consent-Election Agreements

AGENCY: National Labor Relations Board.

ACTION: Final rule.

SUMMARY: On July 22, 2004 the National Labor Relations Board published in the **Federal Register** proposed changes to its rules to provide a mechanism to have preelection disputes decided with finality by the Regional Director as part of its ongoing efforts to address the needs of employers, individuals and labor organizations and to further the fundamental purposes of the Act. One comment was received in response to this publication. The American Federation of Labor and Congress of Industrial Organizations, AFL–CIO, supported the proposed changes, but expressed the view that the changes did not address what it considered to be major problems in the Board's representation process. Upon consideration of that comment, the National Labor Relations Board (NLRB) is adopting the proposed changes and publishing the rules as final.

EFFECTIVE DATES: March 1, 2005.

FOR FURTHER INFORMATION CONTACT: Lester A. Heltzer, Executive Secretary, National Labor Relations Board, 1099 14th Street, NW., Room 11600, Washington, DC 20570. Telephone: (202) 273–1067.

SUPPLEMENTARY INFORMATION: Section 102.62 of the Board's Rules and Regulations currently provides two kinds of ''consent'' election procedures. Under both procedures, the parties must stipulate with respect to jurisdictional facts, labor organization status, appropriate unit description, and classifications of employees included and excluded. The parties must also agree to the time, place and other election details. Under Sec. 102.62(a), the parties agree that postelection disputes will be resolved with finality by the Regional Director. Under Sec. 102.62(b), postelection disputes are resolved pursuant to Sec. 102.69, with the parties retaining the right to file exceptions or requests for review with the Board. The Board is revising its Rules and Regulations to create a new, voluntary procedure whereby the parties can agree to the conduct of an election with disputed preelection and postelection matters to be resolved with finality by the Regional Director. The new rule also amends Sec. 102.62(a) to provide that the decision of the Regional Director in a postelection proceeding has the same force and effect as that of the Board ''in that case.'' The addition of this language makes it clear that the Regional Director's decision will not be regarded as Board precedent in future cases. Identical language is present in the revised Sec. 102.62(c). In addition to revisions to Sec. 102.62 of the Board's Rules and Regulations, the Board also has revised its Statements of Procedures, Sec. 101.19 and 101.28, to reflect the revisions to Sec. 102.62 in the description of Board processing of union deauthorization elections (Sec. 101.28) and all other elections (Sec. 101.19).

Under the new procedures, after the filing of a petition supported by the requisite showing of interest, an employer and individual or labor organization can voluntarily enter into an agreement under which the Regional Director will resolve with finality disputed pre- and postelection issues and issue a certification of representative or results. If the parties voluntarily agree to utilize this new procedure they will be assured of a more expeditious and final resolution of their question concerning representation by a Regional Director, who will act in a neutral, expert, and conclusive fashion. Although the Agency decided to give notice of proposed rulemaking with respect to these rule changes, the changes involve rules of agency organization, procedure, or practice and thus no notice of proposed rulemaking was required under section 553 of the Administrative Procedure Act (5 U.S.C. 553). Accordingly, the Regulatory Flexibility Act (5 U.S.C. 601), does not apply to these rule changes.

List of Subjects in 29 CFR Parts 101 and 102

Administrative practice and procedure, Labor management relations.

■ For the reasons set forth above, the NLRB amends 29 CFR parts 101 and 102 as follows:

PART 101—STATEMENTS OF PROCEDURES

■ 1. The authority citation for 29 CFR part 101 continues to read as follows:

Authority: Section 6 National Labor Relations Act, as amended (29 U.S.C. 151, 156), and sec. 55(a) of the Administrative Procedure Act (5 U.S.C. 552(a)). Section 101.14 also issued under sec. 2112(a)(1) of Public Law 100–236, 28 U.S.C. 2112(a)(1).

■ 2. Section 101.19 is amended by revising the introductory text and adding paragraph (c) to read as follows:

§ 101.19 Consent adjustments before formal hearing.

The Board has devised and makes available to the parties three types of informal consent procedures through which representation issues can be resolved without recourse to formal procedures. These informal arrangements are commonly referred to as consent-election agreement followed by Regional Director's determination, stipulated election agreement followed by Board certification, and full consent agreement, in which the parties agree that all pre- and postelection disputes will be resolved with finality by the Regional Director. Forms for use in these informal procedures are available in the Regional Offices.

* * * * *

(c) The full consent-election agreement followed by the Regional Director's determination of representatives is another method of informal adjustment of representation cases.

(1) Under these terms the parties agree that if they are unable to informally resolve disputes arising with respect to the appropriate unit and other issues pertaining to the resolution of the question concerning representation; the payroll period to be used as the basis of eligibility to vote in an election, the place, date, and hours of balloting, or other details of the election, those issues will be presented to, and decided with finality by the Regional Director after a hearing conducted in a manner consistent with the procedures set forth in § 101.20.

(2) Upon the close of the hearing, the entire record in the case is forwarded to the Regional Director. The hearing officer also transmits an analysis of the issues and the evidence, but makes no recommendations as to resolution of the issues. All parties may file briefs with the Regional Director within 7 days after the close of the hearing. The parties may also request to be heard orally. After review of the entire case, the Regional Director issues a final decision, either dismissing the petition or directing that an election be held. In the latter event, the election is conducted under the supervision of the Regional Director in the manner already described in this section.

(3) All matters arising after the election, including determinative challenged ballots and objections to the conduct of the election shall be processed in a manner consistent with paragraphs (a)(4), (5), and (6) of this section.

■ 3. Section 101.28 is revised to read as follows:

§ 101.28 Consent agreements providing for election.

(a) The Board makes available to the parties three types of informal consent procedures through which authorization issues can be resolved without resort to formal procedures. These informal agreements are commonly referred to as consent-election agreement followed by Regional Director's determination, stipulated election agreement followed by Board certification, and full consent-election agreement providing for the Regional Director's determination of both pre- and postelection matters. Forms for use in these informal procedures are available in the Regional Offices.

(b) The procedures to be used in connection with a consent-election agreement providing for the Regional Director's determination, a stipulated election agreement providing for Board certification, and the full consent-election agreement providing for the Regional Director's determination of both pre- and postelection matters are the same as those already described in subpart C of this part in connection with similar agreements in representation cases under section 9(c) of the Act, except that no provision is made for runoff elections.

PART 102—RULES AND REGULATIONS, SERIES 8

■ 4. The authority citation for 29 CFR part 102 continues to read as follows:

Authority: Section 6, National Labor Relations Act, as amended (29 U.S.C. 151, of Information Act, as amended (5 U.S.C. 552(a)(4)(A)), and section 552a(j) and (k) of the Privacy Act (5 U.S.C. 552a(j) and (k). Sections 102.143 through 102.155 also issued under Section 504(c)(1) of the Equal Access to Justice Act, as amended (5 U.S.C. 504(c)(1)).

■ 5. Section 102.62 is amended by revising paragraph (a) and adding paragraph (c) to read as follows:

§ 102.62 Consent-election agreements.

(a) Where a petition has been duly filed, the employer and any individual or labor organizations representing a substantial number of employees involved may, with the approval of the Regional Director, enter into a consent-election agreement leading to a determination by the Regional Director of the facts ascertained after such consent election. Such agreement shall include a description of the appropriate unit, the time and place of holding the election, and the payroll period to be used in determining what employees within the appropriate unit shall be eligible to vote. Such consent election shall be conducted under the direction and supervision of the Regional Director. The method of conducting such consent election shall be consistent with the method followed by the Regional Director in conducting elections pursuant to §§ 102.69 and 102.70 except that the rulings and determinations by the Regional Director of the results thereof shall be final, and the Regional Director shall issue to the parties a certification of the results of the election, including certifications of representative where appropriate, with the same force and effect, in that case, as if issued by the Board, provided further that rulings or determinations by the Regional Director in respect to any amendment of such certification shall also be final.

* * * * *

(c) Where a petition has been duly filed, the employer and any individual or labor organizations representing a substantial number of the employees involved may, with the approval of the Regional Director, enter into an agreement providing for a hearing pursuant to §§ 102.63, 102.64, 102.65, 102.66 and 102.67 to resolve any issue necessary to resolve the question concerning representation. Upon the conclusion of such a hearing, the Regional Director shall issue a Decision. The rulings and determinations by the Regional Director thereunder shall be final, with the same force and effect, in that case, as if issued by the Board. Any election ordered by the Regional Director shall be conducted under the direction and supervision of the Regional Director. The method of conducting such consent election shall be consistent with the method followed by the Regional Director in conducting elections pursuant to §§ 102.69 and 102.70, except that the rulings and determinations by the Regional Director of the results thereof shall be final, and the Regional Director shall issue to the parties a certification of the results of the election, including certifications of representative where appropriate, with the same force and effect, in that case, as if issued by the Board, provided further that rulings or determinations by the Regional Director in respect to any amendment of such certification shall also be final.

Dated in Washington, DC, on January 13, 2005.

By direction of the Board.

Lester A. Heltzer,

Executive Secretary.

[FR Doc. 05–1173 Filed 1–24–05; 8:45 am]

BILLING CODE 7545–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[ID–04–002; FRL –7842–3]

Approval and Promulgation of Air Quality Implementation Plans; Idaho; Revised Format for Materials Being Incorporated by Reference

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; notice of administrative change.

SUMMARY: EPA is revising the format of 40 CFR part 52 for materials submitted by the State of Idaho that are incorporated by reference (IBR) into its State Implementation Plan (SIP). The regulations affected by this format change have all been previously submitted by Idaho and approved by EPA.

EFFECTIVE DATE: This action is effective January 25, 2005.

ADDRESSES: SIP materials which are incorporated by reference into 40 CFR part 52 are available for inspection at the following locations: US Environmental Protection Agency, Region 10, Office of Air, Waste, and Toxics (OAWT–107), 1200 Sixth Avenue, Seattle, Washington 98101; U.S. Environmental Protection Agency Docket Center, EPA West, 1301 Constitution Avenue, NW., Room B102, Washington, DC 20004; and the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030 or go to *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

FOR FURTHER INFORMATION CONTACT: Donna Deneen at the above Region 10 address or at (206) 553–6706.

SUPPLEMENTARY INFORMATION: Throughout this document, wherever ''we'' or ''our'' is used it means the EPA.

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I. Change of Incorporation by Reference (IBR) Format

This format revision will affect the ''identification of plan'' section of 40 CFR part 52, as well as the format of the SIP materials that will be available for public inspection at NARA; Air and Radiation Docket and Information Center; and the EPA Region 10 Office. The sections of 40 CFR part 52, pertaining to provisions promulgated by EPA or state-submitted materials not subject to IBR review, remain unchanged.

A. Description of a SIP

Each state has a SIP containing the control measures and strategies used to attain and maintain the national ambient air quality standards (NAAQS). The SIP is extensive, containing such elements as air pollution control regulations, emission inventories, monitoring network, attainment demonstrations, and enforcement mechanisms.

B. How EPA Enforces the SIP

Each SIP revision submitted by a state must undergo reasonable notice and public hearing at the state level, and SIPs submitted to EPA to attain or maintain the NAAQS must include enforceable emission limitations and other control measures, schedules and timetables for compliance.

EPA evaluates submitted SIPs to determine if they meet the Clean Air Act's requirements. If a SIP meets the Clean Air Act's requirements, EPA will approve the SIP. EPA's notice of approval is published in the **Federal Register** and the approval is then codified in the Code of Federal Regulations (CFR) at 40 CFR part 52. Once EPA approves a SIP, it is enforceable by EPA and citizens in federal district court.

The full text of the state regulation approved by EPA is not reproduced in its entirety in 40 CFR part 52, but is incorporated by reference (''IBR''). This means that EPA has approved a given state regulation with a specific effective date. The public is referred to the location of the full text version should they want to know which measures are contained in a given SIP (see ''I.F. Where You Can Find a Copy of the SIP Compilation''). The information provided allows EPA and the public to monitor the extent to which a state implements the SIP to attain and maintain the NAAQS and to take enforcement action if necessary.

C. How the State and EPA Update the SIP

The SIP is a living document which the state can revise as necessary to address the unique air pollution problems in the state. Therefore, EPA from time to time must take action on SIP revisions containing new and/or revised regulations as being part of the SIP. On May 22, 1997 (62 FR 27968), EPA revised the procedures for incorporating by reference Federally-approved SIPs.

EPA began the process of developing: (1) A revised SIP document for each state that would be incorporated by reference under the provisions of 1 CFR part 51; (2) a revised mechanism for announcing EPA approval of revisions to an applicable SIP and updating both the IBR document and the CFR; and (3) a revised format of the ''identification of plan'' sections for each applicable subpart to reflect these revised IBR procedures.

The description of the revised SIP document, IBR procedures, and ''identification of plan'' format are discussed in further detail in the May 22, 1997, **Federal Register** document.

D. How EPA Compiles the SIP

The Federally-approved regulations and source-specific permits (entirely or portions thereof) submitted by each state agency have been organized by EPA into a SIP compilation. The SIP Compilation contains the updated regulations and source-specific requirements approved by EPA through previous rulemaking actions in the **Federal Register**. The compilations are in hard copy and will be updated, primarily on an annual basis.

E. How EPA Organizes the SIP Compilation

Each compilation contains two parts. Part 1 contains the state regulations and Part 2 contains the source-specific requirements that have been approved as part of the SIP. Each part has a table of contents identifying each regulation or each source-specific requirement. The effective date in the tables indicates the date of the most recent revision to a particular regulation. The table of contents in the compilation corresponds to the table of contents published in 40 CFR part 52 for each state. The EPA Regional Offices have the primary

responsibility for ensuring accuracy and updating the compilations.

F. Where You Can Find a Copy of the SIP Compilation

EPA Region 10 developed and will maintain the annually updated hard copy of the compilation for Idaho. The hard copy of the annually updated compilation will also be maintained at the Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, Room B–108 (Mail Code 6102T), 1301 Constitution Ave., NW., Washington, DC 20460; and NARA. For information on the availability of this material at NARA, call 202–741–6030 or go to *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html*. Copies of Idaho regulations approved by EPA are also available on the following web page: *www.epa.gov/r10earth/sips.htm.*

G. The Format of the New Identification of Plan Section

In order to better serve the public, EPA revised the organization of the ''identification of plan'' section and included additional information to clarify the enforceable elements of the SIP.

The revised identification of plan section contains five subsections:

(a) Purpose and scope;

(b) Incorporation by reference;

(c) EPA-approved regulations;

(d) EPA-approved source-specific requirements; and

(e) EPA-approved nonregulatory provisions such as transportation control measures, statutory provisions, control strategies, monitoring networks, etc.

H. When a SIP Revision Becomes Federally Enforceable

All revisions to the applicable SIP become Federally enforceable as of the effective date of the revisions to paragraphs (c), (d) or (e) of the applicable identification of plan found in each subpart of 40 CFR part 52.

I. The Historical Record of SIP Revision Approvals

To facilitate enforcement of previously approved SIP provisions and to provide a smooth transition to the new SIP processing system, we are retaining the original identification of plan section (see 40 CFR 52.677). This section previously appeared in 40 CFR 52.670. After an initial two-year period, EPA will review its experience with the new system and its ability to enforce previously approved SIP measures, and will decide whether or not to retain the identification of plan appendices for some further period.

II. What EPA Is Doing in This Action

Today's action constitutes a ''housekeeping'' exercise to ensure that all previous revisions to the state SIP-approved regulations and source-specific requirements are accurately reflected in 40 CFR part 52. When EPA receives a formal SIP revision request, the Agency must publish the proposed revision in the **Federal Register** and provide for public comment before approval.

Note that the revisions in today's rule include State source-specific requirements that may no longer be appropriate for inclusion in the Idaho SIP. These permits, some of which were issued by the State as early as 1979, are listed in section (d) because EPA previously approved them as state source-specific requirements and they continue to be a part of the Federally-approved SIP until the Idaho Department of Environmental Quality submits a SIP revision meeting Clean Air Act requirements requesting that such permits be removed from the SIP and EPA approves the SIP revision. EPA does not have the authority to remove these permits in the absence of a demonstration that their removal would not interfere with attainment or maintenance of the NAAQS, violate any prevention of significant deterioration increment or result in visibility impairment. Idaho Department of Environmental Quality may request removal by submitting such a demonstration to EPA as a SIP revision. EPA will take action on Idaho's request after providing for public comment.

III. Good Cause Exemption

EPA has determined that today's rule falls under the ''good cause'' exemption in section 553(b)(3)(B) of the Administrative Procedures Act (APA) which, upon finding ''good cause,'' authorizes agencies to dispense with public participation and section 553(d)(3) which allows an agency to make a rule effective immediately (thereby avoiding the 30-day delayed effective date otherwise provided for in the APA). Today's rule simply codifies provisions which are already in effect as a matter of law in Federal and approved State programs.

Under section 553 of the APA, an agency may find good cause where procedures are ''impractical, unnecessary, or contrary to the public interest.'' Public comment is ''unnecessary'' and ''contrary to the public interest'' since the codification only reflects existing law. Immediate notice in the CFR benefits the public by updating citations.

IV. Statutory and Executive Order Review

A. General Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and is therefore not subject to review by the Office of Management and Budget. This rule is not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001) because it is not a significant regulatory action under Executive Order 12866. Because the agency has made a ''good cause'' finding that this action is not subject to notice-and-comment requirements under the Administrative Procedure Act or any other statute as indicated in the Supplementary Information section above, it is not subject to the regulatory flexibility provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), or to sections 202 and 205 of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104–4). In addition, this action does not significantly or uniquely affect small governments or impose a significant intergovernmental mandate, as described in sections 203 and 204 of UMRA. This rule also 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, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it 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 rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant. This rule does not involve technical standards; 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. The rule also does not involve special consideration of environmental justice related issues as required by Executive Order 12898 (59 FR 7629, February 16, 1994). In issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct, as

required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996). EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1998) by examining the takings implications of the rule in accordance with the ''Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings'' issued under the executive order. This rule does not impose an information collection burden under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). EPA's compliance with these statutes and Executive Orders for the underlying rules are discussed in previous actions taken on the State's rules.

B. Submission to Congress and the Comptroller General

The Congressional Review Act (5 U.S.C. 801 *et seq.*), as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. Section 808 allows the issuing agency to make a rule effective sooner than otherwise provided by the CRA if the agency makes a good cause finding that notice and public procedure is impracticable, unnecessary or contrary to the public interest. Today's action simply codifies provisions which are already in effect as a matter of law in Federal and approved State programs. 5 U.S.C. 808(2). As stated previously, EPA has made such a good cause finding, including the reasons therefore, and established an effective date of January 25, 2005. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. These corrections to the identification of plan for Idaho is not a ''major rule'' as defined by 5 U.S.C. 804(2).

C. Petitions for Judicial Review

EPA has also determined that the provisions of section 307(b)(1) of the Clean Air Act pertaining to petitions for judicial review are not applicable to this action. Prior EPA rulemaking actions for each individual component of the Idaho SIP compilation had previously afforded interested parties the opportunity to file a petition for judicial review in the United States Court of Appeals for the appropriate circuit within 60 days of such rulemaking action. Thus, EPA sees no need in this action to reopen the 60-day period for filing such petitions for judicial review for these ''identification of plan'' reorganization actions for Idaho.

List of Subjects in 40 CFR Part 52

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

Dated: November 15, 2004.

Ronald A. Kreizenbeck,

Acting Regional Administrator, Region 10.

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

PART 52—[AMENDED]

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

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

Subpart N—Idaho

■ 2. Section 52.670 is redesignated as § 52.677 and the heading and paragraph (a) are revised to read as follows:

§ 52.677 Original identification of plan section.

(a) This section identifies the original ''Idaho Air Quality Implementation Plan'' and all revisions submitted by Idaho that were federally approved prior to November 12, 2004.

* * * * *

■ 3. A new § 52.670 is added to read as follows:

§ 52.670 Identification of plan.

(a) Purpose and scope. This section sets forth the applicable State implementation plan for Idaho under section 110 of the Clean Air Act, 42 U.S.C. 7401, and 40 CFR part 51 to meet national ambient air quality standards.

(b) Incorporation by reference.

(1) Material listed in paragraphs (c) and (d) of this section with an EPA approval date prior to November 12, 2004, was approved for incorporation by reference by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Material is incorporated as it exists on the date of the approval, and notice of any change in the material will be published in the **Federal Register**. Entries in paragraphs (c) and (d) of this section with EPA approval dates after November 12, 2004, will be incorporated by reference in the next update to the SIP compilation.

(2) EPA Region 10 certifies that the rules/regulations provided by EPA in the SIP compilation at the addresses in paragraph (b)(3) of this section are an exact duplicate of the officially promulgated State rules/regulations which have been approved as part of the State Implementation Plan as of November 12, 2004.

(3) Copies of the materials incorporated by reference may be inspected at the Region 10 EPA Office at 1200 Sixth Avenue, Seattle, WA 98101; the EPA, Air and Radiation Docket and Information Center, Air Docket, 1301 Constitution Avenue, NW., Washington, DC 20004; or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030 or go to *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

(c) EPA approved regulations.

EPA—APPROVED IDAHO REGULATIONS

[Idaho Administrative Procedures Act (IDAPA) Chapter 58, Rules for the Control of Air Pollution in Idaho, Previously Codified at IDAPA Chapter 39 (Appendix A.3)]

State citation	Title/subject	State effective date	EPA approval date	Explanations
58.01.01—Rules for the Control of Air Pollution in Idaho				
001	Title and Scope	5/1/94	01/16/03, 68 FR 2217.	
004	Catchlines	5/1/94	01/16/03, 68 FR 2217.	
005	Definitions	5/1/94	01/16/03, 68 FR 2217.	

EPA—APPROVED IDAHO REGULATIONS—Continued

[Idaho Administrative Procedures Act (IDAPA) Chapter 58, Rules for the Control of Air Pollution in Idaho, Previously Codified at IDAPA Chapter 39 (Appendix A.3)]

State citation	Title/subject	State effective date	EPA approval date	Explanations
006	General Definitions	4/5/00 3/20/97 5/1/95 5/1/94	01/16/03, 68 FR 2217.	
007	Definitions for the Purposes of Sections 200 Through 225 and 400 Through 461.	4/5/00 6/30/95 5/1/95 5/1/94	01/16/03, 68 FR 2217.	
106	Abbreviations	5/1/94	01/16/03, 68 FR 2217.	
107	Incorporations by Reference	7/1/97 5/1/94	01/16/03, 68 FR 2217	(Except subsection 107.03).
121	Compliance Requirements by Department.	5/1/94	01/16/03, 68 FR 2217.	
122	Information Orders by the Department.	4/5/00 5/1/94	01/16/03, 68 FR 2217.	
123	Certification of Documents	5/1/94	01/16/03, 68 FR 2217.	
124	Truth, Accuracy Completeness of Documents.	5/1/94	01/16/03, 68 FR 2217.	
125	False Statements	3/23/98	01/16/03, 68 FR 2217.	
126	Tampering	3/23/98	01/16/03, 68 FR 2217.	
127	Format of Responses	5/1/94	01/16/03, 68 FR 2217.	
130	Startup, Shutdown, Scheduled Maintenance, Safety Measures, Upset and Breakdown.	4/5/00	01/16/03, 68 FR 2217.	
131	Excess Emissions	4/5/00	01/16/03, 68 FR 2217.	
132	Correction of Condition	4/5/00	01/16/03, 68 FR 2217.	
133	Startup, Shutdown and Scheduled Maintenance Requirements.	4/5/00 3/20/97	01/16/03, 68 FR 2217.	
134	Upset, Breakdown, and Safety Requirements.	4/5/00 3/20/97	01/16/03, 68 FR 2217.	
135	Excess Emission Reports	4/5/00 3/20/97	01/16/03, 68 FR 2217.	
136	Excess Emission Records	4/5/00 3/23/98 3/20/97	01/16/03, 68 FR 2217.	
155	Circumvention	4/5/00	01/16/03, 68 FR 2217.	
156	Total Compliance	5/1/94	01/16/03, 68 FR 2217.	
157	Test Methods and Procedures	4/5/00	01/16/03, 68 FR 2217.	
160	Provisions Governing Specific Activities and Conditions.	4/5/00	01/16/03, 68 FR 2217.	
162	Modifying Physical Conditions	5/1/94	01/16/03, 68 FR 2217.	
163	Source Density	5/1/94	01/16/03, 68 FR 2217.	
164	Polychlorinated Biphenyls (PCBs)	5/1/94	01/16/03, 68 FR 2217.	
200	Procedures and Requirements for Permits to Construct.	4/5/00	01/16/03, 68 FR 2217.	
201	Permit to Construct Required	3/30/01	01/16/03, 68 FR 2217.	
202	Application Procedures	4/5/00 5/1/94	01/16/03, 68 FR 2217.	
203	Permit Requirements for New and Modified Stationary Sources.	5/1/94	01/16/03, 68 FR 2217	(Except subsection 203.03).
204	Permit Requirements for New Major Facilities or Major Modifications in Nonattainment Areas.	3/30/01 4/5/00 5/1/94	4/17/2001, 66 FR 19722.	
205	Permit Requirements for New Major Facilities or Major Modifications in Attainment or Unclassifiable Areas.	4/5/00 5/1/94	01/16/03, 68 FR 2217.	
206	Optional Offsets for Permits to Construct.	6/30/95	01/16/03, 68 FR 2217.	
207	Requirements for Emission Reduction Credit.	5/1/94	01/16/03, 68 FR 2217.	
208	Demonstration of Net Air Quality Benefit.	4/5/00 5/1/94	01/16/03, 68 FR 2217.	
209	Procedures for Issuing Permits	4/5/00 3/19/99 3/23/98 5/1/94	01/16/03, 68 FR 2217.	
211	Conditions for Permits to Construct	5/1/94	01/16/03, 68 FR 2217.	
212	Obligation to Comply	5/1/94	01/16/03, 68 FR 2217.	

EPA—APPROVED IDAHO REGULATIONS—Continued

[Idaho Administrative Procedures Act (IDAPA) Chapter 58, Rules for the Control of Air Pollution in Idaho, Previously Codified at IDAPA Chapter 39 (Appendix A.3)]

State citation	Title/subject	State effective date	EPA approval date	Explanations
213	Pre-permit Construction	4/5/00 3/23/98	01/16/03, 68 FR 2217.	
220	General Exemption Criteria for Permit to Construct Exemptions.	4/5/00	01/16/03, 68 FR 2217.	
221	Category I Exemption	4/5/00	01/16/03, 68 FR 2217.	
222	Category II Exemption	4/5/00 7/1/97 5/1/94	01/16/03, 68 FR 2217	(Except subsection 222.03).
400	Procedures and Requirements for Tier II Operating Permits.	5/1/94	01/16/03, 68 FR 2217.	
401	Tier II Operating Permit	4/5/00 3/19/99 5/1/94	01/16/03, 68 FR 2217	(Except subsections 401.01.a and 401.04).
402	Application Procedures	4/5/00 5/1/94	01/16/03, 68 FR 2217.	
403	Permit Requirements for Tier II Sources.	5/1/94	01/16/03, 68 FR 2217.	
404	Procedure for Issuing Permits	4/5/00 5/1/94	01/16/03, 68 FR 2217.	
405	Conditions for Tier II Operating Permits.	5/1/94	01/16/03, 68 FR 2217.	
406	Obligation to Comply	5/1/94	01/16/03, 68 FR 2217.	
460	Requirements for Emission Reduction Credit.	4/5/00 5/1/94	01/16/03, 68 FR 2217.	
461	Requirements for Banking Emission Reduction Credits (ERC's).	4/5/00 5/1/94	01/16/03, 68 FR 2217.	
470	Permit Application Fees for Tier II Permits.	3/7/95	01/16/03, 68 FR 2217.	
500	Registration Procedures and Requirements for Portable Equipment.	5/1/94	01/16/03, 68 FR 2217.	
510	Stack Heights and Dispersion Techniques.	5/1/94	01/16/03, 68 FR 2217.	
511	Applicability	4/5/00	01/16/03, 68 FR 2217.	
512	Definitions	4/5/00 5/1/94	01/16/03, 68 FR 2217.	
513	Requirements	4/5/00	01/16/03, 68 FR 2217.	
514	Opportunity for Public Hearing	5/1/94	01/16/03, 68 FR 2217.	
515	Approval of Field Studies and Fluid Models.	5/1/94	01/16/03, 68 FR 2217.	
516	No Restriction on Actual Stack Height.	5/1/94	01/16/03, 68 FR 2217.	
550	Air Pollution Emergency Rule	5/1/94	01/16/03, 68 FR 2217.	
551	Episode Criteria	5/1/94	01/16/03, 68 FR 2217.	
552	Stages	3/15/02 5/1/94	01/16/03, 68 FR 2217.	
553	Effect of Stages	3/15/02	01/16/03, 68 FR 2217.	
556	Criteria for Defining Levels Within Stages.	3/15/02 4/5/00	01/16/03, 68 FR 2217.	
557	Public Notification	5/1/94	01/16/03, 68 FR 2217.	
558	Information to Be Given	3/15/02 5/1/94	01/16/03, 68 FR 2217.	
559	Manner and Frequency of Notification.	5/1/94	01/16/03, 68 FR 2217.	
560	Notification to Sources	4/5/00	01/16/03, 68 FR 2217.	
561	General Rules	3/15/02 4/5/00 5/1/94	01/16/03, 68 FR 2217.	
562	Specific Emergency Episode Abatement Plans for Point Sources.	5/1/94	01/16/03, 68 FR 2217.	
563	Transportation Conformity	3/30/01	04/12/01, 66 FR 18873.	
564	Incorporation by Reference	3/30/01	04/12/01, 66 FR 18873.	
565	Abbreviations	3/30/01	04/12/01, 66 FR 18873.	
566	Definitions for the Purpose of Sections 563 Through 574 and 582.	3/30/01	04/12/01, 66 FR 18873.	
567	Agencies Affected by Consultation	3/30/01	04/12/01, 66 FR 18873.	
568	ICC Member Roles in Consultation	3/30/01	04/12/01, 66 FR 18873.	
569	ICC Member Responsibilities in Consultation.	3/30/01	04/12/01, 66 FR 18873.	

EPA—APPROVED IDAHO REGULATIONS—Continued

[Idaho Administrative Procedures Act (IDAPA) Chapter 58, Rules for the Control of Air Pollution in Idaho, Previously Codified at IDAPA Chapter 39 (Appendix A.3)]

State citation	Title/subject	State effective date	EPA approval date	Explanations
570	General Consultation Process	3/30/01	04/12/01, 66 FR 18873.	
571	Consultation Procedures	3/30/01	04/12/01, 66 FR 18873.	
572	Final Conformity Determinations by USDOT.	3/30/01	04/12/01, 66 FR 18873.	
573	Resolving Conflicts	3/30/01	04/12/01, 66 FR 18873.	
574	Public Consultation Procedures	3/30/01	04/12/01, 66 FR 18873.	
575	Air Quality Standards and Area Classification.	4/5/00	01/16/03, 68 FR 2217.	
576	General Provisions for Ambient Air Quality Standards.	5/1/94	01/16/03, 68 FR 2217.	
577	Ambient Air Quality Standards for Specific Air Pollutants.	5/1/94	01/16/03, 68 FR 2217	(Except subsection 577.06).
578	Designation of Attainment, Unclassifiable, and Nonattainment Areas.	5/1/94	01/16/03, 68 FR 2217.	
579	Baselines for Prevention of Significant Deterioration.	4/5/00 5/1/94	01/16/03, 68 FR 2217.	
580	Classification of Prevention of Significant Deterioration Areas.	4/5/00 5/1/94	01/16/03, 68 FR 2217.	
581	Prevention of Significant Deterioration (PSD) Increments.	4/5/00 7/1/97 5/1/94	01/16/03, 68 FR 2217.	
582	Interim Conformity Provisions for Northern Ada County Former Nonattainment Area for PM–10.	3/30/01	04/12/01, 66 FR 18873.	
600	Rules for Control of Open Burning	3/19/99	01/16/01.	
601	Fire Permits, Hazardous Materials and Liability.	5/1/94	01/16/03.	
602	Nonpreemption of Other Jurisdictions.	5/1/94	1/16/03, 68 FR 2217.	
603	General Restrictions	5/1/94	1/16/03, 68 FR 2217.	
604	Alternatives to Open Burning	5/1/94	01/16/03, 68 FR 2217.	
606	Categories of Allowable Burning	5/1/94	01/16/03, 68 FR 2217.	
607	Recreational and Warming Fires	5/1/94	01/16/03, 68 FR 2217.	
608	Weed Control Fires	5/1/94	01/16/03, 68 FR 2217.	
609	Training Fires	5/1/94	01/16/03, 68 FR 2217.	
610	Industrial Flares	5/1/94	01/16/03, 68 FR 2217.	
611	Residential Solid Waste Disposal Fires.	5/1/94	01/16/03, 68 FR 2217.	
612	Landfill Disposal Site Fires	3/19/99	01/16/03, 68 FR 2217.	
613	Orchard Fires	4/5/00 5/1/94	01/16/03, 68 FR 2217.	
614	Prescribed Burning	5/1/94	01/16/03, 68 FR 2217.	
615	Dangerous Material Fires	5/1/94	01/16/03, 68 FR 2217.	
616	Infectious Waste Burning	5/1/94	01/16/03, 68 FR 2217.	
625	Visible Emissions	4/5/00 5/1/94	01/16/03, 68 FR 2217.	
626	General Restrictions on Visible Emissions from Wigwam Burners.	4/5/00	01/16/03, 68 FR 2217.	
650	Rules for Control of Fugitive Dust	5/1/94	01/16/03, 68 FR 2217.	
651	General Rules	5/1/94	01/16/03, 68 FR 2217.	
675	Fuel Burning Equipment—Particulate Matter.	4/5/00	01/16/03, 68 FR 2217.	
676	Standards for New Sources	5/1/94	01/16/03, 68 FR 2217.	
677	Standards for Minor and Existing Sources.	5/1/94	01/16/03, 68 FR 2217.	
678	Combinations of Fuels	5/1/94	01/16/03, 68 FR 2217.	
679	Averaging Period	4/5/00 5/1/94	01/16/03, 68 FR 2217.	
680	Altitude Correction	5/1/94	01/16/03, 68 FR 2217.	
681	Test Methods and Procedures	4/5/00	01/16/03, 68 FR 2217.	
700	Particulate Matter—Process Weight Limitations.	4/5/00	01/16/03, 68 FR 2217.	
701	Particulate Matter—New Equipment Process Weight Limitations.	4/5/00	01/16/03, 68 FR 2217.	
702	Particulate Matter—Existing Equipment Process Weight Limitations.	4/5/00 5/1/94	01/16/03, 68 FR 2217.	
703	Particulate Matter—Other Processes.	4/5/00	01/16/03, 68 FR 2217.	

EPA—APPROVED IDAHO REGULATIONS—Continued

[Idaho Administrative Procedures Act (IDAPA) Chapter 58, Rules for the Control of Air Pollution in Idaho, Previously Codified at IDAPA Chapter 39 (Appendix A.3)]

State citation	Title/subject	State effective date	EPA approval date	Explanations
725	Rules for Sulfur Content of Fuels	4/5/00	01/16/03, 68 FR 2217.	
726	Definitions as Used in Sections 727 Through 729.	5/1/94	01/16/03, 68 FR 2217.	
727	Residual Fuel Oils	5/1/94	01/16/03, 68 FR 2217.	
728	Distillate Fuel Oil	5/1/94	01/16/03, 68 FR 2217.	
729	Coal	5/1/94	01/16/03, 68 FR 2217.	
785	Rules for Control of Incinerators	5/1/94	01/16/03, 68 FR 2217.	
786	Emission Limits	4/5/00	01/16/03, 68 FR 2217.	
787	Exceptions	3/23/98	01/16/03, 68 FR 2217.	
805	Rules for Control of Hot-mix Asphalt Plants.	5/1/94	01/16/03, 68 FR 2217.	
806	Emission Limits	5/1/94	01/16/03, 68 FR 2217.	
807	Multiple Stacks	5/1/94	01/16/03, 68 FR 2217.	
808	Fugitive Dust Control	5/1/94	01/16/03, 68 FR 2217.	
815	Rules for Control of Kraft Pulping Mills.	5/1/94	01/16/03, 68 FR 2217.	
816	Statement of Policy	5/1/94	01/16/03, 68 FR 2217.	
817	General Rules	5/1/94	01/16/03, 68 FR 2217.	
821	Recovery Furnace Particulate Standards.	5/1/94	01/16/03, 68 FR 2217.	
822	Lime Kiln Standards	5/1/94	01/16/03, 68 FR 2217.	
823	Smelt Tank Standards	5/1/94	01/16/03, 68 FR 2217.	
824	Monitoring and Reporting	4/5/00 5/1/94	01/16/03, 68 FR 2217	(Except subsection 824.01).
825	Special Studies	5/1/94	01/16/03, 68 FR 2217.	
826	Exceptions	5/1/94	01/16/03, 68 FR 2217.	
845	Rules for Control of Sulfur Oxide Emissions from Sulfuric Acid Plants.	5/1/94	01/16/03, 68 FR 2217.	
846	Emission Limits	4/5/00	01/16/03, 68 FR 2217.	
847	Monitoring and Testing	4/5/00	01/16/03, 68 FR 2217.	
848	Compliance Schedule	5/1/94	01/16/03, 68 FR 2217.	
City and County Ordinances				
City of Sandpoint Ordinance No. 939.	Material Specifications for Street Sanding Material.	02/22/94 (City adoption date).	06/26/02, 67 FR 43006	Sandpoint PM10 Nonattainment Area Plan.
City of Sandpoint Ordinance No. 965.	Solid Fuel Heating Appliance Ordinance.	02/21/95 (City adoption date).	06/26/02, 67 FR 43006	Sandpoint PM10 Nonattainment Area Plan.
Ada County Ordinance.	The 1999 Motor Vehicle Emissions Control Ordinance.	06/15/99 (County approval date).	10/28/2002, 67 FR 65713.	Northern Ada County CO Maintenance Plan.
City of Boise Ordinance.	The 1999 Motor Vehicle Emissions Control Ordinance.	07/20/99 (City approval date).	10/28/2002, 67 FR 65713.	Northern Ada County CO Maintenance Plan.
City of Eagle Ordinance.	The 1999 Motor Vehicle Emissions Control Ordinance.	04/27/99 (City approval date).	10/28/2002, 67 FR 65713.	Northern Ada County CO Maintenance Plan.
City of Garden City Ordinance.	The 1991 Vehicle Emission Control Ordinance.	08/13/96 (Most recently amended).	10/28/2002, 67 FR 65713.	Northern Ada County CO Maintenance Plan.
City of Meridian Ordinance.	The 1999 Motor Vehicle Emissions Control Ordinance.	06/01/99 (City approval date).	10/28/2002, 67 FR 65713.	Northern Ada County CO Maintenance Plan.
Boise City Ordinance 4432.	Parking Permits	08/13/79 (City approval date).	06/06/85, 50 FR 23810	Transportation Control Plan for carbon monoxide, Ada County.
City of Garden City Ordinance 514,533, and 624.	Solid Fuel Heating Appliance Ordinance of the City of Garden City, Idaho.	05/14/87, 01/10/89, 09/13/94 (City approval dates).	05/30/96, 61 FR 27019	Northern Ada County PM10 Nonattainment Area Plan.
Meridian Ordinance 667.	Meridian Clean Air Ordinance	08/16/94 (City approval date).	05/30/96, 61 FR 27019	Northern Ada County PM10 Nonattainment Area Plan.
City of Eagle Ordinance 245.	City of Eagle Clean Air Ordinance	04/26/94 (City approval date).	05/30/96, 61 FR 27019	Northern Ada County PM10 Nonattainment Area Plan.
Ada County Ordinance 254.	Ada County Clean Air Ordinance	11/03/92 (County adoption date).	05/30/96, 61 FR 27019	Northern Ada County PM10 Nonattainment Area Plan.
Table: Ordinance-1	Explanation of enforcement procedures, responsibilities and sources of funding for the Northern Ada County Wood Burning Control Ordinances.	12/30/94 (date of table).	05/30/96, 61 FR 27019	Northern Ada County PM10 Nonattainment Area Plan.

(d) EPA-approved State Source-specific requirements.

EPA-APPROVED IDAHO SOURCE-SPECIFIC REQUIREMENTS [1]

Name of source	Permit number	State effective date	EPA approval date	Explanation
LP Wood Polymers, Inc., Meridian, Idaho	001–00115	07/12/02	10/27/03, 68 FR 61106	The following conditions: 1.1, 1.3, 3.1, and the Appendix. (Boise/Ada County Maintenance Plan).
Consolidated Concrete Company, Boise, Idaho.	001–00046	12/03/01	10/27/03, 68 FR 61106	The following conditions: 1.1, 1.3, 2.3, 3.1, 3.2, and the Appendix. (Boise/Ada County Maintenance Plan).
Crookham Company, Caldwell, Idaho	027–00020	01/18/02	10/27/03, 68 FR 61106	The following conditions: 1.1, 1.3, 2.1, 2.3, 3.1, 3.1.1, 3.1.2, 3.2, and the Appendix. (Boise/Ada County Maintenance Plan).
Double D Service Center, Meridian, Idaho.	001–00168	02/04/02	10/27/03, 68 FR 61106	The following conditions: 1.1, 1.3, 3.1, 3.2.1, 3.2.2, 3.2.3, and the Appendix. (Boise/Ada County Maintenance Plan).
Plum Creek Northwest Lumber, Inc., Meridian, Idaho.	001–00091	07/12/02	10/27/03, 68 FR 61106	The following conditions: 1.1, 1.3, 2.1.2, 3.1, and the Appendix. (Boise/Ada County Maintenance Plan).
C. Wright Construction, Inc., Meridian, Idaho.	T2–000033	07/08/03	10/27/03, 68 FR 61106	The following conditions: 2 (heading only), 2.5, (2.12, Table 2.2 as it applies to PM_{10}), 2.14, 3 (heading only), 3.3, Table 3.2, 3.4, 3.5, 3.6, 3.7, 3.8, 3.10, 4 (heading only), 4.2, 4.3, 4.4, 4.7, 5, and Table 5.1.(Boise/Ada County Maintenance Plan).
Nelson Construction Co., Boise, Idaho	T2–020029	07/21/03	10/27/03, 68 FR 61106	The following conditions: 2 (heading only), 2.12, 2.14, 3 (heading only), 3.3, 3.4, 3.6, 3.7, 3.9, 3.10, 3.11, 3.12, 4 (heading only), 4.3, 4.4, 4.5, 4.6, 5, and Table 5.1. (Boise/Ada County Maintenance Plan).
Mike's Sand and Gravel, Nampa, Idaho ..	001–00184	07/12/02	10/27/03, 68 FR 61106	The following conditions: 1.1, 1.3, 2.2.1, 3.1, and the Appendix. (Boise/Ada County Maintenance Plan).
Idaho Concrete Co., Eagle, Idaho	T2–020031	07/08/03	10/27/03, 68 FR 61106	The following conditions: 2 (heading only), 2.5, 2.13, 3 (heading only), 3.3, 3.4, 3.6, 3.7, 3.8, 4 (heading only), and Table 4.1.(Boise/Ada County Maintenance Plan).
Idaho Concrete Co., Eagle, Idaho	T2–020032	07/08/03	10/27/03, 68 FR 61106	The following conditions: 2 (heading only), 2.5, 2.13, 3 (heading only), 3.3, 3.4, 3.6, 3.7, 3.8, 4 (heading only), and Table 4.1.(Boise/Ada County Maintenance Plan).
Idaho Concrete Co. Eagle, Idaho	T2–020033	07/08/03	10/27/03, 68 FR 61106	The following conditions: 2 (heading only), 2.5, 2.13, 3 (heading only), 3.3, 3.4, 3.6, 3.7, 3.8, 4 (heading only), and Table 4.1. (Boise/Ada County Maintenance Plan).

EPA-APPROVED IDAHO SOURCE-SPECIFIC REQUIREMENTS [1]—Continued

Name of source	Permit number	State effective date	EPA approval date	Explanation
The Amalgamated Sugar Company LLC, Nampa, Idaho.	027–00010	09/30/02	10/27/03, 68 FR 61106 and 11/01/04, 69 FR 63324.	The following conditions: 2 (heading only), (2.7, Table 2.2 as it applies to PM_{10},) 2.10, 2.10.1, 2.10.2, 2.11, 2.11.1, 2.11.2, 2.11.3, 2.11.4, 2.11.5, 2.12, 2.12.1, 2.12.2, 2.12.3, 2.13, 2.13.1, 2.13.2, 2.13.3, 2.14, 2.14.1, 2.14.2, 2.16, 3 (heading only), (3.3, Table 3.2 as it applies to PM_{10}), 3.5, 3.7, 3.8, 3.8.1, 3.8.2, 3.8.3, 3.8.4, 3.8.5, 3.8.6, 3.8.7, 3.8.8, 3.9, 4 (heading only), (4.3, Table 4.1 as it applies to PM_{10}), 4.5, 4.6, 4.7, 5 (heading only), (5.3, Table 5.3 as it applies to PM_{10}), 5.5, 5.9, 5.9.1, 5.9.2, 5.9.3, 5.9.4, 5.9.5, 5.9.6, 5.9.7, 5.9.8, 5.9.9, 5.10, 5.11, 6 (heading only), 6.3, Table 6.1, 6.5, 6.6, 6.7, 6.7.1, 6.7.2, 6.8, 7 (heading only), 7.3, Table 7.1 as it applies to PM_{10}, 7.5, 7.7, 7.7.1, 7.7.2, 7.8, 8 (heading only), 8.3, Table 8.1, 8.5, 8.7, 8.7.1, 8.7.2, 8.8, 9 (heading only), 9.3, Table 9.1, 9.5, 9.7, 9.7.1, 9.7.2, 9.8, 10 (heading only), 10.3, Table 10.1, 10.6, 10.8, 10.8.1, 10.8.2, 10.9, 11 (heading only), 11.3, Table 11.2, 11.6, 11.8, 11.8.1, 11.8.2, 11.9, 12 (heading only), 12.3, Table 12.1, 12.5, 12.7, 12.7.1, 12.7.2, 12.8, 13 (heading only), 13.1 (except as it applies to condition 13.3, 13.3.1, 13.3.2, 13.5, 13.5.1, 13.5.2, 13.5.3, 13.6, 13.6.1, 13.6.2 and 13.9), Table 13.1 (except conditions 13.3, 13.5 and 13.6), (13.2, Table 13.2 as it applies to PM_{10}), 13.2.1, 13.4, 13.4.1, 13.4.2, 13.4.3, 13.7, 13.7.1, 13.7.2, 13.8, 13.8.1, 13.8.2, 13.8.3, 13.10, and 13.11. (Boise/Ada County PM_{10} Maintenance Plan).
Lake Pre-Mix, Sandpoint, Idaho	777–00182	05/17/96	06/26/02, 67 FR 43006	The following conditions for the cement silo vent: 1.1, 2.1.1, 2.1.2, 3.1.1, and 3.1.2. (Sandpoint nonattainment area plan).
Interstate Concrete and Asphalt, Sandpoint, Idaho.	017–00048	08/02/99	06/26/02, 67 FR 43006	The following conditions: for the asphalt plant, 2.2, 3.1.1, 4.1, 4.1.1, 4.1.2, 4.2.1 (as it applies to the hourly PM_{10} emission limit in Appendix A), 4.2.2, 4.2.2.1, 4.2.2.2, and 4.2.2.3; for the concrete batch plant, 2.1, 3.1.1, 4.1, 4.1.1, and 4.1.2; Appendix A (as it applies to PM_{10} emission rates after 7/1/96) and Appendix B (as it applies after 7/1/96). (Sandpoint nonattainment area plan).
Louisiana Pacific Corporation, Sandpoint, Idaho.	017–00003	10/31/01	06/26/02, 67 FR 43006	The following conditions: for the Kipper and Sons Hog Fuel Boiler, 2.3 (as it applies to PM_{10}), 2.5, 2.7, 2.13, 2.14, 2.17, 2.19; Natural Gas Boilers, 3.2 (as it applies to PM_{10}); Pneumatic Conveyance, 4.2, 4.4, 4.7; Drying Kilns, 5.2, 5.4, 5.5; Fugitive Emission Sources, 6.5, 6.7, 6.13; and the Appendix (as it applies to PM_{10}).(Sandpoint nonattainment area plan).
Whiteman Lumber Company, Cataldo, ID	13–1420–062	7/16/79 (date issued).	07/28/82, 47 FR 32530	Silver Valley TSP Nonattainment Area Plan.

EPA-APPROVED IDAHO SOURCE-SPECIFIC REQUIREMENTS [1]—Continued

Name of source	Permit number	State effective date	EPA approval date	Explanation
Potlatch Corporation, Pulp and Paper Unit, Lewiston, ID.	13–1140–0001–00	07/05/79 (date issued).	07/28/82, 47 FR 32530	Lewiston TSP Nonattainment Area Plan.
Potlatch Corporation, Clearwater Unit, Lewiston, ID.	13–1140–0003	07/05/79 (date issued).	07/28/82, 47 FR 32530	Lewiston TSP Nonattainment Area Plan.
Coast Trading Company, Inc., Lewiston, ID.	13–1140—0011	06/29/79 (date issued).	07/28/82, 47 FR 32530	Lewiston TSP Nonattainment Area Plan.
Lewis-Clark Terminal Association, Lewiston, ID.	13–1140–0010	06/29/79 (date issued).	07/28/82, 47 FR 32530	Lewiston TSP Nonattainment Area Plan.
Poe Asphalt, Lewiston, ID	0880–0008	03/01/76 (effective date).	07/28/82, 47 FR 32530	Lewiston TSP Nonattainment Area Plan.
FMC Corporation, Pocatello, ID [2]	13–1260–0005	02/26/80 (date issued).	07/28/82, 47 FR 32530	Pocatello TSP Nonattainment Area Plan.
J.R. Simplot, Pocatello, ID	13–1260–0006–00	03/04/80 (date issued).	07/28/82, 47 FR 32530	Pocatello TSP Nonattainment Area Plan.
Idaho Portland Cement Company, Inkom, ID.	13–0080–0004–00	07/18/79 (date issued).	07/28/82, 47 FR 32530	Pocatello TSP Nonattainment Area Plan.
J.R. Simplot Company, Conda, ID	13–0420–0021–00	07/18/79 (date issued).	07/28/82, 47 FR 32530	Soda Springs TSP Nonattainment Area Plan.
Beker Industries, Conda, ID	13–0420–0003–00	07/18/79 (date issued).	07/28/82, 47 FR 32530	Soda Springs TSP Nonattainment Area Plan.
Monsanto, Soda Springs, ID	13–0420–0001–00	07/18/79 (date issued).	07/28/82, 47 FR 32530	Soda Springs TSP Nonattainment Area Plan.
Kerr McGee, Soda Springs, ID	13–0420–0002–00	07/18/79 (date issued).	07/28/82, 47 FR 32530	Soda Springs TSP Nonattainment Area Plan.

[1] EPA does not have the authority to remove these source-specific requirements in the absence of a demonstration that their removal would not interfere with attainment or maintenance of the NAAQS, violate any prevention of significant deterioration increment or result in visibility impairment. Idaho Department of Environmental Quality may request removal by submitting such a demonstration to EPA as a SIP revision.

[2] Only a small portion of this facility is located on State lands. The vast majority of the facility is located in Indian Country. It is EPA's position that unless EPA has explicitly approved a program as applying in Indian country, State or local regulations or permits are not effective within the boundaries of that Indian country land for purposes of complying with the CAA. 68 FR 2217, 2220 (January 16, 2003).

(e) EPA Approved Nonregulatory provisions and Quasi-Regulatory Measures.

EPA-APPROVED IDAHO NONREGULATORY PROVISIONS AND QUASI-REGULATORY MEASURES

Name of SIP provision	Applicable geographic or nonattainment area	State submittal date	EPA approval date	Comments
Chapter I—Introduction	State-wide	01/15/80	07/28/82, 47 FR 32530.	
Chapter II—Administration	State-wide	01/15/80	07/28/82, 47 FR 32530.	
Chapter III—Emission Inventory	State-wide	01/15/80, 02/14/80	07/28/82, 47 FR 32530.	
Chapter IV—Air Quality Monitoring.	State-wide	01/15/80	07/28/82, 47 FR 32530.	
Chapter V—Source Surveillance	State-wide	01/15/80	07/28/82, 47 FR 32530.	
Chapter VI—Emergency Episode Plan.	State-wide	01/15/80	07/28/82, 47 FR 32530.	

EPA-APPROVED IDAHO NONREGULATORY PROVISIONS AND QUASI-REGULATORY MEASURES—Continued

Name of SIP provision	Applicable geographic or nonattainment area	State submittal date	EPA approval date	Comments
Chapter VIII—Nonattainment Area Plans				
Chapter VIII-a	Silver Valley TSP Nonattainment Area Plan.	01/15/80	07/28/82, 47 FR 32530.	
Chapter VIII-b	Lewiston TSP Nonattainment Area Plan.	01/15/80, 12/04/80, and 02/05/81.	07/28/82, 47 FR 32530.	
Chapter VIII-c	Transportation Control Plan for carbon monoxide, Ada County.	05/24/84, 01/03/85, 03/25/85, and 06/29/94.	7/28/82, 47 FR 32530, 06/06/85, 50 FR 23810, and 12/1/94, 59 FR 61546.	
Chapter VIII-d	Pocatello TSP Nonattainment Area Plan.	03/07/80 and 02/05/81.	07/28/82, 47 FR 32530.	
Chapter VIII-e	Soda Springs TSP Nonattainment Area Plan.	01/15/80	07/28/82, 47 FR 32530.	
Chapter VIII-f	Pinehurst PM–10 Nonattainment Area Plan.	04/14/92	08/25/94, 59 FR 43745.	
Chapter VIII-g	Northern Ada County PM10 Nonattainment Area Plan.	11/14/91, 12/30/94, and 7/13/95.	05/30/96, 61 FR 27019.	
Chapter VIII-h	Sandpoint PM10 Nonattainment Area Plan.	08/16/96	06/26/02, 67 FR 43006.	
Chapter VIII-i	Northern Ada County CO Limited Maintenance Plan.	01/17/02	10/28/02, 67 FR 65713.	
Chapter VIII-j	Ada County/Boise Idaho PM–10 Maintenance Plan.	09/27/02, 07/10/03, and 07/21/03.	10/27/03, 68 FR 61106.	
Chapter IX—Reserved.				
Chapter X—Plan for Maintenance of National Ambient Air Quality Standards for Lead.	State-wide	02/03/84	06/04/84 (EPA effective date).	
Small Business Assistance Program.	State-wide	01/03/94	09/19/94, 59 FR 47801.	
Appendix A—Legal Authority and Other Administrative Matters.	State-wide	01/15/80	07/28/82, 47 FR 32530.	
Appendix A.2—Idaho Environmental Protection and Health Act, Idaho Code Section 39–101 et seq.	State-wide	03/15/01	01/16/03, 68 FR 2217.	
Four sections of Appendix A.3—Rules and Regulations for Control of Air Pollution in Idaho—that were approved but not incorporated by reference in section (c).	State-wide	05/17/94	01/16/03, 68 FR 2217.	IDAPA 58.01.01000 (legal authority), 58.01.01002 (written interpretations), 58.01.01003 (administrative appeals), and 58.01.01128 (confidential business information).

■ 4. Remove and reserve § 52.679.

§ 52.679 [Remove and reserve]

[FR Doc. 05–619 Filed 1–24–05; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

42 CFR Part 70

RIN 0920–AA11

Establishment of Vaccination Clinics; User Fees for Investigational New Drug (IND) Influenza Vaccine Services and Vaccines

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Interim final rule and request for comments.

SUMMARY: We are amending 42 CFR part 70 to establish vaccination clinics and a user fee in connection with the administration of vaccination services and vaccine. On December 7, 2004, HHS Secretary Tommy G. Thompson announced the purchase of 1.2 million doses of GlaxoSmithKline (GSK) influenza vaccine, Fluarix, for distribution to areas most in need as determined by State public health authorities. The Fluarix vaccine has been approved in seventy-eight foreign countries, and FDA has recently reviewed extensive manufacturing and summary clinical information and conducted an inspection of the GSK manufacturing facility in Germany to determine that this vaccine, although not licensed in the United States, is suitable for use under an Investigational New Drug application (IND). The Food and Drug Administration (FDA) reviewed GSK's IND application as well as the clinical protocol and manufacturing data. CDC and CDC's Institutional Review Board approved the GSK flu vaccine response protocol including the informed consent document.

To ensure that the vaccine is properly administered to individuals identified to be most at risk and facilitate compliance with IND requirements, CDC is establishing vaccination clinics. CDC is proceeding without delay because of the unprecedented nature of this season's influenza vaccine shortage caused by contamination problems with Chiron Corporation's production facility in the United Kingdom, which effectively cut in half the expected United States supply of inactivated influenza vaccine. A user fee is being established in order to recoup the costs associated with administering the vaccine and for the vaccine itself. All individuals, other than those who are enrolled in Medicare Part B, will be required to pay the user fee.

DATES: This interim final rule is effective upon publication.

Written comments must be submitted on or before February 24, 2005. A final rule will be published after consideration of the comments.

ADDRESSES: Questions or comments concerning this interim final rule may be submitted to: Sheila Humphrey, Centers for Disease Control and Prevention, 1600 Clifton Road, NE, Mailstop D–38, Atlanta, GA 30333; telephone 404–498–4025. Comments may be emailed to: *sph5@cdc.gov.*

FOR FURTHER INFORMATION CONTACT: For information concerning program operations contact: Lisa Rotz, Centers for Disease Control and Prevention, 1600 Clifton Road, NE, Mailstop C–18, Atlanta, GA 30333; telephone 404–639–0153.

SUPPLEMENTARY INFORMATION:

I. Background

Section 361 of the Public Health Service Act (42 U.S.C. 264) authorizes the Secretary of HHS to make and enforce such regulations as in his judgment are necessary to prevent the introduction, transmission, or spread of communicable diseases from foreign countries into the United States or from one state or possession into any other state or possession. Influenza is a communicable disease caused by influenza viruses that spreads from person to person primarily through respiratory droplets of coughs and sneezes. Adults may be able to infect others 1 day before getting symptoms and up to 7 days after onset of illness. In light of the nature of the disease and the high mobility of the population, it is inevitable that influenza viruses will spread from individuals in one state to individuals of another state. The best way to prevent the transmission of influenza is for individuals to receive the influenza vaccine. Under the authority of section 361, the Secretary may establish vaccination clinics because vaccination with the influenza vaccine is the best way to prevent the transmission of influenza from one state into another.

Title V of the Independent Offices Appropriation Act of 1952 (31 U.S.C. 9701) (''IOAA'') provides general authority to Federal agencies to establish user fees through regulations. The IOAA sets parameters for any fee charged under its authority. Each charge shall be:

(1) Fair; and

(2) Based on—

(A) The costs to the Government;

(B) The value of the service or thing to the recipient;

(C) Public-policy or interest served; and

(D) Other relevant facts.

OMB Circular A–25 (''the Circular'') establishes general policy for implementing user fees, including criteria for determining amounts and exceptions, and guidelines for implementation. According to the Circular, its provisions must be applied to any fees collected pursuant to the IOAA authority.

The Circular states that ''[a] user charge * * * will be assessed against each identifiable recipient for special benefits derived from Federal activities beyond those received by the general public.'' The Circular gives three examples of when the special benefit is considered to accrue, including when a Government service: (a) Enables the beneficiary to obtain more immediate or substantial gains or values (which may or may not be measurable in monetary terms) than those that accrue to the general public (*e.g.,* receiving a patent, insurance, or guarantee provision, or a license to carry on a specific activity or business or various kinds of public land use); or (b) provides business stability or contributes to public confidence in the business activity of the beneficiary (*e.g.*, insuring deposits in commercial banks); or (c) is performed at the request of or for the convenience of the recipient, and is beyond the services regularly received by other members of the same industry or group or by the general public (*e.g.*, receiving a passport, visa, airman's certificate, or a Customs inspection after regular duty hours).

The Circular sets forth guidelines for determining the amount of user charges to assess. When the Government is acting in its sovereign capacity, user charges should be sufficient to cover the full cost to the Federal Government of providing the service, resource, or good.

The Circular sets forth criteria for determining full cost. ''Full cost includes all direct and indirect costs to any part of the Federal Government of providing a good, resource, or service.'' Examples of these types of costs include, but are not limited to, direct and indirect personnel costs, including salaries and fringe benefits; physical overhead, consulting, and other indirect costs, including material and supply costs, utilities, insurance, travel, and rents; management and supervisory costs; and the costs of enforcement, collection, research, establishment of standards, and regulation. Full costs are

determined based on the best available records of the agency.

Agencies are responsible for the initiation and adoption of user charge schedules consistent with the guidance listed in the Circular. In doing so, agencies should identify the services and activities covered by the Circular; determine the extent of the special benefits provided; and apply the principles set forth in the Circular in determining full cost or market cost as appropriate.

II. Introduction

Influenza, commonly known as ''the flu,'' is a contagious respiratory illness caused by a virus. In the United States, on average per year, 5% to 20% of the population gets the flu; more than 200,000 people are hospitalized from flu complications; and approximately 36,000 people die from flu. The best way to reduce the risk of getting the flu is to get a flu vaccine each fall.

On October 5, 2004, Chiron Corporation notified HHS, through the CDC, that none of its influenza vaccine would be available for distribution in the United States because of contamination problems with its facility in the United Kingdom. As a result, the expected supply of inactivated influenza vaccine (flu shot) was effectively cut in half. Increased production by MedImmune and Aventis alleviated some of the shortfall, but vaccine supplies were still cut by about 40% from expected levels. While the current influenza season has been mild so far, each influenza season is unpredictable with cases typically peaking between December and March. Therefore, the full severity of the 2004–2005 influenza season is not known.

In response to the vaccine shortage, CDC has announced priority groups that are more restricted than usual for vaccination with inactivated influenza vaccine for the 2004–2005 flu season. The priority groups, as they are called, number nearly 100 million persons and include the following persons:

- All children aged 6–23 months;
- Adults aged 65 years and older;
- Persons aged 2–64 years with underlying chronic medical conditions;
- Residents of nursing homes and long-term care facilities;
- Children aged 6 months–18 years on chronic aspirin therapy;
- All women who will be pregnant during the influenza season;
- Healthcare workers involved in direct patient care; and
- Household contacts of infants less than 6 months.

Effective January 3, 2005, in locations where state and local health authorities judge the vaccine supply to be adequate to meet the demand from groups on the restricted priority list, the priority groups for inactivated influenza vaccine may be expanded to include adults aged 50–64 years and out-of-home caregivers and household contacts of persons in high-risk groups. As demand for the vaccine evolves, CDC may further revise its recommended categories of individuals who should receive influenza vaccine, including the investigational vaccine.

On December 7, 2004, HHS Secretary Tommy G. Thompson announced the purchase of 1.2 million doses of GSK influenza vaccine, Fluarix, for distribution to areas most in need as determined by State public health authorities. Fluarix has not been licensed for use in the United States and will be administered under an IND. The Fluarix vaccine purchased by HHS has been approved in Germany and in about seventy-eight other countries worldwide, but is considered an investigational vaccine because it is not currently licensed by FDA.

Under an IND, patients who are offered the Fluarix vaccine must sign an informed consent form that provides important information on the risks and benefits, including potential adverse effects associated with the vaccine. The sponsor of this IND, GSK, is required to monitor the use of the investigational product, maintain adequate records, control the supply of the product, provide periodic reports to FDA regarding safety and other issues, and make sure informed consent is obtained from individuals before they receive the vaccine. FDA regulations in parts 312, 50, and 56 of Title 21 of the Code of Federal Regulations help ensure FDA's ability to monitor clinical investigations. These regulations specify the clinical investigators' responsibilities while administering the investigational vaccine, as well as the responsibilities of the sponsor, or a contract research organization to which the sponsor has delegated responsibilities. Those regulations also specify FDA's role and authority during and after the administration phase, such as its role in reviewing VAERS reports. To ensure that the vaccine is properly administered to individuals identified to be most at risk and facilitate compliance with IND requirements, CDC is establishing influenza vaccination clinics. A user fee is being established in order to recoup the costs associated with administering the vaccine and for the vaccine itself. Under an IND, commercialization of an investigational product in a clinical trial is not permitted without the prior written approval of FDA, and then the sponsor may only charge a price necessary to recover the costs of manufacture, research, development, and handling of the investigational drug. 21 CFR 312.7. GSK has sought and been granted a waiver of this IND provision in order to provide Fluarix on an expedited basis. 21 CFR 312.10. In addition, FDA has granted a waiver to GSK and CDC under 21 CFR 312.10 to authorize the user fee charge for costs associated with administration of the Fluarix vaccine. All persons, other than those who are enrolled in Medicare Part B, will be required to pay the user fee. Under Title 18 of the Social Security Act, the Center for Medicare and Medicaid Services will reimburse CDC's contractor for the costs associated with administration of vaccine provided to individuals enrolled in Medicare Part B. For this reason, the user fee will not be applied to such individuals.

III. Services and Activities Covered by User Fee

The user fee will cover the costs of the purchase of the Fluarix vaccine in addition to costs associated with administering the flu vaccine. The following is a list of services and activities that are covered by the user fee. Costs may be included in the user fee other than those listed here:

- Executing and administering the IND Influenza Vaccine Program according to the Protocol and Investigator's Handbook;
- Providing information to the participants about the program;
- Collecting information designated on the eligibility forms;
- Obtaining informed consent and collecting signed consent forms from eligible participants;
- Providing and administering vaccine to participants per protocol procedures;
- Tracking vaccine storage and accountability;
- Safely keeping and storing all funds collected via cash or check from IND participants;
- Ensuring the ability and capacity of the sites to correctly file and source IND documents and store them securely;
- Key punching program data at each vaccination site within two days of vaccinating participant(s) via CDC's web-accessed portal;
- Identifying any deviations from the program that might occur and documenting them accordingly;
- Providing all necessary data forms such as enrollment packets, which will also include an informed consent form and a Vaccine Adverse Event Reporting Systems (VAERS) form, to participants;

• Keeping a roster of personnel who carried out activities related to the IND including: (1) Obtained informed consent, (2) confirmed eligibility and information on eligibility form, (3) administered vaccine, and (4) were responsible for storage and maintenance of vaccine at each clinic on the days of vaccination;

• Performing all provided services in accordance with industry standards, including sterile collection, handling and processing procedures, and hazardous medical waste guidelines; and

• Recording in the medical records any adverse reactions to vaccines in accordance with the VAERS protocol and to the FDA as required by law.

IV. Special Benefit Provided

Individuals vaccinated for influenza obtain a health benefit compared to unvaccinated individuals. Influenza is a serious disease. In an average year, influenza infection is associated with 36,000 deaths (mostly among those aged 65 years or older) and more than 200,000 hospitalizations in the United States. The ''flu season'' in the United States is usually from November through April each year. During this time, flu viruses are circulating in the population. An annual flu vaccine is the best way to reduce the chances that an individual will get the flu. Individuals who get vaccinated after December can still benefit, if flu is present then or later in the community. The vaccine should continue to be offered to unvaccinated people throughout the flu season as long as vaccine is still available. Once vaccinated, the human body makes protective antibodies in about two weeks.

Individuals vaccinated with the Fluarix vaccine under CDC auspices obtain a special benefit not accruing to individuals in the general public who are not vaccinated. To assess the use of influenza vaccine this season, CDC temporarily added new questions to the Behavioral Risk Factor Surveillance System (BRFSS) beginning November 1, 2004. BRFSS is a monthly, ongoing telephone survey conducted by state health departments with assistance from CDC. Results of interviews conducted December 1–11, 2004 to assess vaccination during September 1–November 30, 2004 were published in the December 17 issue of CDC's Morbidity and Mortality Weekly Reports (MMWR).

Among adults in all vaccination priority groups, 34.8% reported receiving an influenza vaccination since September 1, 2004, compared with 4.4% of adults aged 18–64 years who were not in a priority group. Among all adults, coverage was highest among persons aged ≥65 at 51.1%, followed by 34.2% of health-care workers with patient contact, and 19.3% of high-risk adults aged 18–64 years. The percentage of persons reporting that they obtained an influenza vaccination September 1–November 30, 2004 is lower in each of these groups than the percentage who said they obtained a vaccination during the last influenza season (September 1, 2003–March 30, 2004).

Among adults in a vaccination priority group who have not received vaccine so far this season, 23.3% reported that they tried to obtain the vaccine and could not. Among persons aged 65 years and over, 32.5% reported that they tried to get the vaccine and could not. Among respondents with an unvaccinated child aged 6–23 months, 8.4% tried but could not obtain vaccination. For respondents with an unvaccinated eligible child aged 2–17 years, 14.4% reported that they tried but could not obtain vaccination. By establishing its own vaccination clinics, CDC will be able to help assure an adequate supply of the vaccine for individuals who choose to receive the Fluarix vaccine.

V. Analysis of User Fee Charge (Cost to the Government)

The cost to the Government of the user fee was determined in two parts. The first was for the cost of purchase of Fluarix by CDC at $7.00 per dose. The second part is for administration of the vaccine. CDC has entered into a contract with a Contract Research Organization to administer this vaccine. The costs associated with administration of the vaccine (see services and activities in section III above) were determined to be $18.00 per dose. The total cost to the Government and therefore the total user fee is determined to be $25.00 per dose.

VI. Emergency Action

We are proceeding without notice and comment rulemaking because we need to respond immediately to the unprecedented influenza vaccine shortage. Under the provisions of the Administrative Procedure Act at 5 U.S.C. 553(b)(3)(B) and 553(d)(3), we find good cause that prior notice and comment on this rule and a 30-day delay in effective date is impracticable and contrary to the public interest.

After November and December, many persons who should or want to receive influenza vaccine remain unvaccinated. To improve vaccine coverage, influenza vaccine should continue to be offered throughout the influenza season as long as vaccine supplies are available, including after influenza activity has been documented in the community. In the United States, seasonal influenza activity can begin to increase as early as October or November, but influenza activity has not reached peak levels in the majority of recent seasons until late December—early March, with seasons typically peaking most often in February. Therefore, although the timing of influenza activity can vary by region, vaccine administered after December on a national basis is likely to be beneficial in the majority of influenza seasons. Adults develop peak antibody protection against influenza infection 2 weeks after vaccination.

We expect influenza activity to continue and to increase over the next few to several weeks based on current surveillance data, especially the finding that only about 3.1% of respiratory specimens submitted to the World Health Organization (WHO) and the National Respiratory and Enteric Virus Surveillance System (NREVSS) for influenza testing are positive for influenza. Normally, at the peak of the influenza season over 20% of specimens submitted for influenza testing will test positive for influenza. However, we cannot predict when the season will peak or the duration of the season.

Accordingly, given the likelihood (based on historical evidence) that influenza cases may peak in February, obtaining prior notice and comment is impracticable and contrary to the public interest because it would delay implementation of this rule to the extent that the vaccine may not be administered in time for it to be effective.

VII. Regulatory Analyses

Economic Impact (Executive Order 12866)

We have examined the impacts of the interim final rule under Executive Order 12866, which directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages, distributive impacts, and equity). We have determined that the rule is consistent with the principles set forth in the Executive Order, and that while it is a significant regulatory action it is not an ''economically significant regulatory action'' within the meaning of Executive Order 12866.

Regulatory Flexibility Act

We have examined the impacts of the interim final rule under the Regulatory Flexibility Act (5 U.S.C. 601–612). Unless we certify that the rule is not expected to have a significant economic impact on a substantial number of small entities, the Regulatory Flexibility Act, as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA), requires agencies to analyze regulatory options that would minimize any significant economic impact of a rule on small entities. The Regulatory Flexibility Analysis concludes that the rule is not expected to have a significant impact on a substantial number of small entities.

Small Business Regulatory Enforcement Fairness Act of 1996

This regulatory action is not a major rule as defined by Sec. 804 of the Small Business Regulatory Enforcement Fairness Act of 1996. This interim final rule will not result in an annual effect on the economy of $100,000,000 or more; a major increase in cost or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

Paperwork Reduction Act

The interim final rule does not require any information collections. Therefore, we have not conducted a Paperwork Reduction Act analysis.

National Environmental Policy Act (NEPA)

The interim final rule is excluded from NEPA's environmental review requirements, pursuant to 48 FR 9374–02 (National Environmental Policy Act (NEPA), Review of Program Actions), based on the determination that it will not normally significantly affect the human environment.

Civil Justice (Executive Order 12988)

This interim final rule is in compliance with Executive Order 12988.

List of Subjects in 42 CFR Part 70

Communicable diseases, Public health, Quarantine, Reporting and recordkeeping requirements, Travel restrictions, User fees, Vaccination.

■ For the reasons set forth in the preamble, amend part 70 of title 42 of the Code of Federal Regulations as follows:

PART 70—INTERSTATE QUARANTINE

■ 1. The authority citation for part 70 is revised to read as follows:

Authority: Secs. 215 and 311 of the Public Health Service (PHS) Act, as amended (42 U.S.C. 216, 243); section 361–369, PHS Act, as amended (42 U.S.C. 264–272); 31 U.S.C. 9701.

■ 2. Add § 70.9 to read as follows:

§ 70.9 Vaccination clinics.

(a) The Director may establish vaccination clinics, through contract or otherwise, authorized to administer vaccines and/or other prophylaxis.

(b) A vaccination fee may be charged for individuals not enrolled in Medicare Part B to cover costs associated with administration of the vaccine and/or other prophylaxis. Such fee is to be collected at the time that the vaccine is administered. The vaccination fee, if imposed, is shown in the following table:

Vaccine	Effective dates	Amount
Fluarix	[1] 11/25/05	[2] $25.00

[1] Continuing for one year.
[2] $7.00 for the vaccine and $18.00 for administration.

Dated: January 12, 2005.

Tommy G. Thompson,

Secretary.

[FR Doc. 05–1310 Filed 1–19–05; 1:30 pm]

BILLING CODE 4160–17–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Reinstating Special Regulations for the Preble's Meadow Jumping Mouse

AGENCIES: Fish and Wildlife Service, Interior.

ACTION: Final rule; correction.

SUMMARY: On May 22, 2001, the Fish and Wildlife Service (Service) adopted special regulations governing take of the threatened Preble's meadow jumping mouse *(Zapus hudsonius preblei)*. On October 1, 2002, the Service amended those regulations to provide exemptions for certain activities related to noxious weed control and ongoing ditch maintenance activities. These regulations were set to expire on May 22, 2004. On May 20, 2004, the Service published a final rule to extend these special regulations permanently. However, in spite of this final rule, the special regulations were removed from the CFR. This removal was done in error. With this final rule, we reinstate the regulatory text at § 17.40(l) as it was set forth in the May 20, 2004, final rule.

DATES: Effective May 20, 2004.

ADDRESSES: Division of Policy and Directives Management, U.S. Fish and Wildlife Service, Mail Stop 222, Arlington Square, 4401 N. Fairfax Drive, Arlington, VA 22203.

FOR FURTHER INFORMATION CONTACT: Sara Prigan, Federal Register Liaison, Fish and Wildlife Service, at (703) 358–2508.

SUPPLEMENTARY INFORMATION:

Background

On May 22, 2001 (66 FR 28125), the Fish and Wildlife Service (Service, or we) adopted special regulations at 50 CFR 17.40(l) governing take of the threatened Preble's meadow jumping mouse *(Zapus hudsonius preblei)*. The special regulations provided exemption from take provisions under section 9 of the Endangered Species Act for certain activities related to rodent control, ongoing agricultural activities, landscape maintenance, and existing uses of water. On October 1, 2002 (67 FR 61531), we amended these regulations to exempt certain activities related to noxious weed control and ongoing ditch maintenance activities. These regulations as amended were set to expire on May 22, 2004. On May 20, 2004 (69 FR 29101), we published a final rule to extend these special regulations permanently. We made this final rule effective on May 20, 2004, in order to avoid a gap in effectiveness. However, in spite of our efforts, by some error, the special regulations were removed from the CFR on May 22, 2004. With this correction, we reinstate the regulatory text of 17.40(l) as set forth in the May 20, 2004, final rule (69 FR 29101).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Export, Import, Reporting and recordkeeping requirements, Transportation.

Regulation Correction

PART 17—[CORRECTED]

■ For reasons set forth in the preamble, we correct 50 CFR 17.40 by reinstating paragraph (l), to read as follows:

§ 17.40 Special rules—mammals.

* * * * *

(l) Preble's meadow jumping mouse *(Zapus hudsonius preblei)*.

(1) *What is the definition of take?* To harass, harm, pursue, hunt, shoot,

wound, trap, kill, or collect; or attempt to engage in any such conduct. Incidental take is that which occurs when it is incidental to and not the purpose of an otherwise lawful activity. Any take that is not authorized by permit provided through section 7 or section 10 of the Act or that is not covered by the exemptions described below is considered illegal take.

(2) *When is take of Preble's meadow jumping mice allowed?* Take of Preble's meadow jumping mice resulting from the following legally conducted activities, in certain circumstances as described below, is allowed:

(i) *Take under permits.* Any person with a valid permit issued by the Service under § 17.32 may take Preble's meadow jumping mice pursuant to the terms of the permit.

(ii) *Rodent control.* Preble's meadow jumping mice may be taken incidental to rodent control undertaken within 10 feet of or inside any structure. ''Rodent control'' includes control of mice and rats by trapping, capturing, or otherwise physically capturing or killing, or poisoning by any substance registered with the Environmental Protection Agency as required by the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136) and applied consistent with its labeling. ''Structure'' includes but is not limited to any building, stable, grain silo, corral, barn, shed, water or sewage treatment equipment or facility, enclosed parking structure, shelter, gazebo, bandshell, or restroom complex.

(iii) *Established, ongoing agricultural activities.* Preble's meadow jumping mice may be taken incidental to agricultural activities, including grazing, plowing, seeding, cultivating, minor drainage, burning, mowing, and harvesting, as long as these activities are established, ongoing activities and do not increase impacts to or further encroach upon the Preble's meadow jumping mouse or its habitat. New agricultural activities or those that expand the footprint or intensity of the activity are not considered to be established, ongoing activities.

(iv) *Maintenance and replacement of existing landscaping.* Preble's meadow jumping mice may be taken incidental to the maintenance and replacement of any landscaping and related structures and improvements, as long as they are currently in place and no increase in impervious surfaces would result from their maintenance and improvement. Construction of new structures or improvements or expansion of the landscaping in a manner that increases impervious surfaces would not be considered maintenance and replacement of existing landscaping.

(v) *Existing uses of water.* Preble's meadow jumping mice may be taken incidentally as a result of existing uses of water associated with the exercise of perfected water rights pursuant to State law and interstate compacts and decrees. (A ''perfected water right'' is a right that has been put to beneficial use and has been permitted, decreed, or adjudicated pursuant to State law.) Increasing the use or altering the location of use of an existing water right would not be considered an existing use of water.

(vi) *Noxious weed control.* Preble's meadow jumping mice may be taken incidental to noxious weed control that is conducted in accordance with:

(A) Federal law, including Environmental Protection Agency label restrictions;

(B) Applicable State laws for noxious weed control;

(C) Applicable county bulletins;

(D) Herbicide application guidelines as prescribed by herbicide manufacturers; and

(E) Any future revisions to the authorities listed in paragraphs (l)(2)(vi)(A) through (D) of this section that apply to the herbicides proposed for use within the species' range.

(vii) *Ditch maintenance activities.* Preble's meadow jumping mice may be taken incidental to normal and customary ditch maintenance activities only if the activities:

(A) Result in the annual loss of no more than ¼ mile of riparian shrub habitat per linear mile of ditch, including burning of ditches that results in the annual loss of no more than ¼ mile of riparian shrub habitat per linear mile of ditch.

(B) Are performed within the historic footprint of the surface disturbance associated with ditches and related infrastructure, and

(C) Follow the Best Management Practices described in paragraphs (l)(2)(vii)(C)(*1*) through (*3*) of this section.

(*1*) Persons engaged in ditch maintenance activities shall avoid, to the maximum extent practicable, impacts to shrub vegetation. For example, if accessing the ditch for maintenance or repair activities from an area containing no shrubs is possible, then damage to adjacent shrub vegetation shall be avoided.

(*2*) Persons engaged in placement or sidecasting of silt and debris removed during ditch cleaning, vegetation or mulch from mowing or cutting, and other material from ditch maintenance shall, to the maximum extent practicable, avoid shrub habitat and at no time disturb more than ¼ mile of riparian shrub habitat per linear mile of ditch within any calendar year.

(*3*) To the maximum extent practicable, all ditch maintenance activities should be carried out during the Preble's hibernation season, November through April.

(D) All ditch maintenance activities carried out during the Preble's active season, May through October, should be conducted during daylight hours only.

(E) Ditch maintenance activities that would result in permanent or long-term loss of potential habitat that would not be considered normal or customary include replacement of existing infrastructure with components of substantially different materials and design, such as replacement of open ditches with pipeline or concrete-lined ditches, replacement of an existing gravel access road with a permanently paved road, or replacement of an earthen diversion structure with a rip-rap and concrete structure, and construction of new infrastructure or the movement of existing infrastructure to new locations, such as realignment of a ditch, building a new access road, or installation of new diversion works where none previously existed.

(3) *When is take of Preble's not allowed?*

(i) Any manner of take not described under paragraph (l)(2) of this section.

(ii) No person may import or export, ship in interstate commerce in the course of commercial activity, or sell or offer for sale in interstate or foreign commerce any Preble's meadow jumping mice.

(iii) No person, except for an authorized person, may possess, sell, deliver, carry, transport, or ship any Preble's meadow jumping mice that have been taken illegally.

(4) *Where does this rule apply?* The take exemptions provided by this rule are applicable within the entire range of the Preble's meadow jumping mouse.

* * * * *

Dated: January 18, 2005.

Sara Prigan,

Fish and Wildlife Service Federal Register Liaison.

[FR Doc. 05–1263 Filed 1–24–05; 8:45 am]

BILLING CODE 4310–55–P

Proposed Rules

Federal Register
Vol. 70, No. 15
Tuesday, January 25, 2005

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

DEPARTMENT OF TRANSPORTATION

Saint Lawrence Seaway Development Corporation

33 CFR Part 401

[Docket No. SLSDC 2005–20085]

RIN 2135–AA20

Seaway Regulations and Rules: Periodic Update, Various Categories

AGENCY: Saint Lawrence Seaway Development Corporation, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Saint Lawrence Seaway Development Corporation (SLSDC) and the St. Lawrence Seaway Management Corporation (SLSMC) of Canada, under international agreement, jointly publish and presently administer the St. Lawrence Seaway Regulations and Rules (Practices and Procedures in Canada) in their respective jurisdictions. Under agreement with the SLSMC, the SLSDC is proposing to amend the joint regulations by updating the Seaway Regulations and Rules in various categories. The proposed changes would update the following sections of the Regulation and Rules: Condition of Vessels; Preclearance and Security for Tolls; Seaway Navigation; Dangerous Cargo; Toll Assessment and Payment; Information and Reports; and General. These amendments are necessary to take account of updated procedures and/or technology and will enhance the safety of transits through the Seaway.

DATES: Any party wishing to present views on the proposed amendments may file comments with the Corporation on or before February 24, 2005.

ADDRESSES: You may submit comments [identified by DOT DMS Docket Number SLSDC 2005–20085] 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 Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL–401, Washington, DC 20590–001.
- Hand Delivery: Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.
- Federal eRulemaking Portal: Go to *http://www.regulations.gov.* Follow the online instructions for submitting comments.

Instructions: All submissions must include the agency name and docket number or Regulatory Identification Number (RIN) for this rulemaking. Note that all comments received will be posted without change to *http://dms.dot.gov,* including any personal information provided. Please see the Privacy Act heading under *Regulatory Notices.*

Docket: For access to the docket to read background documents or comments received, go to *http://dms.dot.gov* at any time or to Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

FOR FURTHER INFORMATION CONTACT: Craig H. Middlebrook, Acting Chief Counsel, Saint Lawrence Seaway Development Corporation, 400 Seventh Street, SW., Washington, DC 20590, (202) 366–0091.

SUPPLEMENTARY INFORMATION: The Saint Lawrence Seaway Development Corporation (SLSDC) and the St. Lawrence Seaway Management Corporation (SLSMC) of Canada, under international agreement, jointly publish and presently administer the St. Lawrence Seaway Regulations and Rules (Practices and Procedures in Canada) in their respective jurisdictions. Under agreement with the SLSMC, the SLSDC is proposing to amend the joint regulations by updating the Regulations and Rules in various categories. The proposed changes would update the following sections of the Regulation and Rules: Condition of Vessels; Preclearance and Security for Tolls; Seaway Navigation; Dangerous Cargo; Toll Assessment and Payment; Information and Reports; and General. These updates are necessary to take account of updated procedures and/or technology, which will enhance the safety of transits through the Seaway.

Under agreement with the SLSMC, the SLSDC is proposing to make several amendments to the joint regulations pertaining to various sections of the regulations. Many of these proposed changes are to clarify existing requirements in the regulations. Where new requirements or regulations are being proposed, an explanation for such a change is provided below.

Regulatory Notices

Privacy Act: Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, *etc.*). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78) or you may visit *http://dms.dot.gov.*

The SLSDC is proposing to make several amendments to the joint regulations pertaining to the Condition of Vessels. Among the proposed changes include new requirements for certain types of vessels. For example, the SLSDC is proposing to add a new subsection to § 401.3, ''Maximum vessel dimensions'', that would notify ships with a beam greater than 23.20 m that they may be subject to transit restrictions and/or delays during periods of ice cover. Larger beamed vessels often require special handling through the locks under ice conditions and this amendment will adequately notify such vessels that they may be subject to special restrictions or delays as a result of these special precautions.

Under § 401.4, ''Maximum length and weight'', the SLSDC is proposing additional language that would clarify that a transit would be through the Seaway Locks. Also, under § 401.6, ''Markings'', the SLSDC is proposing to add additional language that clarifies the type of marking needed for vessels with a bulbous bow that extends forward beyond its stem head.

The SLSDC is also proposing to amend § 401.7, ''Fenders'', to require that permanent fenders be installed on vessels where any structural part of a ship protrudes so as to endanger Seaway installations. From the SLSDC's experience, permanent fenders provide

greater protection than portable fenders and this proposed amendment would enhance the safety of lock transits. The SLSDC is also proposing an amendment to § 401.7 that would allow for a one-transit use of a portable fender, pursuant to special approval. The SLSDC recognizes that certain vessels may only need to transit the Seaway once and that requiring them to install permanent fenders may be burdensome. Also, the SLSDC proposes to add a new subsection to § 401.7 that would allow ships of unusual design to use temporary or permanent fenders not greater than 30 cm in thickness, subject to special approval. Through this new subsection, the SLSDC recognizes that for certain vessels that may need to transit the locks infrequently, or only once, the requirement for permanent fenders may be burdensome.

Under § 401.8, ''Landing Booms'', the SLSDC is proposing to add a new subsection that would require that a ship's crew shall be adequately trained in the use of landing booms. For ships of more than 50m in overall length transiting the Seaway, they are to be equipped with landing booms, and it is essential for safety that their crews be trained in the proper use of this equipment. The SLSDC is also proposing adding a new subsection that would require vessels not equipped with landing booms to use the Seaway's tie-up service. The SLSDC recognizes that some vessels may not be equipped with landing booms and it provides this service for such vessels. Requiring them to use this service will help ensure that ships transit the Seaway safely.

The SLSDC is proposing to amend § 401.9, ''Radiotelephone equipment'', to clarify that VHF (very high frequency) transmission positions are designated by channel numbers instead of by MHz (megahertz) frequencies.

Under § 401.10, ''Mooring lines'', the SLSDC is proposing to add language that provides greater specificity on the type of mooring lines already required. Also, the SLSDC is proposing to add a requirement that will require that such lines be certified and that a test certificate shall be available on board for inspection for each mooring line. Moreover, the SLSDC proposes adding a new subsection that would not permit the use of nylon lines. Mooring lines are a vital equipment component used in the transit of vessels through a lock. The SLSDC believes that adding these requirements will help ensure the integrity and safety of these lines. In addition, the SLSDC has updated the table under this section to note the necessary breaking strengths for various mooring lines in terms of Metric Tons (M/T) instead of kiloNewtons (kN). This proposed change will simply adopt the currently accepted unit of measurement for breaking strength.

The SLSDC is proposing to amend § 401.11, ''Fairleads'', to require that mooring lines and synthetic hawsers, where permitted, shall pass through not more than three inboard rollers that are fixed in place and equipped with horns to ensure that lines will not slip off when slackened. The SLSDC believes such a change is necessary to increase the safe handling of mooring lines.

Under § 401.12, ''Minimum requirements—mooring lines and fairleads'', the SLSDC is proposing to amend the mooring line and fairlead requirements for various ship sizes. The first category of ship size would be for vessels of 80 meters or less instead of 40 meters; the next category would be for ships of more than 80 meters but not more than 100 meters, instead of between 40 and 60 meters; the next category would now be for vessels between 100 meters and 120 meters; and the final category would be for ships of more than 120 meters in length. For each of these categories, additional requirements are being proposed that will increase the safe handling of vessels through the locks. The table under this section would also be amended to reflect the changes being proposed.

The SLSDC is proposing to amend § 401.13, ''Hand lines'', by adding language that requires that the ends of hand lines shall be back spliced or tapered and not be weighted or have knotted ends. These changes will greatly increase the likelihood that the Seaway's line handlers will be able to work safely with a ship's hand lines and not be injured in the process of tying up a vessel.

Under § 401.14, ''Anchor marking buoys'', the SLSDC is proposing to amend this section to give ship owners more flexibility in making their anchor marking buoys highly visible. The current section requires that anchor buoys must be orange.

For § 401.16, ''Propeller direction alarms'', and § 401.17, ''Pitch indicators and alarms'', the SLSDC is proposing to amend these sections by also making them applicable to integrated tug and barge or articulated tug and barge units of combined 1,600 gross registered tons or more. This proposed change reflects the reality that tug and barge units of this size now use the Seaway with greater frequency. Requiring that such units possess this equipment will ensure their safe operation through the Seaway.

Under § 401.19, ''Disposal and discharge systems'', the SLSDC is proposing to add language that clarifies which pertinent laws and regulations are Canadian and which are U.S. In addition, the SLSDC is proposing to add a requirement that would prohibit the burning of shipboard garbage in certain areas of the Seaway.

The SLSDC is proposing to amend § 401.20, ''Automatic Identification System'', to add a provision that would require that the Minimum Keyboard Display (MKD) shall be located as close as possible to the primary conning position as possible and be visible. The Seaway has been using the Automatic Identification System as part of its Traffic Management System since 2002, and based on this experience, it has been determined that the MKD must be located close to the primary conning position and be visible to be most effective in ensuring the safe navigation of the vessel.

The SLSDC is proposing to make several amendments to the joint regulations regarding the Preclearance and Security for Tolls. Among the proposed amendments include proposed changes to § 401.22, ''Preclearance of vessels'', that would change the minimum size of a pleasure craft not needing to apply for Preclearance from 317.5 tonnes to 300 gross registered tonnes (GRT) and would change the minimum size from 317.5 tonnes to 300 gross registered tonnage under which a non-commercial ship cannot apply for Preclearance and must transit as a pleasure craft. These slight increases in the minimum ship size are needed to bring these criteria in line with Great Lakes Pilotage Authority requirements (300 GRT).

Under § 401.24, ''Application for Preclearance'', the SLSDC is proposing to amend the section by allowing ship representatives to obtain an application directly from the SLSDC and SLSMC joint Web site (*www.greatlakes-seaway.com*). Allowing users to download the Preclearance applications will make it easier for Seaway users to obtain these documents.

Under the SLSDC's regulations pertaining to Seaway Navigation, the SLSDC is proposing several amendments. For example, under § 401.30, ''Ballast water and trim'', the SLSDC is proposing to add a requirement that no ship shall be accepted for transit whose trim by the stern exceeds 45.7 dm (decimeters), except under certain circumstances. This change would limit the length of a vessel permitted to transit the Seaway in terms of its trim by the stern. The upper limit permitted would be 45.7 dm,

beyond which a ship's trim could potentially interfere with the proper functioning of the lock. This specificity regarding trim has been added to the regulations to provide greater clarity to users to facilitate their planned transit through the Seaway. The proposal would still allow for vessels exceeding this limit to transit under exceptional circumstances.

Under § 401.34, ''Vessels in tow'', language is being proposed that would make it clear that non-self-propelled vessels, *i.e.* vessels in tow, are required to be securely tied to an adequate tug or tugs. The number of non-self-propelled vessels, such as those used in integrated tug/barges, transiting the Seaway is increasing. This change to the existing language of § 401.34 will ensure that such vessels are safely secured to their power units and thereby enhance overall Seaway safety.

To enhance the safety of the navigation of vessels in certain areas of the Seaway, a requirement is being added to § 401.35, ''Navigation underway'', to have a helmsman present in the wheelhouse of the ship in addition to either the master or certified deck officer. Having two qualified personnel in the wheelhouse will enhance the ability of the vessel to transit without incident in those areas of the Seaway where navigation is more difficult.

Under § 401.37 ''Mooring at tie-up walls'', the proposal would delete the requirement that only Canadian or U.S. Coast Guard approved life jackets are permissible. This requirement is being deleted because not only these two countries have approval requirements for their lifejackets.

Under § 401.39, ''Preparing mooring lines for passing through'', language is being proposed that would make it clear that winches must be capable of paying out at a minimum speed of 46 m (meters) per minute. The current language allows for winches paying out at a lower rate to be used as long as sufficient lengths of mooring lines are drawn off the winch drums and laid out on the deck. Such a procedure is no longer deemed optimally safe and requiring all winches to have this minimum pay out speed will maximize ship and line handling safety.

§ 401.42, ''Passing hand lines'', paragraph (b), which prohibits the use of knotted or weighted hand lines in a lock chamber, is being deleted. Listing this prohibition here is redundant, as it would now be listed earlier in § 401.13(c).

To aid those leaving or boarding a vessel, a requirement under § 401.57, ''Disembarking or boarding'', is being proposed that would require a member of the crew to assist persons disembarking or boarding vessels. Having a crew member assist in such instances greatly reduces the risk of injury.

Under § 401.58, ''Pleasure craft scheduling'', an additional requirement is being added that would have every pleasure craft planning to transit to arrange for the transit by contacting the lock personnel using the direct-line phone at a pleasure craft dock and to make the lockage fee payment by purchasing a ticket using the automated ticket dispensers located at pleasure craft docks. This proposed new requirement will aid in the scheduling of pleasure craft transits and simplify the collection of fees.

The SLSDC is proposing to make several amendments to the joint regulations pertaining to Dangerous Cargo. Among the proposed changes include a change to § 401.68, ''Explosives permit'', to require a permit for all ships carrying any quantity of explosives with a mass explosive risk, up to a maximum of 2 tonnes, under IMO Class 1, Division 1.1 and 1.5.

Under § 401.72, ''Reporting—explosive and hazardous cargo vessels'', additional reporting requirements for ships carrying grain would be added. Specifically, every ship carrying grain that is under fumigation must declare to the nearest traffic control center the nature of the fumigant as well as which cargo holds are affected. Also, all ships carrying grain under fumigation would be required to file, prior to transiting, with the SLSMC a copy of its current load plan. These proposed changes will increase the ability of the Seaway to transit ships carrying grain safely.

Also under § 401.72, a proposed change would make it clear that the load plan should include the approximate total weight in metric tonnes or total volume in cubic meters. This added information will help ensure that the correct information is provided.

An additional requirement is being proposed to § 401.72 to require tankers in ballast to report the previous cargo of each cargo hold on a model of the current load plan for loaded vessels. Such information will assist the Seaway in ensuring the safe transit of such vessels through the waterway. Moreover, also, under the proposed changes to this section, a midships cross-section showing the double bottom tanks and ballast side tanks for tankers would be required.

Under § 401.72, the Seaway will now distribute a ship's load plan to all other Seaway Traffic Control Centers, and if any changes in stowage are made to the plan, including loading and discharging during a transit, the ship must submit an updated plan before departing from any port in the Seaway. Having current information of this type and ensuring that it is disseminated to all Vessel Traffic Control Centers will enhance the Seaway's ability to handle such ships safely in all sectors of the waterway.

Finally under § 401.72, a new subsection would be added to put users on notice that failure to comply with these requirements may result in unnecessary delays or transit refusal.

Under the SLSDC's regulations pertaining to Toll Assessment and Payment, the SLSDC is proposing several amendments. For example, under § 401.74, ''Transit declaration'', a proposed change would make the Seaway Transit Declaration Form available only through the SLSMC's Cornwall office, and not the SLSDC's Massena office. The SLSMC is already the entity that receives these forms, and thus limiting the source of this form to the SLSMC's location in Cornwall will facilitate the Seaway's ability to keep these forms current and to collect them efficiently.

In § 401.75, ''Payment of tolls'', additional language is being proposed that would require pleasure craft to transit each Canadian lock with prepaid tickets purchased in Canadian funds using automated credit card ticket dispensers located at pleasure craft docks. The use of these new dispensers will aid in the efficient transiting of pleasure craft by eliminating the need to collect fees in hard currency. At U.S. locks, the fee is paid in U.S. funds or the pre-established equivalent in Canadian funds.

The SLSDC is proposing to make several amendments to the joint regulations pertaining to Information and Reports. This includes a proposed change to § 401.79, ''Advance notice of arrival, vessels requiring inspection'', the requirement for advance notice of arrival is being increased from 24 hours prior to all transits to 96 hours. This change is needed to comply with recent changes to the Canadian and U.S. laws requiring such notice.

A recommended change to § 401.81, ''Reporting an accident'', would add language that all ships involved in an accident or a dangerous occurrence, must report the incident prior to departing the Seaway system. This language should remove any ambiguity about when such reporting is required.

Under the SLSDC's regulations pertaining to General matters, the SLSDC is proposing several amendments. Under § 401.93, ''Access to Seaway property'', the reference to

''Shore Traffic Regulations'' is replaced with ''Seaway Property Regulations'' to reflect the correct name of the document.

In § 401.94, ''Keeping copies of regulations'', an additional requirement is being proposed that would require ships transiting the Seaway to store permanently a duplicate set of the ship's Fire Control Plans in a prominently marked and weather-tight enclosure outside the deckhouse. Storing this document in this way will assist emergency response personnel who may be called on board to respond to a fire.

Under § 401.95, ''Compliance with regulations'', an additional requirement has been added that would require the master or owner of a ship to ensure that all requirements of the Joint Practices and Procedures as well as Seaway Notices applicable to that ship are complied with. Adding Seaway Notices clarifies the responsibilities of the master and ship owner.

Regulatory Evaluation

This proposed regulation involves a foreign affairs function of the United States and therefore Executive Order 12866 does not apply and evaluation under the Department of Transportation's Regulatory Policies and Procedures is not required.

Regulatory Flexibility Act Determination

I certify this proposed regulation will not have a significant economic impact on a substantial number of small entities. The St. Lawrence Seaway Regulations and Rules primarily relate to commercial users of the Seaway, the vast majority of whom are foreign vessel operators. Therefore, any resulting costs will be borne mostly by foreign vessels.

Environmental Impact

This proposed regulation does not require an environmental impact statement under the National Environmental Policy Act (49 U.S.C. 4321, *et reg.*) because it is not a major federal action significantly affecting the quality of the human environment.

Federalism

The Corporation has analyzed this proposed rule under the principles and criteria in Executive Order 13132, dated August 4, 1999, and has determined that this proposal does not have sufficient federalism implications to warrant a Federalism Assessment.

Unfunded Mandates

The Corporation has analyzed this proposed rule under Title II of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4, 109 Stat. 48) and determined that it does not impose unfunded mandates on State, local, and tribal governments and the private sector requiring a written statement of economic and regulatory alternatives.

Paperwork Reduction Act

This proposed regulation has been analyzed under the Paperwork Reduction Act of 1995 and does not contain new or modified information collection requirements subject to the Office of Management and Budget review.

List of Subjects in 33 CFR Part 401

Hazardous materials transportation, Navigation (water), Penalties, Radio, Reporting and recordkeeping requirements, Vessels, Waterways.

Accordingly, the Saint Lawrence Seaway Development Corporation proposes to amend 33 CFR part 401, Seaway Regulations and Rules, as follows:

PART 401—SEAWAY REGULATIONS AND RULES

Subpart A—Regulations

1. The authority citation for subpart A of Part 401 would continue to read as follows:

Authority: 33 U.S.C. 983(a) and 984(a)(4), as amended; 49 CFR 1.52, unless otherwise noted.

2. In § 401.3, a new paragraph (f) would be added to read as follows:

§ 401.3 Maximum vessel dimensions.

* * * * *

(f) Vessels with beams greater than 23.20 m may be subject to transit restrictions and/or delays during periods of ice cover.

3. Section 401.4 would be revised to read as follows:

§ 401.4 Maximum length and weight.

No vessel of less than 6 m in overall length or 900 kg in weight shall transit through Seaway Locks.

4. In § 401.6, paragraph (c) would be revised to read as follows:

§ 401.6 Markings.

* * * * *

(c) Where a vessel's bulbous bow extends forward beyond her stem head, a symbol of a bulbous bow shall be marked above the vessel's summer load line draught mark in addition to a + symbol followed by a number indicating the total length in meters by which the bulbous bow projects beyond the stem.

5. In § 401.7, paragraphs (a) introductory text and (a)(2) introductory text would be revised, and paragraphs (b) and (c) would be added to read as follows:

§ 401.7 Fenders.

(a) Where any structural part of a vessel protrudes so as to endanger Seaway installations, the vessel shall be equipped with permanent fenders—

* * * * *

(2) On special application, portable fenders, other than rope hawsers, may be allowed for a single transit if the portable fenders are—

* * * * *

(b) Tires shall not be used as fenders.

(c) On special application, ships of unusual design may be permitted to utilize temporary or permanent fenders not greater than 30 cm in thickness.

6. Section 401.8 would be revised to read as follows:

§ 401.8 Landing booms.

(a) Vessels of more than 50 m in overall length shall be equipped with at least one adequate landing boom on each side.

(b) Vessels' crews shall be adequately trained in the use of landing booms.

(c) Vessels not equipped with landing booms must use the Seaway's tie-up service at approach walls.

7. In § 401.9, paragraph (b)(2) would be revised to read as follows:

§ 401.9 Radiotelephone Equipment.

* * * * *

(b) * * *

(2) Be fitted to operate from the conning position in the wheelhouse and to communicate on channels 11, 12, 13, 14, 17 and 66a.

8. In § 401.10, paragraph (a)(3) and the table at the end of the section would be revised, and paragraphs (a)(6) and (d) would be added to read as follows:

§ 401.10 Mooring lines.

* * * * *

(a) * * *

(3) Be fitted with a hand spliced eye or Flemish type mechanical spliced eye not less than 2.4 m long;

* * * * *

(6) Be certified and a test certificate for each mooring line shall be available on board for inspection.

* * * * *

(d) Notwithstanding paragraphs (a) through (c) of this section, nylon line is not permitted.

TABLE

Overall length of vessels	Length of mooring lines (m)	Breaking strength (M/T)
40 m or more but not more than 60 m	110	10
More than 60 m but not more than 90 m	110	15
More than 90 m but not more than 120 m	110	20
More than 120 m but not more than 180 m	110	28
More than 180 m but not more than 222.5 m	110	35

9. In § 401.11, the introductory text and paragraph (b) would be revised to read as follows:

§ 401.11 Fairleads.

Mooring lines, and synthetic hawsers where permitted, shall:

* * * * *

(b) Pass through not more than three inboard rollers that are fixed in place and equipped with horns to ensure that liens will not slip off when slackened and provided with free-running sheaves or rollers; and

* * * * *

10. In § 401.12, paragraphs (a)(1), (a)(2), (a)(3), (a)(4) introductory text, (a)(4)(i), (b), and the table at the end of the section would be revised to read as follows:

§ 401.12 Minimum requirements—mooring lines and fairleads.

* * * * *

(1) Vessels of 80 m or less in overall length shall have at least three synthetic hawsers, two of which shall be independently power operated and one of which shall be hand held:

(i) One synthetic hawser shall lead forward from the break of the bow and one synthetic hawser shall lead astern from the quarter and be independently power operated by winches, capstans or windlasses and lead through closed chocks or fairleads acceptable to the Manager and the Corporation; and

(ii) One synthetic hawser shall be hand held and lead astern from the break of the bow through closed chocks to suitable mooring bitts on deck.

(2) Vessels of more than 80 m but not more than 100 m in overall length shall have four synthetic hawsers, of which three shall be independently power operated by winches, capstans or windlasses and one being hand held. All lines shall be led through closed chocks or fairleads acceptable to the Manager and the Corporation, of which three mooring lines:

(i) One shall lead forward and one shall lead astern from the break of the bow and one lead astern from the quarter and all three lines shall be independently power operated; and

(ii) One shall lead forward from the quarter and be hand held;

(3) Vessels of more than 100 m but not more than 120 m in overall length shall have four mooring lines or synthetic hawsers independently power operated by winches, capstan or windlasses as follows:

(i) One mooring line shall lead forward and one mooring line shall lead astern from the break of the bow and shall be independently power operated by the main drums of adequate power operated winches, and

(ii) One synthetic hawser shall lead forward and one synthetic hawser shall lead astern from the quarter and shall be independently power operated by either winches, capstan or windlasses;

(4) Vessels of more than 120 m in overall length shall have four mooring lines, two of which shall lead from the break of the bow and two of which shall lead from the quarter, and

(i) All shall be independently power operated by the main drums of adequate power operated winches and not by capstans or windlasses; and

* * * * *

(b) The following table sets out the requirements for the location of fairleads for ships of 80 m or more in overall length:

TABLE

Overall length of ships	For mooring lines Nos. 1 and 2	For mooring lines Nos. 3 and 4
80 m or more but not more than 120 m	Between 12 m & 30 m from the stem	Between 15 m & 35 from the stern.
More than 120 m but not more than 150 m	Between 12 m & 35 m from the stem	Between 15 m & 40 from the stern.
More than 150 m but not more than 180 m	Between 15 m & 40 m from the stem	Between 20 m & 45 from the stern.
More than 180 m but not more than 222.5 m	Between 20 m & 50 m from the stem	Between 20 m & 50 from the stern.

11. Section 401.13 would be revised to read as follows:

§ 401.13 Hand lines.

Hand lines shall:

(a) Be made of material acceptable to the Manager and the Corporation;

(b) Be of uniform thickness and have a diameter of not less than 15 mm and not more than 17 mm and a minimum length of 30m. The ends of the lines shall be back spliced or tapered; and

(c) Not be weighted or have knotted ends.

12. Section 401.14 would be revised to read as follows:

§ 401.14 Anchor marking buoys.

A highly visible anchor marking buoy of a type approved by the Manager and the Corporation, fitted with 22 m of suitable line, shall be secured directly to each anchor so that the buoy will mark the location of the anchor when the anchor is dropped.

13. In § 401.16, the introductory text would be revised to read as follows:

§ 401.16 Propeller direction alarms.

Every vessel of 1600 gross registered tons or integrated tug and barge or articulated tug and barge unit of combined 1600 gross registered tons or more shall be equipped with—

* * * * *

14. In § 401.17, the introductory text would be revised to read as follows:

§ 401.17 Pitch indicators and alarms.

Every vessel of 1600 gross registered tons or integrated tug and barge or articulated tug and barge unit of

combined 1600 gross registered tons or more equipped with a variable pitch propeller shall be equipped with—

* * * * *

15. In § 401.19, paragraphs (a) and (b)(2) would be revised, and paragraph (d) would be added to read as follows:

§ 401.19 Disposal and discharge systems.

(a) Every vessel not equipped with containers for ordure shall be equipped with a sewage disposal system enabling compliance with the Canadian Garbage Pollution Prevention Regulations, the Canadian Great Lakes Sewage Pollution Prevention Regulations, the U.S. Clean Water Act, and the U.S. River and Harbor Act, and amendments thereto.

* * * * *

(b) * * *

(2) Retained on board in covered, leak-proof containers, until such time as it can be disposed of in accordance with the provisions of the Canadian Garbage Pollution Prevention Regulations, the Canadian Great Lakes Sewage Pollution Prevention Regulations, the U.S. Clean Water Act, and the U.S. River and Harbor Act, and amendments thereto.

* * * * *

(d) Burning of shipboard garbage is prohibited between CIP 2 & Cardinal and between CIP 15 and CIP 16.

16. In § 401.20, paragraphs (b)(5) through (b)(7) would be redesignated as paragraphs (b)(6) through (b)(8), and a new paragraph (b)(5) would be added to read as follows:

§ 401.20 Automatic Identification System.

* * * * *

(5) The Minimum Keyboard Display (MKD) shall be located as close as possible to the primary conning position and be visible;

* * * * *

17. In § 401.22, paragraphs (a) and (c) would be revised to read as follows:

§ 401.22 Preclearance of vessels.

(a) No vessel, other than a pleasure craft 300 gross registered tonnage or less, shall transit until an application for preclearance has been made, pursuant to § 401.24 of this part, to the Manager by the vessel's representative and the application has been approved by the Corporation or the Manager pursuant to § 401.25 of this part.

* * * * *

(c) A non-commercial vessel of 300 gross registered tonnage or less cannot apply for preclearance status and must transit as a pleasure craft.

18. Section 401.24 would be revised to read as follows:

§ 401.24 Application for preclearance.

The representative of a vessel may, on a preclearance form (3 copies) obtained from the Manager, Cornwall, Ontario, or downloaded from the St. Lawrence Seaway Web site (*www.greatlakes-seaway.com*), apply for preclearance, giving particulars of the ownership, liability insurance and physical characteristics of the vessel and guaranteeing payment of the fees that may be incurred by the vessel.

19. In § 401.30, paragraphs (c) and (d) would be redesignated as paragraphs (d) and (e), newly designated paragraphs (e) introductory text and (e)(2) would be revised, and a new paragraph (c) would be added to read as follows:

§ 401.30 Ballast water and trim.

* * * * *

(c) No vessel, other than under exceptional circumstances and with special permission, shall be accepted for transit whose trim by the stern exceeds 45.7 dm.

* * * * *

(e) To obtain clearance to transit the Seaway:

* * * * *

(2) Every other vessel entering the Seaway that operates within the Great Lakes and the Seaway must agree to comply with the ''Voluntary Management Practices to Reduce the Transfer of Aquatic Nuisance Species Within the Great Lakes by U.S. and Canadian Domestic Shipping'' of the Lake Carriers Association and Canadian Shipowners Association dated January 26, 2001, while operating anywhere within the Great Lakes and the Seaway. A copy of the ''Code of the Best Practices for Ballast Water Management'' and of the ''Voluntary Management Practices to Reduce the Transfer of Aquatic Nuisance Species Within the Great Lakes by U.S. and Canadian Domestic Shipping'' can be found under ''Navigation'', Notice #6, 2002, on www.greatlakes-seaway.com.

20. Section 401.34 would be revised to read as follows:

§ 401.34 Vessels in tow.

No vessel that is not self-propelled (including but not limited to tug/tows and/or deadship/tows) shall be underway in any Seaway waters unless it is securely tied to an adequate tug or tugs, in accordance with special instructions given by the Manager or the Corporation pursuant to § 401.33.

21. In § 401.35, paragraph (c) would be revised to read as follows:

§ 401.35 Navigation underway.

* * * * *

(c) Man the wheelhouse of the vessel at all times by either the master or certified deck officer, and a helmsman, and;

* * * * *

22. In § 401.37, paragraph (b) would be revised to read as follows:

§ 401.37 Mooring at tie-up walls.

* * * * *

(b) Crew members being put ashore on landing booms and handling mooring lines on tie-up walls shall wear approved life jackets.

23. In § 401.39, the introductory text and paragraph (a) would be revised to read as follows:

§ 401.39 Preparing mooring lines for passing through.

Before a vessel enters a lock:

(a) Winches shall be capable of paying out at a minimum speed of 46 m per minute; and

* * * * *

24. In § 401.42, paragraph (a)(4) would be revised, paragraph (b) would be removed, and paragraph (c) would be redesignated as paragraph (b) to read as follows:

§ 401.42 Passing hand lines.

(a) * * *

(4) Upbound vessels of overall length in excess of 218 m in Locks 4 and 5, Welland Canal, shall secure the hand lien to the eye of the No. 1 mooring wire by means of a bowline.

* * * * *

25. Section 401.57 would be amended by adding a new paragraph (c) to read as follows:

§ 401.57 Disembarking or boarding.

* * * * *

(c) Persons disembarking or boarding shall be assisted by a member of the vessel's crew.

26. Section 401.58 would be revised to read as follows:

§ 401.58 Pleasure craft scheduling.

(a) The transit of pleasure craft shall be scheduled by the vessel traffic controller or the officer in charge of a lock and may be delayed so as to avoid interference with other vessels; and

(b) Every pleasure craft seeking to transit shall stop at a pleasure craft dock and arrange for transit by contacting the lock personnel using the direct-line phone and make the lockage fee payment by purchasing a ticket using the automated ticket dispensers.

27. In § 401.68, paragraphs (a)(1) and (a)(4) would be revised to read as follows:

§ 401.68 Explosives permit.

(a) * * *

(1) For all vessels carrying any quantity of explosives with a mass explosive risk, up to a maximum of 2 tonnes (IMO Class 1, Division 1.1 and 1.5);

* * * * *

(4) For all vessels carrying more than 100 tonnes and up to a maximum of 500 tonnes of safety explosives and shop goods (IMO Class 1, Divisions 1.4).

* * * * *

28. In § 401.72, paragraphs (a), (e) introductory text, (e)(2), (f), and (h) would be revised, and paragraphs (e)(6) and (i) would be added to read as follows:

§ 401.72 Reporting—explosive and hazardous cargo vessels.

(a) Every explosive vessel or hazardous cargo vessel shall, when reporting information related to cargo as required by § 401.64(a), report the nature and tonnage of its explosive or hazardous cargo where applicable. Every vessel carrying grain which is under fumigation shall declare to the nearest traffic control center the nature of the fumigant, its properties and cargo holds affected.

* * * * *

(e) Every vessel carrying dangerous cargo, as defined in § 401.66, and all tankers carrying liquid cargo in bulk, and all vessels carrying grain under fumigation shall, prior to transiting any part of the Seaway, file with the Manager a copy of the current load plan that includes the following information:

* * * * *

(2) The approximate total weight in metric tonnes or total volume in cubic meters and the stowage location of each commodity;

* * * * *

(6) Tankers in ballast shall report the previous cargo of each cargo hold on a plan as described in this paragraph (e).

(f) For tankers, the information required under this section shall be detailed on a plan showing the general layout of the tanks, and a midships cross-section showing the double bottom tanks and ballast side tanks.

* * * * *

(h) Every vessel shall submit its load plan to the nearest Seaway Traffic Control Center from which it will be distributed to all other Seaway Traffic Control Centers. Any changes in stowage, including loading and discharging during a transit, the ship shall submit an updated plan before departing from any port between St. Lambert and Long Point.

(i) Failure to comply with the requirements in this section may result in unnecessary delays or transit refusal.

29. In § 401.74, paragraph (a) would be revised to read as follows:

§ 401.74 Transit declaration.

(a) A Seaway Transit Declaration Form (Cargo and Passenger) shall be forwarded to the Manager by the representative of a ship, for each ship that has an approved preclearance except non-cargo ships, within fourteen days after the vessel enters the Seaway on any upbound or downbound transit. The form may be obtained from The St. Lawrence Seaway Management Corporation, 202 Pitt Street, Cornwall, Ontario, K6J 3P7.

* * * * *

30. In § 401.75, paragraph (b) would be revised to read as follows:

§ 401.75 Payment of tolls.

* * * * *

(b) Tolls, established by agreement between Canada and the United States, and known as the St. Lawrence Seaway Schedule of Tolls, shall be paid by pleasure crafts with prepaid tickets purchased in Canadian funds using credit card ticket dispensers located at pleasure craft docks. At U.S. locks, the fee is paid in U.S. funds or the pre-established equivalent in Canadian funds.

31. Section 401.79 would be revised to read as follows:

§ 401.79 Advance notice of arrival, vessels requiring inspection.

Every vessel shall provide at least 96 hours notice of arrival to the nearest Seaway station prior to all transits or in case reinspection of the ship is required.

32. In § 401.81, paragraph (a) would be revised to read as follows:

§ 401.81 Reporting an accident.

(a) Where a vessel on the Seaway is involved in an accident or a dangerous occurrence, the master of the vessel shall report the accident or occurrence, pursuant to the requirements of the Transportation Safety Board Regulations, to the nearest Seaway or Canadian or U.S. Coast Guard radio or traffic stations, as soon as possible and prior to departing the Seaway system.

* * * * *

33. In § 401.93, paragraph (b) would be revised to read as follows:

§ 401.93 Access to Seaway property.

* * * * *

(b) Except as authorized by an officer or by the *Seaway Property Regulations* or its successors, no person shall enter upon any land or structure of the Manager or the Corporation or swim in any Seaway canal or lock area.

34. Section 401.94 would be revised to read as follows:

§ 401.94 Keeping copies of regulations.

(a) A copy of these Regulations (subpart A of Part 401), a copy the vessel's latest Ship Inspection Report, and Seaway Notices for the current navigation year shall be kept on board every vessel in transit.

(b) Onboard every vessel transiting the Seaway a duplicated set of the Ship's Fire Control Plans shall be permanently stored in a prominently marked weather-tight enclosure outside the deckhouse for the assistance of shore-side fire-fighting personnel.

35. Section 401.95 would be revised to read as follows:

§ 401.95 Compliance with regulations.

The master or owner of a vessel shall ensure that all requirements of these Regulations and Seaway Notices applicable to that vessel are complied with.

Issued at Washington, DC, on January 18, 2005.

Saint Lawrence Seaway Development Corporation.

Albert S. Jacquez,

Administrator.

[FR Doc. 05–1264 Filed 1–24–05; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 262

[FRL–7861–4]

Project XL Rulemaking Extension for New York State Public Utilities; Hazardous Waste Management Systems; Proposed Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; change of expiration date.

SUMMARY: EPA proposes to extend the Project XL Final Rule for New York State Public Utilities; Hazardous Waste Management Systems (XL Rule). The XL Rule was published as a final rule in the **Federal Register** on Monday, July 12, 1999 and, by its terms, expires, on January 10, 2005. The details of the XL Rule can be found in 64 FR 37636 (July 12, 1999). No further changes are being made to the XL Rule other than the change in expiration date. Because the requirements outlined in the XL Rule do not become effective until New York State adopts equivalent requirements through a State rulemaking and receives EPA authorization for these equivalent State requirements, EPA proposes to extend the XL Rule for a period of 72

months from the effective date of the rule resulting from today's proposal. To date, the State has not adopted an equivalent rule and thus the XL Project for New York Public State Utilities has not been implemented. The XL Rule must be extended to facilitate completion of the New York State Public Utilities XL Project.

DATES: Comments on the proposed extension of the XL Rule must be received on or before February 24, 2005.

ADDRESSES: Comments can be submitted electronically through the EPA's EDOCKET Web site (*http://docket.epa.gov/edkpub/index.jsp*). EDOCKET is EPA's online public docket and comment system designed to expand access to public information. The docket for this rulemaking will be open for comment under the ''EPA Headquarters Materials Available for Comment'' section of the Web site with the Docket ID of RCRA–2004–0021.

Written comments should be mailed to the EPA Docket Center (EPA/DC), RCRA Docket (5305T), 1200 Pennsylvania Avenue NW., Washington, DC 20460. Please send an original and two copies of all comments, and refer to Docket Number RCRA–2004–0021. A copy should also be sent to Mr. Philip Flax at U.S. Environmental Protection Agency, Region 2, 290 Broadway, New York, NY 10007–1866.

A docket containing public comments and supporting materials from the original final rulemaking is available for public inspection and copying at the EPA Docket Center (EPA/DC), located at EPA West Building, 1301 Constitution Avenue NW., Room B102, Washington, DC. The EPA/DC is open from 8:30 am to 4:30 pm Monday through Friday, excluding Federal holidays (All materials from this docket are available 24 hours a day online through the EDOCKET system with the new rulemaking's Docket ID of RCRA–2004–0021). The public is encouraged to phone in advance to review docket materials at the EPA/DC. Appointments can be scheduled by phoning the Docket Office at (202) 566–2270. Refer to RCRA docket number F–98–NYSP–FFFFFF. The public may copy a maximum of 100 pages from any regulatory docket at no charge. Additional copies cost 15 cents per page.

A duplicate copy of the docket is available for inspection and copying at U.S. EPA, Region 2, 290 Broadway, New York, NY 10007–1866 during normal business hours. Persons wishing to view the duplicate docket at the New York location are encouraged to contact Mr. Philip Flax in advance, by telephoning (212) 637–4143. Information is also available on the world wide web at *http://www.epa.gov/ProjectXL.*

FOR FURTHER INFORMATION CONTACT: Mr. Philip Flax, U.S. EPA, Region 2, 290 Broadway, New York, NY 10007–1866, (212) 637–4143.

SUPPLEMENTARY INFORMATION: On July 12, 1999, EPA promulgated subpart I of 40 CFR part 262 (XL Rule) which sets forth the requirements for Project XL for public utilities in New York State. The XL Rule was published as a final rule at 64 FR 37624 (July 12, 1999). The XL Rule expires on January 10, 2005. Accordingly, EPA is proposing to amend the expiration date of the XL Rule in 40 CFR 262.90(j). EPA is not proposing to modify any other provisions of the XL Rule.

EPA proposes to amend the expiration date of the XL Rule and provide an additional 72 months from the effective date of the rule resulting from today's proposal. An extension of the expiration date for the XL Rule will enable the New York State Department of Environmental Conservation (NYSDEC) to implement portions of the project requiring regulatory changes. New York State has received authority to administer hazardous waste standards for generators that are equivalent to, or more stringent than, the federal program. Therefore, the requirements outlined in the XL Rule will not take effect in New York State until the State adopts equivalent requirements through a State rulemaking and receives EPA authorization for these equivalent State requirements. EPA will not be the primary regulatory agency responsible for implementing the requirements of the XL Rule. EPA expects this XL Project to result in superior environmental performance in New York State, while providing cost savings to participating Utilities.

Additional Information

1. Applicability of Rules in Authorized States

Under section 3006 of RCRA, EPA may authorize qualified States to administer the RCRA hazardous waste program within the State. Following authorization, the State requirements authorized by EPA apply in lieu of equivalent Federal requirements and become federally enforceable as requirements of RCRA. EPA maintains independent authority to bring enforcement actions under RCRA sections 3007, 3008, 3013, and 7003. Authorized States also have independent authority to bring enforcement actions under State law. A State may receive authorization by following the approval process described in 40 CFR part 271. 40 CFR part 271 also describes the overall standards and requirements for authorization.

After a State receives initial authorization, new Federal regulatory requirements promulgated under the authority in the RCRA statute which existed prior to the 1984 Hazardous and Solid Waste Amendments (HSWA) do not apply in that state until the state adopts and receives authorization for equivalent state requirements. The state must adopt such requirements to maintain authorization.

In contrast, under RCRA section 3006(g) (*i.e.*, 42 U.S.C. 6926(g)), new Federal requirements and prohibitions imposed pursuant to HSWA provisions take effect in authorized states at the same time that they take effect in unauthorized states. Although authorized states are still required to update their hazardous waste programs to remain equivalent to the Federal program, EPA carries out HSWA requirements and prohibitions in authorized states, including the issuance of new permits implementing those requirements, until EPA authorizes the state to do so.

2. Effect on New York State Authorization

Today's proposed rule is promulgated pursuant to RCRA provisions that predate HSWA. New York State has received authority to administer most of the RCRA program; thus, authorized provisions of the State's hazardous waste program are administered in lieu of the federal program. New York State has received authority to administer hazardous waste standards for generators. As a result, today's rule will not be effective in New York State until the State adopts equivalent requirements as State law and receives EPA authorization for those equivalent State requirements. EPA may not enforce these requirements until it approves the State requirements as a revision to the authorized State program.

Statutory and Executive Order Review

A. Executive Order 12866

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

(1) Have an annual effect on the economy of $100 million or more or

adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety in State, local, or tribal governments or communities;

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

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

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

Because the annualized cost of this rule will be significantly less than $100 million and will not meet any of the other criteria specified in the Executive Order, it has been determined that this rule is not a ''significant regulatory action'' under the terms of Executive Order 12866, and is therefore not subject to OMB review.

B. Regulatory Flexibility

The Regulatory Flexibility Act (RFA) 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. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions.

For purposes of assessing the impacts of today's rule on small entities, small entity is defined as: (1) A small business defined by the Small Business Administration's (SBA) regulations at 13 CFR 121.201; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impacts of today's proposed rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. This proposed rule will not impose any requirements on small entities. EPA proposes to extend the Project XL Final Rule for New York State Public Utilities; Hazardous Waste Management Systems (XL Rule) that was published on July 12, 1999, which will expire January 10, 2005. No other changes are being made to the XL Rule other than to change the expiration date by providing an additional 72 months from the effective date of the rule resulting from today's proposal. We continue to be interested in the potential impacts of the proposed rule on small entities and welcome comments on issues related to such impacts.

C. Paperwork Reduction Act

The Office of Management and Budget (OMB) has approved the information collection requirements contained in this rule under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) and has assigned OMB control number 2010–0026.

EPA is collecting information regarding the locations and amount of waste involved as well as the money saved and what the savings was invested in. EPA plans to use this information to determine whether the XL project is successful. The success of the project will help determine whether it should be extended to other areas of the country. Participation in the project is voluntary; however, if a Utility decides to participate, EPA requires the filing of a report containing pertinent information. These reports will be publicly available. The estimated cost burden of filing the annual report is $10,000 and the estimated length of time to prepare the report is 40 hours. The estimated number of respondents is 15. 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.

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. EPA amended the 40 CFR part 9 table of currently approved ICR control numbers issued by OMB for various regulations to list the information requirements contained in the XL Rule. The table lists the CFR citations for EPA's reporting and recordkeeping requirements, and the current OMB control numbers. This listing of OMB control numbers and their subsequent codification in the CFR satisfy the requirements of the Paperwork Reduction Act and OMB's implementing regulations at 5 CFR part 1320.

D. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''federal mandates'' that may result in expenditures to State, local, and tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number or regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the Administrator publishes with the final rule an explanation of why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

As noted above, this rule is applicable only to New York State Utilities. The EPA has determined that this rule contains no regulatory requirements that might significantly or uniquely affect small governments. EPA has also determined that this rule does not contain a federal mandate that may result in expenditures of $100 million or more for State, local, and tribal governments, in the aggregate, or the

private sector in any one year. Thus, today's rule is not subject to the requirements of sections 202 and 205 of the UMRA.

E. Applicability of Executive Order 13045

The Executive Order, ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997) applies to any rule that (1) is determined to be ''economically significant'' as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children; and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This rule is not subject to Executive Order 13045 because it is not an economically significant rule as defined by Executive Order 12866, and because it does not involve decisions on environmental health or safety risks that may disproportionately affect children.

F. Executive Order 13132: Federalism

Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government.''

This proposed rule does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. This proposed rule does not create a mandate on State, local, or tribal governments and does not impose any enforceable duties on these entities. Thus, Executive Order 13132 does not apply to this rule. In the spirit of Executive Order 13132, and consistent with EPA policy to promote communications between EPA and State and local governments, EPA specifically solicits comment on this proposed rule from State and local officials.

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

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

H. Executive Order 13211: Energy Effects

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

I. National Technology Transfer and Advancement Act

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

List of Subjects in 40 CFR Part 262

Environmental protection, Hazardous materials transportation, Hazardous waste, Packaging and containers, Reporting and recordkeeping requirements.

Dated: January 6, 2005.

Stephen L. Johnson,

Deputy Administrator.

For the reasons set forth in the preamble, part 262 of title 40, chapter I of the Code of Federal Regulations is proposed to be amended as follows:

PART 262—[AMENDED]

1. The authority citation for part 262 continues to read as follows:

Authority: 42 U.S.C. 6906, 9612, 6922–6925, 6937, and 6938.

Subpart I—[Amended]

2. Section 262.90 is amended by revising paragraph (j) to read as follows:

§ 262.90 Project XL for Public Utilities in New York State.

* * * * *

(j) This section will expire on ____ [72 months from effective date].

[FR Doc. 05–822 Filed 1–24–05; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; 90-Day Finding on Petitions To List *Bromus arizonicus* (Arizona brome) and *Nassella cernua* (nodding needlegrass) as Endangered

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of 90-day petition finding.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce a 90-day petition finding for petitions to list *Bromus arizonicus* (Arizona brome) and *Nassella cernua* (nodding needlegrass) under the Endangered Species Act of 1973, as amended. We find that neither petition presented substantial scientific or commercial information indicating that listing one or both of these species may be warranted. We will not be initiating a further status review in response to the petitions to list.

DATES: The finding announced in this document was made January 7, 2005.

ADDRESSES: Data, information, written comments and materials, or questions concerning these petitions and findings should be submitted to the Field Supervisor, Ventura Fish and Wildlife Office, U.S. Fish and Wildlife Service, 2493 Portola Road, Suite B, Ventura, CA

93003. The petition findings and supporting data are available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Constance Rutherford, botanist, at the above address (telephone 805/644–1766).

SUPPLEMENTARY INFORMATION:

Background

Section 4(b)(3)(A) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*) (Act), requires that we make a finding on whether a petition to list, delist, or reclassify a species presents substantial scientific or commercial information indicating that the petitioned action may be warranted. We are to base this finding on all information available to us at the time we make the finding. To the maximum extent practicable, this finding is to be made within 90 days of our receipt of the petition, and we must publish the notice of the finding promptly in the **Federal Register**. Our standard for substantial information within the Code of Federal Regulations (CFR) with regard to a 90-day petition finding is ''that amount of information that would lead a reasonable person to believe that the measure proposed in the petition may be warranted'' (50 CFR 424.14(b)). If the finding is that substantial information was presented, we are required to promptly commence a review of the status of the species, if one has not already been initiated, under our internal candidate assessment process.

On June 20, 2002, we received two separate petitions, both dated June 18, 2002, to list *Bromus arizonicus* (Arizona brome) and *Nassella cernua* (nodding needlegrass). The petitions requested that we add *Bromus arizonicus* and *Nassella cernua* to the List of Endangered and Threatened Wildlife and Plants. We are responding to both petitions in this one **Federal Register** notice because the petitions were received at the same time from the same petitioner.

Bromus arizonicus

This taxon was first described by Cornelius Lott Shear in 1900 as *Bromus carinatus* var. *arizonicus* based on a collection from near Tucson, AZ. Stebbins *et al.* (1944) raised the taxon to full species status based on cytogenetic (cellular) differences between it and *Bromus carinatus*. They found that, while both the taxa are polyploid in their number of chromosomes, *Bromus carinatus* has a chromosome count of 2n = 56, while *Bromus arizonicus* has a chromosome count of 2n = 84. However, some taxonomists still consider *Bromus arizonicus* to be synonymous with *Bromus carinatus* (Felger 2000; R. Felger, University of Arizona, in litt. 2003; P. Jenkins, University of Arizona, in litt. 2003).

The petition to list *Bromus arizonicus* comprises one page of information about the species, including its habitat, distribution, potential threats, observations made by the petitioner at historic locations for the species, and two literature citations. The information from the petition is summarized as follows: *Bromus arizonicus* is an annual grass restricted in distribution to the San Joaquin Valley, the southern Coast Ranges, and Channel Islands of southern California, Arizona, and Baja California, Mexico. The species is associated with valley grassland, foothill woodland, chaparral, coastal sage scrub, and creosote bush scrub. The species occurs principally in an average annual rainfall band between 5 and 14 inches (in) (13 to 36 centimeters (cm)), and in an elevational band between 20 and 2,000 feet (ft) (6 and 610 meters (m)). Twisselmann (1967) indicated that the species is widespread in the valley grasslands, especially in the lower Sonoran grassland, and is scarce in creosote bush scrub in the desert. However, the petitioner stated that *Bromus arizonicus* became rarer in the 1970s and 1980s as a result of overgrazing during drought periods.

The petitioner estimates that *Bromus arizonicus* historically ranged across 5 million acres (ac) (2 million hectares (ha)), and estimates that the range has been reduced to 25 ac (10 ha) in Arizona and 25 ac (10 ha) in California. Causes cited for the disappearance of the species in the San Joaquin Valley include a combination of overgrazing by cattle and two extended droughts in the 1970s and 1980s. During his own surveys in the 1990s, the petitioner was able to find only one small stand of *Bromus arizonicus* in Kern County, in an area protected from grazing. In 2002, the petitioner found that a second stand of *Bromus arizonicus* that he had observed over a period of years has been converted to a truck stop parking lot. The petitioner states that threats to *Bromus arizonicus* include: Commercial and residential development, agricultural development, off-highway vehicle activity, energy developments, grazing, fires, military activities, introduction of nonnative plants, roadside herbicide use, roadside mowing, and border patrol activities along the United States-Mexico border. However, other than the two references mentioned above, the petitioner did not provide any other information related to the status of *Bromus arizonicus*, such as field survey forms or reports documenting either positive or negative survey findings, a list of historic locations that were field-checked, maps, or an explanation of how estimates of historic and current ranges were derived.

The information available to us for the species in California states that the species is: ''Occasional in coastal sage scrub and weedy ground; coast west of Point Dume, Sepulveda Canyon, west Los Angeles'' (Raven *et al.* 1986); ''reported only from Salinas Valley'' in Monterey County (Matthews 1997); and ''evidently widespread about waste places of towns, railroads, ranches, and highways from coast to Cuyama Valley'' in the Santa Barbara region (Smith 1998). The University of California at Berkeley and Jepson Herbaria (UC/JEPS) (2003) indicates that the species is principally found in grasslands and shrublands in California at elevations of less than 3,300 ft (1,000 m). The species has been collected in 13 California counties (UC/JEPS 2003). The information available to us for the species in Arizona indicates that it occurs ''almost throughout the state, at moderate elevations'' (Kearney and Peebles 1951), and in ''sandy washes and protected sites in desert areas, roadsides, and other disturbed soils, mostly below 5,000 feet but occasionally higher in the northern part of its range where it occurs as an introduced weed'' (Gould 1988). The Natural Resources Conservation Service lists this species as occurring in the States of Nevada and Texas, in addition to California, Arizona, and Baja California (*http://plants.usda.gov*).

Nassella cernua

This taxon was first described as *Stipa cernua* by G. L. Stebbins and R. M. Love (1941) based on a collection made from Alameda County, CA. In 1990, M.E. Barkworth segregated the genus *Nassella* and included the species *cernua*, from *Stipa* (Barkworth 1993).

The petition to list *Nassella cernua* comprises one page of information about the species, including its habitat, distribution, potential threats, and observations made by the petitioner at historic locations for the species. No literature citations were included. The information from the petition is summarized as follows: *Nassella cernua* is a perennial grass restricted in distribution to the North Coast Range, eastern San Francisco Bay area, San Joaquin Valley, the Coast Ranges of southern California, and in Baja

California, Mexico. The petitioner states that the species occurs principally in an average annual rainfall band between 5 and 14 in (13 to 36 cm), and in an elevational band between 20 and 4,500 ft (6 and 1,370 m).

The petitioner estimates that *Nassella cernua* historically ranged across 10 million ac (4 million ha). He estimates that the range has been reduced to 800 ac (324 ha) in California and 200 ac (81 m) in Baja California. Causes cited for the decline of the species in the San Joaquin Valley include a combination of overgrazing by cattle and two extended droughts in the 1970s and 1980s. The petitioner states that threats to *Nassella cernua* include commercial and residential development, agricultural development, off-highway vehicle activity, energy developments, grazing, fires, military activities, introduction of nonnative plants, roadside herbicide use, roadside mowing, and border patrol activities along the United States-Mexico border. However, the petitioner did not provide any other information related to the status of *Nassella cernua*, such as a list of historic locations that were field-checked, maps, or an explanation of how estimates of historic and current ranges were derived.

The information in our files indicates that in California, the species is scattered in coastal sage scrub and chaparral in the western half of the Santa Monica Mountains below 2000 ft. (Raven *et al.* 1986); found in ''dry hills, open woods, and rocky slopes, chaparral, coastal prairie, coastal sage scrub, etc.'' in Monterey County (Matthews 1997); and ''common throughout the interior except in the most arid parts'' in San Luis Obispo County (Hoover 1970). UC/JEPS (2003) indicates that the species is principally found in grasslands, chaparral, and juniper woodland in California at elevations of less than 4,600 ft (1,400 m), and distributed within the inner North Coast Ranges, eastern San Francisco Bay area, South Coast Ranges, Transverse Ranges, Peninsular Ranges, and Baja California. The species has been collected in 30 of California's 58 counties (UC/JEPS 2003).

NatureServe (2000; 2003) indicates that the global heritage status rank for both *Bromus arizonicus* and *Nassella cernua* is G5, which means that the species is common, widespread, and abundant (although it may be rare in parts of its range, particularly on the periphery). NatureServe (2000) defines this ranking as a species that is not considered to be vulnerable in most of its range. The U.S. Forest Service (2003) and Bureau of Land Management (2003) do not have *Bromus arizonicus* or *Nassella cernua* on their sensitive species lists, and neither the California Natural Diversity Data Base (2003) nor the California Native Plant Society (2003) tracks these species or gives them any special consideration. Additionally, neither the Arizona Natural Heritage Program (2003) nor the Nevada Natural Heritage Program (2003) tracks *Bromus arizonicus* or gives it any special consideration.

Although the petitioner mentioned a number of threats to both *Bromus arizonicus* and *Nassella cernua*, he did not provide information concerning specific threats and specific locations, other than the reference to one site for *Bromus arizonicus* being converted to a parking lot. Felger (in litt. 2003) indicated that *Bromus arizonicus* was a very common grass in the Sonoran Desert and ''beyond any question it is not in any way endangered.'' We contacted the petitioner and inquired whether he could provide us with any additional information on either species; he indicated he was not able to do so at this time (C. Rutherford, Service, in litt. 2003). Based on the information provided by the petitioner, and the information available to us, we find that threats the petitioner mentioned cannot be adequately determined for *Bromus arizonicus* or *Nassella cernua*.

Findings

We have reviewed the petitions, literature cited in the petitions, other pertinent literature, and information available in our files. The available information we were able to access concerning these species indicates that they are widespread. Without additional information on the life history, range, or population size of *Bromus arizonicus* and *Nassella cernua*, such as an explanation of how estimates of historic and current ranges were derived, information concerning specific threats and specific locations, or any other references, we cannot evaluate the seriousness of the potential threats to them.

After reviewing the best scientific and commercial information available, and because of the lack of adequate data indicating a biological vulnerability and presence of threats to these species, we find the petitions do not present substantial information that listing *Bromus arizonicus* or *Nassella cernua* may be warranted. However, we welcome any additional information concerning the status of *Bromus arizonicus* and *Nassella cernua*. Please submit any information to the Field Supervisor, Ventura Fish and Wildlife Office (*see* **ADDRESSES** section).

References Cited

A complete list of all references cited herein is available, upon request, from the Ventura Fish and Wildlife Office (*see* **ADDRESSES** section).

Author

The primary author of this document is Constance Rutherford, U.S. Fish and Wildlife Service, Ventura Fish and Wildlife Office (*see* **ADDRESSES** section).

Authority

The authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: January 7, 2005.

Steve Williams,

Director, Fish and Wildlife Service.

[FR Doc. 05–1261 Filed 1–24–05; 8:45 am]

BILLING CODE 4310–55–P

Notices

Federal Register
Vol. 70, No. 15
Tuesday, January 25, 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 19, 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: WIC Farmers' Market Nutrition Program (FMNP) Forms and Regulations.

OMB Control Number: 0584–0447.

Summary of Collection: The Women, Infants, and Children (WIC) Farmers' Market Nutrition Program (FMNP) is authorized by Public Law 102–314, enacted on July 2, 1992. The purpose of the FMNP is to provide resources to women, infants, and children who are nutritionally at risk, in the form of fresh, nutritious, unprepared foods (such as fruits and vegetables) from farmers' markets, and roadside stands at the option of the State; to expand the awareness and use of farmers' markets; and, to increase sales at such markets. The Food and Nutrition Service (FNS) will collect information from each state that receives a grant under the FMNP program in conjunction with the preparation of annual financial and recipient reports.

Need and Use of the Information: FNS will collect information from the state agency administering the FMNP to develop an annual financial report on the number and type of recipients served by both Federal and non-Federal benefits under the program. The information is necessary for reporting to Congress in accordance with the Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments and for program planning purposes.

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

Number of Respondents: 8,582.

Frequency of Responses: Recordkeeping; Reporting: Annually.

Total Burden Hours: 13,237.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. 05–1314 Filed 1–24–05; 8:45 am]

BILLING CODE 3410–30–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 05–001–1]

Horse Protection; Public Meeting

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of public meeting.

SUMMARY: We are advising the public that the Animal and Plant Health Inspection Service's Animal Care program will host a meeting to present current information on the enforcement of the Horse Protection Act and provide a forum for listening to concerns from horse industry members and other interested persons about the Horse Protection Program. This notice provides the meeting's agenda, location, and date.

DATES: The meeting will be held from 2 p.m. to 5 p.m. on March 7, 2005. Registration information is provided in the **SUPPLEMENTARY INFORMATION** section of this notice.

ADDRESSES: The meeting will be held at the USDA Center at Riverside, 4700 River Road, Riverdale, MD.

FOR FURTHER INFORMATION CONTACT: Mr. Mike Tuck, Management Analyst, PPD, APHIS, 4700 River Road Unit 84, Riverdale, MD 20737; (301) 734–5819.

SUPPLEMENTARY INFORMATION: The Animal and Plant Health Inspection Service (APHIS), Animal Care, is announcing a meeting to discuss the enforcement of the Horse Protection Act. This meeting is designed to provide a forum for discussion on current initiatives by Animal Care. During the meeting, industry members and other interested parties will be given the opportunity to provide information and comments to Animal Care about the Horse Protection Program. At the time of registration, participants may sign up to speak and will be allotted a set amount of time.

The meeting will, with possible minor modifications, follow the agenda below:

1 p.m. to 2 p.m.—Registration
2 p.m. to 2:15 p.m.—Welcome and Overview
2:15 p.m. to 2:45 p.m.—Horse Protection Program Update
2:45 p.m. to 4:30 p.m.—Listening Session

4:30 p.m. to 5 p.m.—Remarks and Closing

Please note that this meeting is being held to provide for the exchange of information on the enforcement of the Horse Protection Act and is not an opportunity to submit formal comments on proposed rules or other regulatory initiatives. Written comments will be accepted and should be mailed to: USDA, APHIS, Animal Care, 4700 River Road Unit 84, Riverdale, MD 20737.

Registration

We request that you preregister for the meeting by calling (301) 734–7833 or e-mailing Animal Care at *ACE@aphis.usda.gov.* Please provide your name, number of attendees, telephone number, and e-mail address or other contact address and indicate whether or not you wish to speak at the meeting. This information is needed so we may inform registrants in a timely manner in the event of any changes to the meeting schedule. Please preregister for the meeting by March 1, 2005. On-site registration will take place from 1 p.m. to 2 p.m. on the date of the meeting.

Parking and Security Procedures

Please note that a fee of $2.25 is required to enter the parking lot at the USDA Center at Riverside. The machine accepts $1 bills or quarters. Picture identification is required to be admitted to the building. Upon entering the building, visitors should inform security personnel that they are attending the Horse Protection meeting.

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

Elizabeth E. Gaston,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 05–1312 Filed 1–24–05; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Forest Service

Commercial Pack Stock Use Authorizations for the Ansel Adams and John Muir Wildernesses; Inyo and Sierra National Forests; Inyo, Fresno, Madera, and Mono Counties, CA

AGENCY: Forest Service, USDA.

ACTION: Revised notice of intent to prepare an environmental impact statement.

SUMMARY: The USDA Forest Service published a notice of intent to prepare an environmental impact statement (EIS) for the Commercial Pack Stock Use Authorizations for the Ansel Adams and John Muir Wildernesses Project in the **Federal Register** on June 15, 2004 (Volume 69, Number 114, pages 33346–33348). A revised notice of intent is being issued for several reasons. A Trail Management Plan for the Ansel Adams and John Muir Wildernesses, previously under analysis in a separate environmental document, has been combined into this project. The Dinkey Lakes portion of the Trail Management Plan will be conducted in a future analysis. To incorporate the Trail Management Plan, the Purpose and Need and Proposed Action for the project have been revised only to reflect the combination of the two proposals into one. This is described in more detail below.

In addition, the decision to be made reflects a change that this proposal will only amend the Ansel Adams and John Muir portions of the 2001 Wilderness Management Plan. No commercial pack stock use will be authorized under this proposal. Finally, the name of the project has been changed to better describe the proposed action and is now ''Trail and Commercial Pack Stock Management in the Ansel Adams and John Muir Wildernesses.''

DATES: Comments concerning the scope of the analysis and revised notice of intent should be received within 30 days following the publication of this notice in **Federal Register.** Comments previously submitted for the scoping of the proposed action as described in the June 15, 2004, **Federal Register** are part of the project record and will be considered in the Draft EIS. There is no need for these comments, or comments made to the Trail Management Plan to be resubmitted as the proposed actions have not changed, just combined into one proposal.

A draft environmental impact statement is expected to be filed with the Environmental Protection Agency (EPA) and available for public review in April 2005. At that time the EPA will publish a Notice of Availability in the **Federal Register**. The comment period on the draft EIS will be 45 days from the date the EPA published the Notice of Availability. The final EIS is scheduled to be completed in December 2005.

ADDRESSES: Send written comments to Forest Supervisor, Attention: Wilderness Planning, Inyo National Forest, 351 Pacu Lane, Suite 200, Bishop, CA 93514. Comments may be sent electronically to *comments-pacificsouthwest-inyo@fs.fed.us.*

FOR FURTHER INFORMATION CONTACT: Mary Beth Hennessy, Wilderness Specialist, Inyo National Forest, 351 Pacu Lane, Suite 200, Bishop, CA 93514, (760) 873–2448.

SUPPLEMENTARY INFORMATION: To better reflect the purpose and need for the project, the name of the project has been changed to ''Trail and Commercial Pack Stock Management in the Ansel Adams and John Muir Wildernesses.'' Publication of the Draft and Final Environmental Impact Statements will be under this name.

Comments previously submitted for the scoping of the proposed action for this project as described in the June 15, 2004, **Federal Register** are part of the project record and will be considered in the Draft EIS. Comments previously submitted for the Trail Management Plan Environmental Assessment Proposed Action are also a part of the record and will be considered in the Draft EIS. There is not a need for these comments to be resubmitted.

Nature of Decision to Be Made: The decision to be made is whether or not to continue commercial pack stock operations in the John Muir and Ansel Adams Wildernesses and, if so, to determine the amount, type, and locations where these activities would occur. The decision will also establish a Trail Management Plan for both wildernesses which determines the trails that will be maintained on the Forests' inventories and how they will be managed. This Trail Management Plan was originally under analysis in a separate proposal, but due to public comments and the apparent connected nature of the two proposals, the trail plan and commercial pack stock proposals were combined into a single analysis. The incorporation of the Trail Plan into the overall Wilderness planning effort will better disclose the cumulative effects of commercial pack stock use in the two wildernesses.

Purpose and Need for Action: These actions are needed for several reasons. While the Wilderness Act does contain provisions for commercial activities in wilderness areas, these activities are permitted ''to the extent necessary for activities which are proper for realizing the recreational or other wilderness purposes of the areas.'' There is a need, therefore, to clearly articulate the extent necessary, including the locations and the amount and type of use, that commercial pack stock is necessary in the Ansel Adams and John Muir Wildernesses. There is a need for limits on commercial pack stock operations in order to maintain desired resource and experiential conditions identified in the 2001 Wilderness Plan and Record of Decision. There is also a need for a trail management plan that establishes a

system of trails that provides access to the Ansel Adams and John Muir Wildernesses and identifies the appropriate maintenance and management levels of the trail system such that the wilderness values are protected.

This proposal responds in part to the Court Order of November 1, 2001, (and modified January 10, 2002) which requires that the Forest Service complete a cumulative impacts analysis within the NEPA process, and that it consider limits on numbers of stock animals used in conjunction with commercial operators, limits on the group size (both people and number of stock both on and off trail), trail suitability for various use types, and designation of campsites for use by commercial pack stations.

Proposed Action: To meet the purpose and need, the Forest Service proposes to amend the 2001 Ansel Adams, John Muir, and Dinkey Lakes Wildernesses Management Plan to provide further standards and guidelines for commercial pack stock activities. The standards and guidelines proposed for modification from existing Wilderness Plan direction relate to use levels; trail suitability for commercial pack stock operations; grazing suitability and utilization levels; and, use of campsites and campfires. Currently, commercial pack stock use accounts for approximately 15% of total use in these two wildernesses, with around 3500 people a year being serviced to over 400 destinations. The proposed action will also establish a system of trails and trail management levels for each system trail, consistent with the desired condition of areas within the two wildernesses as identified in the 2001 Wilderness Plan and Record of Decision. Approximately 960 miles of trails are being proposed to be managed as a system trail.

Responsible Official: The responsible officials are Jeffrey E. Bailey, Forest Supervisor, Inyo National Forest, 351 Pacu Lane, Suite 200, Bishop, CA 93514 and Edward C. Cole, Forest Supervisor, Sierra National Forest, 1600 Tollhouse Road, Clovis, CA 93611.

Early Notice of Importance of Public Participation in Subsequent Environmental Review: The Forest Service believes, at this early stage, it is important to give reviewers notice of several court rulings related to public participation in the environmental review process. First, reviewers of draft environmental impact statements must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. Vermont *Yankee Nuclear Power Corp.* v. *NRDC*, 435 U.S. 519, 553 (1978). Also, environmental objections that could be raised at the draft environmental impact statement stage but that are not raised until after completion of the final environmental impact statement may be waived or dismissed by the courts. City of *Angoon* v. *Hodel*, 803 F.2d 1016, 1022 (9th Cir. 1986) and *Wisconsin Heritages, Inc.* v. *Harris*, 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final environmental impact statement.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the draft environmental impact statement should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft statement. Comments may also address the adequacy of the draft environmental impact statement or the merits of the alternatives formulated and discussed in the statement. Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.

Comments received, including the names and addresses of those who comment, will be considered part of the public record on this proposal and will be available for public inspection.

(Authority: 40 CFR 1501.7 and 1508.22; Forest Service Handbook 1909.15, Section 21.)

Dated: January 18, 2005.

Jeffrey E. Bailey,

Forest Supervisor, Inyo National Forest.

Dated: January 13, 2005.

Edward C. Cole,

Forest Supervisor, Sierra National Forest.

[FR Doc. 05–1295 Filed 1–24–05; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF AGRICULTURE

Forest Service

Olympic Provincial Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Olympic Province Advisory Committee (OPAC) will meet on Friday, February 18, 2005. The meeting will be held at the Jamestown S'Klallam Tribal Conference Center, Highway 101, Blyn, Washington. The meeting will begin at 9:30 a.m. and end at approximately 3:30 p.m. Agenda topics are: Current status of key Forest issues; 2004 Planning Rule update; NW Forest Plan Land Use Designations and appropriate management activities; Hood Canal District 2005 Program of Work; Forest Law Enforcement Issues; Open forum; and Public comments.

All Olympic Province Advisory Committee Meetings are open to the public. Interested citizens are encouraged to attend.

FOR FURTHER INFORMATION CONTACT: Direct questions regarding this meeting to Ken Eldredge, Province Liaison, USDA, Olympic National Forest Headquarters, 1835 Black Lake Blvd., Olympia, WA 98512–5623, (360) 956–2323 or Dale Hom, Forest Supervisor, at (360) 956–2301.

Dated: January 18, 2005.

Dale Hom,

Forest Supervisor, Olympic National Forest.

[FR Doc. 05–1291 Filed 1–24–05; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–895]

Antidumping Duty Order: Certain Crepe Paper From the People's Republic of China

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

EFFECTIVE DATE: January 25, 2005.

FOR FURTHER INFORMATION CONTACT: Alex Villanueva at (202) 482–3208 or Hallie Noel Zink at (202) 482–6907; AD/CVD Operations, Office 9, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Scope of Order

For purposes of this order, the term ''certain crepe paper'' includes crepe paper products that have a basis weight not exceeding 29 grams per square meter prior to being creped and, if appropriate, flame-proofed. Crepe paper has a finely wrinkled surface texture and typically but not exclusively is treated to be flame-retardant. Crepe paper is typically but not exclusively produced as streamers in roll form and

packaged in plastic bags. Crepe paper may or may not be bleached, dye-colored, surface-colored, surface decorated or printed, glazed, sequined, embossed, die-cut, and/or flame-retardant. Subject crepe paper may be rolled, flat or folded, and may be packaged by banding or wrapping with paper, by placing in plastic bags, and/or by placing in boxes for distribution and use by the ultimate consumer. Packages of crepe paper subject to this order may consist solely of crepe paper of one color and/or style, or may contain multiple colors and/or styles.

The merchandise subject to this order does not have specific classification numbers assigned to them under the Harmonized Tariff Schedule of the United States (''HTSUS'') . Subject merchandise may be under one or more of several different HTSUS subheadings, including: 4802.30; 4802.54; 4802.61; 4802.62; 4802.69; 4804.39; 4806.40; 4808.30; 4808.90; 4811.90; 4818.90; 4823.90; 9505.90.40. The tariff classifications are provided for convenience and customs purposes; however, the written description of the scope of this order is dispositive.

Antidumping Duty Order

On January 18, 2005, the International Trade Commission (the ITC) notified the Department of Commerce (the Department) of its final determination pursuant to section 735(b)(1)(A)(I) of the Tariff Act of 1930, as amended (the Act), that the industry in the United States producing crepe paper is materially injured by reason of less-than-fair-value imports of subject merchandise from the People's Republic of China (PRC). In addition, the ITC notified the Department of its final determination that critical circumstances do not exist with respect to imports of subject merchandise from the PRC that are subject to the Department's affirmative critical circumstances finding. Therefore, in accordance with section 736(a)(1) of the Act, the Department will direct U.S. Customs and Border Protection (CBP) to assess, upon further advice by the Department, antidumping duties equal to the amount by which the normal value of the merchandise exceeds the export price of the merchandise for all relevant entries of crepe paper from the PRC. These antidumping duties will be assessed on all unliquidated entries of crepe paper from the PRC entered, or withdrawn from the warehouse, for consumption on or after September 21, 2004, the date on which the Department published its *Notice of Preliminary Determination of Sales at Less Than Fair Value, Affirmative Preliminary Determination of Critical Circumstances and Postponement of Final Determination: Certain Tissue Paper Products and Crepe Paper From the People's Republic of China (''Preliminary Determination'')*, 69 FR 56407 (Sep. 21, 2004).

With regard to the ITC negative critical circumstances determination, we will instruct Customs to lift suspension and to release any bond or other security, and refund any cash deposit made, to secure the payment of antidumping duties with respect to entries of the merchandise entered, or withdrawn from warehouse, for consumption on or after June 23, 2004, but before September 21, 2004. June 23, 2004, is 90 days prior to September 21, 2004, the date of publication of the Preliminary Determination in the **Federal Register**.

CBP must require, at the same time as importers would normally deposit estimated duties on this merchandise, a cash deposit equal to the estimated weighted-average antidumping duty margins noted below. The ''PRC-Wide'' rates apply to all exporters of subject merchandise not specifically listed.[1] The weighted-average dumping margins are as follows:

Manufacturer/exporter	Margin (percent)
Everlasting Business and Industry Co. Ltd	266.83
Fujian Nanping Investment and Enterprise Co., Ltd	266.83
Ningbo Spring Stationary Co., Ltd	266.83
PRC-Wide Rate[2]	266.83

This notice constitutes the antidumping duty order with respect to crepe paper from the PRC, pursuant to section 736(a) of the Act. Interested parties may contact the Department's Central Records Unit, Room B–099 of the Main Commerce Building, for copies of an updated list of antidumping duty orders currently in effect.

This order is published in accordance with section 736(a) of the Act and 19 CFR 351.211.

[1] In the Final Determination, the two mandatory respondents, Fuzhou Light and Magicpro, as well as Fujian Xinjifu, a Section A respondent who chose not to participate in verification, were assigned the PRC-Wide rate of 266.38 percent because they withdrew from the investigation, resulting in the Department's finding of total adverse facts available for both companies.

[2] As stated in Footnote 1, Fuzhou Light and Magicpro were inadvertently identified as exporters in the ''Final Determination of Investigation'' section in the Final Determination with a rate of 266.83. Instead, Fuzhou Light and Magicpro should have been included in the PRC entity and assigned the PRC-wide rate of 266.83.

Dated: January 18, 2005.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 05–1354 Filed 1–24–05; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–351–840]

Notice of Request for Information and Extension of Time: Certain Orange Juice From Brazil

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

EFFECTIVE DATE: January 25, 2005.

FOR FURTHER INFORMATION CONTACT: Elizabeth Eastwood or Jill Pollack, AD/CVD Operations, Office 2, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230, telephone: (202) 482–3874 or (202) 482–4593.

SUPPLEMENTARY INFORMATION:

The Petition

On December 27, 2004, the Department of Commerce (the Department) received an antidumping duty petition (petition) filed by Florida Citrus Mutual, A. Duda & Sons, Inc. (doing business as Citrus Belle), Citrus World, Inc., Peace River Citrus Products, Inc., and Southern Garden Citrus Processing Corporation (doing business as Southern Gardens) (collectively ''the petitioners'').

Scope of the Petition

The following language describes the imported merchandise from Brazil that the petitioners intend to be included in the scope of the investigation.

The product under investigation is certain orange juice for transport and/or further manufacturing, produced in two different forms: (1) Frozen orange juice in a highly concentrated form, sometimes referred to as frozen concentrated orange juice for further manufacturing (FCOJM); and (2) pasteurized single–strength orange juice which has not been concentrated, referred to as Not–From-Concentrate (NFC).

There is an existing antidumping duty order on frozen concentrated orange juice (FCOJ) from Brazil. *See Antidumping Duty Order; Frozen Concentrated Orange Juice from Brazil*, 52 FR 16426 (May 5, 1987). Therefore,

the scope with regard to FCOJM covers only FCOJM produced and/or exported by those companies who were excluded or revoked from the existing antidumping order on FCOJ from Brazil as of December 27, 2004. Those companies are Cargill Citrus Limitada, Citrosuco Paulista S.A., Coopercitrus Industrial Frutesp, Frutropic, Montecitrus Industria e Comercio Limitada, and Sucocitrico Cutrale SA. Reconstituted orange juice and frozen orange juice for retail (FCOJR) are also excluded from the scope of the investigation. Reconstituted orange juice is produced through further manufacture of FCOJM, by adding water, oils and essences to the orange juice concentrate. FCOJR is concentrated orange juice, typically at 42° Brix, in a frozen state, packed in retail sized containers ready for sale to consumers. FCOJR, a finished consumer product, is produced through further manufacture of FCOJM, a bulk manufacturer's product.

The subject merchandise is currently classifiable under item 2009.11.00, 2009.12.25 and 2009.12.45, and 2009.19.00 of the *Harmonized Tariff Schedule of the United States* (HTSUS). These HTSUS subheadings are provided for convenience and for customs purposes only and are not dispositive, but rather the written description of the scope of this investigation is dispositive.

Domestic Like Product

Section 771(10) of the Tariff Act of 1930, as amended (the Act), defines the domestic like product as ''a product which is like, or in the absence of like, most similar in characteristics and uses with the article subject to investigation.'' Thus, the reference point from which the domestic like product analysis begins is ''the article subject to investigation,'' *i.e.*, the class or kind of merchandise to be investigated, which normally will be the scope as defined in the petition.

Determination of Industry Support for the Petition

Section 732(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 732(c)(4)(A) of the Act provides that the Department's industry support determination be based on whether a minimum percentage of the relevant industry supports the petition. A petition meets this requirement if the domestic producers or workers who support the petition account for: (1) At least 25 percent of the total production of the domestic like product; and (2) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition. Moreover, section 732(c)(4)(D) of the Act provides that, if the petition does not establish support of domestic producers or workers accounting for more than 50 percent of the total production of the domestic like product, the Department shall: (1) Poll the industry or rely on other information in order to determine if there is support for the petition, as required by subparagraph (A); or (2) determine industry support using a statistically valid sampling method to poll the industry.

Request for Information

In the instant case, we have received challenges to industry support from U.S. producers and need to determine the production quantities and levels of imports of U.S. producers, as well as the relationships between U.S. and foreign producers, in order to evaluate the calculation of industry support in the petition. Because the petition has not established that domestic producers or workers accounting for more than 50 percent of the total production of the domestic like product support the petition, we must ''poll or otherwise determine industry support for the petition by the industry.''

In accordance with section 732(c)(4)(D) of the Act and in order to determine whether the petition establishes support of domestic producers or workers accounting for more than 50 percent of the total production of the domestic like product, we are hereby requesting that all domestic producer/manufacturers of certain orange juice submit to the Department a response to the questions posted on Import Administration's Web site: *http://ia.ita.doc.gov*.

Filing Requirements

Given the very short period in which we must determine industry support, the number of potential responses, and the fact that industry support may not be re–examined after initiation, we are waiving the filing requirements set forth in 19 C.F.R § 351.303 for certain parties submitting information on industry support. This waiver of the filing requirements will not apply to: 1) the submission of documents that are not in response to the information requested in this notice; or 2) parties that are familiar with the conduct of antidumping and countervailing proceedings through prior involvement in such proceedings (*e.g.*, parties represented by law firms that are involved in other AD/CVD cases).

This limited waiver is applicable only until January 26, 2005, the deadline for submitting the information requested in this notice. This waiver is intended to expedite the receipt of information that is essential to our analysis of industry support by providing information on the production of the domestic like product by petitioning and non–petitioning companies. By avoiding delays in the receipt of such information, we will have more time to analyze whether the statutory requirements concerning industry support for the above–referenced petitions have been met.

All parties submitting any information must include the following statement in their response: ''I, (name and title), currently employed by (person), certify that (1) I have read the attached submission, and (2) based on the information made available to me by (person), I have no reason to believe that this submission contains any material misrepresentation or omission of fact.'' All information received by the Department will be treated as business proprietary information as outlined in our regulations (19 CFR 351.304–306), unless otherwise noted. Please note that all company names will be treated as public information. In addition, note that all business proprietary documents received by the Department in response to this notice will be served to those individuals with access to business proprietary information under the Administrative Protective Order (APO). All public documents may be made available to those parties on the public service list. The APO service lists and the public service lists are available on Import Administration's Web site: *http://ia.ita.doc.gov*.

Information submitted to the Department in response to this notice should be faxed to the following number: 202–482–4776. Furthermore, all such information will be placed on the official record of the proceeding. Responses to this notice are due no later than January 26, 2005. Responses after this date may not be reviewed by the Department and therefore, not included in the analysis.

Extension of Time

Section 732(c)(1)(A)(ii) of the Act provides that within 20 days of the filing of an antidumping duty petition, the Department will determine, *inter alia*, whether the petition has been filed by or on behalf of the U.S. industry producing the domestic like product. Section 732(c)(1)(B) provides that the deadline for the initiation determination can be extended by 20 days in any case in which the Department must ''poll or

otherwise determine support for the petition by the industry . . . .''

We will require additional information from the petitioners and the domestic producers of certain orange juice in order to make our determination regarding industry support and/or time to analyze the petitioners' responses to our requests for information. *See* the ''Determination of Industry Support for the Petition'' section of this notice, above. Therefore, it is necessary to extend the deadline for decision on initiation for a period not to exceed 40 days from the filing of the petition. As a result, the initiation determination is due no later than February 7, 2005.

International Trade Commission (ITC) Notification

Because the Department has extended the deadline of the initiation determination, the Department will contact the ITC and will make this extension notice available to the ITC.

Dated: January 18, 2005.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 05–1355 Filed 1–24–05; 8:45 am]

BILLING CODE: 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

National Ocean Service; Final Criteria and Data Fields for an Inventory of Existing Marine Managed Areas and Response to Comments

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Department of Commerce (DOC).

ACTION: Notice of final criteria and data fields for building an Inventory of Marine Managed Areas and response to comments on draft criteria.

SUMMARY: NOAA and the Office of the Secretary, Department of the Interior (DOI), on July 23, 2003, jointly proposed criteria, definitions, and data fields that will be used in development of an Inventory of U.S. Marine Managed Areas (MMAs). The MMA Inventory will provide information that will lead to the fulfillment of requirements of Executive Order (E.O.) 13158 on Marine Protected Areas (MPAs). This action provides the final criteria and data fields that will be used to develop and complete the MMA Inventory and summarizes and responds to comments received on the notice of July 23rd. This will allow the completion of Phase I, development of the MMA Inventory, to be followed by the development of criteria for and the List of MPAs (Phase II) called for in E.O. 13158.

DATES: Effective on January 25, 2005.

FOR FURTHER INFORMATION CONTACT: Joseph A. Uravitch, Director, National Marine Protected Areas Center, NOAA, (301) 713–3100, x195.

SUPPLEMENTARY INFORMATION: Electronic Access: This Federal Register document also is accessible via the internet at the Office of the Federal Register's Web site at *http://www.access.gpo.gov/su_docs/aces/aces140.html.*

I. Background and Overview of MMA Criteria

E.O. 13158 directs DOC and DOI, in consultation with the Department of Defense, the Department of State, the United States Agency for International Development, the Department of Transportation, the Environmental Protection Agency, the National Science Foundation, and other pertinent federal agencies, to work with non-federal partners to protect significant natural and cultural resources within the marine environment of the United States, including the Great Lakes, by strengthening and expanding a scientifically-based comprehensive National System of MPAs. A key purpose of E.O. 13158 is to ''enhance the conservation of our Nation's natural and cultural marine heritage and the ecologically and economically sustainable use of the marine environment for future generations.'' A first step in developing this scientifically-based National System of MPAs is the development of an inventory of MMAs. This inventory will become the initial pool of sites from which the List of MPAs called for in section 4(d) of the E.O. 13158 will be developed.

DOC and DOI were given specific roles by E.O. 13158. DOC has delegated lead responsibility to the Under Secretary of Commerce for Oceans and Atmosphere. DOI has delegated its lead to the Assistant Secretary, Lands and Minerals Management. NOAA and DOI have stewardship responsibilities for marine resources under various federal laws, including the Magnuson-Stevens Fishery Conservation and Management Act, the Endangered Species Act, the Marine Mammal Protection Act, the Coastal Zone Management Act, the National Marine Sanctuaries Act, the Antiquities Act, the National Wildlife Refuge System Administration Act, the Outer Continental Shelf Lands Act, and the National Park Service Organic Act. These and other authorities direct DOC and DOI agencies to manage marine areas for a wide variety of objectives. Area-based management has been used for years to protect marine habitat and submerged cultural resources, rebuild and sustain fisheries, provide recreational opportunities, promote marine research, recover endangered species, and support local economies that depend on ocean resources. These areas have been managed in different ways ranging from restricting specific activities and allowing sustainable use of natural resources within an area, to the establishment of marine reserves that limit access and close the site to all uses except research.

The MMA Inventory will be used in Phase I to inform federal, state, commonwealth, territorial, local, and tribal agencies of the locations and characteristics of existing MMAs and to form a pool from which sites may later be considered for placement on the List of MPAs (Phase II). Resource managers and others can use this information to better manage these areas and determine the effectiveness of individual sites, as well as regional and national assemblages. The core purposes of the MMA Inventory are:

- Providing centralized, easily accessed information on and maps of existing federal, State, commonwealth, territorial, local, and tribal MMAs in the United States;
- Providing information and tools for environmental assessments and effectiveness monitoring (supporting independent analyses and studies of a wide variety of marine issues by governmental and non-governmental users);
- Providing important site-specific information for developing and maintaining the official nationwide List of MPAs required by section 4(d) of E.O. 13158; and
- Providing information to fulfill other requirements of E.O. 13158.

NOAA and DOI have placed a variety of protective or restrictive measures on different marine areas to achieve different management purposes. The definitions and working criteria in this notice are being used to build the MMA Inventory and may, at some future date, be used in determining which sites should be placed on the List of MPAs (Phase II). These definitions and criteria are final and incorporate public comment, as appropriate, but may be changed at some future date if required by experience gained by using the MMA Inventory and implementing E.O. 13158. The public will be informed of such changes to the criteria through the **Federal Register** and the MPA Web site, *http://www.mpa.gov.*

It is important to distinguish between the MMA Inventory and the List of MPAs. The MMA Inventory is not designed to fulfill the requirement of E.O. 13158 for a List of MPAs but is the first step toward development of that List. The List is to be established at some future date after an administrative process for listing has been established.

As a result of public comment, NOAA and DOI have decided to broaden some aspects of the inventory criteria for building the MMA Inventory.

II. Comments and Responses

A. General/Overall Comments Not Related to Specific Proposed Criteria or Data Fields

Comment 1: Six commenters expressly supported the development of the MMA Inventory.

Response 1: No response necessary.

Comment 2: One commenter recommended that NOAA and DOI proceed immediately to the MPA listing process rather than build an Inventory of MMAs, questioning the need to identify and Inventory MMAs in order to identify MPAs subject to the Executive Order.

Response 2: In addition to the requirement for NOAA and DOI to ''publish and maintain a List of MPAs that meet the definition of MPA,'' the E.O also requires that protection of MPAs be enhanced and expanded, through, *e.g.*, ''(1) science-based identification and prioritization of natural and cultural resources for additional protection; (2) integrated assessments of ecological linkages among MPAs, including ecological reserves in which consumptive uses of resources are prohibited, to provide synergistic benefits; (3) a biological assessment of the minimum area where consumptive uses would be prohibited that is necessary to preserve representative habitats in different geographic areas of the marine environment; (4) an assessment of threats and gaps in levels of protection currently afforded to natural and cultural resources, as appropriate; and (5) practical, science-based criteria and protocols for monitoring and evaluating the effectiveness of MPAs.'' The broader List of MMAs will enable the fulfillment of these requirements. Based on the universe of possibilities, those sites that best fit the specific goals of the MPA system, whose goals are in the process of being defined, will be chosen for the MPA List.

Comment 3: One commenter recommended that the Inventory be limited to areas qualifying as a ''marine protected area'' and not expand it to also include areas called ''marine managed areas.''

Response 3: See Response 2.

Comment 4: One commenter suggested that once a site is on the MMA Inventory or later on the MPA List, it should have a ''federal imprimatur'' indicating that the basis for the site's protections be scientifically reviewed before a site is put on the Inventory. The commenter also suggested that the Inventory be periodically reviewed to remove sites when no longer warranted.

Response 4: The Executive Order directs the agencies to publish and maintain a List of MPAs that meet the definition of MPA for the purposes of this order. The agencies have determined that in order to be placed on the MMA Inventory a site must meet all five criteria published in this Federal Register notice: Area, marine, reserved, lasting, and protection. In addition, cultural sites also must meet the definition of ''cultural.'' The agencies will develop similar criteria to move a site from the MMA Inventory to the MPA Inventory based on the goals of the National System of MPAs.

The federal, state, or tribal authorities that established these areas are responsible for determining whether they meet their statutory criteria, including scientific review. NOAA and DOI are authorized to review the programs and their sites to determine their applicability in supporting the goals of the national system of MPAs. NOAA and DOI intend to conduct periodic reviews of the sites on the List of MPAs. If the sites no longer meet the goals of the National System of MPAs, they will be removed from the List.

Comment 5: One commenter questioned whether the development of the MMA Inventory and MPA List is intended to facilitate the eventual federal control of each of the sites on the Inventory or List and requested clarification.

Response 5: The placing of state, territorial, commonwealth, or tribal sites will not result in federal control of these sites. Section 8(a) of the E.O. states that ''Nothing in this order shall be construed as altering existing authorities regarding the establishment of federal MPAs in areas of the marine environment subject to the jurisdiction and control of States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands of the United States, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, and Indian tribes.''

Comment 6: One commenter asserted that agency decisions should be guided by criteria in Section 4(a) of the Executive Order.

Response 6: The agencies are conducting the activities under Section 4(a) of the E.O. and will use the information gained as part of the decision-making process.

Comment 7: One commenter requested that sites that clearly meet the definition of MPA given in the Executive Order should be declared official MPAs, and suggested that the Executive Order is self-executing in this regard and does not require review or approval of criteria to declare a site an MPA. The commenter asserted that NOAA and DOI do not need to complete the entire National System of MPAs in order to implement the Executive Order and should proceed now. The commenter also suggested that this be applicable to permit applications to the Army Corps of Engineers.

Response 7: The agencies agree that the entire National System of MPAs does not need to be established in order to implement some parts of the Executive Order. With regard to the List of MPAs, the agencies are of the opinion they are proceeding in a logical fashion and, pursuant to the requirements of the Executive Order, ensuring sufficient involvement of agencies and stakeholders. Until the List of MPAs is prepared, it has no application to activities of federal agencies such as permits.

Comment 8: One commenter recommended not changing the criteria in any significant way that would require states to expend more resources in adding/modifying data that has already been submitted. This commenter would like open discussion of the proposed listing criteria during the development process.

Response 8: The changes to the criteria will not negate or require changes to any data submitted already. The changes to ''lasting'' are more inclusive and more sites may qualify. The agencies will continue to work with the States and provide support for any additional significant effort needed to address revisions to the criteria. We do not expect those to be significant. The agencies will conduct a public process to develop the criteria to establish the List of MPAs.

Comment 9: One commenter suggested reviewing the criteria before asking states to compile their inventory to ease the workload.

Response 9: See Response 8 regarding criteria change. In addition, the agencies recognize that state participation in this project is voluntary, and have provided NOAA funded data collection interns in

State offices to reduce the workload on existing state staff.

Comment 10: Three commenters expressed concern about the process and time it is taking to complete the Inventory. The commenters suggested that little has been done to implement the Executive Order and are concerned that the **Federal Register** Notice is a deferral of meaningful action—envisioning a lengthy and bureaucratic process that postpones federal action. The commenters urge immediate application of the Executive Order to all sites meeting the general MPA definition of the Executive Order, recommending clear Phase I and Phase II deadlines and moving away from cataloguing to analysis. It was also noted that the database needs to be updated or it will risk misleading the public.

Response 10: The agencies believe it is necessary to complete the cataloguing in order for analyses to have any value. The agencies are developing a plan to move from Phase I (MMA Inventory) to Phase II (MPA List) and will include the public in the process. The agencies do not believe it is feasible to move immediately to the MPA List (see Response 2). The database is being updated continuously. Regarding concerns that little has been done to implement the Executive Order, the agencies note that the Executive Order requires a number of other tasks besides the establishment of the List. Considerable progress continues to be made in such tasks as establishment and maintenance of an MPA information web site, creation and support of the Federal Advisory Committee, and strengthening of existing sites through training, technical assistance, and scientific support, among others.

Comment 11: One commenter suggested that the MMA criteria be refined and the Inventory and database corrected within the next 12 months, and that the corrected Inventory be considered the MPA List, recognizing that the List will be refined as the process advances.

Response 11: See Response 2 concerning the need for the MMA Inventory. In regard to the schedule, the agencies intend the collection of final federal site information and the collection of the majority of State, territorial, and commonwealth site information be completed by mid 2005. Collection of tribal site information will be initiated in FY2005. Actual completion of the inventory of individual federal program and State, territorial, and commonwealth sites will depend upon the time available to them and NOAA to obtain or develop the necessary information and to complete Quality Assurance/Quality Control process. Information concerning progress on these tasks can be found on *http://www.mpa.gov.*

Comment 12: One commenter recommended that next steps include a determination of how to comply with Section 5 of the Executive Order, the ''avoid harm'' clause.

Response 12: The Federal Inter-Agency MPA Working Group intends to resume discussion of the process for compliance with Section 5 in FY2005.

Comment 13: One commenter recommended that the MPA Center proceed with the development for the framework for the National System of MPAs, as required by Section 4(e) of the Executive Order.

Response 13: The agencies are conducting a public process for developing the framework. Agency and public meetings will be held on this subject in FY2005.

Comment 14: One commenter suggested that a broad ocean management plan or structure is more important, useful, and successful in addressing marine resource issues than the identification of MMAs or MPAs. The commenter noted that the MPA concept does not address the complex cross-jurisdictional issues of marine resource management or the abundant sources of specialized expertise (including local and traditional knowledge) that should be central to an effective marine resource management structure.

Response 14: NOAA and DOI recognize the value of broad ocean management planning. However, the agencies believe that MPAs can address complex cross-jurisdictional issues of marine resource management and can use abundant sources of specialized expertise, including local and traditional knowledge. While this may not be the case for all MPAs at all governmental levels, at the federal level compliance with the National Environmental Policy Act (NEPA) implicitly requires such considerations. Authorities comparable to NEPA exist in most states. The MMA Inventory and MPA List illuminate complex cross-jurisdictional issues by collecting information from all possible management authorities. Their contents are drawn from abundant and varied sources of expertise including public input and traditional knowledge.

Comment 15: One commenter encouraged the MPA Center to involve New England Fishery Management Council staff and the Council's MPA Committee on an ongoing basis during the development of MPA listing criteria.

Response 15: NOAA and DOI will conduct a broad, open process for the development of MPA listing criteria. Discussion with Regional Fishery Management Councils and other interested stakeholders will be part of this process.

Comment 16: One commenter expressed concern that NOAA and DOI will develop federally imposed management restrictions for state sites.

Response 16: Executive Order 13158 does not give the federal government the authority to develop or impose federal restrictions on state sites. Section 8(a) of the Executive Order specifically states that ''Nothing in this order shall be construed as altering existing authorities regarding the establishment of federal MPAs in areas of the marine environment subject to the jurisdiction and control of States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands of the United States, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, and Indian tribes.''

Comment 17: One commenter requested that each state determine how to apply definitions to their own State.

Response 17: NOAA and DOI recognize that there are unique circumstances in many states and are working cooperatively with each state to resolve questions about the application of criteria to areas needing extra consideration. The agencies also must ensure the maximum standardization practicable across a nation-wide inventory of federal, State, and tribal sites that will be used for analytical purposes.

Comment 18: One commenter recommended that NOAA and DOI suspend further work on developing criteria until the MPA Federal Advisory Committee can review them.

Response 18: The MPA Federal Advisory Committee members were provided an opportunity to review the draft criteria.

Comment 19: One commenter did not endorse the use of the proposed criteria to determine which sites should be placed on the List of Marine Protected Areas for Phase II.

Response 19: NOAA and DOI will use these criteria only for purposes of placing sites on the MMA Inventory. NOAA and DOI, through the National MPA Center, are conducting an extensive, open public process to define the goals of the National System of MPAs and the associated criteria necessary for a site to be placed on the List of MPAs.

Comment 20: One commenter recommended that the National MPA Center clearly articulate how the

Inventory of MMAs will be used to take the next step of creating an honest assessment of the existing MPAs in U.S. waters.

Response 20: NOAA and DOI, through the National MPA Center, are conducting an extensive, open public process to define the goals of the National System of MPAs and the associated criteria necessary for a site to be placed on the List of MPAs. All sites on the MMA Inventory will be reviewed to determine which qualify for inclusion on the MPA List and to assess whether or not they contribute to the goals of the National System of MPAs.

Comment 21: One commenter recommended that NOAA continue to work with the states on a more useable MMA database, establishing a more robust site that would build upon the information by providing numerous spatially based models for use in management decisions.

Response 21: NOAA and DOI are working with the states individually and through a state working group to maximize the utility of the MMA Inventory database, including the development of specific query functions. There are no plans presently to include spatially based models directly as part of the Inventory. However, such models might be developed in the future by others or as part of the National MPA Center's training, technical assistance, and science functions.

Comment 22: One commenter recommended that the database be as universal as possible so that non-governmental user groups could use the information contained in the database, that proprietary systems and formats be avoided, and that the GIS standard adopted be as universal as possible to allow outside users to use the GIS databases that will be developed.

Response 22: NOAA and DOI are redesigning the query capability for users to access the data on MPA.gov. This new design aims to make data access as simple as possible and widely accessible for use by agencies, non-governmental organizations, academia, students, and the general public. To that end, the use of proprietary information and systems will be minimized.

Comment 23: One commenter recommended that the agencies maintain a regularly updated database in order to provide accurate information for the public.

Response 23: The MPA Center will develop a routine maintenance process to ensure the inventory database is updated as often as is practicable. Individual site records will include the last date upon which information for that site was reviewed.

Comment 24: One commenter noted that the background and summary section of the **Federal Register** notice omits tribal treaties and associated court cases as well as Executive Orders regarding consultation and coordination with the tribes (E.O. 13175 and E.O. 130830), all of which are of concern in dealing with off-reservation issues that affect tribal treaty rights to a variety of resources with usual and accustomed fishing grounds and stations in the Pacific Northwest.

Response 24: NOAA and DOI will ensure that tribal treaties, court cases, and the two Executive Orders are taken into consideration when taking action under Executive Order 13158.

Comment 25: One commenter noted that the insertion of tribal language into the MMA Inventory and other documents on the MPA web site (mpa.gov) is both incomplete and inconsistent, noting that additional language is needed in the inventory details that refer to ownership and regulatory authority, that National MPA Center documents recognize tribal authority and regulatory responsibility, and the need for the National MPA Center to have a qualified tribal liaison on staff.

Response 25: The agencies acknowledge the need to improve information and reference to tribal authority in their documentation, including the MPA.gov web site. The hiring of a qualified, full time, contracted tribal liaison for the National MPA Center is part of the Center's annual operating plan. Some of the responsibilities of this individual will be to ensure recognition of tribal authorities and regulatory responsibilities in MPA Center documents, to develop a tribal information section of the MPA.gov web site, and to work with the tribes on the development of information about tribal sites for the MMA Inventory.

Comment 26: One commenter noted that federal laws require recognition of tribal treaty rights that secure the taking of marine resources for commercial, subsistence, and ceremonial use and that areas within tribal usual and accustomed fishing grounds and stations are co-managed by tribes' negotiation with relevant State or federal co-managers through a government-to-government basis.

Response 26: NOAA and DOI recognize tribal co-management authorities and the government-to-government relationship.

Comment 27: One commenter stated that the inventory framework lacks the science-based characteristics that E.O. 13158 calls for (*i.e.*, ''develop a scientifically based, comprehensive National System of MPAs''), and that inventorying and monitoring must be in place before any new MPA is created. The inventory process cannot be considered complete until the database comprehensively describes the site in detail sufficient to design monitoring programs.

Response 27: Pertinent site information being collected for the MMA Inventory includes: Site Description (brief description of site including general features and most prominent, noteworthy, and unique features); Additional Location/Size Information (approximate shoreline length, overlap with other protected areas, connectivity with other protected areas); Marine Components (oceans, bays, estuaries, intertidal areas, Great Lakes, submerged lands, and/or other); Natural Features (biological and geological features); and Cultural Features (archaeological remains, historic shipwrecks, subsistence uses); and Effectiveness (measures used to determine management effectiveness). This information is being collected to describe and help understand existing sites, not designate new sites. Regarding the issue of monitoring programs being established prior to the designation of new MPAs, NOAA and DOI cannot take action on this recommendation, as E.O. 13158 does not give NOAA or DOI the authority to designate new MPAs, nor to affect the federal, State, or tribal authorities used to designate and manage MPAs.

Comment 28: One commenter requested that the MPA Center certify that management plans for the sites are scientifically based and comply with requirements for a ''Natural Resource Plan.''

Response 28: Certifying site management plans is beyond the scope of the MMA Inventory; the Inventory is not in place to evaluate or review site management plans. It is up to the individual sites and managing agencies to evaluate management plans. Further, the National MPA Center does not have the authority under E.O. 13158 to certify the plans of authorized programs.

Comment 29: One commenter suggested including certification for each site showing that the data collected meets NOAA, DOC and DOI Information Quality Guidelines, including a contact person and process for requesting corrections to information.

Response 29: NOAA and DOI will incorporate a statement about this information in the Inventory section of the MPA.gov web site. A contact is

provided on MPA.gov and a process in place to request corrections from the appropriate contact at the agency or program responsible for that data.

Comment 30: One commenter suggested that sites with incomplete information be included in the Inventory and updated as information becomes available.

Response 30: This already is NOAA and DOI policy.

Comment 31: One commenter suggested developing GIS boundary files for sites rather than just centroid points.

Response 31: The NOAA and DOI Inventory Team is actively engaged in obtaining or developing GIS boundary files where the data is available. Centroid points will be used in lieu of GIS boundary files until such files are available.

B. Comments on Proposed Criteria

Comment 1: Two commenters concurred with all of the criteria, definitions, and data fields.

Response 1: No response necessary.

1. Comments on Proposed Criterion ''Area''

Comment A: One commenter recommended that a lower limit on the size of an area be added to the criterion.

Response A: NOAA and DOI recognize the value that MMAs may provide to natural or cultural resources regardless of size, for example, areas that protect shipwrecks, and therefore the MMA Inventory does not impose a lower limit on the areas of an MMA.

Comment B: One commenter questioned whether a site must have legally defined geographic boundaries.

Response B: NOAA and DOI require legal boundaries for MMAs to help fulfill the ''reserved'' criterion that an area be established by and currently subject to federal, State, commonwealth, territorial, local or tribal law or regulation. MMA/MPA management activities, such as enforcement, cannot be conducted if the MMA has no legally defined boundary.

Comment C: One commenter requested clarification of the term ''legally defined'' (*i.e.*, is a map legal?).

Response C: NOAA and DOI consider boundaries to be legally defined as they are described by a federal, State, commonwealth, territorial, local or tribal law or regulation. A map would be ''legal'' if it is deemed so under federal, state or tribal authority.

Comment D: One commenter suggested the need for criteria for defining the ''significance of resources'' as written in section 1 of E.O. 13158.

Response D: NOAA and DOI acknowledge that as a part of the overall purpose of E.O. 13158, section 1 identifies the need to ''protect the significant natural and cultural resources within the marine environment.'' However, the definition of MPA listed in E.O. 13158, from which the MMA criteria were selected for consistency and are herein defined, does not include criteria for ''significance of resource.'' NOAA and DOI will seek and consider public input on the issue of ''significance of resource'' through the process to develop the framework for the National System of MPAs pursuant to section 4(e) of E.O. 13158.

Comment E: Several commenters requested clarification of the language to include dynamic area management approaches/sites.

Response E: NOAA and DOI recognize that Dynamic Area Management and other areas with shifting boundaries can provide valuable protections to the marine environment. However, because these areas do not appear in the same place year after year they do not meet the definition of an MMA/MPA and are not considered MMAs for the purposes of this Executive Order.

Comment F: One commenter suggested modifying the criteria by adding the language ''underlying submerged or intertidal lands'' to the definition.

Response F: The definition of ''Marine'' addresses this comment.

2. Comment on Proposed Criterion ''Marine''

Comment A: Two commenters deem this criterion adequate for the MMA Inventory.

Response A: No response necessary.

Comment B: Several commenters cited unique or unusual circumstances (*e.g.*, species dependent on extreme high tide events, ancient volcanic connections to the sea, or extreme variations in salinity gradients) and recommended that the agencies work with individual States to determine the application of ''marine'' (including estuarine) along their shorelines.

Response B: The agencies recognize that unique or unusual hydrologic and geologic conditions may exist and the agencies will work with individual States on a case-by-case basis to determine the applicability of the marine criterion to these areas.

Comment C: One commenter noted that the definition is inclusive of federal regulations, but also must recognize tribal jurisdiction authority. Tribal land and associated jurisdiction authority extends to the mean low water level.

Response C: The agencies recognize authority and jurisdiction of the individual tribes and will work with them to ensure that accurate information is included in the MMA Inventory.

Comment D: One commenter supported the definition of ''marine'' in the proposal, but suggested that maps explicitly note that upland areas in sites which contain both marine and upland components are not ''MMAs'' and that the freshwater habitat of anadromous species be excluded from the definition of ''estuary.''

Response D: Although uplands are not considered part of MMAs, these areas were included on the maps if submitted as part of the source boundary, to maintain data integrity. Eventually, sites can be viewed along with shoreline data to show the marine and terrestrial components. MMA site map boundaries are created with the most recent and accurate boundary information available, but edges and/or borders of boundaries may change due to natural land changes, site boundary modification or higher resolution maps. Therefore, the currency or accuracy of these boundaries, including the precise exclusion of uplands, cannot be guaranteed. The agencies will work with an individual State, commonwealth or territory, on a case-by-case basis, to determine the applicability of the criterion to estuarine areas.

3. Comment on Proposed Criterion ''Reserved''

Comment A: Four commenters deem this criterion adequate for the MMA Inventory.

Response A: No response necessary.

4. Comment on Proposed Criterion ''Lasting''

Comment A: Three commenters questioned how the three month threshold was chosen, suggesting that significant restrictions for shorter periods could provide protection.

Response A: NOAA and DOI agree shorter periods may provide significant protection for some sites; however, the agencies maintain that the potential for permanence is important. Therefore, in response to comments this criterion has been modified to allow inclusion of any site providing the same protection of any duration within a year, at the same location on the same dates each year, for at least two consecutive years. In addition, to accommodate the variety of authorities that govern MMA permanence, this criterion has been further modified to allow the inclusion of sites established with the expectation of, history of, or at least the potential for, permanence. Overall, this will increase the number of sites that may be

placed on the MMA Inventory and considered for the National System and List of MPAs. Sites that exist for a single year, or whose protections vary temporally or spatially on a year-to-year basis, would not be included under the modified criterion.

Comment B: Two commenters suggested modification of the definition so that ''lasting'' is permanent and all year, without a plan to terminate unless a clear alternative is identified, and questioned the reasoning behind the three-month threshold.

Response B: NOAA and DOI disagree that the MMA Inventory should be restricted only to sites with permanent, year-round protection. Since the Inventory sites are intended to be the candidates from which the MPA List will be derived, such a restriction would greatly limit the candidate pool, and not reflect the wide-ranging nature of protective mechanisms used in the marine environment. It also limits the information that will be available for analyses pertaining to defining a National System of MPAs. The agencies do agree; however, that the potential for year-to-year permanence is important. To accommodate the variety of authorities that govern the permanence of MMAs, this criterion has been further modified to allow the inclusion of sites established with the expectation of, history of, or at least the potential for permanence.

Comment C: One commenter requested clarification of the difference between year after year protection and annual management specification, and questioned whether excluding the latter would mean certain fishery closures or areas where activities are restricted due to the presence of endangered species would not be placed on the MMA Inventory.

Response C: Annual management specifications are a type of fishery management technique that, because of the life cycle of the managed species or stock, typically change temporally, spatially or in level or method of protection from year to year; and have little or no potential for permanence. To address this and other comments, the ''Lasting'' criterion has been modified to allow inclusion of any site providing the same protection of any duration within a year, at the same location on the same dates each year, for at least two consecutive years. To accommodate the variety of authorities that govern the permanence of MMAs, this criterion has been further modified to allow the inclusion of sites established with the expectation of, history of, or at least the potential for permanence. Placement of a particular site on the MMA Inventory based on the purpose of its restrictions, such as fishery conservation or endangered species recovery, is determined under the ''Protection'' criterion.

Comment D: One commenter requested that the definition be made more specific as to the inclusion or exclusion of sites established through general fishing regulations. The definition should also highlight the distinction between year-after-year specifications and annual management specifications.

Response D: The ''Lasting'' criterion is not intended to be used in isolation for placing a site on the MMA Inventory. To focus solely on the temporal characteristics of a particular site, this criterion has been modified to allow inclusion of any site providing the same protection of any duration within a year, at the same location on the same dates each year, for at least two consecutive years. To accommodate the variety of authorities that govern the permanence of MMAs, this criterion has been further modified to allow the inclusion of sites established with the expectation of, history of, or at least the potential for permanence. The distinction between different types of sites based on the purpose for which protections are put in place is a determination made under the ''Protection'' criterion.

Comment E: One commenter requested clarification of the definition to reflect that year-after-year protection does not mean that the boundaries stay the same.

Response E: We recognize that management of marine resources needs to consider that many species are not tied to a single area for all stages of their life cycle and may require measures that change on a frequent basis. A network of MPAs may be an effective tool to conserve such species as they move to different locations seasonally or during their lifecycle. However, when such species are linked to changing locations, there is no ''permanence'' to a managed area. Hence, such sites are not considered MMAs for the purposes of this Inventory. This criterion has been modified to allow inclusion of any site providing the same protection of any duration for the same period of time on a multi-year basis. But such protections must be at the same location and established with the expectation of, history of, or at least the potential for permanence.

Comment F: One commenter suggested changing the definition to ''must provide year-after-year protection or protection for at least three months of each year.''

Response F: In response to comments this criterion has been modified to allow inclusion of any site providing the same protection of any duration within a year, at the same location on the same dates each year, for at least two consecutive years. In addition, to accommodate the variety of authorities that govern the permanence of MMAs, this criterion has been further modified to allow the inclusion of sites established with the expectation of, history of, or at least the potential for permanence. This will increase the number of sites that may be placed on the MMA Inventory and considered for the List of MPAs. Sites that exist for a single year, or whose protections vary temporally or spatially on a year-to-year basis, would not be included under the modified criterion.

Comment G: One commenter expressed concern that an annual three-month closure for single species provides little protection for other species or habitats in that area.

Response G: Depending on the nature of the threat, a year-round closure may not be necessary to provide protection for a particular site or species. On the other hand, narrowly focused restrictions may not offer sufficient protection from all activities that may adversely affect the natural or cultural resources in a specific area. For the purposes of the MMA Inventory, however, NOAA and DOI consider that the extent of protection provided beyond the specific rationale for establishing the MMA should not be a determining factor. While additional species or broader habitat-wide protection may be desirable criteria for the List of MPAs, this criterion has been modified to allow inclusion of any site providing the same protection of any duration within a year, at the same location on the same dates each year, for at least two consecutive years, in order to include a larger pool of sites in the MMA Inventory. The agencies further maintain that the potential for year-to-year MMA permanence is important. To accommodate the variety of authorities that govern MMA permanence this criterion has been further modified to provide for the inclusion of sites established with the expectation of, history of, or at least the potential for permanence.

Comment H: Two commenters requested that the definition be loosened to include sites with protections of less than three months to include more sites in the Inventory. One of these commenters also suggested that sites with only annual restrictions be included in the database.

Response H: In response to comments this criterion has been modified to allow

inclusion of any site providing the same protection of any duration within a year, at the same location on the same dates each year, for at least two consecutive years. The agencies maintain that the potential for year-to-year MMA permanence is important. To accommodate the variety of authorities that govern MMA permanence this criterion has been further modified to provide for the inclusion of sites established with the expectation of, history of, or at least the potential for permanence. Sites that exist for a single year, or whose protections vary temporally or spatially on a year-to-year basis would not be included under the modified criterion. See also *Response E* above.

Comment I: Three commenters questioned the exclusion of areas protected only by emergency fishery regulations under the Magnuson-Stevens Fishery Conservation and Management Act or other authorities, which may begin as temporary measures, but are then followed by permanent designations; two of these commenters also stated that the ''year-after-year protection'' requirement could be problematic depending on how the term ''protection'' is treated.

Response I: NOAA and DOI believe that the ''Lasting'' criterion, as modified, will address situations in which a site has been established under emergency rule, or other authority, for less than two consecutive years and is subsequently amended to a longer term or made permanent. The term ''protection'' is treated under the ''Protection'' criterion.

Comment J: One commenter noted that fish conservation areas are regularly identified and maintained through annual management processes, and that such areas must be included within the ''Lasting'' definition. The example currently provided under the proposed definition would exclude a local fish conservation area that has existed for more than a decade.

Response J: The MMA Inventory definition of ''Lasting'' has been modified to allow inclusion of any site providing the same protection of any duration within a year, at the same location on the same dates each year, for at least two consecutive years. The agencies maintain that the potential for permanence is important; however, and to accommodate the variety of authorities that govern MMA permanence, this criterion has been further modified to allow the inclusion of sites established with the expectation of, history of, or at least the potential for permanence. NOAA and DOI believe that these changes will address situations in which a site has been established for a single year and is renewed in subsequent years. Sites whose protections vary temporally or spatially on a year-to-year basis, or whose protections have expired, would not be included on the MMA Inventory.

Comment K: One commenter recommended the ''Lasting'' definition include language requiring a cooperative management process between the tribes and other marine resource managers.

Response K: NOAA and DOI disagree. The ''Lasting'' definition is intended to focus solely on the temporal characteristics of a particular site. Requiring a cooperative management process between any marine resource management entities is not appropriate under this definition. In addition, such a requirement is beyond the scope of the MPA Executive Order and not warranted under the other definitions proposed for MMA Inventory criteria. Information on MMA management, including level of government and management organizations, is captured in several of the data fields proposed for the MMA Inventory.

5. Comment on Proposed Criterion ''Protection''

Comment A: One commenter deems this criterion adequate for the MMA Inventory.

Response A: No response necessary.

Comment B: One commenter supported relaxing the criterion to include areas with restrictions on single species.

Response B: Single-species sites can be placed on the MMA Inventory under the proposed criteria.

Comment C: One commenter requested clarification on why areas closed to avoid fishing gear conflicts and those subject to area-based regulations that are established only to facilitate enforcement or to limit fisheries by quota management are excluded from the ''protection'' definition.

Response C: The MMA Inventory is intended to serve as the pool of candidate sites for development of the List of MPAs called for under the Executive Order. As such, the criterion is designed to identify only those sites established with a primary purpose of long-term conservation to meet the intent of the Order. While areas closed to avoid gear conflicts, facilitate enforcement or for other purposes may also contribute to long-term conservation, this is not their primary purpose. NOAA and DOI acknowledge that such sites of high ecological value may provide some conservation benefits; however, NOAA and DOI will not include these sites as ''MMAs''.

Comment D: One commenter expressed concern regarding the omission of certain area-based management measures under the proposed criterion and suggested the addition of an appendix listing area-based closures/management measures, and including a statistic, such as the percent of the EEZ under protection with such measures. The commenter states that without this, it gives a distorted picture of the extent of marine resource protections.

Response D: NOAA and DOI agree that the criterion, as proposed, may not capture all area-based management efforts in the marine environment. To make the MMA Inventory better reflect the broad range of protective restrictions used to manage marine resources and provide a broader pool of sites from which the List of MPAs will ultimately be drawn, the definition of ''lasting'' has been modified. However, even with this change some sites still may not be included in the MMA Inventory. NOAA and DOI believe that the MMA Inventory must differentiate between sites established for conservation and sites established for other, possibly conflicting purposes. As the MMA Inventory is intended to provide the pool of candidate sites for the List of MPAs, including every area-based management action for every governmental entity with authority over activities in the marine environment would result in an excessively broad and potentially misleading collection of sites. The purpose of the proposed MMA criteria is to narrow the multitude of sites to those with potential for inclusion on the List of MPAs. An appendix is not practicable within the current MMA database structure. Because of the varying degrees of protection and considerable spatial overlap amongst the types of MMAs, statistics may not effectively describe levels of protection and may be misinterpreted. NOAA and DOI are performing a parallel effort of resource characterization and statistical information may be captured by this activity.

Comment E: One commenter requested that protections offered at each site be explicitly stated.

Response E: The MMA Inventory is not designed to replace official agency sources for site-specific information. The MMA database includes fields for each site that reference the statutory and regulatory provisions that provide protection for its natural or cultural resources, as well as briefly summarize the area's primary restrictions. Readers

desiring the precise regulations for a particular site are directed to the appropriate source (*e.g.*, Code of Federal Regulations, state fish and game code, etc.). Every effort will be made to keep the information in the MMA database as current as possible.

Comment F: One commenter remarked that distinguishing those areas that provide increased protection beyond any general protections that apply outside the site is problematic and subjective and recommended that individual States determine how to apply this term within their jurisdiction.

Response F: The provision is intended to recognize that a number of spatially wide-ranging provisions have been put in place to protect marine resources and differentiate them from the more focused protections envisioned for the MMA Inventory. For example, discharge of certain substances is prohibited throughout the entire U.S. EEZ (*e.g.*, discharge of plastics) or the use of certain types of fishing gear is prohibited over very expansive ocean areas (*e.g.*, prohibition of fish traps in the South Atlantic EEZ). This provision supports the ''Area'' criterion's exclusion of broad-based resources management authorities. NOAA and DOI recognize that there are unique circumstances in many states and are working cooperatively with each state to resolve questions about the application of the MMA criteria to areas needing extra consideration. The agencies also must ensure the maximum standardization practicable across a nation-wide inventory of federal, State, and tribal sites that will be used for analytical purposes.

Comment G: One commenter requested that areas closed to prevent fishing gear conflicts, established only to limit fisheries through quota management, or intended to facilitate enforcement be included in the initial MMA Inventory, as these areas have valuable conservation benefits.

Response G: See Response C.

Comment H: One commenter supported the inclusion of protecting subsistence uses in the marine environment and the protection of access by tribes for cultural, ceremonial and harvest activities.

Response H: The ''Protection'' definition is intended to reflect the MPA Executive Order's emphasis on the long-term conservation of natural and cultural resources within the marine environment. The agencies believe that only restricting access to these resources to specific groups or individuals, without additional provisions to protect the natural or cultural resources of a particular site, is not sufficient to meet the ''Protection'' criterion.

6. Comment on Proposed Definition of ''Cultural''

Comment A: Two commenters support this definition, while encouraging the acknowledgment of subsistence uses as manageable and legitimate uses of marine resources.

Response A: NOAA and DOI recognize the cultural value and importance of subsistence uses and they will be addressed thoroughly and appropriately along with other activities in and uses of the marine environment. After further consideration of comments and input from all sources, NOAA and DOI have determined that subsistence use will not be included under the definition of cultural resource. The primary purpose of MMAs is to protect and conserve tangible physical resources, sites, and objects, such as individual species, communities of marine life, shipwrecks, and archaeological sites and such sites must meet all five criteria (area, marine, reserved, lasting and protection). The inclusion of subsistence use as a cultural resource is inconsistent with this approach because it is a human activity rather than a physical or tangible asset. Subsistence use of the marine environment is a very important aspect to consider and as such NOAA and DOI believe it will receive the most effective treatment under Section 4(a)(6) of the Executive Order where conflicts between user groups are addressed. This offers the best option to address opportunities for subsistence use in the competition among recreational, commercial, industrial and traditional uses for access to the same resources or areas.

Comment B: One commenter supports the application of the cultural resources term to physical sites or objects as well as to subsistence activities in, or uses of, the marine environment.

Response B: See Response A.

Comment C: One commenter recommended limiting inclusion to historical or cultural sites of ''national significance'' in line with the Historic Sites Act of 1935.

Response C: NOAA and DOI have determined that the MMA Inventory should be inclusive, containing all submerged historical or cultural sites presently protected by area-based management in order to support future analyses related to establishment of the National System of MPAs. The agencies will consider the Historic Sites Act of 1935 when developing criteria for the inclusion of sites on the List of MPAs.

Comment D: One commenter suggested creating a method for determining which shipwrecks would be considered a ''cultural resource'' and therefore included in the Inventory (to be consistent with other criteria that have limitations).

Response D: NOAA and DOI have determined that the MMA Inventory should be inclusive, containing all submerged historical or cultural sites presently protected by area-based management in order to support future analyses related to establishment of the National System of MPAs. Subsequent criteria to determine the types of ''cultural resources'' to be included in the National System of MPAs will be developed in later phases of this process.

Comment E: One commenter suggested that the proposed definition is viewed as recognizing the subsistence use for maintaining the culture of the Inuit.

Response E: See Response A.

Comment F: One commenter recommended that the definition be modified to state: ''Areas of traditional subsistence use in the marine environment, and areas that contain submerged historical sites, including archaeological sites, historic structures, shipwrecks and artifacts.''

Response F: See Response A.

Comment G: One commenter requested the removal of ''subsistence use'' from the definition, stating that it is not a resource but an activity and inconsistent with the Executive Order.

Response G: NOAA and DOI agree with this recommendation regarding subsistence as a use. See Response A. As indicated, the agencies have determined that subsistence use is addressed in another part of the Executive Order.

Comment H: Two commenters recommended that ''subsistence use'' be further defined to only include areas in which subsistence uses are practiced using traditional and customary gear and methods that have been also determined to be long-term sustainable fisheries.

Response H: See Response A.

Comment I: One commenter requested clarification of how the definition applies to areas with enforceable policies that protect subsistence use but do not have specific boundaries.

Response I: Sites that do not have specific boundaries do not meet the ''area'' criterion of the MMA definition. See also Response A.

Comment J: One commenter encouraged the recognition of subsistence activities as legitimate and manageable uses of marine resources.

Response J: See Response A.

7. Comments on proposed MMA Inventory Data Fields

Comment A: One commenter deems these data fields adequate for the MMA Inventory.

Response A: No response necessary.

Comment B: One commenter suggested that fields be pre-defined when possible and available as drop downs to minimize data entry and standardize responses.

Response B: NOAA and DOI note that this is already the case and will continue to be so for data entry, editing and query.

Comment C: One commenter suggested including a pick list and a free text form for the Purpose of Protections field.

Response C: NOAA and DOI note that the database currently has a text form for this field and an extensive section for categorically listing resources and how they are protected.

Comment D: One commenter suggested identifying dates including when the information was compiled, and when MPA Center staff last reviewed the information.

Response D: NOAA and DOI will include the date that the program contact, known as the data owner, gives approval for the data submitted. The data submitted are reviewed by the NOAA/DOI Inventory Team prior to final approval from the program. MPA.gov will include the date of most recent updates from the data owners.

Comment E: Two commenters raised concerns about data analysis and preventing misinterpretation or skewed interpretation of the data.

Response E: NOAA and DOI are taking precautions to represent the data as accurately as possible and will include disclaimers where appropriate.

Comment F: Several commenters suggested adding data field categories including location, natural features, site programs and plans, primary restrictions, enforcement, type and intensity of human uses, habitat type, substrate type, boating activities, and fishing activities.

Response F: NOAA and DOI note that the data questionnaire already includes all of these fields.

Comment G: One commenter suggested including a field for nearest counties or boroughs.

Response G: NOAA and DOI have determined that this information is not currently necessary for the purposes of the MMA Inventory. However, each state is welcome to use the information from the Inventory in combination with its county or borough system for individual analysis.

Comment H: One commenter suggested adding ocean currents, upwellings, and freshwater inputs as data field categories for the Inventory.

Response H: The Inventory currently includes a text field for natural features where this information may be entered; however, adding a specific field for entry of this kind of data is currently beyond the scope of the MMA Inventory. Such information may be collected as part of the National Marine Protected Area Center's regional resource characterization work, another task associated with the design of the framework for a National System of MPAs.

Comment I: One commenter suggested that natural features be used as ''site boundaries''.

Response I: The answer section for this question is currently a text field. Specific natural features can be entered into this box as site boundaries if needed.

Comment J: One commenter suggested that the enforcement field clarify that information on community programs that assist formal state or federal efforts is useful.

Response J: NOAA and DOI acknowledge that this data is not specifically requested, but also note that this is a text field in which descriptive information can be included if needed.

Comment K: One commenter suggested that ''Purpose of Protections'' be changed to ''Purpose of the MMA'' and that request information be modified accordingly to include a broad and comprehensive List of MMAs, many of which may have multiple purposes for being established.

Response K: NOAA and DOI will retain the data field title of Purpose of Protections and note that the Inventory contains information on sites whose primary purpose is protection of natural or cultural resources. The database includes a broad range of information and therefore covers a broad and comprehensive List of MMAs.

Comment L: One commenter suggested that ''Primary Restrictions'' be changed to ''Management Program'' and that information presented should identify major components of the management measures in place in the MMA, to provide a more comprehensive picture of what MMAs are set up to do.

Response L: NOAA and DOI note that a separate data field provides information on the programs, activities, capacities, and measures that are currently being used to manage a site. Therefore NOAA and DOI will retain the data field title of Primary Restrictions.

Comment M: Two commenters asked about the ''effectiveness'' data field regarding the identification of the date the site last evaluated effectiveness and how this information would be used to determine if the site were effective.

Response M: NOAA and DOI note that the effectiveness data field does not ask ''how effective is the site?'' but rather if the site has effectiveness measures in place.

Comment N: One commenter suggested interactive GIS tools and greater flexibility and functionality in the Query the Inventory section of MPA.gov to include easier searching across categories and within categories.

Response N: NOAA and DOI are currently planning a major overhaul of the Query the Inventory section encompassing these and other new improvements (interactive mapping, pdf on the fly, and direct download of data sets and shape files).

C. Changes to the Proposed Criteria

Area: This criterion remains the same as the text is written in the original **Federal Register** Notice (FRN).

Marine: This criterion remains the same as the text is written in the original FRN.

Reserved: This criterion remains the same as the text is written in the original FRN.

Lasting: In response to comments this criterion has been modified to allow inclusion of any site providing the same protection of any duration for the same period of time at the same location for a minimum of two consecutive years. This criterion has been further modified to allow the inclusion of sites established with the expectation of, history of, or at least the potential for permanence. This will increase the number of sites that may be placed on the MMA Inventory and considered for the National System and List of MPAs. Sites that exist for a single year, or whose protections vary temporally or spatially on a year-to-year basis, would not be included under the modified criterion.

Protection: This criterion remains the same as the text is written in the original FRN except additional clarification and examples are given regarding its application.

Cultural: In response to comments this criterion has been modified to delete subsistence from the definition of cultural resource. The primary purpose of MMAs is to protect and conserve tangible physical resources, sites and objects, such as individual species, communities of marine life, shipwrecks,

and archaeological resources. The inclusion of subsistence use as a cultural resource is inconsistent with this approach because it is a human activity rather than a physical or tangible asset. Subsistence use of the marine environment is a very important aspect to consider. However, NOAA and DOI believe it will receive the most effective treatment under Section 4(a)(6) of the Executive Order where conflicts between user groups are addressed. This offers the best option to address opportunities for subsistence use in the competition among recreational, commercial, industrial and traditional uses for access to the same resources or areas.

D. Final MMA Inventory Criteria and Data Fields

Area: Must have legally defined geographical boundaries, and may be of any size, except that the site must be a subset of the U.S. federal, State, commonwealth, territorial, local or tribal marine environment in which it is located. Application of this criterion would exclude, for example, generic broad-based resource management authorities without specific locations and areas whose boundaries change over time based on species presence.

Marine: Must be: (a) ocean or coastal waters (note: Coastal waters may include intertidal areas, bays or estuaries); (b) an area of the Great Lakes or their connecting waters; (c) an area of lands under ocean or coastal waters or the Great Lakes or their connecting waters; or (d) a combination of the above. The term ''intertidal'' is understood to mean the shore zone between the mean low water and mean high water marks. An MMA may be a marine component part of a larger site that includes uplands. However, the terrestrial portion is not considered an MMA. For mapping purposes, an MMA may show an associated terrestrial protected area.

NOAA and DOI intend to use the following definition for the term ''estuary'': ''Part of a river or stream or other body of water having unimpaired connection with the open sea, where the sea water is measurably diluted with fresh water derived from land drainage, and extending upstream to where ocean-derived salts measure less than 0.5 parts per thousand during the period of average annual low flow.'' Application of this criterion would exclude, for example, strictly freshwater sites outside the Great Lakes region that contain marine species at certain seasons or life history stages unless that site is a component of a larger, multi-unit MMA. However, upon request the agencies will work with individual states, commonwealths and territories to examine unique conditions which may affect applicability of the term ''estuary''. Estuarine-like sites on tributaries of the Great Lakes will be considered for inclusion if they are located within the eight-digit U.S. Geological Survey cataloging unit adjacent to a Great Lake or its connecting waters.

Reserved: Must be established by and currently subject to federal, state, commonwealth, territorial, local or tribal law or regulation. Application of this criterion would exclude, for example, privately created or maintained marine sites.

Lasting: Must provide the same protection, for any duration within a year, at the same location on the same dates each year, for at least two consecutive years.

Must be established with an expectation of, history of, or at least the potential for permanence.

Application of this criterion would exclude, for example: Areas subject only to temporary protections, such as areas protected only by emergency fishery regulations under the Magnuson-Stevens Act, which expire after 180 days.

Protection: To be included in the MMA Inventory, the site:

Must have existing laws or regulations that are designed and applied to afford the site with increased protection for part or all of the natural and submerged cultural resources therein for the purpose of maintaining or enhancing the long-term conservation of these resources, beyond any general protections that apply outside the site.

Application of this criterion would exclude restricted areas that are established for purposes other than conservation. For example, the term would not include areas closed for navigational safety, areas closed to safeguard modern man-made structures (*e.g.,* submarine cable no-anchor zones), polluted shellfish-bed closure areas, areas closed to avoid fishing gear conflicts, and areas subject to area-based regulations that are established solely to limit fisheries by quota management or to facilitate enforcement.

Cultural: In addition, the Executive Order uses the term cultural resources. NOAA and DOI interpret this to mean any submerged historical or submerged cultural feature, including archaeological sites, historic structures, shipwrecks, and artifacts in the marine environment.

Taken together, these six definitions and criteria provide the basis for selecting sites to be included in the MMA Inventory.

MMA Inventory Data Fields

The MMA Inventory database consists of 35 main fields divided into 5 main topic sections. These inventory fields are used to gather site-specific information including (but not limited to) site description, legal authorities, management tools, habitat information, species information, location, and size. Please refer to MPA.gov ''inventory database description'' web page at *http://www.mpa.gov/inventory/database_description.html* for full list and explanation of the data fields.

Dated: December 29, 2004.

Conrad C. Lautenbacher, Jr.,

Under Secretary of Commerce for Oceans and Atmosphere.

[FR Doc. 05–1262 Filed 1–24–05; 8:45 am]

BILLING CODE 3510–08–P

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Request for Public Comments on a Commercial Availability Request under the Caribbean Basin Trade Partnership Act (CBTPA)

January 19, 2005.

AGENCY: The Committee for the Implementation of Textile Agreements (CITA)

ACTION: Request for public comments concerning a request for a determination that certain yarns, for use in chief-weight cotton sweaters, cannot be supplied by the domestic industry in commercial quantities in a timely manner under the CBTPA

SUMMARY: On January 14, 2005 the Chairman of CITA received a petition from Sandler, Travis & Rosenberg, P.A., on behalf of Outlast Technology, Inc. of Boulder, CO and Bernette Textile Co, LLC of New York, NY, alleging that certain colored open end spun yarns ranging in size from 6/1 to 18/1 English count (10.16/1 to 30.47/1 metric) of a blend of reclaimed and reprocessed cotton and not less than 35 percent nor more than 49 percent by weight of Outlast licensed phase change acrylic staple fibers produced under license from Outlast, for use in chief weight cotton sweaters, cannot be supplied by the domestic industry in commercial quantities in a timely manner. It requests that such apparel made from such yarn be eligible for preferential treatment under the CBTPA. This is a refiling of a previous petition regarding the subject yarn. CITA hereby solicits

public comments on this request, in particular with regard to whether such yarn can be supplied by the domestic industry in commercial quantities in a timely manner. Comments must be submitted by February 9, 2005 to the Chairman, Committee for the Implementation of Textile Agreements, Room 3001, United States Department of Commerce, 14th and Constitution Avenue, N.W. Washington, D.C. 20230.

FOR FURTHER INFORMATION CONTACT: Shikha Bhatnagar, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482-3821.

SUPPLEMENTARY INFORMATION:

Authority: Section 213(b)(2)(A)(v)(II) of the Caribbean Basin Economic Recovery Act, as added by Section 211(a) of the CBTPA; Section 6 of Executive Order No. 13191 of January 17, 2001.

BACKGROUND:

The CBTPA provides for quota- and duty-free treatment for qualifying textile and apparel products. Such treatment is generally limited to products manufactured from yarns and fabrics formed in the United States or a beneficiary country. The CBTPA also provides for quota- and duty-free treatment for apparel articles that are both cut (or knit-to-shape) and sewn or otherwise assembled in one or more CBTPA beneficiary countries from fabric or yarn that is not formed in the United States or a beneficiary country, if it has been determined that such fabric or yarn cannot be supplied by the domestic industry in commercial quantities in a timely manner. In Executive Order No. 13191, the President delegated to CITA the authority to determine whether yarns or fabrics cannot be supplied by the domestic industry in commercial quantities in a timely manner under the CBTPA and directed CITA to establish procedures to ensure appropriate public participation in any such determination. On March 6, 2001, CITA published procedures that it will follow in considering requests. (66 FR 13502).

On January 14, 2004, the Chairman of CITA received a petition from Sandler, Travis & Rosenberg, P.A., on behalf of Outlast Technology, Inc. of Boulder, CO and Bernette Textile Co, LLC of New York, NY, alleging that certain colored open end spun yarns ranging in size from 6/1 to 18/1 English count (10.16/1 to 30.47/1 metric) of a blend of reclaimed and reprocessed cotton and not less than 35 percent nor more than 49 percent by weight of Outlast licensed phase change acrylic staple fiber produced under license from Outlast, for use in chief weight cotton sweaters, cannot be supplied by the domestic industry in commercial quantities in a timely manner requesting quota- and duty-free treatment under the CBTPA for apparel articles that are cut and sewn in one or more CBTPA beneficiary countries from such yarns. The petition contained the following yarn specifications.

Yarn Specifications:

HTS Sub-headings:	5206.11.00.00, 5206.12.00.00
Description:	Open end spun yarn
Size:	10 to 31 metric count
Fiber Content:	In chief weight of cotton reclaimed from fabric scraps mixed with not less than 35% nor more than 49% producer-dyed acrylic staple produced under license from Outlast Technologies, Inc.

CITA is soliciting public comments regarding this request, particularly with respect to whether this yarn can be supplied by the domestic industry in commercial quantities in a timely manner. Also relevant is whether other yarns that are supplied by the domestic industry in commercial quantities in a timely manner are substitutable for these yarns for purposes of the intended use. Comments must be received no later than February 9, 2005. Interested persons are invited to submit six copies of such comments or information to the Chairman, Committee for the Implementation of Textile Agreements, room 3100, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, DC 20230.

If a comment alleges that this yarn can be supplied by the domestic industry in commercial quantities in a timely manner, CITA will closely review any supporting documentation, such as a signed statement by a manufacturer of the yarns stating that it produces the yarns that are the subject of the request, including the quantities that can be supplied and the time necessary to fill an order, as well as any relevant information regarding past production.

CITA will protect any business confidential information that is marked business confidential from disclosure to the full extent permitted by law. CITA will make available to the public non-confidential versions of the request and non-confidential versions of any public comments received with respect to a request in room 3100 in the Herbert Hoover Building, 14th and Constitution Avenue, N.W., Washington, DC 20230. Persons submitting comments on a request are encouraged to include a non-confidential version and a non-confidential summary.

James C. Leonard III,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc.05–1437 Filed 1–21–05; 2:24 pm]

BILLING CODE 3510–DS

DEPARTMENT OF DEFENSE

Department of the Navy

Nominations for Membership on Ocean Research Advisory Panel (ORAP)

AGENCY: Department of the Navy, DOD.

ACTION: Notice.

SUMMARY: The Ocean Research Advisory Panel (ORAP) is soliciting nominations for new members.

DATES: Nominations should be submitted no later than Friday, February 25, 2005.

ADDRESSES: Nominations should be submitted via e-mail to LT Cory Huyssoon, U.S. Navy, at *huyssoc@onr.navy.mil.* Contact telephone number, 703–696–4395.

FOR FURTHER INFORMATION CONTACT: Dr. Melbourne G. Briscoe, Office of Naval Research, 800 North Quincy Street, Arlington, VA 22217–5660, telephone 703–696–4120.

SUPPLEMENTARY INFORMATION: ORAP is a statutorily mandated federal advisory committee that provides senior scientific advice to the National Oceanographic Research Leadership Council (NORLC), the governing body of the National Oceanographic Partnership Program (NOPP). ORAP advises the NORLC on policies, procedures, selection of projects and the allocation of funds, as well as other responsibilities that NORLC considers appropriate.

Panel Member Duties and Responsibilities: Members of the panel represent the National Academy of Sciences, the National Academy of Engineering, the Institute of Medicine, ocean industries, state governments, academia, and others including individuals who are eminent in the fields of marine science, marine policy, or related fields. Members are appointed for not more than four years, and are not normally compensated except for travel expenses and per diem while away from their homes in performance of services for the panel.

The panel meets for at least one two-day public meeting per year, but possibly meets three times per year, on dates agreeable by the panel members;

attendance at meetings is expected. Intercessional activities may be carried out electronically, and the panel may establish sub-panels composed of less than full membership to carry out panel duties.

Nominations: Any interested person or organization may nominate qualified individuals for membership on the panel. Nominated individuals should have extended expertise and experience in the field of ocean science. Nominations should be identified by name, occupation, position, address, telephone number, e-Mail address, and a brief paragraph describing their qualifications in the context of the ORAP Charter (*http://www.nopp.org/Dev2Go.web?id=221086*). It would be most helpful if a résumé or curriculum vitae is included.

Process and Deadline for Submitting Nominations: Submit nominations via e-Mail to *huyssoc@onr.navy.mil* no later than February 25, 2005. Nominations will be acknowledged and nominators will be informed of the new panel members, which are ultimately selected and approved. From the nominees identified by respondents to this **Federal Register** notice, the ORAP Nomination Committee will down select to a short-list of available candidates (150% of the available open positions for consideration). The selected candidates will be required to fill-out the ''Confidential Financial Disclosure Report'' OGE Form 450. This confidential form will allow Government officials to determine whether there is a statutory conflict between the person's public responsibilities and private interests and activities, or the appearance of a lack of impartiality, as defined by Federal regulation. The OGE Form 450 and additional guidance may be viewed from the following URL address: (*http://www.ethics.navy.mil/forms.asp#450*).

In accordance with section 7903 of title 10, United States Code, the short-list of candidates will then be submitted for approval by the Secretary of the Navy with concurrence by the Secretary of Defense. In order to have the collective breadth of experience in the panel and maintain full panel membership, six new candidates are expected to be selected with terms to begin in July 2005.

The selection of new panel members will be based on the nominee's qualifications to provide senior scientific advice to the NORLC; the availability of the potential panel member to fully participate in the panel meetings; absence of any conflict of interest or appearance of lack of impartiality, and lack of bias; the candidates' areas of expertise and professional qualifications; and achieving an overall balance of different scientific perspectives and expertise on the panel.

Dated: January 13, 2005.

I.C. Le Moyne Jr.,

Lieutenant, Judge Advocate General's Corps, U.S. Navy, Alternate Federal Register Liaison Officer.

[FR Doc. 05–1294 Filed 1–24–05; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF DEFENSE

Department of the Navy

Meeting of the Board of Advisors (BOA) to the President, U.S. Naval War College (NWC)

AGENCY: Department of the Navy, DoD.

ACTION: Notice of open meeting.

SUMMARY: The BOA to the President, U.S. NWC, will meet to discuss educational, doctrinal, and research policies and programs at the NWC. The meeting will be open to the public.

DATES: The meeting will be held on Friday, March 18, 2005, from 8 a.m. to 4 p.m.

ADDRESSES: The meeting will be held in Conolly Hall, U.S. NWC, 686 Cushing Road, Newport, RI.

FOR FURTHER INFORMATION CONTACT: Mr. Richard R. Menard, Office of the Provost, U.S. NWC, 686 Cushing Road, Newport, RI 02841–1207, telephone number (401) 841–3589.

SUPPLEMENTARY INFORMATION: This notice of meeting is provided per the Federal Advisory Committee Act (5 U.S.C. App. 2). The purpose of the Board of Advisors meeting is to elicit advice on educational, doctrinal, and research policies and programs. The agenda will consist of presentations and discussions on the curriculum, programs and plans of the College since the last meeting of the BOA in March 2004.

Dated: January 18, 2005.

I.C. Le Moyne Jr.,

Lieutenant, Judge Advocate General's Corps, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. 05–1293 Filed 1–24–05; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Intent To Grant Exclusive Patent License; SWORD Diagnostics

AGENCY: Department of the Navy, DoD.

ACTION: Notice.

SUMMARY: The Department of the Navy hereby gives notice of its intent to grant to SWORD Diagnostics, a revocable, nonassignable, exclusive license, to practice in the fields of rapid detection of pathogens for food safety; drinking water and process water; and human and veterinary diagnostic markets in the United States and certain foreign countries, the Government-Owned inventions described in U.S. Patent Application No. 10/113,643 entitled ''Efficient Near-Neighbor Search (ENN–SEARCH) Method for High Dimensional Data Sets with Noise'', Navy Case No. 82,296.

DATES: Anyone wishing to object to the grant of this license must file written objections along with supporting evidence, if any, not later than February 9, 2005.

ADDRESSES: Written objections are to be filed with the Naval Research Laboratory, Code 1004, 4555 Overlook Avenue, SW., Washington, DC 20375–5320.

FOR FURTHER INFORMATION CONTACT: Ms. Jane Kuhl, Head, Technology Transfer Office, NRL Code 1004, 4555 Overlook Avenue, SW., Washington, DC 20375–5320, telephone (202) 767–3083. Due to U.S. Postal delays, please fax (202) 404–7920, e-mail: *kuhl@utopia.nrl.navy.mil* or use courier delivery to expedite response.

(Authority: 35 U.S.C. 207, 37 CFR part 404.)

Dated: January 18, 2005.

I.C. Le Moyne Jr.,

Lieutenant, Judge Advocate General's Corps, U.S. Navy, Alternate Federal Register Liaison Officer.

[FR Doc. 05–1289 Filed 1–24–05; 8:45 am]

BILLING CODE 3810–FF–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 forth 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: Friday, February 11, 2005 from 1 p.m. to 5:30 p.m. and from 6:30 p.m. to 8:30 p.m.

ADDRESSES: San Diego City Public Schools, Lindbergh Schweitzer Elementary School, Schweitzer Campus, 6991 Balboa Avenue, San Diego, CA 92111.

FOR FURTHER INFORMATION CONTACT: Troy R. Justesen. Telephone: (202) 245–7468.

SUPPLEMENTARY INFORMATION:

Background

On December 3, 2004, the President signed into law Pub L. 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 forth of these meetings, scheduled for San Diego, CA (see **DATE AND TIME OF PUBLIC MEETING** earlier in this Notice).

Other informal meetings will be conducted in the following locations:

- Atlanta, GA;
- 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 19, 2005.

John H. Hager,

Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 05–1318 Filed 1–24–05; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

National Board for Education Sciences; Inaugural Meeting

AGENCY: National Board for Education Sciences; Education.

ACTION: Notice of Partially Closed Meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the National Board for Education Sciences. Notice of this meeting is required under Section 10(a)(2) of the Federal Advisory Committee Act. This document is intended to notify the general public of their opportunity to attend the open portion of the meeting. Individuals who will need accommodations for a disability in order to attend the meeting (i.e., interpreting services, assistive listening devices, materials in alternative format) should notify Mary Grace Lucier at (202) 219–2253 by January 28. We will attempt to meet requests after this date, but cannot guarantee availability of the requested accommodation. The meeting site is accessible to individuals with disabilities.

DATES: February 8 and 9, 2005.

Time: On February 8, 9 a.m. to 3 p.m. on February 9, 9 a.m. to 3 p.m.

Location: Room 100, 80 F St., NW., Washington, DC 20208–7564.

FOR FURTHER INFORMATION CONTACT: Mary Grace Lucier, Designated Federal Official, National Board for Education Sciences, Washington, DC 20208. Tel.: (202) 219–2353; fax: (202) 219–1466; e-mail: *Mary.Grace.Lucier@ed.gov.*

SUPPLEMENTARY INFORMATION: The National Board for Education Sciences is authorized by Section 116 of the Education Sciences Reform Act of 2002. The Board advises the Director of the Institute of Education Sciences (IES) on the establishment of activities to be supported by the Institute, on the funding of applications for grants, contracts, and cooperative agreements for research after the completion of peer review, and reviews and evaluates the work of the Institute. After a swearing-in ceremony on February 8, the Board will introduce their members and hear briefings on government ethics issues, the Federal Advisory Committee Act, and the Board's legislative mandate. The meeting will close to the public from 3–4:30 p.m. under the authority of Section 10(d) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. Appendix 2) and under exemption (6) of Section 552b(c) of the Government in the Sunshine Act (Pub. L. 94–409; 5 U.S.C. 552(b)(6)). There will be a discussion of the qualifications and fitness of candidates for the position of chairman and executive director, which discussion will touch upon matters that would disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy if conducted in an open session. On February 9, the Board will review the agency budget, hear briefings on selected IES projects, and plan the schedule and agenda for future meetings. A final agenda will be available from Mary Grace Lucier on January 28.

A summary of the activities at the closed session and related matters which are informative to the public consistent with the policy of Title 5 U.S.C. 552b(c) will be available to the public within fourteen days of the meeting. Records will be kept of all Board proceedings and will be available for public inspection at the office of the National Board for Education Sciences, Suite 100, 80 F St. NW., Washington, DC 20208.

Dated: January 18, 2005.

Grover J. Whitehurst,

Director, Institute of Education Sciences.

[FR Doc. 05–1288 Filed 1–24–05; 8:45 am]

BILLING CODE 4000–01–M

ELECTION ASSISTANCE COMMISSION

Sunshine Act Meeting

AGENCY: Election Assistance Commission.

ACTION: Notice of public meeting for EAC Standards Board.

DATE AND TIME: Wednesday, February 2, 2005, 2 p.m.–5:30 p.m. and Thursday, February 3, 2005, 8:30 a.m.–3 p.m.

PLACE: Hyatt Regency Capitol Hill, 400 New Jersey Avenue, NW., Washington, DC 20005—(Metro Stop: Union Station).

TOPICS: The U.S. Election Assistance Commission (EAC) Standards Board, as required by the Help America Vote Act of 2002, will meet to present its views on issues in the administration of federal elections, and formulate recommendations to the EAC.

PERSON TO CONTACT FOR INFORMATION: Bryan Whitener, Telephone: (202) 566–3100.

Gracia M. Hillman,

Chair, U.S. Election Assistance Commission.

[FR Doc. 05–1350 Filed 1–21–05; 9:04 am]

BILLING CODE 6820–YN–M

EXPORT-IMPORT BANK

[Public Notice 71]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Export-Import Bank of the U.S.

ACTION: Notice and request for comments.

SUMMARY: The Export-Import Bank, as a part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to comment on the proposed information collection, as required by the Paperwork Reduction Act of 1995. The form will be used by customers who originally applied for a multibuyer policy using EIB 92–50. Our customers will be able to submit this form on paper or electronically.

DATES: Written comments should be received on or before March 28, 2005.

ADDRESSES: Direct all comments and requests for additional information to Walter Kosciow, Export-Import Bank of the U.S., 811 Vermont Avenue, NW., Washington, DC 20571, (202) 565–3649.

SUPPLEMENTARY INFORMATION:

Title and Form Number: Application for Special Buyer Credit Limit (SBCL) Under Multi-Buyer Export Credit Insurance Policies, EIB 92–51.

OMB Number: None.

Type of Review: Existing Collection in use without an OMB Number.

Need and Use: The information requested enables the applicant to provide Ex-Im Bank with the information necessary to obtain legislatively required assurance of repayment and fulfills other statutory requirements.

Affected Public: The form affects entities involved in the export of U.S. goods and services.

Estimated Annual Respondents: 3,900.

Estimated Time Per Respondent: ½ hour.

Estimated Annual Burden: 1,950.

Frequency of Reporting or Use: 2–3 times per year.

Dated: January 18, 2005.

Solomon Bush,

Agency Clearance Officer.

BILLING CODE 6690–01–M

EXPORT IMPORT BANK OF THE UNITED STATES
APPLICATION FOR SPECIAL BUYER CREDIT LIMIT (SBCL)
UNDER MULTI-BUYER EXPORT CREDIT INSURANCE POLICIES

App. No. _____
(Ex-Im Bank Use Only)

(Please Print or Type)

1. Insured/ Exporter Name:		**2. Broker (If none, state "None")**	
Policy No.:	**State:**	**Brokerage:**	**Broker No.:**
Attn.:	**Tel No.:**	**Attn.:**	**Tel No.:**
Fax No.:	**E-Mail:**	**Fax No.:**	**E-Mail:**

3. Buyer Name: **File No.** _____
Address: (Ex-Im Bank Use Only)
City, Country:

4. Guarantor Name (if any): **File No.** _____
Address: (Ex-Im Bank Use Only)
City, Country:

5. (a) Products ☐ New ☐ Used

(b) Products Description _____

(c) Is each product produced or manufactured in the United States? ☐ Yes ☐ No

(d) Has at least one-half of the value, exclusive of price mark-up, been added by labor or material exclusively of U. S. origin?
☐ Yes ☐ No

(e) Are products listed on the United States Munitions List? (part 121 of Title 22 of the Code of Federal Regulations) ☐ Yes ☐ No

6.(a) Credit Limit Requested $ _____

(b) Value of orders received $ _____

(c) Down-payment, if any $ _____

(d) Requested SBCL effective date / / (mm/dd/yyyy)

(e) Payment terms requested	(number of days) **Please check applicable box**							
Payment Type	Sight	1-30	31-60	61-90	91-120	121-180	181-270	271-360
Cash Against Documents (CAD)	☐							
Sight Draft Documents Against Payment (SDDP)	☐							
Unconfirmed Irrevocable Letter of Credit (UILC)	☐	☐	☐	☐	☐	☐	☐	☐
Open Account		☐	☐	☐	☐	☐	☐	☐
Sight Draft Documents Against Acceptance (SDDA)		☐	☐	☐	☐	☐	☐	☐
Promissory Note		☐	☐	☐	☐	☐	☐	☐

7.(a) Your credit experience with this buyer:

Year of first sale to buyer Year 20____

Year of first credit sale (exclude cash and confirmed L/Cs) Year 20____

Total export credit sales to buyer for the last three (3) years $ _____

Highest amount outstanding at any time over last twelve months $ _____

Payment terms extended	(number of days) **Please check applicable boxes**							
Payment Type	Sight	1-30	31-60	61-90	91-120	121-180	181-270	271-360
Cash Against Documents (CAD)	☐							
Sight Draft Documents Against Payment (SDDP)	☐							
Unconfirmed Irrevocable Letter of Credit (UILC)	☐	☐	☐	☐	☐	☐	☐	☐
Open Account		☐	☐	☐	☐	☐	☐	☐
Sight Draft Documents Against Acceptance (SDDA)		☐	☐	☐	☐	☐	☐	☐
Promissory Note		☐	☐	☐	☐	☐	☐	☐

(b) Describe buyer's payment history (check one)

☐ No Prior Experience ☐ Prompt/Discount ☐ 1-30 Days Slow ☐ 31-60 Days Slow ☐ more than 60 days slow

(c) Amount now owing $ _____ , as of _____ (Date).

(d) Amount now more than 60 days past due $ _____ (indicate maturity dates and explanation in an attachment).

(e) Has buyer offered any credit enhancement (security)? ☐ YES ☐ NO If yes, describe:

8. Describe any direct or indirect ownership interest or family relationship which exists between the insured and the buyer/guarantor or between the supplier and the buyer (or guarantor). If none, state "None". _____

9. Are there any extraordinary terms or conditions of sale: ☐ Yes ☐ No. If "Yes," please attach an explanation.

10. CREDIT AND FINANCIAL INFORMATION REQUIREMENTS* for Credit Limit Applications of:

Up to $100,000: Credit Agency Report, **or** a Trade Reference

$100,001- $300,000: Credit Agency Report and a Trade Reference

(The Buyer's audited or signed unaudited financial statements for the last 2 years may be substituted for the trade reference).

$300,001 to $1 million: Credit Agency Report and a Trade Reference and the Buyer's audited or signed unaudited financial statements for the last 2 fiscal years with notes.

over $1 million: Credit Agency Report and 2 Trade References and a Bank Reference and the Buyer's audited or signed unaudited financial statements for the last 3 fiscal years with notes.

* The applicant's credit experience with the Buyer as completed in question 7 may be substituted for a Trade Reference.

If fiscal year end statements are dated more than 9 months from the date of application, the Buyer's interim statements must be submitted.
If the Buyer has a Market Rating you may submit the rating, below, in place of the Credit and Financial Information.
If a Financial Institution (Bank) is the Buyer or Guarantor or if a letter of credit is used no Credit and Financial Information is necessary.

Market Rating: _____ **Source:** _____ **Rating Date:** _____

NOTE: See **Short Term Credit Standards** (EIB99-09) **for Buyers** to determine the likelihood of approval. All references and credit reports must be dated within 6 months of the application and show prompt credit experience for similar amounts and similar terms

11. CERTIFICATION OF PRODUCT USE AND REPRESENTATIONS:

a) The applicant hereby certifies to the Export-Import Bank of the United States that, to the best of its knowledge and belief, the products* and services to be exported in the transaction described herein are principally for use as indicated below. (When a sale is made to entities such as distributors primarily for resale, the principal user is considered to be the original purchaser (the distributor), and part A should be checked. If, however, the applicant has knowledge or reason to believe that the products will be re-exported from the original buyer's country, please check part B.)

A ☐ By the buyer in the country specified above.

B ☐ If not, name the country where the product will be principally used _____

and by whom _____

* NOTE: The Borrower, Guarantor, Buyer and End Used must be foreign entities in countries for which Ex-Im is able to provide support, see Ex-Im's Country Limitation Schedule (CLS) at www.exim.gov . There may not be trade measures against them under section 201 of the Trade Act of 1974, see http://dockets.usitc.gov/eol/public click on 201. There may not be trade sanctions in force against them. For a list of products and Anti-Dumping or Countervailing Duty sanctions see: Anti-Dumping or Countervailing Sanctions

b) The applicant certifies that the representations made and the facts stated by it in the application for the special buyer credit limit are true, to the best of its knowledge and belief, and that it has not omitted any material facts. The applicant agrees that the representations and facts shall form the basis of the credit limit if issued and that the truth of such representations and facts contained herein shall be a condition precedent to any liability of Ex-Im there under. The applicant understands that this certification is subject to penalties for fraud provided in Article 18, United States Code, Section 1001.

By _____ _____ _____

Signature of Insured/Exporter | Print Name and Title | Date

Note: Please answer all questions and sign application. Applications not completely filled out or not submitted with required financial and credit information will be withdrawn.

Send, or ask your insurance broker to review and send, this application to
Ex-Im Bank, 811 Vermont Avenue, NW, Washington, D.C. 20571.
The Ex-Im Bank website is <http://www.exim.gov >

[FR Doc. 05–1267 Filed 1–24–05; 8:45 am]
BILLING CODE 6690–01–C

FEDERAL RESERVE SYSTEM

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Board of Governors of the Federal Reserve System.

TIME AND DATE: 12:00 p.m., Monday, January 31, 2005.

PLACE: Marriner S. Eccles Federal Reserve Board Building, 20th and C Streets, N.W., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any items carried forward from a previously announced meeting.

FOR FURTHER INFORMATION CONTACT: Michelle A. Smith, Director, Office of Board Members; 202–452–2955.

SUPPLEMENTARY INFORMATION: You may call 202–452–3206 beginning at approximately 5 p.m. two business days before the meeting for a recorded announcement of bank and bank holding company applications scheduled for the meeting; or you may contact the Board's Web site at *http://www.federalreserve.gov* for an electronic announcement that not only lists applications, but also indicates procedural and other information about the meeting.

Board of Governors of the Federal Reserve System, January 21, 2005.

Robert dev. Frierson,

Deputy Secretary of the Board.

[FR Doc. 05–1426 Filed 1–21–05; 1:34 pm]

BILLING CODE 6210–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Meeting of the Presidential Advisory Council on HIV/AIDS

AGENCY: Office of the Secretary, Office of Public Health and Science, HHS.

ACTION: Notice of meeting.

SUMMARY: As stipulated by the Federal Advisory Committee Act, the Department of Health and Human Services (DHHS) is hereby giving notice that the Presidential Advisory Council on HIV/AIDS (PACHA) will hold a meeting. This meeting is open to the public. A description of the Council's functions is included also with this notice.

DATE AND TIME: February 7, 2005 8:30 a.m. to 5 p.m., and February 8, 2005, 8:30 a.m. to 4 p.m.

ADDRESSES: Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201. Conference Room 800.

FOR FURTHER INFORMATION CONTACT: Joseph Grogan, Esq., Executive Director, Presidential Advisory Council on HIV/AIDS, U.S. Department of Health and Human Services, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Room 736E, Washington, DC 20201; or visit the Council's Web site at *http://www.pacha.gov.*

SUPPLEMENTARY INFORMATION: PACHA was established by Executive Order 12963, dated June 14, 1995, as amended by Executive Order 13009, dated June 14, 1996. PACHA was established to provide advice, information, and recommendations to the President regarding programs and policies intended to (a) Promote effective prevention of HIV disease, (b) advance research on HIV and AIDS, and (c) promote quality services to persons living with HIV disease and AIDS. PACHA was established to serve solely as an advisory body to the President and the Secretary of Health and Human Services. PACHA is composed of not more than 35 members. PACHA membership is determined by the Secretary from individuals who are considered authorities with particular expertise in, or knowledge of, matters concerning HIV/AIDS.

The agenda for this meeting includes the following topics: HIV/AIDS prevention, care and treatment, and global HIV/AIDS issues. Time will be allotted during the meeting for public comment.

Public attendance is limited to space available and pre-registration is required for both attendance and public comment. Any individual who wishes to attend and/or comment must call (202) 690–2470 to register. Individuals must provide a government issued photo ID for entry into the meeting. Individuals who need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the registrar.

Members of the public will have the opportunity to provide comments at the meeting. Public comment will be limited to three (3) minutes per speaker and to time available. Written testimony, not exceed five (5) pages, will be accepted by mail or facsimile at 202/358–2917. Written testimony will not be accepted after 5 p.m., Wednesday, February 2 , 2005.

Dated: January 13, 2005.

Joseph Grogan,

Executive Director, Presidential Advisory Council on HIV/AIDS.

[FR Doc. 05–1265 Filed 1–24–05; 8:45 am]

BILLING CODE 4150–28–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Medicare Program; 2004 Technical Review Panel on the Medicare Trustees Report

AGENCY: Assistant Secretary for Planning and Evaluation, HHS.

ACTION: Announcement.

The Review of the Assumptions and Methods of the Medicare Trustees' Financial Projections, prepared by the 2004 Technical Review Panel on the Medicare Trustees Report, is now available online at: *http://aspe.hhs.gov/health/medpanel/.*

The report focuses on review of the long-range growth assumptions for the Hospital Insurance (HI) and Supplementary Medical Insurance (SMI) trust funds, and the new Part D prescription drug benefit projections.

Questions regarding the report and requests for a limited number of printed copies may be directed to Andrew Cosgrove at (202) 205–8681 or *Andrew.Cosgrove@hhs.gov.*

Dated: January 14, 2005.

Michael J. O'Grady,

Assistant Secretary for Planning and Evaluation.

[FR Doc. 05–1308 Filed 1–24–05; 8:45 am]

BILLING CODE 4150–05–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration on Aging

2005 White House Conference on Aging Policy Committee

AGENCY: Administration on Aging, HHS.

ACTION: Notice of meeting.

SUMMARY: Pursuant to Section 10(a) of the Federal Advisory Committee Act as amended (5 U.S.C. Appendix 2), notice is hereby given of the fourth Policy Committee meeting concerning planning for the 2005 White House Conference on Aging. The meeting will be open to the public, 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 inform the

contact person listed below in advance of the meeting.

DATES: The meeting will be held Thursday, February 10, 2005, from 9 a.m. to 5 p.m.

ADDRESSES: The meeting will be held at the American Association of Homes and Services for the Aging, 2519 Connecticut Avenue, NW., Conference Room, Washington, DC 20008–1520.

FOR FURTHER INFORMATION CONTACT: Nora Andrews, (301) 443–2874, or e-mail at *Nora.Andrews@whcoa.gov.*

SUPPLEMENTARY INFORMATION: Pursuant to the Older Americans Act Amendments of 2000 (Pub. L. 106–501, November 2000), the Policy Committee will meet to discuss subcommittee issues, conference technology, process under development for delegate selection, and the conference format and speakers.

Edwin L. Walker,

Deputy Assistant Secretary for Policy and Programs.

[FR Doc. 05–1302 Filed 1–24–05; 8:45 am]

BILLING CODE 4154–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Docket Identifier: CMS–10068, CMS–10128, CMS–484, CMS–846–849, 854, 10125, 10126]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Centers for Medicare & Medicaid Services, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Centers for Medicare & Medicaid Services (CMS), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's function; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

1. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Assessing the Division of Beneficiary Inquiry Customer Service's Performance for Written Responses; *Form No:* CMS–10068 (OMB# 0938–0894); *Use:* The Division of Beneficiary Inquiry Customer Service (DBICS) will collect information quarterly to assess the customer service provided via written responses. DBICS will conduct the written survey through mailings that will accompany actual responses. The envelopes will be sent by Release Clerks so that the actual writer has no knowledge that a particular response is being rated. The survey will be used to measure overall satisfaction of the customer service that the DBICS provides to Medicare beneficiaries and their representatives; *Frequency:* Quarterly; *Affected Public:* Individuals or households; *Number of Respondents:* 2,872; *Total Annual Responses:* 2,872; *Total Annual Hours:* 287.

2. *Type of Information Collection Request:* New collection; *Title of Information Collection:* Public Reporting on Quality Outcomes National Survey of Hospital Executives (''PRO QUO''); *Use:* CMS seeks to survey hospitals quality improvement executives in spring 2005 to assess awareness of CMS Hospital Quality Initiatives and related publicity, and to assess impact of these initiatives on hospitals and their quality improvement programs. Findings will be used to enhance CMS programs to assist hospitals in quality improvement. *Form Number:* CMS–10128 (OMB#: 0938–NEW); *Frequency:* Once; *Affected Public:* Not-for-profit institutions and business or other for-profit; *Number of Respondents:* 1,600; *Total Annual Responses:* 1,600; *Total Annual Hours:* 792.

3. *Type of Information Collection Request:* Revision of a currently approved collection; *Title of Information Collection:* Attending Physician's Certification of Medical Necessity for Home Oxygen Therapy and Supporting Regulations 42 CFR 410.38 and 42 CFR 424.5; *Form No.:* 0938–0534 (CMS–484); *Use:* This form is used to determine if oxygen is reasonable and necessary pursuant to Medicare Statute; Medicare claims for home oxygen therapy must be supported by the treating physician's statement and other information including estimate length of need (# of months), diagnosis codes (ICD–9) etc. Oxygen (and oxygen equipment) is by far the largest single total charge of all items paid under durable medical equipment coverage authority. Medicare has the legal authority to collect sufficient information to determine payment for oxygen, and oxygen equipment. The CMN provides a mechanism for suppliers of Durable Medical Equipment and suppliers of Medical Equipment and Supplies to demonstrate that the item being provided meets the criteria for Medicare coverage. By revising the oxygen CMN questions but adhering to the basic format, CMS can increase the accuracy of the document while eliminating the need to re-educate CMN users. In addition, to the above changes, the statement in Section D stating, ''signature and date stamps are not acceptable'' will be eliminated and no longer required.; *Frequency:* As needed; *Affected Public:* Business of other for-profit; *Number of Respondents:* 11,000; *Total Annual Responses:* 1,200,000; *Total Annual Hours:* 497,000.

4. *Type of Information Collection Request:* Revision of currently approved collection; *Title of Information Collection:* Durable Medical Equipment Regional Carrier, Certificate and Medical Necessity and Supporting Documentation; *Use:* The information collected on these forms is needed to correctly process claims and ensure proper claim payment. Suppliers and physicians will complete these forms and as needed supply additional routine supporting documentation necessary to process claims. CMS Forms 841 and 842, Certificate of Medical Necessity (CMN): Hospital Beds and CMN: Support Surface respectively, will be eliminated and no longer be required. CMS Form 846, CMN: Pneumatic Compression Devices, had changes to the title of the CMN form and the individual questions on the form. CMS Forms 847–849, CMN: Osteogenesis Stimulators, CMN: Transcutaneous Electrical Nerve Stimulator (TENS), and CMN: Seat Lift Mechanism, respectively, all had changes to individual questions on the forms. CMS Form 10125, DMERC Information Form: External Infusion Pump, replaced CMS Form 851. CMS Form 10126, DMERC Information Form: Enteral and Parenteral Nutrition, replaced CMS Forms 852–853.; *Form Number:* CMS–846–849, 854, 10125, 10126 (OMB#: 0938–0679); *Frequency:* On occasion; *Affected Public:* Business or other for-profit; *Number of Respondents:* 51,000; *Total Annual Responses:* 5,400,000; *Total Annual Hours:* 1,215,000.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access CMS Web Site address at *http://www.cms.hhs.gov/*

regulations/pra/, or E-mail your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@cms.hhs.gov,* or call the Reports Clearance Office on (410) 768–1326.

Written comments and recommendations for the proposed information collection must be mailed within 30 days of this notice directly to the OMB desk officer: OMB Human Resources and Housing Branch, Attention: Christopher Martin, New Executive Office Building, Room 10235, Washington, DC 20503.

Dated: January 13, 2005.

Dawn Willingham,

Acting, CMS Paperwork Reduction Act Reports Clearance Officer, Office of Strategic Operations and Regulatory Affairs, Regulations Development Group.

[FR Doc. 05–1319 Filed 1–24–05; 8:45 am]

BILLING CODE 4120–03–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier: CMS–8003, CMS–10060, CMS–287, CMS–R–245, CMS–21/CMS–21B, CMS–64, and CMS–R–209]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Centers for Medicare & Medicaid Services, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Centers for Medicare & Medicaid Services (CMS) is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

1. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Home and Community-Based Waiver Requests and Supporting Regulations in 42 CFR 440.180 and 441.300–.310; *Use:* Under a Secretarial waiver, States may offer a wide array of home and community-based services to individuals who would otherwise require institutionalization. States requesting a waiver must provide certain assurances, documentation and cost & utilization estimates which are reviewed, approved and maintained for the purpose of identifying/verifying States' compliance with such statutory and regulatory requirements; *Form Number:* CMS–8003 (OMB#: 0938–0449); *Frequency:* Other: When a State requests a waiver or amendment to a waiver; *Affected Public:* State, Local or Tribal Government; *Number of Respondents:* 50; *Total Annual Responses:* 132; *Total Annual Hours:* 7,930.

2. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Quality Assessment and Performance Improvement (QAPI) Project Completion Report and Supporting Regulations in 42 CFR 422.152; *Use:* This project completion report derives from the Quality Improvement System for Managed Care (QISMC) Standards and Guidelines as required by the Balanced Budget Act of 1997 (as amended by Balanced Budget Refinement Act of 1999) and the related regulations, 42 CFR 422.152. These regulations established QISMC as a requirement for Medicare+Choice (M+C) Organizations by requiring improved health outcomes for enrolled beneficiaries. The provisions of QISMC specify that M+C organizations will implement and evaluate quality improvement projects. The form submitted herein will permit M+C organizations to report their completed projects to CMS in a standardized fashion for evaluation by CMS of the M+C Organization's compliance with regulatory provisions. This form will improve consistency and reliability in the CMS evaluation process, as well as provide a standardized structure for public use and review; *Form Number:* CMS–10060 (OMB#: 0938–0873); *Frequency:* Annually; *Affected Public:* Business or other for-profit and Not-for-profit institutions; *Number of Respondents:* 155; *Total Annual Responses:* 155; *Total Annual Hours:* 620.

3. *Type of Information Request:* Revision of a currently approved collection; *Title of Information Collection:* Home Office Cost Statement and Supporting Regulations in 42 CFR 413.17 and 413.20; *Use:* Home Office Cost Statement, is filed annually by Chain Home Offices to report the information necessary for the determination of Medicare reimbursement to components of chain organizations. Many providers of service participating in Medicare are reimbursed, at least partially, on the basis of the lesser of reasonable cost or customary services for services furnished to eligible beneficiaries. When providers obtain services, supplies or facilities from an organization related to the provider by common ownership or control, 42 CFR 413.17 requires that the provider include in its costs, the costs incurred by the related organization in furnishing such services, supplies or facilities. Revisions to this form include the addition of columns for more detailed reporting and the elimination of other columns that were deemed unnecessary; *Form Number:* CMB–287 (OMB# 0938–0202); *Frequency:* Annually; *Affected Public:* Not-for-profit institutions and Business or other for-profit; *Number of Respondents:* 1,231; *Total Annual Responses:* 1,231; *Total Annual Hours:* 573,646.

4. *Type of Information Request:* Extension of a currently approved collection; *Title of Information Collection:* Medicare and Medicaid Programs; OASIS Collection Requirements as Part of the COPs for HHAs and Supporting Regulations in 42 CFR, Sections 484.55, 484.205, 484.245, and 484.250; *Use:* This collection requires HHAs to use a standard core assessment data set, the OASIS, to collect information and to evaluate adult non-maternity patients. In addition, data from the OASIS will be used for purposes of case-mix adjusting patients under home health PPS, and will facilitate the production of necessary case-mix information at relevant time intervals in the patient's home health stay. Modifications were previously made to the OASIS forms to allow for the preservation of masking of personally identifiable information for the non-Medicare/non-Medicaid individuals; *Form Number:* CMS–R–245 (OMB# 0938–0760); *Frequency:* Other: Upon patient assessment; *Affected Public:* Business or other for-profit, Not-for-profit institutions, Federal Government, and State, Local or Tribal Gov.; *Number of Respondents:* 7,582; *Total Annual Responses:* 10,156,569; *Total Annual Hours:* 8,556,995.

5. *Type of Information Request:* Extension of a currently approved collection; *Title of Information Collection:* Quarterly Children's Health Insurance Program (CHIP) Statement of Expenditures for Title XXI; *Use:* States use forms CMS–21 and CMS–21B to report budget, expenditure, and related statistical information required for

implementation of the Children's Health Insurance Program. The information provided by these forms is used by CMS to prepare the grant awards to States for the Medicaid and CHIP programs, to ensure that the appropriate level of Federal payments for State expenditures under the Medicaid program and CHIP are made in accordance with the CHIP related Balanced Budget Act legislation provisions, and to track, monitor, and evaluate the numbers of related children being served by the Medicaid and CHIP programs; *Form Number:* CMS–21 and CMS–21B (OMB# 0938–0731); *Frequency:* Quarterly; *Affected Public:* State, Local or Tribal Gov.; *Number of Respondents:* 56; *Total Annual Responses:* 448; *Total Annual Hours:* 7,840.

6. *Type of Information Request:* Revision of a currently approved collection; *Title of Information Collection:* Quarterly Medicaid Statement of Expenditures for the Medical Assistance Program; *Use:* The State Medicaid agencies use the form CMS–64 for the Medical Assistance Program to report their actual program benefit costs and administrative expenses to CMS. CMS uses this information to compute the Federal financial participation for the State's Medicaid Program costs. The structure of the current from CMS–64 has evolved from the previous forms used for reporting and has been revised. Classification, identification, and referencing used in the CMS–64 forms has been in place for several years, is readily understood and accepted by the report users, and is supported by strong sentiments in both CMS and the States to maintain the existing format. Therefore, our modifications have been made to maintain the current reporting format by incorporating all changes into the existing report structure; *Form Number:* CMS–64 (OMB# 0938–0067); *Frequency:* Quarterly; *Affected Public:* State, Local or Tribal Gov.; *Number of Respondents:* 56; *Total Annual Responses:* 224; *Total Annual Hours:* 16,464.

7. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Medicare and Medicaid Programs; Use and Reporting OASIS Data as Part of the CoPs for HHAs and Supporting Regulations in 42 CFR 484.11 and 484.20; *Form No.:* CMS–R–209 (OMB# 0938–0761); *Use:* HHAs are required to report data from the OASIS as a condition of participation. Specifically, the above named regulation sections provide guidelines for HHAs for the electronic transmission of the OASIS data as well as responsibilities of the State agency or OASIS contractor in collecting and transmitting this information to CMS. These requirements are necessary to achieve broad-based, measurable improvement, in the quality of care furnished through Federal programs, and to establish a prospective payment system for HHAs; *Frequency:* Monthly; *Affected Public:* Business or other-for-profit, Federal Government, State, Local or Tribal Government, Not-for-profit institutions; *Number of Respondents:* 7,582; *Total Annual Responses:* 93,621; *Total Annual Hours:* 921,271.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access CMS' Web site address at *http://www.cms.hhs.gov/regulations/pra/,* or E-mail your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@cms.hhs.gov,* or call the Reports Clearance Office on (410) 786–1326.

Written comments and recommendations for the proposed information collections must be mailed within 60 days of this notice directly to the CMS Paperwork Reduction Act Reports Clearance Officer designated at the address below: CMS, Office of Strategic Operations and Regulatory Affairs, Division of Regulations Development, Attention: Melissa Musotto, Room C5–14–03, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

Dated: January 13, 2005.

Dawn Willinghan,

Acting, CMS Paperwork Reduction Act Reports Clearance Officer, Office of Strategic Operations and Regulatory Affairs, Regulations Development Group.

[FR Doc. 05–1320 Filed 1–24–05; 8:45 am]

BILLING CODE 4120–03–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity; Comment Request

Proposed Projects

Title: Employment Retention and Advancement (ERA) Evaluation 42-Month Survey.

OMB No.: New Collection.

Description: The Employment Retention and Advancement (ERA) Evaluation is sponsored by the Administration for Children and Families (ACF) of the U.S. Department of Health and Human Services (HHS),[1] and involves the conduct of a multi-year evaluation that studies the net impact and cost-benefits of programs designed to help Temporary Assistance for Needy Families (TANF) recipients, former TANF recipients or families at risk of needing TANF benefits retain and advance in employment.[2] The ERA Evaluation involves 15 random assignment experiments in eight states, testing a diverse set of strategies designed to promote stable employment and/or career advancement for low-income people. The ERA Evaluation will generate rigorous data on the implementation, effects and costs of these alternative approaches. The data collected as part of the 42-month survey will be used for the following purposes:

- To study ERA's long-term impacts on employment, earnings, participation, educational attainment and income;
- To gather data on a wider range of outcome measures than is available through welfare or Unemployment Insurance records in order to understand how individuals were affected by ERA; participation in employment and education activities; educational attainment; employment history; marriage, household composition and child care; housing; household income; household food insecurity; health coverage and status; and child outcomes;
- To build upon data collected as part of the earlier 12-month survey wave;
- To conduct non-experimental analyses, in addition to experimental analyses, and provide a descriptive picture of the circumstances of low-wage workers; and
- To obtain participation information important to the evaluation's cost-benefits component.

Respondents: The respondents of the 42-month survey are Temporary Assistance for Needy Families (TANF) applicants, current and former TANF recipients or individuals in families at risk of needing TANF benefits (working poor and hard-to-employ) who are in the research sample in a subset of the 15 programs participating in the ERA Evaluation. Survey participants will be administered a telephone survey approximately 42 months after the date they were enrolled in the research sample and randomly assigned to the treatment or control group. For those individuals who cannot be reached by phone, survey firm staff will attempt to contact them in person. A total of

[1] The U.S. Department of Labor has also provided funding to support the ERA project.

[2] From the Department of Health and Human Services RFP No.: 105–99–8100.

approximately 3,500 participants will complete the survey over a two-year period (1,750 respondents annually).

ANNUAL BURDEN ESTIMATES

Instrument	Number of espondents	Number of esponses per respondent	Average burden hours per response	Total burden hours
42-Month Survey	1,750	1	45 minutes (or .75 hours)	1,312.5

Estimated Total Annual Burden Hours: 1,312.5.

In compliance with the requirements of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Administration for Children and Families is soliciting public comment on the specific aspects of the information collection described above. Copies of the proposed collection of information can be obtained and comments may be forwarded by writing to the Administration for Children and Families, Office of Administration, Office of Information Services, 370 L'Enfant Promenade, SW., Washington, DC 20447, Attn: ACF Reports Clearance Officer. E-mail address: *grjohnson@acf.hhs.gov.* All requests should be identified by the title of the information collection.

The Department specifically requests comments on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Dated: January 18, 2005.

Robert Sargis,

Reports Clearance Officer.

[FR Doc. 05–1297 Filed 1–24–05; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity; Comment Request

Proposed Projects

Title: Child Care and Development Fund Tribal Plan (Form ACF–118–A).

OMB No.: 0970–0198.

Description: The Child Care and Development Fund (CCDF) Tribal Plan serves as the agreement between the applicant (Indian Tribes, Tribal consortia and Tribal organizations) and the Federal Government, and describes how Tribal applicants will operate CCDF Block Grant programs. The Tribal Plan provides assurances that the CCDF funds will be administered in conformance with legislative requirements, Federal regulations at 45 CFR parts 98 and 99 and other applicable instructions or guidelines issued by the Administration for Children and Families (ACF). Tribes must submit a new CCDF Tribal Plan every two years in accordance with 45 CFR 98.17.

Respondents: Tribal CCDF Programs (264 in total).

ANNUAL BURDEN ESTIMATES

Instrument	Number of re-spondents	Number of re-sponses per espondent	Average bur-den hours er response	Total urden ours
CCDF Tribal Plan	264	1	17.5	4,620
CCDF Tribal Plan Amendments	264	1	1.5	396
Estimated Total Annual Burden Hours				5,016

In compliance with the requirements of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Administration for Children and Families is soliciting public comment on the specific aspects of the information collection described above. Copies of the proposed collection of information can be obtained and comments may be forwarded by writing to the Administration for Children and Families, Office of Administration, Office of Information Services, 370 L'Enfant Promenade, SW., Washington, DC 20447, Attn: ACF Reports Clearance Officer. E-mail address: *grjohnson@acf.hhs.gov.* All requests should be identified by the title of the information collection.

The Department specifically requests comments on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Dated: January 18, 2005.

Robert Sargis,

Reports Clearance Officer.

[FR Doc. 05–1298 Filed 1–24–05; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Submission for OMB Review; Comment Request

Title: TANF High Performance Bonus Report, Assessment of Medicaid and SCHIP Enrollment.

OMB No.: 0992–0007.

Description: Pub. L. 104–93, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA), established the Temporary Assistance for Needy Families (TANF) Program. It also included provisions for rewarding States that attain the highest levels of success in achieving the legislative goals of that program. The purpose of this collection, which is a proposed extension without change of a collection currently in use, is to obtain data upon which to base the computation for measuring State performance in meeting those goals by providing Medicaid and State Children's Health Insurance (SCHIP), Program work supports. HHS will use the information to allocate the Medicaid/SCHIP program portion of the bonus grant funds appropriated under the law and implemented by 45 CFR part 270 published on August 30, 2000. States will not be required to submit this information unless they elect to compete on a Medicaid/SCHIP measure for the TANF High Performance Bonus awards in any Federal year for which Congress authorizes and appropriates bonus funds.

Respondents: Respondents may include any of the 50 States, the District of Columbia, and the U.S. Territories of Guam, Puerto Rico, and the Virgin Islands.

ANNUAL BURDEN ESTIMATES

Instrument	Number of espondents	Number of esponses per espondent	Average burden hours per response	Total burden hours
TANF High Performance Bonus Report, Assessment of Medicaid and SCHIP Enrollment Among Individuals After Leaving TANF Assistance	54	4	20	4,320

Estimated Total Annual Burden Hours: 4,320.

Additional Information: Copies of the proposed collection may be obtained by writing to The Administration for Children and Families, Office of Information Services, 370 L'Enfant Promenade, SW., Washington, DC 20447, Attn: ACF Reports Clearance Officer. All requests should be identified by the title of the information collection. E-mail address: *grjohnson@acf.hhs.gov.*

OMB Comment: OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication. Written comments and recommendations for the proposed information collection should be sent directly to the following: Office of Management and Budget, Paperwork Reduction Project, Attn: Desk Officer for ACF, *E-mail address: Katherine_T._Astrich@omb.eop.gov.*

Dated: January 18, 2005.

Robert Sargis,

Reports Clearance Officer.

[FR Doc. 05–1301 Filed 1–24–05; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Government-Owned Inventions; Availability for Licensing

AGENCY: National Institutes of Health, Public Health Service, DHHS.

ACTION: Notice.

SUMMARY: The inventions listed below are owned by an agency of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally-funded research and development. Foreign patent applications are filed on selected inventions to extend market coverage for companies and may also be available for licensing.

ADDRESSES: Licensing information and copies of the U.S. patent applications listed below may be obtained by writing to the indicated licensing contact at the Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, Maryland 20852–3804; telephone: (301) 496–7057; fax: (301) 402–0220. A signed Confidential Disclosure Agreement will be required to receive copies of the patent applications.

Closed-Circuit Flow Obturator for Laparoscopy Port

Jason Wynberg (NCI)

U.S. Provisional Patent Application filed 24 Nov 2004 (DHHS Ref. No. E–237–2004/0–US–01)

Licensing Contact: Michael Shmilovich; (301) 435–5019; *shmilovm@mail.nih.gov.*

Available for licensing, manufacturing and commercial development is a laparoscopic surgical device. This device is an obturator with a cylindrical shape (diameter about 11mm, length about 4.5 inches) with hollow inflow and outflow channels running through the obturator to allow for the transfer of fluids or gas into the interior of the laparoscopic working space in a closed-circuit fashion. At the top and bottom ends of the obturator, flexible hollow tubings are coupled to the end holes of the obturator's hollow channels. In working position, the obturator traverses the inner space of the previously placed laparoscopic port, with the outside diameter of the obturator, creating an airtight seal with the port's diaphragm seal. The flexible tubings that continue from the bottom/intracorporeal end of the obturator would rest inside the operative working space, for connection to any number of end-pieces that would complete the intracorporeal closed-circuit flow path. Applications of this device include transmission of chemotherapeutics, thermoregulated fluids for organ cooling/warming, and possibly even gas media. This obturator can also be designed to include a working channel among its hollow channels, so that a 5 mm laparoscopic instrument can be used through the obturator, at the same time as it is

transmitting fluids or gas through its other channels.

In addition to licensing, the technology is available for further development through collaborative research with the inventors via a Cooperative Research and Development Agreement (CRADA).

Monoclonal Antibodies to HIV–1 Vpr

Jeffrey Kopp (NIDDK), Terence Philips (ORS), Schubert Ulrich (NIAID), John Yewell (NIAID)

U.S. Provisional Application No. 60/585,282 filed 01 Jul 2004 (DHHS Reference No. E–141–2003/0–US–01)

Licensing Contact: Michael Shmilovich; (301) 435–5019; *shmilovm@mail.nih.gov.*

Available for licensing are monoclonal antibodies against HIV–1 viral protein R (Vpr) and the respective hybridoma cell lines expressing the same. The antibodies provide a means for detecting HIV–1 Vpr. Currently, the mechanism of HIV pathogenesis believe d to involve viral replication inside immune cells and other cells. At present, there are no clinical assays for detecting HIV–1 Vpr. Vpr circulates at detectable levels in the blood and is likely derived from degraded virions or released from infected cells. Vpr facilitates viral replication and disrupt normal cell function. Thus measurement of Vpr levels in blood, extracellular fluid, and tissue may be of benefit in understanding the pathogenesis of HIV–1 infection and its myriad complications.

The hybridoma cell line s (9F12 and 10F2) were selected from a group of hybridoma cell lines. These antibodies can be used for detection, including immunoasssays (ELISA) and immunoaffinity-capillary electrophoresis. The amount of detected HIV–1 Vpr is compared to a standardized control sample for determining the progress of disease or the presence of known complications like neuropathy, dementia, metabolic syndrome, or nephropathy.

In addition to licensing, the technology is available for further development through collaborative research with the inventors via a Cooperative Research and Development Agreement (CRADA).

Dated: January 14, 2005.

Steven M. Ferguson,

Director, Division of Technology Development and Transfer, Office of Technology Transfer, National Institutes of Health.

[FR Doc. 05–1279 Filed 1–24–05; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Special Emphasis Panel, Radiation Bystander Effects: Mechanisms.

Date: February 16, 2005.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Marriott Hotels and Resorts (Marriott Key Bridge), 1401 Lee Highway, Arlington, VA 22209.

Contact Person: Sunghan Yoo, Scientific Review Administrator, Division of Extramural Activities, National Cancer Institute, National Institutes of Health, 6116 Executive Boulevard, Room 8105, Bethesda, MD 20892, (301) 594–9025, *yoosu@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)

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 05–1268 Filed 1–24–05; 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 Biology & Transplantation of the Human Stem Cell.

Date: February 25, 2005.

Time: 11 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Double Tree Rockville, 1750 Rockville Pike, Rockville, MD 20852.

Contact Person: Claudio A. Dansky Ullmann, MD, Scientific Review Administrtor, National Cancer Institute, Division of Extramural Activities, Grants Review Branch, Research Programs Review Branch, 6116 Executive Blvd., Rm 8119, MSC 8328, Bethesda, MD 20892, 301–451–4761, *ullmannc@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 14, 2005.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 05–1269 Filed 1–24–05; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood 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 Heart, Lung, and Blood Institute Special Emphasis Panel, NHLBI–HR–05–04, ARDs Network Contract.

Date: February 3, 2005.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate contract proposals.

Place: Hyatt Regency Baltimore, 300 Light Street, Baltimore, MD 21202.

Contact Person: Valerie L. Prenger, PhD., Review Branch, Room 7194, Division of Extramural Affairs, National Heart, Lung, and Blood Institute, National Institutes of Health, 6701 Rockledge Drive, MSC 7924, Bethesda, MD 20892–7924, (301) 435–0288.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: January 14, 2005.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 05–1271 Filed 1–24–05; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institute of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel, Integrated Preclinical/Clinical AIDS Vaccine Development (PCAVD).

Date: February 10–11, 2005.

Time: 8:30 a.m. to 5:30 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, MD 20814.

Contact Person: B. Duane Price, PhD., Scientific Review Administrator, Scientific Review Program, National Institute of Allergy & Infectious Diseases, DEA/NIH/DHHS, 6700B Rockledge Drive, Room 3147, Bethesda, MD 20892, (301) 451–2592, *dbprice@niaid.nih.gov.*

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel, Review of an Unsolicited P01.

Date: February 17, 2005.

Time: 11 a.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge 6700, 6700B Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Thomas J. Hiltke, PhD., Scientific Review Administrator, Scientific Review Program, Divison of Extramural Activities, National Institutes of Health/NIAID, 6700 B Rockledge Drive, MSC 7616, Bethesda, MD 20892–7616, (301) 496–2550, *thiltke@niaid.nih.gov.*

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel, International Clinical Sciences Support.

Date: February 18, 2005.

Time: 9 a.m. to 6 p.m.

Agenda: To review and evaluate contract proposals.

Place: Key Bridge Marriott, 1401 Lee Highway, Arlington, VA 22209.

Contact Person: Marc L. Lesnick, PhD., Scientific Review Administrator, Scientific Review Program, Division of Extramural Activities, DHHS/National Institutes of Health/NIAID, 6700B Rockledge Drive, MSC 7616, Bethesda, MD 20892–7616, (301) 496–2550, *ml436d@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: January 14, 2005.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 05–1270 Filed 1–24–05; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Deafness and Other Communication Disorders; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Deafness and Other Communications Disorders Special Emphasis Panel, Small Grant Program.

Date: March 2, 2005.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Shiguang Yang, PhD., Scientific Review Administrator, Division of Extramural Activities, NIDCD, NIH, 6120 Executive Blvd., Bethesda, MD 20892, 301–496–8683.

Name of Committee: National Institute on Deafness and Other Communications Disorders Special Emphasis Panel, NIDCD Training Grants Review.

Date: March 8, 2005.

Time: 1 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6120 Executive Blvd., Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Sheo Singh, PhD., Scientific Review Administrator, Scientific Review Branch, Division of Extramural Acitivies, Executive Plaza South, Room 400C, 6120 Executive Blvd., Bethesda, MD 20892, 301–496–8683.

(Catalogue of Federal Domestic Assistance Program Nos. 93.173, Biological Research Related to Deafness and Communicative Disorders, National Institutes of Health, HHS)

Dated: January 14, 2005.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 05–1272 Filed 1–24–05; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of 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 meetings of the National Diabetes and Digestive and Kidney Diseases Advisory Council.

The meetings 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 meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Diabetes and Digestive and Kidney Diseases Advisory Council.

Date: February 23–24, 2005.

Open: February 23, 2005, 8:30 a.m. to 12 p.m.

Agenda: To present the Director's Report and other scientific presentations.

Place: National Institutes of Health, Building 31, 31 Center Drive, Conference Room 10, Bethesda, MD 20892.

Closed: February 24, 2005, 9:45 a.m. to 10:15 a.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Building 31, 31 Center Drive, Conference Room 10, Bethesda, MD 20892.

Open: February 24, 2005, 10:15 a.m. to 12 p.m.

Agenda: Continuation of the Director's Report and other scientific presentations.

Place: National Institutes of Health, Building 31, 31 Center Drive, Conference Room 10, Bethesda, MD 20892.

Contact Person: Robert D. Hammond, PhD, Director for Extramural Activities, National Institute of Diabetes and Digestive and Kidney Diseases, National Institutes of Health, 6707 Democracy Blvd, Room 715, MSC 5452, Bethesda, MD 20892–5452, 301–594–8834, *hammondr@extra.niddk.nih.gov.*

Name of Committee: National Diabetes and Digestive and Kidney Diseases Advisory Council, Diabetes, Endocrinology, and Metabolic Diseases Subcommittee.

Date: February 23–24, 2005.

Open: February 23, 2005, 1 p.m. to 4 p.m.

Agenda: To review the Division's scientific and planning activities.

Place: National Institutes of Health, Building 31, 31 Center Drive, Conference Room 10, Bethesda, MD 20892.

Closed: February 23, 2005, 4 p.m. to 5:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Building 31, 31 Center Drive, Conference Room 10, Bethesda, MD 20892.

Closed: February 24, 2005, 8 a.m. to 8:30 a.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Building 31, 31 Center Drive, Conference Room 10, Bethesda, MD 20892.

Open: February 24, 2005, 8:30 a.m. to 9:30 a.m.

Agenda: Continuation of the review of the Division's scientific and planning activities.

Place: National Institutes of Health, Building 31, 31 Center Drive, Conference Room 10, Bethesda, MD 20892.

Contact Person: Robert D. Hammond, PhD., Director for Extramural Activities, National Institute of Diabetes and Digestive and Kidney Diseases, National Institutes of Health, 6707 Democracy Blvd, Room 715, MSC 5452, Bethesda, MD 20892–5452, 301–594–8834, *hammondr@extra.niddk.nih.gov.*

Name of Committee: National Diabetes and Digestive and Kidney Diseases Advisory Council, Digestive Diseases and Nutrition Subcommittee.

Date: February 23–24, 2005.

Open: February 23, 2005, 1 p.m. to 3 p.m.

Agenda: To review the Division's scientific and planning activities.

Place: National Institutes of Health, Building 31, 31 Center Drive, Conference Room 7, Bethesda, MD 20892.

Closed: February 23, 2005, 3:15 p.m. to 5:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Building 31, 31 Center Drive, Conference Room 7, Bethesda, MD 20892.

Open: February 24, 2005, 8 a.m. to 9:30 a.m.

Agenda: Continuation of the review of the Division's scientific and planning activities.

Place: National Institutes of Health, Building 31, 31 Center Drive, Conference Room 7, Bethesda, MD 20892.

Contact Person: Robert D. Hammond, PhD., Director for Extramural Activities, National Institute of Diabetes and Digestive and Kidney Diseases, National Institutes of Health, 6707 Democracy Blvd, Room 715, MSC 5452, Bethesda, MD 20892–5452, 301–594–8834, *hammondr@extra.niddk.nih.gov.*

Name of Committee: National Diabetes and Digestive and Kidney Diseases Advisory Council, Kidney, Urologic, and Hematologic Diseases Subcommittee.

Date: February 23–24, 2005.

Open: February 23, 2005, 1 p.m. to 4:30 p.m.

Agenda: To review the Division's scientific and planning activities.

Place: National Institutes of Health, Building 31, 31 Center Drive, Conference Room 6, Bethesda, MD 20892.

Closed: February 23, 2005, 4:30 p.m. to 5:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Building 31, 31 Center Drive, Conference Room 6, Bethesda, MD 20892.

Closed: February 24, 2005, 8 a.m. to 9:30 a.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Building 31, 31 Center Drive, Conference Room 6, Bethesda, MD 20892.

Contact Person: Robert D. Hammond, PhD., Director for Extramural Activities, National Institute of Diabetes and Digestive and Kidney Diseases, National Institutes of Health, 6707 Democracy Blvd, Room 715, MSC 5452, Bethesda, MD 20892–5452, 301–594–8834, *hammondr@extra.niddk.nih.gov.*

Any interested person may file written comments with the committee by forwarding the 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.

In the interest of security, NIH has instituted stringent procedures for entrance into the building by non-government employees. Persons without a government I.D. will need to show a photo I.D. and sign-in at the security desk upon entering the building.

Information is also available on the Institute's/Center's home page: *http://www.niddk.nih.gov/fund/divisions/DEA/Council/coundesc.htm.,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology, and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: January 13, 2005.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 05–1274 Filed 1–24–05; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which

would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel, Ancillary Studies in Liver Diseases to Ongoing NIDDK Clinical Research Studies.

Date: February 7, 2005.

Time: 11 a.m. to 12:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Dan E. Matsumoto, PhD, Scientific Review Administrator, Review Branch, DEA, NIDDK, Room 749, 6707 Democracy Boulevard, National Institutes of Health, Bethesda, MD 20892–5452, (301) 594–8894, *matsumotod@extra.niddk.nih.gov*.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel, Behavioral and Nutrition Tx to Help CF Preschoolers Grow.

Date: February 25, 2005.

Time: 12 p.m. to 1:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Paul A. Rushing, PhD, Scientific Review Administrator, Review Branch, DEA, NIDDK, National Institutes of Health, Room 747, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, (301) 594–8895, *rushingp@extra.niddk.nih.gov.*

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel, Ancillary Studies to Major Ongoing NIDDK Clinical Research Studies.

Date: March 8, 2005.

Time: 8 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: Paul A. Rushing, PhD, Scientific Review Administrator, Review Branch, DEA, NIDDK, National Institutes of Health, Room 747, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, (301) 594–8895, *rushingp@extra.niddk.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: January 13, 2005.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 05–1275 Filed 1–24–05; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Environmental Health Sciences; 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 Environmental Health Sciences Council.

The meetings 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 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 Advisory Environmental Health Sciences Council.

Date: February 14–15, 2005.

Open: February 14, 2005, 8:30 a.m. to 5:30 p.m.

Agenda: Discussion of program policies and issues.

Place: National Institutes of Health, Building 31, 31 Center Drive, Conference Room 6C10, Bethesda, MD 20892.

Open: February 15, 2005, 8:30 a.m. to 9:30 p.m.

Agenda: Discussion of program policies and issues.

Place: National Institutes of Health, Building 31, 31 Center Drive, Conference Room 6C10, Bethesda, MD 20892.

Closed: February 15, 2005, 9:30 a.m. to 12:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Building 31, 31 Center Drive, Conference Room 6C10, Bethesda, MD 20892.

Contact Person: Anne P. Sassaman, PhD., Director, Division of Extramural Research and Training, National Institute of Environmental Health Sciences, National Institutes of Health, P.O. Box 12233, Research Triangle Park, NC 27709, 919–541–7723.

Any interested person may file written comments with the committee by forwarding the 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.

In the interest of security, NIH has instituted stringent procedures for entrance into the building by non-government employees. Persons without a government I.D. will need to show a photo I.D. and sign-in at the security desk upon entering the building.

Information is also available on the Institute's/Center home page: *http://www.niehs.nih.gov/dert/c-agenda.htm*, where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.115, Biometry and Risk Estimation—Health Risks from Environmental Exposures; 93.142, NIEHS Hazardous Waste Worker Health and Safety Training; 93.143, NIEHS Superfund Hazardous Substances—Basic Research and Education; 93.894, Resources and Manpower Development in the Environmental Health Sciences; 93.113, Biological Response to Environmental Health Hazards; 93.114, Applied Toxicological Research and Testing, National Institutes of Health, HHS)

Dated: January 13, 2005.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 05–1276 Filed 1–24–05; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Aging Special Emphasis Panel Immune System and Aging II.

Date: February 10, 2005.

Time: 12 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Gateway Building, 7201 Wisconsin Avenue, 2C212 Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Bita Nakhai, PhD., Scientific Review Administrator, Scientific Review Office, National Institute on Aging, Gateway Bldg., 2C212, 7201 Wisconsin Avenue, Bethesda, MD 20892, (301) 402–7701. *nakhaib@nia.nih.gov.*

Name of Committee: National Institute on Aging Special Emphasis Panel, Aging and the Musculoskeletal System.

Date: February 10, 2005.

Time: 12 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Gateway Building/2C212, 7201 Wisconsin Ave, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Alessandra M. Bini, PhD., Health Scientist Administrator, Scientific Review Office, National Institute on Aging, National Institutes of Health, 7201 Wisconsin Avenue, Bethesda, MD 20892, (301) 402–7708. *binia@nia.nih.gov.*

Name of Committee: National Institute on Aging Special Emphasis Panel, Vitamin E and Downs Syndrome.

Date: February 14, 2005.

Time: 11 a.m. to 12:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Gateway Building/Room 2C212, 7201 Wisconsin Ave, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Ramesh Vemuri, PhD., Health Scientist Administrator, Scientific Review Office, National Institute on Aging, National Institutes of Health, Room 2C212, 7201 Wisconsin Avenue, Bethesda, MD 20892, (301) 402–7700. *rv23r@nih.gov.*

Name of Committee: National Institute on Aging Special Emphasis Panel, Alzheimer's Disease Clinical Trials.

Date: February 14, 2005.

Time: 12:30 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Gateway Building/Room 2C212, 7201 Wisconsin Ave, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Ramesh Vemuri, PhD., Health Scientist Administrator, Scientific Review Office, National Institute on Aging, National Institutes of Health, Room 2C212, 7201 Wisconsin Avenue, Bethesda, MD 20892, (301) 402–7700. *rv23r@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: January 13, 2005.

LaVerne Y. Stringfield

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 05–1277 Filed 1–24–05; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Hyperthermia Treatment of BCC.

Date: January 26, 2005.

Time: 4 p.m. to 5;30 p.m.

Agenda: To review and evaluate grant applications and/or proposals.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Elaine Sierra-Rivera, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6184, MSC 7804, Bethesda, MD 20892, 301–435–1779, *riverase@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Member Conflicts: Community Influences on Health Behavior.

Date: February 9, 2005.

Time: 4 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Hotel Helix, 1430 Rhode Island Avenue, NW., Washington, DC 20005.

Contact Person: William N. Elwood, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3162, MSC 7770, Bethesda, MD 20892, 301/435–1503, *elwoodwi@csr.nih.gov.*

Name of Committee: Biology of Development and Aging Integrated Review Group International and Cooperative Projects 1 Study Section.

Date: February 10–11, 2005.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: The Fairmont Washington, DC, 2401 M Street, NW., Washington, DC 20037.

Contact Person: Sandy Warren, DMD, MPH, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5134, MSC 7843, Bethesda, MD 20892, (301) 435–1019, *warrens@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Anterior Eye Disease.

Date: February 14–15, 2005.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Christine A. Livingston, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5202, MSC 7846, Bethesda, MD 20892, (301) 435–1172, *livingsc@csr.nih.gov.*

Name of Committee: Molecular, Cellular and Developmental Neuroscience Integrated Review Group Molecular Neuropharmacology and Signaling Study Section.

Date: February 16–17, 2005.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: The Jurys Hotel, 1500 New Hampshire Ave, NW., Washington, DC 20036.

Contact Person: Syed Husain, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4150, MSC 7850, Bethesda, MD 20892, (301) 435–1224, *husains@csr.nih.gov.*

Name of Committee: Health of the Population Integrated Review Group Nursing Science: Adults and Older Adults Study Section.

Date: February 17–18, 2005.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn, Tysons Corner, 1960 Chain Bridge Road, McLean, VA 22102.

Contact Person: Gertrude K. McFarland, DNSC, FAAN, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3156, MSC 7770, Bethesda, MD 20892, (301) 435–1784, *mcfarlag@csr.nih.gov.*

Name of Committee: Risk Prevention and Health Behavior Integrated Review Group Psychosocial Development, Risk and Prevention Study Section.

Date: February 17–18, 2005.

Time: 8 a.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: The Marriott, 5151 Pooks Hill Road, Bethesda, MD 20814.

Contact Person: Victoria S. Levin, MSW, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3172, MSC 7848, Bethesda, MD 20892, (301) 435–0912, *levin@csr.nih.gov.*

Name of Committee: Oncological Sciences Integrated Review Group Tumor Progression and Metastasis Study Section.

Date: February 17–18, 2005.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Georgetown, 2101 Wisconsin Avenue, NW., Washington, DC 20007.

Contact Person: Martin L. Padarathsingh, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6212, MSC 7804, Bethesda, MD 20892, (301) 435–1717, *padaratm@csr.nih.gov*.

Name of Committee: Molecular, Cellular and Developmental Neuroscience Integrated Review Group Neurodegeneration and Biology of Glia Study Section.

Date: February 17–18, 2005.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Renaissance Mayflower Hotel, 1127 Connecticut Avenue, NW., Washington, DC 20036.

Contact Person: Toby Behar, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4136, MSC 7850, Bethesda, MD 20892, (301) 435–4433, *behart@csr.nih.gov*.

Name of Committee: Integrative, Functional and Cognitive Neuroscience Integrated Review Group Neurobiology of Learning and Memory Study Section.

Date: February 17–18, 2005.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: One Washington Circle Hotel, One Washington Circle, Washington, DC 20037.

Contact Person: Bernard F. Driscoll, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5184, MSC 7844, Bethesda, MD 20892, (301) 435–1242, *driscolb@csr.nih.gov.*

Name of Committee: Biological Chemistry and Macromolecular Biophysics Intergrated Review Group Macromolecular Structure and Function B Study Section.

Date: February 17–18, 2005.

Time: 8 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Churchill Hotel, 1914 Connecticut Avenue, NW., Washington, DC 20009.

Contact Person: Nancy Lamontagne, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4170, MSC 7806, Bethesda, MD 20892, (301) 435–1726, *lamontan@csr.nih.gov.*

Name of Committee: Cell Biology Integrated Review Group Biology and Diseases of the Posterior Eye.

Date: February 17–18, 2005.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Michael H. Chaitin, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5202, MSC 7850, Bethesda, MD 20892, (301) 435–0910, *chaitinm@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel SBTS 10: Small Business Cardiovascular Devices.

Date: February 17–18, 2005.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Select Bethesda, 8120 Wisconsin Ave, Bethesda, MD 20814.

Contact Person: Roberto J. Matus, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5108, MSC 7854, Bethesda, MD 20892, (301) 435–2204, *matusr@csr.nih.gov.*

Name of Committee: Cell Biology Integrated Review Group Cellular Signaling and Dynamics.

Date: February 17–18, 2005.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Select Bethesda, 8120 Wisconsin Ave, Bethesda, MD 20814.

Contact Person: Gerhard Ehrenspeck, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5138, MSC 7840, Bethesda, MD 20892, (301) 435–1022, *ehrenspg@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel Epidemiology of Diabetes, Kidney and Infectious Diseases.

Date: February 17–18, 2005.

Time: 8 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: Christopher Sempos, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3146, MSC 7770, Bethesda, MD 20892, (301) 451–1329, *semposch@csr.nih.gov.*

Name of Committee: Immunology Integrated Review Group, Cellular and Molecular Immunology—B.

Date: February 17–18, 2005.

Time: 8 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: Betty Hayden, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4206, MSC 7812, Bethesda, MD 20892, 301–435–1223, *haydenb@csr.nih.gov.*

Name of Committee: Immunology Integrated Review Group, Hypersensitivity, Autoimmune, and Immune-mediated Diseases.

Date: February 17–18, 2005.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Wyndham City Center Hotel, 1143 New Hampshire Ave., NW., Washington, DC 20037.

Contact Person: Bahiru Gametchu, DVM, MS, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4204, MSC 7812, Bethesda, MD 20892, 301–435–1225, *gametchb@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Microbial Pathogenesis.

Date: February 17–18, 2005.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: The Watergate, 2650 Virginia Avenue, NW., Washington, DC 20037.

Contact Person: Rolf Menzel, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3196, MSC 7808, Bethesda, MD 20892, 301–435–0952, *menzelro@csr.nih.gov.*

Name of Committee: Hematology Integrated Review Group, Erythrocyte and Leukocyte Biology Study Section.

Date: February 17, 2005.

Time: 8 a.m. to 7 p.m.

Agenda: To review and evaluate grant applications.

Place: The Watergate Hotel, 2650 Virginia Avenue, NW., Washington, DC 20037.

Contact Person: Delia Tang, MD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4126, MSC 7802, Bethesda, MD 20892, 301–435–2506, *tangd@csr.nih.gov.*

Name of Committee: Hematology Integrated Review Group, Hematopoiesis Study Section.

Date: February 17–18, 2005.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Chevy Chase, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.

Contact Person: Robert T. Su, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4134, MSC 7802, Bethesda, MD 20892, (301) 435–1195, *sur@csr.nih.gov.*

Name of Committee: Biological Chemistry and Macromolecular Biphysics Integrated Review Group, Enabling Bioanalytical and Biophysical Technologies Study Section.

Date: February 17–18, 2005.

Time: 8 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: The Fairmont Washington, DC, 2401 M Street, NW., Washington, DC 20037.

Contact Person: Noni Byrnes, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4180, MSC 7806, Bethesda, MD 20892, (301) 435–1217, *byrnesn@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Human Brain Project/NeuroInformatics.

Date: February 17–18, 2005.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Georgetown Suites, 1111 30th Street, NW., Washington, DC 20007.

Contact Person: Robert C. Elliott, PhD, Scientific Review Administrator, Center for

Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3130, MSC 7850, Bethesda, MD 20892, (301) 435–3009, *elliotro@csr.nih.gov.*

Name of Committee: Endocrinology, Metabolism, Nutrition and Reproductive Sciences Intergrated Review Group, Pregnancy and Neonatology Study Section.

Date: February 17–18, 2005.

Time: 8 a.m. to 2 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Select Bethesda, 8120 Wisconsin Ave, Bethesda, MD 20814.

Contact Person: Michael Knecht, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6176, MSC 7892, Bethesda, MD 20892, (301) 435–1046, *knechtm@csr.nih.gov.*

Name of Committee: Integrative, Functional and Cognitive Neuroscience Integrated Review Group, Neurotoxicology and Alcohol Study Section.

Date: February 17–18, 2005.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesdsa, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Joseph G. Rudolph, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5186, MSC 7844, Bethesda, MD 20892, (301) 435–2212, *josephru@csr.nih.gov.*

Name of Committee: Hematology Integrated Review Group, Hemostasis and Thrombosis Study Section.

Date: February 17–18, 2005.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Four Points by Sheraton Bethesda, 8400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Jerrold Fried, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2114, MSC 7840, Bethesda, MD 20892, (301) 435–2633, *friedje@csr.nih.gov.*

Name of Committee: Biological Chemistry and Macromolecular Biophysics Integrated Review Group Macromolecular Structure and Function C Study Section.

Date: February 17–18, 2005.

Time: 8:30 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Beacon Hotel and Corporate Quarters, 1615 Rhode Island Avenue, NW., Washington, DC 20036.

Contact Person: Arnold Revzin, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4184, MSC 7824, Bethesda, MD 20892, (301) 435–1153, *revzina@csr.nih.gov.*

Name of Committee: Health of the Population Integrated Review Group Epidemiology of Chronic Diseases Study Section.

Date: February 17–18, 2005.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Select Bethesda, 8120 Wisconsin Ave, Bethesda, MD 20814.

Contact Person: J. Scott Osborne, PhD, MPH, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4114, MSC 7816, Bethesda, MD 20892, (301) 435–1782, *osbornes@csr.nih.gov.*

Name of Committee: Cardiovascular Sciences Integrated Review Group Cardiovascular Differentiation and Development Study Section.

Date: February 17–18, 2005.

Time: 8:30 a.m. to 11 a.m.

Agenda: To review and evaluate grant applications.

Place: Wyndham Washington, DC, 1400 M Street, NW., Washington DC 20005.

Contact Person: Larry Pinkus, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4132, MSC 7802, Bethesda, MD 20892, (301) 435–1214, *pinkusl@csr.nih.gov.*

Name of Committee: Genes, Genomes, and Genetics Integrated Review Group Genetic Variation and Evolution Study Section.

Date: February 17–18, 2005.

Time: 9 a.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: The River Inn, 924 25th Street, NW., Washington DC 20037.

Contact Person: David J. Remondini, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2210, MSC 7890, Bethesda, MD 20892, 301/435–1038, *remondid@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel Mosquitoes.

Date: February 17, 2005.

Time: 3 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone conference Call).

Contact Person: Fouad A. El-Zaatari, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3206, MSC 7808, Bethesda, MD 20892, (301) 435–1149, *elzaataf@csr.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: January 13, 2005.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 05–1273 Filed 1–24–05; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Biomedical Imaging and Bioengineering; Notice of Public Comment Period

SUMMARY: The National Institute of Biomedical Imaging and Bioengineering (NIBIB) is developing its first 5-year strategic plan (2005–2009), and invites the public to provide input regarding NIBIB's areas of scientific emphasis, operational emphasis, and strategic priorities. The public is invited to provide comments via the NIBIB Web site.

Background

The NIBIB was authorized by Public Law 106–580, which was signed into law by President William Clinton on December 29, 2000. The establishment of NIBIB provided an identity and a research home for the development and application of new technologies and techniques for the delivery of health care in the 21st century.

The mission of the NIBIB is to improve human health by leading the development and accelerating the application of biomedical technologies. The Institute is committed to integrating the engineering and physical sciences with the life sciences to advance basic research and medical care.

To accomplish this mission, the NIBIB has developed a set of goals, strategies, and objectives designed to maximize the Institute's impact on human health. These goals, strategies, and objectives provide the framework and action plan for the Institute's direction over the next five years, and determine how NIBIB will allocate resources to support and enhance scientific research.

Request for Comments

The NIBIB wants to develop a process that considers the views of groups and individuals who are concerned about the Institute's programs. The public is invited to provide input electronically into the development of NIBIB's strategic plan for 2005–2009. Please visit the NIBIB Web site at *http://www.nibib1.nih.gov/about/SP/strategicplan.htm* to comment.

Comments Due Date

We are asking that electronic comments regarding the development of NIBIB's strategic plan be received by February 28, 2005. If you do not have access to a computer, the NIBIB will provide you with a copy of the material that is on the Web site. You may request

this material from Ms. Colleen Guay-Broder, Office of Science Policy and Public Liaison, NIBIB, NIH, 31 Center Drive MSC 2281, Room 1C14, Bethesda, MD 20892–2281.

The NIBIB looks forward to working with the research community and the public to develop its strategic plan.

Dated: January 14, 2005.

Colleen Guay-Broder,

Director, Office of Science Policy and Public Liaison, National Institute of Biomedical Imaging and Bioengineering, National Institutes of Health.

[FR Doc. 05–1278 Filed 1–24–05; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Mandatory Guidelines for Federal Workplace Drug Testing Programs

AGENCY: Substance Abuse and Mental Health Services Administration, HHS.

ACTION: Mandatory Guidelines: Response to Public Comments.

SUMMARY: In the **Federal Register** notice of April 13, 2004 (69 FR 19644), the Department of Health and Human Services (''HHS'' or ''Department'') published final changes to the Mandatory Guidelines for Federal Workplace Drug Testing Programs. These changes established specimen validity testing standards and reporting procedures for Federal agency urine specimens collected under the Mandatory Guidelines for Federal Workplace Drug Testing Programs. These changes to the Mandatory Guidelines were subject to further comment only on the creatinine criterion that is part of the requirement to report a urine specimen as substituted because the Department based this criterion on information received after the comment period on the proposed changes published on August 21,2001 closed. After reviewing the comments received regarding this issue, the Department has concluded that the 2 mg/dL creatinine criterion established in the April 13, 2004, **Federal Register** notice (69 FR 19644) for a substituted specimen is the appropriate cutoff concentration to use for reporting a urine specimen as substituted.

EFFECTIVE DATE: November 1, 2004.

FOR FURTHER INFORMATION CONTACT: Walter F. Vogl, Ph.D., Division of Workplace Programs, SAMHSA, Room #2–1035, 1 Choke Cherry Road, Rockville, Maryland 20857, telephone (240) 276–2600, fax (240) 276–2610, or e-mail: *walter.vogl@samhsa.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

The Mandatory Guidelines for Federal Workplace Drug Testing Programs(Mandatory Guidelines) establish the scientific and technical guidelines for Federal workplace drug testing programs and standards for certification of laboratories engaged in urine drug testing for Federal agencies, under authority of section 503 of Pub. L. 100–71, 5 U.S.C. 7301 note, and E. 0. No. 12564. The Mandatory Guidelines were first published in the **Federal Register** on April 11, 1988 (53 FR 11979), revised on June 9, 1994 (59 FR 29908), revised on November 13, 1998 (63 FR 63483), and revised on April 13, 2004 (69 FR 19644).

The April 13, 2004, **Federal Register** notice finalized the changes to the Mandatory Guidelines that were proposed in the **Federal Register** notice published on August 21, 2001 (66 FR 43876); established an effective date of November 1, 2004; but allowed further public comment on one issue. That is, comments were requested on the 2 mg/dL creatinine concentration criterion that was established as part of the requirement to report a urine specimen as substituted. This was left open for comment because the 2 mg/dL concentration level was based on information received after the comment period closed on the **Federal Register** notice published on August 21, 2001. The additional information that was provided indicated that it was possible for an individual to provide a normal urine specimen with a creatinine concentration less than the 5 mg/dL cutoff concentration criterion proposed in the August 21 notice.

II. Discussion of Public Comments

As stated in the April 13, 2004, **Federal Register** notice, the Department was only accepting comments on the creatinine criterion. The Department did receive several comments on other sections of the Mandatory Guidelines including the effective date, but these sections and the effective date were not open to comment.

Several commenters recommended that the Department take one or more of the following actions with regard to the creatinine criterion:

Comment: Immediately collect another specimen from the donor when the creatinine concentration is between 2 mg/dL and 5 mg/dL because this policy will continue to detect ''truly substituted'' specimens.

Response: The suggestion that a urine specimen with a creatinine concentration between 2 mg/dL and 5 mg/dL is ''truly substituted'' implies that the cutoff concentration should be raised to 5 mg/dL to ensure that all substituted specimens are correctly identified as substituted specimens. The Department disagrees with this suggestion. At the Department of Transportation Federal Aviation Administration's conference held February 4–6, 2003, to study substitution and adulteration issues, the experts attending the conference were convinced based on evidence presented that it was possible for some individuals to produce a valid urine specimen with a creatinine concentration of less than 5 mg/dL, the level specified in the **Federal Register** notice of August 21, 2001. After consideration of data on creatinine levels, they concluded that the level should be set at 2 mg/dL. Lowering the concentration level will prevent the likelihood of individuals being falsely accused of substituting their specimen. The Department also notes that there is a second criterion for determining whether a specimen has been substituted—specific gravity—which has not been changed.

Comment: Immediately collect another specimen from the donor when the creatinine concentration is between 2 mg/dL and 5 mg/dL because approximately one half of the second specimens collected from donors in this creatinine range are tested and reported drug positive.

Response: The commenter who submitted this comment did not provide actual data to justify the claim that approximately one-half of the second specimens collected are tested and reported drug positive. The commenter based the observation on specimens between 2 mg/dL and 5 mg/dL that one Medical Review Officer ordered to have a second specimen collected. There was no indication of the number of specimens that were recollected, the reason for testing (*i.e.*, random, post-accident, pre-employment), or whether they were Federal agency, DOT regulated, or private-sector specimens. The commenter did say that all of the recollections that were drug positive were from males and none from females. The Department believes this anecdotal information is not sufficient justification to require immediately collecting a second specimen from a Federal employee or applicant for a Federal agency testing designated position using a direct observed collection. The Department also believes that a urine specimen that tests negative for drugs, is dilute, and exhibits no other evidence of

possible tampering is a valid urine specimen and should not lead a Medical Review Officer to direct a Federal agency to immediately collect another specimen because the creatinine concentration is between 2 mg/dL and 5 mg/dL.

Comment: The creatinine cutoff of less than 2 mg/dL is too low especially when using reagent strips to measure the creatinine concentration.

Response: The Department agrees that reagent strips could not be used to obtain an accurate creatinine concentration at 2 mg/dL. However, since the Department does not permit certified laboratories to use reagent strips to determine creatinine concentration, this comment is not relevant to the creatinine analyses conducted by certified laboratories. The accepted methods to determine creatinine concentration are Jaffe or modified Jaffe colorimetric procedures using autoanalyzers and these methods can accurately analyze and record creatinine concentrations to one decimal place (using mg/dL units) at and below the 2 mg/dL cutoff concentration.

Comment: Donors whose specimens are reported substituted should be directed to provide another specimen using a direct observed collection procedure to prove his or her innocence because the donor naturally produces ''ultra-dilute'' urine.

Response: The Department disagrees with this comment for the following reasons: (1) The revised Mandatory Guidelines give a Federal employee the opportunity to provide medical records to the Medical Review Officer that support a legitimate explanation for a substituted result, and (2) the Federal employee is allowed to request a retest of a single specimen or the test of a split specimen to verify the result reported by the laboratory. The Department believes these two provisions are sufficient to protect the Federal employee's rights without the need to collect a second specimen using a direct observed collection procedure.

Comment: The variation of the measurement of creatinine concentration within and between laboratories is too large to permit determining an accurate measurement of the creatinine concentration.

Response: The Department disagrees with the comment because the results from the performance testing (PT) program clearly demonstrate the ability of the certified laboratories to accurately measure the creatinine concentration around the 2 mg/dL cutoff concentration. With regard to specimen validity tests, certified laboratories are required to ensure that their tests satisfy the strict quality control requirements specified in the Mandatory Guidelines and must implement quality assurance procedures to monitor assay performance. These requirements are essentially the same requirements that have been used and applied to the drug tests since the beginning of the Federal Workplace Drug Testing Program. In addition, the Department monitors the variation of the specimen validity test results through the laboratory inspection and PT programs. The Department believes that monitoring the performance of each laboratory's results on the PT samples that challenge each laboratory's specimen validity tests is sufficient and appropriate to ensure that each laboratory's specimen validity test results on Federal employee specimens are forensically and scientifically supportable; therefore, the Department is not changing the creatinine cutoff concentration.

Comment: Lower the creatinine criterion because certain donors can naturally produce urine specimens with creatinine concentrations that are less than 2 mg/dL.

Response: The Department agrees that under extreme circumstances there may be a few individuals that could theoretically provide a valid urine specimen having a creatinine concentration slightly below 2 mg/dL. However, the Department believes that the policy giving a Federal employee the right to submit medical information to the Medical Review Officer to support a creatinine concentration that is less than 2 mg/dL is a safeguard that will prevent a Federal employee from being falsely accused of providing a substituted specimen.

Dated: December 8, 2004.

Charles G. Curie,

Administrator, SAMHSA.

Dated: January 14, 2005.

Tommy G. Thompson,

Secretary.

[FR Doc. 05–1309 Filed 1–24–05; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4971–N–01]

Notice of Submission of Proposed Information Collection to OMB; Requirement for Contractors To Provide Certificates of Insurance for Capital Program Projects

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

HUD is requesting renewed approval to require Public Housing Agencies to obtain certificates of insurance from contractors and subcontractors before beginning work under either the development of a new low-income public housing project or the modernization of an existing project.

DATES: Comments Due Date: February 24, 2005.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB approval Number (2577–0046) and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax: 202–395–6974.

FOR FURTHER INFORMATION CONTACT: Wayne Eddins, Reports Management Officer, AYO, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; e-mail *Wayne_Eddins@HUD.gov;* or Lillian Deitzer at *Lillian_L_Deitzer@HUD.gov* or telephone (202) 708–2374. This is not a toll-free number. Copies of available documents submitted to OMB may be obtained from Mr. Eddins or Ms. Deitzer and at HUD's Web site at *http://www5.hud.gov:63001/po/i/icbts/collectionsearch.cfm.*

SUPPLEMENTARY INFORMATION: This notice informs the public that the Department of Housing and Urban Development has submitted to OMB a request for approval of the information collection described below. This notice is soliciting comments from members of the public and affecting agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) enhance the quality, utility, and clarity of the information to be collected; and (4) minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or

other forms of information technology, *e.g.*, permitting electronic submission of responses.

This notice also lists the following information:

Title of Proposal: Requirement for Contractors to Provide Certificates of Insurance for Capital Program Projects.

OMB Approval Number: 2577–0046.

Description of the Need for the Information and Its Proposed Use: Public Housing Agencies must obtain certificates of insurance from contractors and subcontractors before beginning work under either the development of a new low-income public housing project or the modernization of an existing project. The certificates of insurance provide evidence that worker's compensation and general liability, automobile liability insurance are in force before any construction work is started.

Frequency of Submission: On occasion, Other When applicant is offered a unit.

Reporting Burden:

Number of respondents	Annual responses	×	Hours per response	=	Burden hours
3,000	4		0.5		6,000

Total Estimated Burden Hours: 6,000.

Status: Extension of a currently approved collection.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: January 14, 2005.

Wayne Eddins,

Departmental Paperwork Reduction Act Officer, Office of the Chief Information Officer.

[FR Doc. 05–1253 Filed 1–24–05; 8:45 am]

BILLING CODE 4210–72–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4971–N–02]

Notice of Submission of Proposed Information Collection to OMB; Self-Help Homeownership Opportunity Program (SHOP) Grants Monitoring

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

HUD is requesting approval be reinstated for post award reporting on SHOP grant funding. SHOP provides for funds to purchase home sites and develop/improve infrastructure to support sweat equity and volunteer-based homeownership programs for low-income persons and families. This information collection is to measure performance goals and demonstrate the success of the program.

DATES: Comments Due Date: February 24, 2005.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB approval Number (2506–0157) and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax: 202–395–6974.

FOR FURTHER INFORMATION CONTACT: Wayne Eddins, Reports Management Officer, AYO, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; e-mail *Wayne_Eddins@HUD.gov;* or Lillian Deitzer at *Lillian_L_Deitzer@HUD.gov* or telephone (202) 708–2374. This is not a toll-free number. Copies of available documents submitted to OMB may be obtained from Mr. Eddins or Ms. Deitzer and at HUD's Web site at *http://www5.hud.gov:63001/po/i/icbts/collectionsearch.cfm.*

SUPPLEMENTARY INFORMATION: This notice informs the public that the Department of Housing and Urban Development has submitted to OMB a request for approval of the information collection described below. This notice is soliciting comments from members of the public and affecting agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) enhance the quality, utility, and clarity of the information to be collected; and (4) minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

This notice also lists the following information:

Title of Proposal: Self-Help Homeownership Opportunity Program (SHOP) Grants Monitoring.

OMB Approval Number: 2506–0157.

Form Numbers: HUD–40215, HUD–40216, HUD–40217, HUD–40218, HUD–40219, and HUD–40220.

Description of the Need for the Information and Its Proposed Use: HUD is requesting approval be reinstated for post award reporting on SHOP grant funding. SHOP provides for funds to purchase home sites and develop/improve infrastructure to support sweat equity and volunteer-based homeownership programs for low-income persons and families. This information collection is to measure performance goals and demonstrate the success of the program.

Frequency of Submission: On occasion, Monthly.

Reporting Burden:

Number of respondents	Annual responses	×	Hours per response	=	Burden hours
933	3,861		2.2		8,675

Total Estimated Burden Hours: 8,675.

Status: Request reinstatement of a previously approved collection.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: January 14, 2005.

Wayne Eddins,

Departmental Paperwork Reduction Act Officer, Office of the Chief Information Officer.

[FR Doc. 05–1258 Filed 1–24–05; 8:45 am]

BILLING CODE 4210–72–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4978–N–01]

Section 5(h) Homeownership Program for Public Housing: Submission of Plan and Reporting

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* March 28, 2005.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name/or OMB Control number and should be sent to: Aneita Waites, Reports Liaison Officer, Public and Indian Housing, Department of Housing and Urban Development, 451 7th Street, SW., Room 4116, Washington, DC 20410–5000.

FOR FURTHER INFORMATION CONTACT: Aneita Waites, (202) 708–0713, extension 4114, for copies of the proposed forms and other available documents. (This is not a toll-free number).

SUPPLEMENTARY INFORMATION: The Department will submit the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended). This Notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) enhance the quality, utility, and clarity of the information to be collected; and (4) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: Section 5(h) Homeownership: Data Collection.

OMB Control Number: 2577–0201.

Description of the Need for the Information and Proposed Use: 24 CFR part 906, section 5(h) Homeownership Program is authorized by Sections 5(h) and 6(c)(4)(D) of the U.S. Housing Act of 1937 (Act). This program was replaced by Section 32 of the Act through enactment of the Quality Housing and Work Responsibility Act of 1998. The data collection is only for gathering applicant information for the ongoing implementation of programs approved under the former 5(h) authority. Additionally, information collected includes information relative to the location and description of the unit. The information is currently collected electronically in the Public and Indian Housing Information Center (PIC). The sections in the regulation that impose information collection requirements are as follows:

24 CFR section 906.17, which requires PHAs to maintain records (including sales and financial records) for all activities incident to implementation of the HUD-approved homeownership plan. In addition, the applicant is required to submit annual sales reports. Applicable portions of the regulations are attached.

For HUD-approved plans, PHAs will maintain records which may be subject to audit by HUD and the Government Accounting Office (GAO). In cases where implementation of the plan takes more than one year, PHAs will prepare annual reports and submit them to HUD.

Agency Form Number: None.

Members of Affected Public: Public Housing Agencies currently implementing an approved Section 5(h) Homeownership Plan.

Estimation of the total number of hours needed to prepare the information collection including number of respondents:

Estimated annual burden	Reference	Number of respondents	Frequency of response	Estimated average response time	Total annual burden
73	24 CFR 906.17	73	1	1	73

Status of the Proposed Information Collection: Extension of currently approved collection.

The information is currently collected electronically in the Public and Indian Housing Information Center (PIC). Statutory mandates and Federal program requirements would not be met if the collection is not conducted, or is conducted less frequently.

Authority: Section 3506 of the Paperwork Reduction Act of 1995, 44 U.S.C. chapter 35, as amended.

Dated: January 12, 2005.

Michael Liu,

Assistant Secretary for Public and Indian Housing.

[FR Doc. 05–1259 Filed 1–24–05; 8:45 am]

BILLING CODE 4210–33–P

INTER-AMERICAN FOUNDATION

Sunshine Act; Meeting

MATTERS TO BE CONSIDERED: Draft Agenda for Board of Director' Meeting.

DATE: February 3, 2005.

TIME: 4:30 p.m.–5:30 p.m.

The meeting will be held at the Guatemala City Marriott Hotel, 7 avenida 15–45, zona 9, Guatemala, Guatemala.

The meeting will be closed as provided in 22 CFR part 1004.4(f) to discuss matters related to the search for candidates for the position of President of the Inter-American Foundation.

4:30 p.m. Call to order; Begin executive session.

5:30 p.m. Adjourn.

David Valenzuela,

President.

[FR Doc. 05–1381 Filed 1–21–05; 11:33 am]

BILLING CODE 7025–01–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Availability of a Draft Environmental Assessment/Habitat Conservation Plan and Receipt of a Permit Application (Becker) for Incidental Take of the Houston Toad

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability.

SUMMARY: Robert Becker (Applicant) has applied for an incidental take permit (TE–098535–0) pursuant to Section 10(a) of the Endangered Species Act (Act). The requested permit would authorize incidental take of the endangered Houston toad. The proposed take would occur as a result of the construction and occupation of a single family residence and associated structures on 0.5 acres (0.2 hectare) of a 6.58-acre (2.66 hectare) property located on Barras Road, Bastrop County, Texas.

DATES: To ensure consideration, written comments must be received on or before March 28, 2005.

ADDRESSES: Persons wishing to review the application may obtain a copy by writing to the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 1306, Room 4102, Albuquerque, New Mexico 87103. Persons wishing to review the Environmental Assessment/Habitat Conservation Plan (EA/HCP) may obtain a copy by contacting Clayton Napier, U.S. Fish and Wildlife Service, 10711 Burnet Road, Suite 200, Austin, Texas 78758 (512–490–0057). Documents will be available for public inspection by written request, by appointment only, during normal business hours (8 a.m. to 4:30 p.m.) at the U.S. Fish and Wildlife Service, Austin, Texas. Written data or comments concerning the application and EA/HCP should be submitted to the Supervisor, U.S. Fish and Wildlife Service, 10711 Burnet Road, Suite 200, Austin, Texas, at the above address. Please refer to permit number TE–098535–0 when submitting comments.

FOR FURTHER INFORMATION CONTACT: Clayton Napier at the U.S. Fish and Wildlife Service, Austin Office, 10711 Burnet Road, Suite 200, (512–490–0057).

SUPPLEMENTARY INFORMATION: Section 9 of the Act prohibits the ''taking'' of endangered species such as the Houston toad. However, the Fish and Wildlife Service (Service), under limited circumstances, may issue permits to take endangered wildlife species incidental to, and not the purpose of, otherwise lawful activities. Regulations governing permits for endangered species are at 50 CFR 17.22.

The Service has prepared the EA/HCP for the incidental take application. A determination of jeopardy or non-jeopardy to the species and a decision pursuant to the National Environmental Policy Act (NEPA) will not be made until at least 60 days from the date of publication of this notice. This notice is provided pursuant to section 10(c) of the Act and National Environmental Policy Act regulations (40 CFR 1506.6).

Applicant: Robert Becker plans to construct a single family residence and associated structures on 0.5 acres of a 6.58-acre property located on Barras Road, Bastrop County, Texas. This action will eliminate 0.5-acres or less of Houston toad habitat and result in indirect impacts within the lot. The Applicant proposes to compensate for this incidental take of the Houston toad by providing $2,000.00 to the Houston Toad Conservation Fund at the National Fish and Wildlife Foundation for the specific purpose of land acquisition and management within Houston toad habitat.

Joy E. Nicholopoulos,

Acting Regional Director, Southwest Region.

[FR Doc. 05–1296 Filed 1–24–05; 8:45 am]

BILLING CODE 4510–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Availability of an Environmental Assessment and Receipt of an Application for an Incidental Take Permit for the Lamont Public Utility District in Kern County, CA

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability and receipt of application.

SUMMARY: The Lamont Public Utilities District (Applicant) has applied to the Fish and Wildlife Service (Service) for an incidental take permit pursuant to section 10(a)(1)(B) of the Endangered Species Act of 1973, as amended (Act). The Service is considering the issuance of a 50-year permit to the Applicant that would authorize take of the endangered Tipton kangaroo rat (*Dipodomys nitratoides nitratoides*), the endangered San Joaquin kit fox (*Vulpes macrotis mutica*), and the western burrowing owl (*Athene cunicularia*), a species of special concern, incidental to otherwise lawful activities. Such take would occur during the proposed construction and operation of the Applicant's effluent disposal site expansion on a 160-acre site south of Lamont, Kern County, California. The proposed expansion includes the construction of two ponds, a series of leaching terraces, and access roads. The proposed project would affect suitable habitat for the San Joaquin kit fox and western burrowing owl, and permanently affect about 19 acres of occupied habitat of the Tipton kangaroo rat.

We request comments from the public on the permit application and Environmental Assessment, both of which are available for review. The permit application includes the proposed Habitat Conservation Plan (Plan) and an accompanying Implementing Agreement. The Plan describes the proposed action and the measures that the Applicant would undertake to minimize and mitigate take of the covered species.

DATES: We must receive your written comments on or before March 28, 2005.

ADDRESSES: Please address written comments to Lori Rinek, Chief, Conservation Planning and Recovery Division, U.S. Fish and Wildlife Service, Sacramento Fish and Wildlife Office, 2800 Cottage Way, W–2605, Sacramento, California 95825. You also may send comments by facsimile to (916) 414–6713.

FOR FURTHER INFORMATION CONTACT: Jesse Wild, Fish and Wildlife Biologist, or Lori Rinek, Chief, Conservation Planning and Recovery Division at the Sacramento Fish and Wildlife Office at (916) 414–6600.

SUPPLEMENTARY INFORMATION:

Availability of Documents

You may obtain copies of these documents for review by contacting Jesse Wild or Lori Rinek [see **FOR FURTHER INFORMATION CONTACT**]. Documents also will be available for public inspection, by appointment, during normal business hours at the Sacramento Fish and Wildlife Office [see **ADDRESSES**].

Background

Section 9 of the Act and Federal regulations prohibit the ''take'' of fish and wildlife species listed as endangered or threatened. Take of federally listed fish and wildlife is defined under the Act to include the

following activities: to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct. The Service may, under limited circumstances, issue permits to authorize incidental take (*i.e.,* take that is incidental to, and not the purpose of, the carrying out of an otherwise lawful activity). Regulations governing incidental take permits for endangered species are found in 50 CFR 17.22.

In response to California Regional Water Quality Board requirements, the Applicant proposes to expand their current sewage effluent disposal facility to the southeast onto an adjacent 160-acre parcel located about 2.5 miles directly south of the town of Lamont (0.5 mile south of Bear Mountain Boulevard, State Route 223), immediately to the west of Wheeler Ridge Road (State Route 184) in Kern County, California.

On the northwest corner of the site, the Applicant proposes to construct two treatment ponds on approximately 21 acres. This pond construction would be located in unoccupied and previously disturbed areas as reported by completed survey and trapping records. Activities presently occurring in this area include composting and agriculture. The remaining 139 acres of the propetry would be graded for access roads, leveled, and planted in corn, alfalfa, or other forage crops for non-human consumption that can be irrigated and harvested periodically through standard cultivating and harvesting techniques.

A series of terraced benches may be constructed on the east side of the site, which is designated for agricultural use. Effluent would be spread aerially onto the benches, which would be about 600 feet wide, with a 4-foot gently-sloped drop between each bench. The terraced leaching benches would be used sequentially, allowing evaporation and infiltration of the effluent into the soil while water is being spread on other benches. The effluent would be spread on each pad as needed. Following the completion of infiltration and drying, each bench would be disked several times each year to maintain the highest levels of permeability and percolation. Winter wheat, corn, alfalfa, or another forage crop may be planted on the benches and harvested periodically.

The project site contained about 19 acres of habitat occupied by the Tipton kangaroo rat, according to survey trapping and mapping efforts concluded in 1995. The Service has concluded that implementation of the proposed project will likely result in take of Tipton kangaroo rats through the removal or repeated disturbance of habitat on the site.

Although no San Joaquin kit foxes were observed nor evidence found of their denning at the time of biological surveys, they may range through and periodically use the site for foraging and/or denning. The expansion and operation of the facilities is unlikely to result in direct mortality or injury of San Joaquin kit foxes, but may result in take in the form of harassment.

The western burrowing owl may occupy California ground squirrel (*Spermophilus beecheyi*) burrows adjacent to agricultural fields or along canal road ditches and berms, and may inhabit pipes and culverts on the project site. The owls may be displaced, killed, or disturbed by the construction of the project. Owls that occupy the site following the completion of construction may be affected by grading, blading, or disking.

The Applicant proposes to implement specific measures to minimize take and associated adverse project impacts to covered species. The Applicant also proposes to mitigate for take by purchase of 57 acres of compensation credits at the California Department of Fish and Game's Coles Levee Preserve in Kern County which supports all of the covered species. The compensation includes funds supporting a management endowment to ensure the permanent management and monitoring of sensitive species and habitats within the area protected by the Coles Levee Preserve.

The Service's Environmental Assessment considers the environmental consequences of the following alternatives. Alternative A consists of no permit issuance and no expansion of the Applicant's effluent disposal site at this time. Compared to the Preferred Alternative, Alternative A would result in less long-term conservation for the covered species within Kern County, and the Applicant would be in continued violation of California Regional Water Quality Board regulations. Alternative B (or the Preferred Alternative) consists of the issuance of the incidental take permit and implementation of the Plan and Implementing Agreement.

In addition, two additional alternatives were considered but eliminated from analysis. Alternative C discusses the option of constructing a sewage recycling plant with zero discharge. This type of plant is technologically feasible and would occupy much less land than one requiring an effluent spreading ground in accordance with State and Federal regulations. This alternative would result in less take of covered species habitat than the Preferred Alternative. However, it is extremely costly and, therefore, not an economically feasible alternative for the small town of Lamont. Alternative D discusses the purchase of a site for effluent disposal other than the one proposed in the Preferred Alternative. Surrounding sites have not been surveyed for covered species, so it has not been determined that there would be more or less take at any alternative site. Additionally, no sites are available for purchase within close proximity to the existing ponds that are not already in dairy or agriculture. Conserving prime agricultural land is also a concern, therefore, the use of the site in Alternative B is preferable since it has been degraded in various ways and would require modification prior to conventional agricultural activities.

Pursuant to an order issued on June 10, 2004, by the District Court for the District of Columbia in *Spirit of the Sage Council* v. *Norton* Civil Action No. 98–1873 (D.D.C.), the Service was enjoined from issuing new section 10(a)(1)(B) permits or related documents containing ''No Surprises'' assurances, as defined by the Service's ''No Surprises'' rule published at 63 FR 8859 (February 23, 1998), until such time as the Service adopts new permit revocation rules specifically applicable to section 10(a)(1)(B) permits in compliance with the public notice and comment requirements of the Administrative Procedures Act. In compliance with the court order, the Service published a final permit revocation rule (69 FR 71723) on December 10, 2004. This new permit revocation rule becomes effective on January 10, 2005. Until such time as the June 10, 2004, order has been rescinded by the court or the Service's authority to issue permits with ''No Surprises'' assurances has been otherwise reinstated, the Service will not approve any incidental take permits or related documents that contain ''No Surprises'' assurances.

This notice is provided pursuant to section 10(a) of the Act and the regulations of the National Environmental Policy Act (NEPA) of 1969 (40 CFR 1506.6). All comments that we receive, including names and addresses, will become part of the official administrative record and may be made available to the public. We will evaluate the application, associated documents, and comments submitted thereon to determine whether the application meets the requirements of NEPA regulations and section 10(a) of the Act. If we determine that those requirements are met, we will issue a

permit to the Applicant for the incidental take of the covered species. We will make our final permit decision no sooner than 60 days from the date of this notice.

Dated: January 6, 2005.

Nicole Alt,

Acting Deputy Manager, California/Nevada Operations Office.

[FR Doc. 05–1287 Filed 1–24–05; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Availability of the Draft Barton Springs Salamander Recovery Plan; Notice of Initiation of a 5-Year Status Review for the Barton Springs Salamander (*Eurycea sosorum*)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of document availability and notice of review.

SUMMARY: The U.S. Fish and Wildlife Service (Service) announces the availability for public review of the Draft Barton Springs Salamander Recovery Plan (Draft Recovery Plan). The Barton Springs salamander (*Eurycea sosorum*) is known to occur near four springs outlets that collectively make up Barton Springs in Austin, Texas. The Service solicits review and comment from the public on this Draft Recovery Plan. The Service also announces a 5-year status review of the Barton Springs salamander under section 4(c)(2)(A) of the Endangered Species Act of 1973 (Act) (16 U.S.C. 1531 *et seq.*). The purpose of reviews conducted under this section of the Act is to ensure that the classification of the species as threatened or endangered on the List of Endangered and Threatened Wildlife and Plants (List) is accurate. A 5-year review is based on the best scientific and commercial data available at the time of the review. Therefore, we are requesting submission of any such information on the Barton Springs salamander that has become available since its original listing as an endangered species in 1997. If the present classification of this species is not consistent with the best scientific and commercial information available, the Service will recommend whether or not a change is warranted in the Federal classification of Barton Springs salamander. Any change in Federal classification would require a separate rule-making process.

DATES: Comments on the Draft Recovery Plan are due by March 28, 2005 to assure consideration. Information and materials for consideration in this 5-year review of the Barton Springs salamander must be received no later than March 28, 2005. However, we will continue to accept new information about any listed species at any time.

ADDRESSES: Persons wishing to review the Draft Recovery Plan may obtain it from the Internet at *http://endangered.fws.gov/recovery/*. You may also request a copy from the U.S. Fish and Wildlife Service, Austin Ecological Services Field Office, 10711 Burnet Road, Suite 200, Austin, Texas, 78758. Comments and materials concerning this Draft Recovery Plan and/or the 5-year status review may be mailed to ''Field Supervisor'' at the address above. Information received in response to this notice and review will be available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Robert Pine, Austin Ecological Services Field Office, at the above address; telephone (512) 490–0057, facsimile (512) 490–0974.

SUPPLEMENTARY INFORMATION:

Draft Recovery Plan

The Barton Springs salamander was listed as endangered on May 30, 1997, under authority of the Endangered Species Act of 1973, as amended (62 FR 23377). The water that discharges from Barton Springs is essential to the survival of the salamander. Barton Springs is a segment of the Edwards Aquifer, a karst limestone aquifer containing a complex system of caves, sinkholes, fractures, and faults. The Edwards Aquifer is particularly vulnerable to contamination and land use changes that degrade the quality of stormwater runoff. The primary threat facing the survival and recovery of this species is the degradation of water quality and quantity of water that feeds Barton Springs. This degradation has resulted from urbanization over the Barton Springs watershed (including roadway, residential, commercial, and industrial development). The Draft Recovery Plan includes information about the species, provides recovery objectives and criteria, and describes the actions needed to recover the species such that it no longer warrants listing as endangered or threatened.

The Draft Recovery Plan proposes reclassification of the Barton Springs salamander from endangered to threatened when the following criteria have been met: (1) Mechanisms (such as laws, rules, regulations, and cooperative agreements) are in place to ensure nondegradation of water quality in the Barton Springs watershed; (2) a plan to avoid, respond to, and remediate hazardous materials spills within the Barton Springs watershed is in place with high priority measures implemented to minimize risks to the Barton Springs salamander; (3) measures to ensure that continuous, natural springflows are maintained at all four spring outlets are in place and effective; (4) a healthy, self-sustaining natural population of Barton Springs salamanders is maintained within its historical range; (5) measures to remove local threats to the Barton Springs ecosystem have been implemented; (6) at least two genetically representative captive populations of Barton Springs salamanders have been established in secure locations with the completion of a captive propagation and contingency plan.

The Draft Recovery Plan proposes the delisting of the Barton Springs salamander when the downlisting criteria have been achieved and the following additional criteria have been met: (1) Water quality protection mechanisms are shown to be effective and commitments are in place to continue protection; (2) measures to implement the catastrophic spill avoidance, response and remediation plans are ensured; (3) measures to maintain adequate springflows are shown to be effective; (4) the Barton Springs salamander population is shown to be viable and stable or increasing; (5) measures to remove local threats to the Barton Springs ecosystem are shown to be effective and a commitment is in place to continue the appropriate management of the surface habitat; and (6) captive breeding is shown to be effective and reliable and commitments are in place to maintain adequate captive populations for any needed restoration work.

Because the Barton Springs salamander relies on continuous flow of clean spring water, many of the high-priority recovery tasks outlined in the Draft Recovery Plan include actions to ensure adequate water quality and quantity within the Barton Springs watershed such as: (1) Developing and implementing catastrophic spill avoidance, response, and remediation plans; (2) implementing programs to protect sensitive environmental features important to salamander habitat or the effective recharge of clean water such as caves, sinkholes, fissures, springs, and riparian zones; (3) developing and implementing programs to identify and correct problems from point and non-point source pollution discharges; and (4) creating a regional management

program that will be used to ensure the protection of aquifer level and springflows under normal and drought conditions. Other high-priority recovery actions include ensuring protection for existing spring habitats and establishing and maintaining adequate captive breeding populations.

Restoring an endangered or threatened animal or plant to the point where it is again a secure, self-sustaining member of its ecosystem is a primary goal of the Service's endangered species program. To help guide the recovery effort, the Service is working to prepare recovery plans for most of the listed species native to the United States. Recovery plans describe actions considered necessary for conservation of listed species, establish criteria for downlisting or delisting those species, and estimate time and cost for implementing the necessary recovery measures.

The Act requires the development of recovery plans for listed species, unless such a plan would not promote the conservation of a particular species. Section 4(f) of the Act, as amended in 1988, requires that public notice and an opportunity for public review and comment be provided during recovery plan development. The Service considers all information presented during a public comment period prior to approval of each new or revised recovery plan. The Service and others also take these comments into account in the course of implementing recovery plans.

The Draft Recovery Plan is being submitted for review to all interested parties and for independent peer review. After consideration of comments received during the review period, and including new information and materials provided for the 5-year status review, the Draft Recovery Plan will be prepared for final approval.

5-Year Status Review

Under the Act, the Service maintains a list of endangered and threatened wildlife and plant species at 50 CFR 17.11 (for animals) and 17.12 (for plants). Section 4(c)(2)(A) of the Act requires that we conduct a status review of listed species at least once every five years. Then, on the basis of such reviews under section 4(c)(2)(B), we determine whether or not any species should be removed from the List (delisted), or reclassified from endangered to threatened or from threatened to endangered (downlisted). Delisting a species must be supported by the best scientific and commercial data available and only considered if such data substantiates that the species is neither endangered nor threatened for one or more of the following reasons: (1) The species is considered extinct; (2) the species is considered to be recovered; and/or (3) the original data available when the species was listed, or the interpretation of such data, were in error. Any change in Federal classification would require a separate rulemaking process. The regulations in 50 CFR 424.21 require that we publish a notice in the **Federal Register** announcing those species currently under active review.

The City of Austin initiated Barton Springs salamander surveys in 1993, and is currently conducting monthly surveys of salamanders at all known salamander locations. Although monitoring of the status of the Barton Springs salamander is an ongoing process, the Service is now initiating an active, periodic review on the status of the Barton Springs salamander in accordance with section 4(c)(2)(A) of the Act. This information may include population trend data and information on the threats faced by the salamander. The recovery planning process is an appropriate time to conduct an active review of a species' status, as the Service is actively seeking all relevant information on the salamander and the threats it faces. This notice announces our active review of the Barton Springs salamander, which is currently listed as endangered.

What Information Is Considered in the Review?

A 5-year review considers all new information available at the time of the review. These reviews will consider the best scientific and commercial data that has become available since the current listing determination or most recent status review of each species, such as:

A. Species biology including, but not limited to, population trends, distribution, abundance, demographics, and genetics;

B. Habitat conditions including, but not limited to, amount, distribution, and suitability;

C. Conservation measures that have been implemented to benefit the species;

D. Threat status and trends (see five factors under heading ''How do we determine whether a species is endangered or threatened?''); and

E. Other new information, data, or corrections including, but not limited to, taxonomic or nomenclatural changes, identification of erroneous information contained in the List, and improved analytical methods.

How Is Barton Springs Salamander Currently Listed?

The List is found in 50 CFR 17.11 (wildlife) and 17.12 (plants). Amendments to the List through final rules are published in the **Federal Register**. The List is also available on our internet site at *http://endangered.fws.gov/wildlife.html#Species*. The Barton Springs salamander is listed as endangered. It occurs only in the state of Texas. The final rule listing it as endangered was published in the **Federal Register** in 1997 (62 FR 23377 23392).

Definitions Related to This Notice

The following definitions are provided to assist those persons considering submission of information regarding the species being reviewed:

A. *Species* includes any species or subspecies of fish, wildlife, or plant, and any distinct population segment of any species of vertebrate, which interbreeds when mature.

B. *Endangered* means any species that is in danger of extinction throughout all or a significant portion of its range.

C. *Threatened* means any species that is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range.

How Do We Determine Whether a Species Is Endangered or Threatened?

Section 4(a)(1) of the Act establishes that we determine whether a species is endangered or threatened based on one or more of the five following factors:

A. The present or threatened destruction, modification, or curtailment of its habitat or range;

B. Over-utilization for commercial, recreational, scientific, or educational purposes;

C. Disease or predation;

D. The inadequacy of existing regulatory mechanisms; or

E. Other natural or manmade factors affecting its continued existence.

Section 4(a)(1) of the Act requires that our determination be made on the basis of the best scientific and commercial data available.

What Could Happen as a Result of This Review?

If new information concerning Barton Springs salamander indicates a change in classification may be warranted, we may propose a new rule that could do one of the following: (a) Reclassify the species from endangered to threatened; or (b) remove the species from the List. If we determine that a change in classification is not warranted for

Barton Springs salamander, it will remain on the List under its current status. Information provided during this 5-year review could also affect the recommendations of the recovery plan for this species.

Public Comments and New Information Solicited

The Service solicits written comments on the draft recovery plan described above. All comments received by the date specified above will be considered prior to approval of the recovery plan.

To ensure that the 5-year status review is complete and based on the best available scientific and commercial information, we are also soliciting new information from the public, concerned governmental agencies, Tribes, the scientific community, industry, environmental entities, and any other interested parties concerning the status of the Barton Springs salamander.

Comments on the draft recovery plan and information and/or materials for the 5-year review should be provided to the U.S. Fish and Wildlife Service, Austin Ecological Services Field Office (see **ADDRESSES** section). Information submitted should be supported by documentation such as maps, bibliographic references, methods used to gather and analyze the data, and/or copies of any pertinent publications, reports, or letters by knowledgeable sources. Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. Respondents may request that we withhold a respondent's identity, as allowable by law. If you wish us to withhold your name or address, you must state this request prominently at the beginning of your comment. We will not, however, consider anonymous comments. To the extent consistent with applicable law, we will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety. Comments and materials received will be available for public inspection, by appointment, during normal business hours (see **ADDRESSES** section).

Authority

This document is published under the authority of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: December 3, 2004.

H. Dale Hall,

Regional Director, Region 2, Fish and Wildlife Service.

[FR Doc. 05–1290 Filed 1–24–05; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NM–030–04–1610–DR]

Notice of Availability of Record of Decision (ROD) and Resource Management Plan Amendment (RMPA) for Federal Fluid Minerals Leasing and Development in Sierra and Otero Counties

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability.

SUMMARY: In accordance with the National Environmental Policy Act (NEPA), the Federal Land Policy and Management Act (FLPMA), and the Bureau of Land Management (BLM) management policies, the BLM announces the availability of the ROD/RMPA for Federal fluid minerals leasing and development in Sierra and Otero Counties, New Mexico. The New Mexico State Director has signed the ROD/RMPA, which amends the White Sands RMP.

ADDRESSES: Copies of the fluid minerals ROD/RMPA are available upon request from the Field Manager, Las Cruces Field Office, Bureau of Land Management, 1800 Marquess St., Las Cruces, NM 88005 or via the Internet at *http://www.nm.blm.gov.*

FOR FURTHER INFORMATION CONTACT: Tom Phillips, RMPA Team Leader/Land Use Planner, 1800 Marquess St., Las Cruces, NM 88005. Telephone number is (505) 525–4377, email address is *Tom_Phillips@nm.blm.gov.*

SUPPLEMENTARY INFORMATION: The fluid minerals RMPA was developed with broad public participation through a 6-year public planning process. This RMPA addresses management of the Federal fluid mineral resources on approximately 2.1 million acres of public lands in the planning area. The fluid minerals RMPA is designed to identify which lands under BLM jurisdiction in Sierra and Otero Counties will be made available for potential fluid mineral leasing, and what measures are needed to manage those lands and protect other resource values.

The approved fluid minerals RMPA is relatively unchanged from the proposed plan in the Proposed Resource Management Plan Amendment/Final Environmental Impact Statement (PRMPA/FEIS), dated December 2003. In response to the PRMPA/FEIS, the Governor of New Mexico submitted a Consistency Review that recommended adopting an alternative plan he had developed. This alternative was similar to an alternative that was analyzed by the BLM in the draft and final environmental impact statements; therefore, the BLM determined it did not require an additional public comment period. The Governor's Consistency Review helped lead to the May 2004 PRMPA/FEIS Supplement that included the proposed closure of 35,790 acres to leasing. This closure was a change from the proposed plan in the PRMPA/FEIS where those acres were to be withheld from leasing for five years and re-evaluated. The BLM New Mexico State Director declined to accept the other recommendations made by the Governor, but replied with a written response addressing issues raised in the Consistency Review. Public comments on the supplement were taken for 30 days, and those comments have been considered and addressed in the ROD/RMPA.

The Governor appealed the State Director's decision not to fully adopt his alternative plan to the BLM Director. The BLM Director has issued a final response affirming the State Director's decision. All formal protests to the PRMPA/FEIS have also been resolved.

Minor modifications have been made to the proposed plan as set forth in the PRMPA/FEIS and Supplement. The modifications corrected errors noted in the review of the PRMPA/FEIS and provide further clarification regarding some of the decisions.

Linda S.C. Rundell,

State Director.

[FR Doc. 05–1316 Filed 1–24–05; 8:45 am]

BILLING CODE 4310–FB–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Notice of BLM Director's Response to an Appeal From the Governor of New Mexico Regarding the Resource Management Plan Amendment for Federal Fluid Minerals Leasing and Development in Sierra and Otero Counties

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability.

SUMMARY: In accordance with 43 CFR 1610.3–2(e), the Bureau of Land Management (BLM) is publishing the reasons for BLM's rejection of the Governor of New Mexico's appeal regarding the Resource Management Plan Amendment (RMPA) for Fluid Minerals Leasing and Development in Sierra and Otero Counties, New Mexico.

FOR FURTHER INFORMATION CONTACT: Jordan Pope, Acting Group Manager; Planning, Assessment, and Community Support Group, 1620 L Street NW., Washington DC 22036. Telephone number (202) 452–5048. Email address *Jordan_Pope@blm.gov.*

SUPPLEMENTARY INFORMATION: In response to the Proposed RMPA/Final Environmental Impact Statement (FEIS), dated December 2003, the Governor of New Mexico submitted a Consistency Review that recommended adopting an alternative plan he had developed. The Governor's Consistency Review helped lead to the May 2004 PRMPA/FEIS Supplement that included the proposed closure of 35,790 acres. This closure was a change from the PRMPA/FEIS where those acres were to be withheld from leasing for five years and re-evaluated. The BLM New Mexico State Director declined to accept the other recommendations made by the Governor, but replied with a written response addressing issues raised in the Consistency Review. The Governor appealed the State Director's decision not to fully adopt his alternative plan to the BLM Director. The BLM Director has issued a final response affirming the State Director's decision. The response to the Governor is printed below in its entirety.

Dated: January 14, 2005.

Francis R. Cherry, Jr.,

Acting Director.

Honorable Bill Richardson,
Governor of New Mexico, State Capitol, Santa Fe, New Mexico 87503

Dear Governor Richardson: This appeal concerns the ongoing land use planning amendment process for Sierra and Otero Counties in New Mexico. Currently, fluid minerals [1] operations are guided by the *Resource Management Plan for the White Sands Resource Area (White Sands RMP).* The portion of the *White Sands RMP* addressing fluid minerals has not been updated since the plan was first promulgated in 1986. Under the existing planning direction, the vast majority of land managed by the Bureau of Land Management (BLM) in Sierra and Otero Counties can be nominated and leased for oil and gas exploration and development. The BLM New Mexico State Office, as part of its oil and gas management discretion, has chosen not to lease any public land since 1998 when it initiated this planning amendment process in response to an increase in leasing nominations.

Governor Richardson, you have appealed the decision of BLM State Director Linda Rundell made in accordance with BLM planning regulations at 43 CFR 1610.3–2(e).

Background

In October 2000, the BLM Las Cruces, New Mexico Field Office released the *Draft Resource Management Plan Amendment and Environmental Impact Statement for Federal Fluid Minerals Leasing and Development in Sierra and Otero Counties (Draft RMPA/EIS).* The BLM began laying the groundwork for this draft in October, 1998 with the initiation of the National Environmental Policy Act (NEPA) scoping process. After releasing the *Draft RMPA/EIS,* BLM solicited and accepted public comments for an extensive period of time. BLM received numerous comments, and these comments helped lead to changes that BLM then incorporated in the December, 2003 *Proposed Resource Management Plan Amendment and Final Environmental Impact Statement for Federal Fluid Minerals Leasing and Development in Sierra and Otero Counties (Proposed RMPA/EIS).*

BLM New Mexico State Director Linda Rundell made the Proposed RMPA/EIS available to you and the public. On March 5, 2004, you sent the State Director your *Consistency Review of and Recommended Changes to the United States Department of the Interior, Bureau of Land Management's Proposed Resource Management Plan Amendment and Final Environmental Impact Statement for Federal Fluid Minerals Leasing and Development in Sierra and Otero Counties (Consistency Review and Recommendations or CRR).* There you recommended that the BLM adopt a management alternative that was similar to an alternative (Alternative B) that was first considered and analyzed by the BLM in the *Draft RMPA/EIS.*

State Director Rundell subsequently responded to your *Consistency Review and Recommendations* on May 19, 2004. Although the State Director found that you had not presented any inconsistencies that required BLM to make further modifications, she did make a change to BLM's proposed action based upon your recommendations. The BLM's proposed action was changed to close 35,790 acres of desert grasslands and potential Aplomado falcon habitat to fluid minerals leasing. BLM described this change in the *Supplement to Proposed Resource Management Plan Amendment and Final Environmental Impact Statement for Federal Fluid Minerals Leasing and Development in Sierra and Otero Counties (Supplement).* The New Mexico BLM made the *Supplement* available to the public and posted it on the BLM Web site. The State Director also announced a formal public comment period associated with the *Supplement* that extended from May 28, 2004 until June 28, 2004. On June 16, 2004, you sent a letter appealing the State Director's decision to me in Washington, DC, and I am now responding to that appeal.

Relevant Statutes and Regulations

In deciding this appeal, I am guided by the BLM's planning regulations in 43 CFR 1610.3–2 (*Consistency requirements*). These regulations implement section 202(c)(9) of the Federal Land Policy and Management Act of 1976 (FLPMA) which states in part:

In the development and revision of land use plans, the Secretary shall * * * to the extent consistent with the laws governing the administration of the public lands, coordinate the land use inventory, planning, and management activities of or for such lands with the land use planning and management programs of other Federal departments and agencies and of the States and local governments within which the lands are located * * * by among other things, considering the policies of approved State and tribal land resource management programs. In implementing this directive, the Secretary shall, to the extent he finds practical, * * * assure that consideration is given to those State, local and tribal plans that are germane in the development of land use plans for public lands; assist in resolving, to the extent practical, inconsistencies between Federal and non-Federal Government plans, and shall provide for meaningful public involvement of State and local government officials, both elected and appointed, in the development of land use programs.* * * Such officials in each State are authorized to furnish advice to the Secretary with respect to the development and revision of land use plans. Land use plans of the Secretary under this section shall be consistent with State and local plans to the maximum extent he finds consistent with Federal law and the purposes of this Act.

The ''Consistency requirements'' regulations state that RMP amendments shall be consistent with officially approved or adopted state ''resource related plans, and the policies and programs contained therein * * * so long as the guidance and resource management plans are also consistent with the purposes, policies and programs of Federal laws and regulations applicable to public lands.'' 43 CFR 1610.3–2(a). Also, in the absence of such plans, RMPs shall ''to the maximum extent practical'' be consistent with officially approved and adopted state ''resource related policies and programs.'' 43 CFR 1610.3–2(b). After a BLM State Director makes a proposed amendment available to a governor, the regulations provide a special means for noting inconsistencies and making recommendations:

The Governor(s) shall have 60 days in which to identify inconsistencies and provide recommendations in writing to the State Director. * * * If the State Director does not accept the recommendations of the Governor(s), the State Director shall notify the Governor(s) and the Governor(s) shall have 30 days in which to submit a written appeal to the Director of the Bureau of Land Management. The Director shall accept the recommendations of the Governor(s) if he/she determines that they provide for a reasonable balance between the national interest and the State's interest. The Director shall communicate to the Governor(s) in writing and publish in the **Federal Register** the reasons for his/her determination to

[1] Primarily oil and natural gas.

accept or reject such Governor's recommendations.

43 CFR 1610.3–2(e). While State Directors should always keep generally apprised of state, local, and tribal policies, plans, and programs, State Directors ''shall not be accountable for ensuring consistency if they have not been notified, in writing, by State and local governments or Indian tribes of an apparent inconsistency.'' 43 CFR 1610.3–2(d).

Thus, in reviewing this appeal, I have focused on your *Consistency Review and Recommendations* that you first submitted to State Director Rundell and the points raised in your appeal letter. I will first consider whether you have raised actual inconsistencies with officially approved state resource related plans, policies, and programs. If an actual inconsistency is raised, I will then consider whether a recommendation addresses that inconsistency and provides for a reasonable balance between the national interest and the State of New Mexico's interest.

Your appeal letter and *Consistency Review and Recommendations* also address a variety of issues in addition to possible inconsistencies with officially approved state resource related plans, policies, and programs. For example, you have expressed your view regarding BLM's adherence to multiple use management under the Federal Land Policy and Management Act of 1976 (FLPMA) and shared suggestions regarding the environmental analysis made pursuant to the National Environmental Policy Act (NEPA). *See e.g., Appeal,* pp. 3, 12. It is certainly appropriate to share comments such as these in the midst of the overall RMP amendment process, but this appeal procedure is generally designed to address situations where the BLM proposed action would substantially impede a specific enforceable state resource related plan, program, or policy that is being applied on similarly situated non-federal lands. Your comments on other issues have been noted and considered, and many, if not all, of these issues have been addressed through the protest process. *See* 43 CFR 1610.5–2. For purposes of this appeal decision, though, I will focus on (1) the sections in your *Consistency Review and Recommendations* that allege specific inconsistencies with officially approved resource related State plans, policies, and programs (*CRR,* § II); and (2) your recommendations to address these potential inconsistencies (*CRR,* § III). I will address your potential inconsistencies and recommendations in the order you have presented them in your *Consistency Review and Recommendations.*

Potential Inconsistencies With Resource Related State Plans, Policies, and Programs

(i.) Study: Ecoregion-Based Conservation in the Chihuahuan Desert (CRR, § II. A.)

You have asserted that the *Proposed RMPA* is inconsistent with a study entitled *Ecoregion-Based Conservation in the Chihuahuan Desert. CRR,* p. 6. This study was a collaborative effort of the World Wildlife Fund, CONABIO, The Nature Conservancy and other organizations. Although this may be a very useful scientific study, it is not a State of New Mexico resource related plan, policy, or program. It is, therefore, not a potential source for inconsistencies that are germane to this appeal decision. Your comments regarding this study have been noted, however, and have been considered as part of the decision making process for the proposed amendment.

(ii.) Executive Order 2004–005 (CRR, § II. A.)

After the *Proposed RMPA/EIS* was released in December 2003, you signed Executive Order 2004–005 on January 31, 2004. The order directed several state agencies to begin taking specific actions relevant to the Otero Mesa and Nutt grassland areas. Any potential inconsistencies with those agency actions are addressed in subsequent sections of this decision.

(iii.) Proposal for a National Conservation Area (CRR, § II. A.)

You have expressed a desire to see Congress designate approximately 643,754 acres as a National Conservation Area, and have requested that the BLM manage these areas consistent with your legislative request. While I appreciate your input on this issue, a request for federal congressional action is not a qualifying state plan, policy, or program that is directly relevant to this appeal. Should such a designation occur in the future, BLM will, of course, manage those lands in accordance with the congressional mandate.

(iv.) Wildlife Conservation Act (CRR, § II. B.)

You assert that the proposed plan is inconsistent with New Mexico Statutes sections 17–2–37 through 17–2–46, known as the Wildlife Conservation Act. That act establishes the New Mexico Department of Game and Fish (NMDGF) and defines its authority. You have not identified a specific inconsistency though, and I can find no inconsistency with the statutes you have cited. Specific NMDGF wildlife plans are discussed separately below. In your appeal letter, you have noted habitat fragmentation as a general concern. Certainly, this is a concern for the New Mexico BLM as well and the topic has been addressed in the environmental impact statement. *See e.g., Proposed RMPA/EIS*, pp. 4–32—4–34. BLM must continually balance the desire to minimize habitat fragmentation with other valuable uses that may contribute to fragmentation. This task is sometimes difficult. I have noted your concerns, but here you have not outlined a specific inconsistency with a state plan, program, or policy that is appropriate for this appeal review.

(v.) New Mexico Game Management Plans/ Agreements (CCR, § II. C.)

You have asserted that the ''PRMPA/FEIS'' change to standard lease terms and conditions in Alternative A (modified) is inconsistent with several of NMDGF's specific endeavors and plans.'' *CRR*, p. 13. You have mentioned antelope and aplomado falcon, but have not cited the existence of any state plan for these animals.[2] State plans are in place with respect to desert bighorn sheep and black-tailed prairie dogs. My staff and I have examined these plans and discuss them below.

Bighorn Sheep Plan

In August 2003, the NMDGF developed the *Plan for the Recovery of Desert Bighorn Sheep in New Mexico*: 2003–2013 *(Bighorn Sheep Plan).* The *Bighorn Sheep Plan* lists the Guadalupe and Sacramento Mountains in Otero County and the Caballo Mountains in Sierra County as unoccupied historic bighorn sheep habitat and as potential transplant areas.[3] *Bighorn Sheep Plan*, p. 20 & Table 5. While bighorn sheep do not currently inhabit any BLM lands in the planning area, New Mexico BLM noted the possibility of bighorn sheep reintroduction in the *Proposed RMPA/EIS. See e.g.* Proposed *RMPA/EIS* pp. 3–23, 4–37, 4–39. The New Mexico BLM also recognized the Cornudas Mountains and Brokeoff Mountains as potential future bighorn habitat, but those areas are not listed as potential transplant areas in the *Bighorn Sheep Plan. See Draft RMPA/EIS*, p. 2–23, Table 2–7. You have stated your view that areas suitable for desert bighorn reintroduction ''need to remain closed to oil and gas development.''[4] *CRR,* p. 14.

The *Bighorn Sheep Plan* goal is to increase bighorn sheep populations to the point where the species can be removed from the state endangered species list. *Bighorn Sheep Plan*, p. 50. The plan includes a number of strategies for addressing individual issues related to the overall goal. However, the plan does not include a schedule of actions related to these strategies. The plan is described as ''a broad scale document and as such is not specific in nature.'' *Bighorn Sheep Plan*, p. iii. Thus, there is no timeframe for reintroducing bighorn sheep into specific areas, and often important barriers must be overcome before any transplant projects could be undertaken. In the Guadalupe and Sacramento Mountains, the plan notes that currently ''aoudads, domestic sheep, and feral goats preclude transplants.'' *Id.*, at Table 5. Regarding the Caballo Mountains, past local public opposition is noted as a barrier to reintroduction. *Id.,* at p. 20 & Table 5.

Oil and gas activities are not discussed at length in the *Bighorn Sheep Plan* (with only a single paragraph devoted to the topic). *Bighorn Sheep Plan*, p. 37. The existence of this land use plan amendment process is noted in this section, but no recommendations are offered. *Id.* Interestingly, the plan says that in other potential habitat areas, federal lands have been withdrawn from leasing while state lands in the area have been leased. *Id.* No special provisions to accommodate bighorn habitat on state lands with oil and gas

[2] It should be noted again that the State Director implemented your recommendation to close several thousand acres of potential aplomado falcon habitat to leasing.

[3] The Sacramento Mountains do not have historic accounts of bighorn sheep prior to the 1930s. Bighorn Sheep Plan, p. 20.

[4] Currently, under the 1986 White Sands RMP that BLM is now attempting to amend, the majority of these areas are actually open for potential leasing. Little, if any, leasing has actually occurred though.

potential have been described in the *Bighorn Sheep Plan* or in the *Consistency Review and Recommendations*.

The *Bighorn Sheep Plan's* objective is the following:

To have a minimum of 500 free-ranging desert bighorn sheep in at least 3 geographically distinct self-sustaining populations, each of which contains at least 100 bighorn, and to delist the subspecies under the New Mexico Wildlife Conservation Act at that time.

Bighorn Sheep Plan, p. 50. In spring 2003, there were an estimated 304 desert bighorn in New Mexico at six locations. *Id.*, p. 6. The state plan identifies 12 potential transplant areas. *Id.,* Table 5. Several of these areas have fewer issues that must be overcome before a transplant could occur than the potential transplant areas in the Caballo, Guadalupe, and Sacramento Mountains. *Id*. Thus, it does not appear that these areas are essential for achieving the *Bighorn Sheep Plan* goal.

Additonally, it should be noted that merely making areas available for leasing in an RMP does not dictate that leases must be issued and development must occur. These areas have been open to leasing for decades without activities occurring. Further, under the standard lease terms and conditions, BLM retains the ability to prevent the location of surface disturbing activities in environmentally sensitive areas. The extreme slopes associated with bighorn sheep terrain, as a practical matter, may often prevent a conflict with oil and gas activities. *See Bighorn Sheep Plan*, p. 1 (''Habitat Requirements''). Several thousand acres of bighorn habitat in the Guadalupe, Sacramento, Cornudas, and Brokeoff Mountains are already slated for increased protection because they are included in ACECs, areas nominated for ACEC status, or Wilderness Study Areas and would be closed to leasing under the *Proposed RMPA*. In short, you have not pointed to an actual inconsistency between the BLM proposed action and the *Bighorn Sheep Plan*, and our review does not show any inconsistency.

Both the *Bighorn Sheep Plan* and the BLM's EIS suggest that, of the potential transplant locations in BLM's planning area, the Caballo Mountains possess the best bighorn habitat. *See Bighorn Sheep Plan*, p. 20; *Proposed RMPA/EIS*, p. 4–39. However, the *Bighorn Sheep Plan* understates the problems associated with reoccupying this habitat. For example, in the Caballo Mountains area there are well over a hundred active mining claims and several hundred miles of roads crisscrossing the area. Many of these roads are regularly used by members of the local community. In 1992, BLM worked closely with the NMDGF to try to bring Bighorn Sheep to the area, but local opposition eventually prevented a transplant. New Mexico BLM sees no evidence that this situation has changed.

Nevertheless, the New Mexico BLM State Director has agreed to defer any leasing in the Caballo Mountains for five years as the NMDGF continues to evaluate the area for possible reintroduction efforts. The State Director will then evaluate the progress of NMDGF, and, if BLM finds it unlikely that reintroduction would occur within the life of the *Bighorn Sheep Plan*, the area will be available for potential leasing at that time. Again, making the area available for potential leasing would not mean that leasing would necessarily occur, and historically little interest been expressed in obtaining fluid mineral leases in the Caballo Mountains.

Black-Tailed Prairie Dog Plan

The NMDGF completed the *Conservation Management Strategic Plan for Black-Tailed Prairie Dogs in New Mexico (Prairie Dog Plan)* in November, 2001. This plan is a ''working plan'' designed to guide activities ''toward developing a final conservation and management strategy for black-tailed prairie dogs in New Mexico.'' *Prairie Dog Plan*, p. 1. The New Mexico BLM participated in the Working Group that helped to craft the plan, along with several other federal agencies, state agencies and non-government organizations. *Prairie Dog Plan*, p. 23. The BLM also ''supplied substantial assistance'' with the baseline survey associated with the *Prairie Dog Plan*. *Prairie Dog Plan*, p. 38. The stated goal in the *Prairie Dog Plan* is to ''determine and achieve an appropriate balance of conservation and management'' of prairie dogs to preclude the listing of the species on either the national or state endangered species lists. *Prairie Dog Plan*, p. 10.

The plan outlines a number of broad objectives and lists potential strategies. One objective is to achieve 97,000 acres of occupied habitat statewide within 10 years based upon a 6.5% annual increase. *Prairie Dog Plan*, p. 16. You have noted this objective as well as the objective to identify and encourage maintenance of important existing habitats. *CRR*, p. 14; *see Prairie Dog Plan*, p. 12. You have noted the unique characteristics of the small prairie dog colonies in Sierra and Otero Counties and have described them as ''extremely vulnerable.'' *CRR*, p. 14. You conclude that the ''habitat loss and fragmentation that will very likely occur under Alternative A (modified) of the PRMPA/FEIS will be counterproductive to this plan's population and distribution goal.'' *CRR*, p. 14.

As you may be aware, the State of New Mexico currently manages the black-tailed prairie dog as a ''rodent pest'' under the supervision of the Department of Agriculture, *see Prairie Dog Plan*, p. 24, and authorizes State agents to control prairie dog populations through lethal means on State and private lands. *See generally*, N.M. Stat. Ann. § 77–15 (Michie 2004) (''Predatory Wild Animals and Rodent Pests''). The prairie dog is not managed as wildlife by the NMDGF. I recognize, though, that the *Prairie Dog Plan* represents an important step on the part of the State towards increasing the population of prairie dogs.

I find that the *Proposed RMPA* is already consistent with the goals and strategies of the *Prairie Dog Plan*. The *Proposed RMPA* protects the prairie dog as a ''special status species.'' *See Proposed RMPA/EIS*, pp. E–2, E–3. While the Fish and Wildlife Service recently decided that the black-tailed prairie dog did not warrant Endangered Species Act listing—which removes it as a formal special status species'New Mexico BLM will continue to manage the black-tailed prairie dog as a de facto special status species in Sierra and Otero Counties under the *Proposed RMPA. See* 69 FR 51217 (August 18, 2004). Because of their special status species designation, BLM will specifically analyze and mitigate impacts to occupied prairie dog colonies in the planning area during site specific NEPA analysis. This action should further assist NMDGF in reaching the goals of the *Prairie Dog Plan*.

(vi.) Noxious Weed Management Act (CRR, § II. D.)

The New Mexico Noxious Weed Management Act authorizes the creation of weed control districts. You have not described any inconsistency with the act, its implementing regulations, or specific weed management plans in your *Consistency Review and Recommendations*. The New Mexico BLM has noted the problem of noxious weeds throughout the planning process and has committed itself to implementing site-specific preventative measures. *See Proposed RMPA/EIS*, Appendix B, p. B–9. In addition, the New Mexico BLM has been an active partner with state agencies and local officials in the battle against noxious weeds. In Otero County alone, BLM has annually provided over $10,000 worth of assistance since 1996 to support weed control efforts. Your comments on the efficacy of BLM measures has been noted, but you have not identified an actual inconsistency with a state plan, policy or program that can be addressed through this appeal procedure.

(vii.) State Water Plan (CRR, § II. E.)

The *New Mexico State Water Plan* was released on December 23, 2003. Your *Consistency Review and Recommendations* provides a general summary of the New Mexico State Water Plan's goals; however, the description of potential inconsistencies focuses mainly on statements from the BLM's *Proposed RMPA/EIS* without detailing how these statements are inconsistent with specific provisions in the *State Water Plan*. As you note in your appeal letter, these issues have been raised in separate protests, and they are more properly addressed in that context. Here, my focus is on any inconsistencies between the proposed plan and state plans, policies, or programs rather than on alleged inadequacies of the BLM's NEPA analysis.

The *State Water Plan* is only quoted once in your discussion. *CRR*, p. 20. There you state that an increase in the areas covered by standard lease terms and conditions is contrary to the following *State Water Plan* policy statement: ''The State shall support and conduct watershed restoration projects with a high potential to increase the water supply or improve the quality of water.'' You further explain that the Tularosa-Salt Basin Regional Water Plan lists watershed restoration as a potential source of up to 15,000 acre-feet of water. Then you conclude, ''Therefore, standard lease terms and conditions are not adequate to properly safeguard such opportunities to ensure that future supplies of fresh water are adequately protected.''

I do not find an inconsistency between the *Proposed RMPA* and State support for watershed restoration. All riparian areas, wetlands, and playas in the planning area are subject to a quarter-mile ''No Surface Occupancy'' stipulation. *Proposed RMPA/EIS*, p. D–6. Also, standard lease terms and conditions do have resource protection and reclamation provisions.[5] Any wells will be subject to a casing and cementing program designed to protect groundwater resources and will be properly plugged when operations cease. *See Proposed RMPA/EIS*, pp. 4–15 to 4–17. As discussed below, the New Mexico BLM will continue to require that operators secure necessary State permits. Further, BLM agrees with you that it is ''extremely important to implement best management practices in oil and gas operations' to protect water resources. *CRR*, p. 21; *Proposed RMPA/EIS*, pp. B–4 to B–9.

(iix.) Water Quality Control Commission Regulations (CRR, § II. (F))

Regarding the Water Quality Control Commission, you have cited section 74–6–12 of the state code, prohibiting water quality impairments that exceed standards. BLM agrees that water quality standards should not be exceeded. *See e.g., Proposed RMPA/EIS*, p. 4–16. The BLM proposed plan requires casing measures to prevent fluid or gas migrations that could degrade groundwater. *See Proposed RMPA/EIS*, p. 4–15. You have not described where water quality standards have been exceeded, or even where you believe standards might likely be exceeded because of the BLM proposed plan. I know the New Mexico BLM recognizes the importance of water resources, and I will further instruct local BLM officials to diligently monitor any operations that may occur in the planning area.

(ix.) Executive Order for Proposed Rules on Pits and Injections Wells (CRR, § II. (G))

Your January 31, 2004 Executive Order 2004–005 directed that the Oil Conservation Division (OCD) ''shall adopt a moratorium prohibiting the use of pits at Otero Mesa'' and ''shall immediately propose rules to prohibit pits associated with any oil and gas drilling at Otero Mesa.'' The executive order also directed OCD to ''prepare and propose regulations to implement produced water re-injection standards and controls.'' As you can imagine, it was difficult for the State Director to assess consistency with rules that were not yet even proposed. Yet, even though the executive order was issued after the *Proposed RMPA/EIS* was published, State Director Rundell addressed the issue in her reply to your *Consistency Review and Recommendations*. She stated that ''we will work with OCD as new State rules are finalized to make sure we adhere to them.'' *State Director's CRR Response*, p. 5. On August 13, 2004, OCD approved new rules that prohibit the use of pits over much of the planning area and place additional requirements on injection wells and related facilities used to dispose of produced water. These rules went into effect over seven months after the *Proposed RMPA/EIS* was published.

In your appeal letter, you have described the New Mexico BLM position as ''helpful'' and, thus, there is apparently now no alleged inconsistency to address. *Appeal*, p. 12. To the extent you continue to be concerned, let me assure you that the New Mexico BLM will continue to require that operators secure necessary State permits.

(x.) Cultural Resources Consultation Issues (CRR, § II. (H & J))

You expressed concern with the New Mexico BLM's consultation process regarding cultural resources. While you have cited a number of federal statutes, regulations, and guidance documents, you have not discussed any alleged inconsistencies with state resource related plans, policies or programs. You have noted the existence of the New Mexico Cultural Properties Act, but you have not alleged any inconsistency with state plans, policies, or programs instituted under that statute.

Ensuring that BLM properly consults with tribes and other relevant parties is a high priority for me, and I have noted your concerns. However, this consistency review appeal response is not the proper forum for examining the New Mexico BLM's compliance with the federal statutes you have listed. Some of these issues were raised in protests, and they are more appropriately addressed in that context.

Regarding your policy of government-to-government relations with tribes, BLM agrees that tribes have certain sovereign powers and should be treated accordingly. Contrary to your statement in the *Consistency Review and Recommendations*, BLM regulations do not expect a state governor to review and recommend changes on behalf of tribes. BLM will certainly consider consistency related comments received directly from tribes and local governments. *See* 43 CFR 1610.3–2(c). The regulations merely establish a special procedure for state governors to raise inconsistencies with state resource related plans, programs, and policies. These regulations were promulgated in 1983, and I will consider your comments in determining whether a future modification of the regulations is warranted.

(xi.) Scope of NEPA Alternatives (CRR, § II. (I))

Concerns about the application of NEPA and other federal statutes are not potential inconsistencies with state resource related plans, policies, and programs that can be addressed in this context. Your comments have been noted and will be considered in the decision making process. As you know, the New Mexico BLM did issue a *Supplement* in May, 2004 and accepted public comment regarding the proposed action. I understand that this action has not removed all your NEPA-related objections, but this appeal is not the proper place to address disagreements over the implementation of federal statutes. Again, some of these issues have been raised in protests, and they are more appropriately addressed in that context.

(xii.) Alternative Energy Program (CRR, II. (K))

The *Consistency Review and Recommendations* notes various state laws that encourage alternative energy, but no inconsistencies with the proposed plan amendment are raised. As noted earlier, this amendment process focused on fluid minerals and was not designed to directly address other planning topics. Soon the New Mexico BLM will initiate a much broader planning process for Sierra, Otero, and Dona Ana Counties. Issues not directly addressed in this current planning amendment process'such as grazing, recreational uses, and alternative energy issues—will be addressed, and your input is welcomed during that process.

Summary of Potential Inconsistencies

I find that you have not raised any actual inconsistencies with state resource related plans, policies, or programs. Much of what was presented in your *Consistency Review and Recommendations* set forth objections to the BLM's proposed plan amendment and the associated environmental analysis. While these comments are useful as part of the BLM planning process, this appeal decision only concerns inconsistencies with officially approved resource related state plans, policies, and programs. Comments that addressed federal statutes do not raise inconsistencies that can be addressed through the state consistency review appeal process. Many of the issues you raised were addressed previously through the protest procedure. As a general matter, you have not directed me to specific inconsistencies and, upon further review of the state plans, policies, and programs that you have cited, I have found no inconsistencies. Where you did identify officially approved state plans, such as the *Bighorn Sheep Plan, Prairie Dog Plan, and State Water Plan*, I have attempted to clarify BLM's consistency and have directed New Mexico BLM to take actions that further assist the reaching of plan goals. Where the State has instituted recent regulatory changes regarding the use of pits and injection wells, the State Director has already agreed to continue the traditional New Mexico BLM policy of requiring federal lessees to secure necessary permits from State environmental regulators.

I also note that several aspects of your recommended plan do not appear to be consistent with the current management of New Mexico state lands that are leased for oil and gas development. For example, the leased state lands in the Otero Mesa desert grassland area are not bound by the extensive ''No Surface Occupancy'' stipulations that you recommend for similar federal public lands. Additionally, several of your other recommended leasing stipulations—such as

[5] BLM has broad discretion under the standard lease terms to require actions that minimize environmental impacts. Section 6 of the standard lease terms requires, ''Lessee shall conduct operations in a manner that minimizes adverse impacts to the land, air, and water, to cultural, biological, visual, and other resources and to other land uses or users. Lessee shall take reasonable measures deemed necessary by lessor [BLM] to accomplish the intent of this section.'' Section 12 states, ''At such time as all or portions of this lease are returned to lessor [BLM], lessee shall * * * reclaim the land as specified by lessor [BLM] * * *''

the recommended stipulation limiting drilling to one surface location per 1,440 acres—are not incorporated into State rules or fluid mineral leases. The measures in the BLM's proposed plan would generally place more restrictions on oil and gas related activities than are currently present on nearby state lands. The BLM's consistency review process exists to help prevent incompatible land management systems in areas of mixed management. Since the recommendations contained in your *Consistency Review and Recommendations* are generally not implemented on state lands, I find that there would not be discordant management between closely situated federal and state lands that might warrant the adoption of your recommendations.

Discretionary Review of Governor's Recommended Alternative

The consistency review process is generally designed to highlight specific inconsistencies between proposed BLM actions and officially approved state resource related plans, policies, and programs. Although you have not raised the type of inconsistencies associated with review under section 1610.3–2 of the BLM planning regulations, I recognize that you have documented a variety of concerns and disagreements with the *Proposed RMPA/EIS*. You have presented an alternative course of action and recommended its full adoption. Therefore, in my discretion as BLM Director, I have decided to re-examine your recommended alternative in light of the federal and State interests involved.

Federal and State Interests

Under the Federal Land Policy and Management Act (FLPMA), BLM must ''use and observe the principles of multiple use'' when developing and revising land use plans. 43 U.S.C. 1712 (c)(1). Through the land use planning process BLM makes choices among a host of possible land uses. The multiple use mandate does not require that all uses be available upon every acre of public land. Indeed, the choice of one use in a particular area, by its very nature, may exclude some possible uses while being compatible with still others. Overall, however, the public lands managed by BLM are utilized by the nation in an astonishingly wide variety of ways.

Here, the New Mexico BLM has proposed to amend the *White Sands RMP*. The *White Sands RMP* addresses a wide range of uses including recreational uses, wildlife habitat areas, and livestock grazing to name but a few. While the *Proposed RMPA/EIS* considers decision possibilities that relate primarily to oil and gas leasing, it does so with the implicit recognition that any decision may impact the availability of other uses. The integrated planning and NEPA analysis process is designed to insure that the impacts of any proposed action are clearly understood. BLM takes a similar view when it considers any RMP amendment focused on a particular subset of uses (such as the 1997 RMP amendment addressing Areas of Critical Environmental Concern).[6]

In short, when making land use decisions BLM must balance a variety of interests. Of particular importance here is the national interest in domestic oil and gas production. In the Mining and Minerals Policy Act of 1970 Congress declared,

[I]t is the continuing policy of the Federal Government in the national interest to foster and encourage private enterprise in (1) the development of economically sound and stable domestic mining, minerals,[7] metal and mineral reclamation industries, [and] (2) the orderly and economic development of domestic mineral resources, reserves and reclamation of metals and minerals to help assure satisfaction of industrial, security and environmental needs * * *

30 U.S.C. 21a. Later, in the Federal Land Policy and Management Act of 1976 (FLPMA), Congress noted,

[I]t is the policy of the United States that * * * the public lands be managed in a manner which recognizes the Nation's need for domestic sources of minerals, food, timber, and fiber from the public lands including implementation of the Mining and Minerals Policy Act of 1970. * * *

43 U.S.C. 1701(a)(12). Thus, Congress has stated a strong national interest in the production of oil and gas on public lands. BLM, in keeping with the multiple use mandate, is charged with balancing this interest along with other valid interests as it manages the public lands entrusted to its supervision.

Similarly, the State of New Mexico shares an interest in the development of oil and gas resources in Sierra and Otero Counties. The State of New Mexico would receive one half of the royalties paid on any oil or gas produced from these public lands. Also, the state is a major landowner within these two counties and has already leased thousands of acres of land for oil and gas development in this same area. Patrick H. Lyons, the State of New Mexico Commissioner of Public Lands, provided New Mexico BLM with written comments during the most recent public comment period. In his comments, the Commissioner stated,

The state's trust holding in the greater Otero Mesa area are second only to the federal acreage position and with these vast holdings comes a keen awareness of the potential to develop a secure, domestic energy resource and produce significant long-term revenue for New Mexico, while at the same time recognizing the need to harmonize development with environmental and cultural resource protection.

Supplement comment letter of Commissioner Patrick H. Lyons, June 3, 2004. According to Commissioner Lyons, ''[T]he State Land Office has leased approximately 80,000 acres of land in the area of Otero Mesa for oil and gas development.'' *Id.* Commissioner Lyons noted that state mineral and surface lands are ''held in trust to benefit important New Mexico institutions, most notably our public schools and universities.'' *Id.* He concluded that the proposed plan presented in the *Proposed RMPA/EIS* and the *Supplement* ''allows balanced and sustainable development of oil and gas resources at Otero Mesa in southern New Mexico.'' *Id.* The Commissioner also stated, ''Any additional delays in the leasing and development process has the potential to deprive trust beneficiaries of much needed funding and is not in the best interest of the trust.'' *Id.*

Comments were also received from the Otero County Economic Development Council. The Council's president stated, ''We feel that the addition of an oil and natural gas industry to Otero County is an important diversification of our economy and will shore up the jobs lost in recent years to the decline in the forest industry. We feel that your plan adequately addresses the balance between this new industry and environmental concerns.'' *Supplement* comment letter of Laura Bregler, June 1, 2004.

I would be remiss if I did not give some consideration to the views of the Commissioner of Public Lands and local leaders when reviewing the balance of national and state interests. I am also aware, however, that many public leaders, organizations, and individuals from within and beyond New Mexico expressed a wide range of views on this topic. Some opposed any development; some supported your alternative; some supported the preferred plan in the *Proposed RMPA/EIS*; and some felt that the proposed plan placed too many restrictions on development.

In your appeal you have noted the state's interest in the natural character, water resources, wildlife, and cultural resources found in Sierra and Otero Counties. Clearly, there is a national interest in these as well. FLPMA, in addition to recognizing the need for domestic sources of minerals, also states it is the policy of the United States that,

The public lands be managed in a manner that will protect the quality of scientific, scenic, historical, ecological, environmental, air and atmospheric, water resource, and archaeological values; that, where appropriate, will preserve and protect certain public lands in their natural condition; that will provide food and habitat for fish and wildlife and domestic animals; and that will provide for outdoor recreation and human occupancy and use.

43 U.S.C. 1701(a)(8). I have taken these interests into account as I have considered your appeal. I recognize that the Chihuahuan Desert is a special place, and BLM plays an important role in the proper management of this region.[8]

[6] The *White Sands RMP* has been amended four times since it was adopted in 1986.

[7] ''Minerals'' is specifically defined to include ''all minerals and mineral fuels including oil, gas, coal, oil shale and uranium.'' 30 U.S.C. 21a.

[8] Before addressing your recommendations, I would first like to correct two misunderstandings regarding the Reasonably Foreseeable Development Scenario (RFD) and the 5% rule in BLM's proposed plan.

In your appeal, you have stated that the proposed plan's 5% rule allows ''disturbance of 5,244 acres in the Otero Mesa grasslands.'' (*Appeal*, p. 8). This is not accurate. The 5% rule is not a disturbance authorization; rather, it is a limitation applicable to every exploratory unit that will be formed in the Otero Mesa and Nutt desert grassland areas. *See Proposed RMPA/EIS*, pp. 2–28, D–10. The RFD's short term disturbance figure of 1,589 acres is not

Continued

Discussion of Recommendations

You have recommended the following land designations for the approximately 2.1 million acre planning area: 310,554 acres of discretionary leasing closures; 333,200 acres that would be open to leasing but subject to a ''No Surface Occupancy'' stipulation; 894,264 acres open to leasing but subject to expanded stipulations; and 709,350 acres open subject to standard leasing terms and conditions. As you noted in your appeal, these recommendations are similar to ''Alternative B,'' first described in the *Draft RMPA/EIS*. Because of the similarities to that alternative (which has been before the public since 2000) and to other public comments that advocated similar measures, the State Director decided not to initiate a special public comment period regarding your recommendations. That specific decision is not the subject of this appeal; however, I note BLM received numerous comments addressing your recommendations in the May 28th through June 28th public comment period offered in association with the *Supplement*. These comments on your recommendations have been noted and are being considered in the ongoing decision-making process. One of your proposed stipulations, however, would limit drilling to one surface location per 1,440 acres.

I believe the BLM's current proposed plan balances the need to allow for exploration activities with the need to protect wildlife habitat, water resources and the overall environmental health of the area. After reviewing your appeal, however, I cannot say that your recommended plan provides a reasonable balance of the national and state interests involved because your plan would make exploration activities difficult or impossible over a majority of the planning area.

Your recommended plan would completely close 310,554 acres (15% of the planning area) to any drilling, including directional drilling from offsite well pads. Your recommendation would also place a ''No Surface Occupancy'' (NSO) stipulation on 333,200 acres (16% of the planning area). Under such a stipulation, exploration and development could only be done on the margins of the NSO areas via directional wells started offsite. Your proposal also includes twelve leasing stipulations. Some of these proposed stipulations closely parallel existing BLM best management practices (BMPs).[9] However, your proposed stipulation allowing only one surface location per 1,440 acres would apply to some 894,264 acres (44% of the project area). This translates to one well pad per 2¼ square miles.[10] As you acknowledge, this is not consistent with the current statewide rules for gas well spacing'one well per 160 acres. *CRR*, p. 42. This stipulation could limit the exploration flexibility needed to properly understand the subsurface resource. It could also produce a disincentive for exploration because, after an initial vertical well is drilled, directional drilling would be required.

It is important to remember that Sierra and Otero Counties are *frontier* exploration areas. While some 101 wildcat wells have been drilled between 1925 and 2003, none have led to full production. Any alternative, therefore, must be able to adequately accommodate *exploration* activities if it can truly be said to meet the national and state interests associated with domestic oil and gas production.

In your appeal you state, ''Directional drilling allows for production and is the way to reconcile state and national policies in this area.'' *Appeal*, p. 20. Directional drilling is an important and useful drilling technique that can limit surface disturbances over subsurface target areas. Directional drilling is generally most effective during the *production* phase of oil or gas development when the subsurface reservoir characteristics are better understood.[11] This type of drilling is strongly encouraged by the BLM when appropriate. See *e.g.*, BLM Instruction Memorandum No. 2004–194. Directional wells undoubtedly have some value at the exploration stage, but it is highly unlikely that the large areas placed under your proposed NSO stipulation could be effectively explored using only directional wells.

At least one expert familiar with the planning area, Ronald F. Broadhead (Associate Director and Principal Senior Petroleum Geologist of the New Mexico Bureau of Mines & Mineral Resources) has concluded, ''In frontier exploration areas such as Sierra and Otero Counties, exploration and initial development must be accomplished through the drilling of vertical, and not horizontal, wells.'' *Draft RMPA/EIS* comment letter of Ronald F. Broadhead, March 27, 2001, *Proposed RMPA/EIS*, Appendix G, p. G–I–45. As Mr. Broadhead has since clarified, his comments were not meant to suggest that some deviated wells (which, as he says, ''are more similar to a vertical well than a horizontal well'') could not be used in the exploration phase. Supplement comment letter of Ronald F. Broadhead, June 21, 2004. However, neither Mr. Broadhead nor any other recognized expert has suggested that deviated wells are capable of exploring the large NSO areas present in your recommended plan.

For example, in Township 24 South, Range 13 East, your plan would place a three mile by six mile area under an NSO stipulation (sections 7–24). This 18 square mile rectangle is bounded either by non-federal land or by still more land subject to the NSO stipulation. Assuming that ground access for directional drilling was possible from the non-federal NSO boundaries, a well would face a minimum horizontal displacement of 1.5 miles in order to explore targets in the center of sections 13 through 18. Thus, the uncertainty associated with a frontier exploration area and the large contiguous tracts involved combine to make exploration in much of your NSO zone highly unfeasible.

It is common knowledge that a directionally drilled well is more costly and complicated than a comparable depth single vertical well.[12] While the added costs are often justified by the ability to hit multiple high value subsurface targets and to protect important surface resources, such is not

expanded or affected in any way by the 5% rule. For example, even if the total disturbance within the entire planning area were still far below the 1,589 acre level, lessees within an exploratory unit could not disturb more than 5% of the surface area within that unit. Likewise, the lessees within an exploratory unit would not be exempt from the impact of a maximized RFD disturbance level merely because their particular unit only contained 1% disturbance at the time the overall 1,589 acre level was reached.

Also, allow me to clarify the relationship between *acres leased* and *acres disturbed*. You state, ''My recommended plan, in fact, provides more acreage for oil and gas activity than the BLM anticipates will be disturbed in its forecast of the Reasonable Foreseeable Development (RFD) in the two counties.'' (*Appeal*, p. 2) Later, you state, ''My plan certainly allows for development in more than the 1,600 acres needed to sustain the RFD. * * *'' (Appeal, p. 4). However, simply opening more than 1,600 acres to leasing does not assure that any oil and gas development can occur. Disturbed acreage will normally be much smaller than the actual size of a mineral lease. This is because even a standard vertical well will normally produce from a subsurface area that is much larger than the disturbed drill pad area. Further, the RFD disturbance level is based on the projected success of exploration activities throughout this largely unexplored planning area. Undoubtedly, some areas will emerge as more desirable for drilling than others. The RFD does not assume that allowing operations on any random 1,589 acres within the planning area will lead to the level of activity forecasted.

[9] All BLM offices are instructed to consider applying certain BMPs, such as interim reclamation of well locations, in nearly all circumstances. Seasonal restrictions, requiring multiple wells from a single pad, and the burying of power lines and flow lines in or near roads are examples of BMPs implemented based on case-by-case analysis. *See* BLM Instruction Memorandum No. 2004–194. It is quite possible that these and other BMPs will be appropriate for well sites in Sierra and Otero Counties. BMPs are typically implemented as mandatory conditions of approval when BLM responds to site-specific Applications for Permits to Drill (APDs) with project-specific NEPA.

[10] Given the relatively small number of wells anticipated under the RFD (141 total wells, of which 84 are projected to be producing wells) and the large size of the planning area, it is quite possible that no more than one surface location will be disturbed per 1,440 acres. In certain circumstances, however, it may be environmentally beneficial to cluster pads rather than widely spacing them.

[11] I note that the Biodiversity Conservation Alliance article cited in your appeal focuses mainly on production phase efficiencies associated with directional drilling and contains less than two paragraphs addressing the directional drilling of exploratory wells. Erick M. Molvar, *Drilling Smarter: Using Directional Drilling to Reduce Oil and Gas Impacts in the Intermountain West*, Biodiversity Conservation Alliance, p. 8, 16.

[12] You provide an example in your *Consistency Review and Recommendations* estimating a 26% increase in per well costs between nine separate vertical wells and the more expensive nine directional wells drilled from a single drill pad. *Consistency Review and Recommendations*, p. 43. The per well cost differences would likely increase if fewer than nine wells were examined. A lesser number may be more realistic in a frontier exploration area. You did not discuss the horizontal displacement involved in your hypothetical situation, but it should be noted that your example was based on a drilling depth of 2,200 feet, while the area's most successful well in recent years was over 7,000 feet deep. Reaching such depths could be more difficult when extensive horizontal offsets and fractured geology, common in sections of the planning area, are also involved.

always the case in an exploration context. Higher exploration costs can reduce the likelihood that areas will be economically feasible to explore. Potentially productive areas that remain unexplored can prevent the nation and New Mexico from realizing the benefits of domestic energy production.[13]

Conclusion

As previously discussed, you have not identified inconsistencies with state resource related plans, policies, and programs. Neither are your recommendations for federal public lands completely consistent with the management practices on state lands with oil and gas resources. Nevertheless, I have instructed the New Mexico BLM to take steps to further strengthen its support for the state plans, policies, and programs that you have noted. Among these steps are expanded protection for potential bighorn sheep habitat and occupied black-tailed prairie dog habitat in the planning area.

Also, I have reviewed your complete recommended alternative as you requested. In short, your recommendations would place some 1,538,018 acres (75% of the planning area), either off-limits to drilling completely or under stipulations that place significant barriers to effective exploration and development. Such a plan is unbalanced. Your recommended plan does not give reasonable consideration to the federal and state interest in domestic energy exploration and production in Sierra and Otero Counties, and it adds little significant protection for other natural resources. I therefore cannot approve your recommended alternative and must deny your appeal.

The BLM proposed plan allows a reasonable opportunity for exploration and development, but the plan does not ignore the important environmental interests of the area. The plan closes the six Areas of Critical Environmental Concern (ACEC) to leasing. It also closes eight areas that have been nominated for ACEC status. As you previously recommended, the BLM proposed plan will not allow any fluid mineral leasing in the 35,790 acres of potential Aplomado falcon habitat located in the Nutt and Otero Mesa grassland areas. The broader grassland areas are subject to protective stipulations, including the 5% maximum disturbance rule. All of this is under the umbrella of the RFD-based analysis that anticipates short term disturbance from oil and gas activities of 1,589 acres throughout this nearly 2.1 million acre planning area. That disturbed area is less than one-tenth of 1% of the entire planning area. The proposed plan also includes strict landscape reclamation standards that will be applied to any areas of disturbance. I believe the BLM proposed plan offers a reasonable balance between energy needs and environmental considerations and improves the management regime found in the currently effective 1986 *White Sands RMP.* Under that plan, some 96% of the planning area would be open to leasing without any special stipulations.

Again, I thank you for your participation in the land use planning process for Sierra and Otero Counties. Your appeal is hereby denied, and I affirm the decision of the New Mexico State Director. Although I have denied this appeal, it is my hope that the New Mexico BLM and the State of New Mexico will continue to communicate and cooperate on future issues.

Sincerely,

Kathleen Clarke,

Director, Bureau of Land Management.

[FR Doc. 05–1315 Filed 1–24–05; 8:45 am]

BILLING CODE 4310–84–P

[13] For example, the unleased areas closest to the successful Bennett Ranch well location would be subject to the NSO stipulation under your alternative. Under the *Proposed RMPA/EIS* plan this area would be subject to stipulations, such as the 5% rule, that would allow for the possibility of limited exploration with both vertical and directional wells.

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV–952–05–1420–BJ]

Filing of Plats of Survey; Nevada

AGENCY: Bureau of Land Management.

ACTION: Notice.

SUMMARY: The purpose of this notice is to inform the public and interested State and local government officials of the filing of Plats of Survey in Nevada.

EFFECTIVE DATES: Filing is effective at 10 a.m. on the dates indicated below.

FOR FURTHER INFORMATION CONTACT: David D. Morlan, Chief, Branch of Geographic Sciences, Bureau of Land Management (BLM), Nevada State Office, 1340 Financial Blvd., P.O. Box 12000, Reno, Nevada 89520, 775–861–6541.

SUPPLEMENTARY INFORMATION:

1. The Plat of Survey of the following described lands was officially filed at the Nevada State Office, Reno, Nevada, on December 16, 2004:

The plat, in six (6) sheets, representing the dependent resurvey of a portion of the south boundary of T. 14 N., R. 25 E.; a portion of the subdivisional lines and Mineral Survey Nos. 4499, 4531, and 4778, and the subdivision of certain sections, Township 13 North, Range 25 East, Mount Diablo Meridian, Nevada, under Group No. 806, was accepted December 14, 2004. This survey was executed to meet certain administrative needs of the Bureau of Land Management.

2. The above-listed survey is now the basic record for describing the lands for all authorized purposes. This survey has been placed in the open files in the BLM Nevada State Office and is available to the public as a matter of information. Copies of the survey and related field notes may be furnished to the public upon payment of the appropriate fees.

Dated: January 13, 2005.

David D. Morlan,

Chief Cadastral Surveyor, Nevada.

[FR Doc. 05–1260 Filed 1–24–05; 8:45 am]

BILLING CODE 4310–HC–P

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

Contra Costa Water District Alternative Intake Project, Contra Costa and San Joaquin Counties, CA

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of Intent to prepare an environmental impact statement (EIS) and notice of scoping meetings.

SUMMARY: Pursuant to section 102(2)(c) of the National Environmental Policy Act (NEPA), the Department of the Interior, Bureau of Reclamation (Reclamation) intends to prepare an EIS to evaluate Contra Costa Water District's (CCWD's) proposed Alternative Intake Project. The project purpose is to protect and improve water quality for CCWD's customers. The proposed action includes the construction of a new intake and fish screen in the Central Delta, a pumping plant, and an associated pipeline from the new intake to CCWD's Old River Pumping Plant on Old River. The proposed action would involve adding a new point of diversion to certain existing water rights held by CCWD and by Reclamation. In addition to the proposed action, other alternatives will be evaluated that may include different intake locations, desalination, and other treatment options. Potential Federal involvement may include the approval of an additional point of diversion pursuant to CCWD's water service contract with Reclamation, and operational changes. The EIS will be combined with an Environmental Impact Report (EIR) prepared by CCWD pursuant to the California Environmental Quality Act (CEQA).

DATES: Three public scoping meetings will be held to solicit comments from interested parties to assist in determining the scope of the environmental analysis, including the alternatives to be addressed, and to identify the significant environmental issues related to the proposed action. The meeting dates are:

- Tuesday, February 15, 6–8 p.m. in Concord, California.
- Wednesday, February 16, 10 a.m.–12 p.m. in Sacramento, California.
- Thursday, February 17, 6–8 p.m. in Antioch, California.

Written comments on the scope of the environmental document, alternatives, and impacts to be considered should be sent to Ms. Samantha Salvia at the address below. All comments are requested by March 4, 2005.

ADDRESSES: The scoping meetings will be held at:

- Concord at the CCWD Board Room, Contra Costa Water District, 1331 Concord Avenue.
- Sacramento at the Federal Building Cafeteria Conference Room C–1001, Bureau of Reclamation, 2800 Cottage Way.
- Antioch at the Veterans of Foreign Wars Hall, 815 Fulton Shipyard Road.

FOR FURTHER INFORMATION CONTACT: Ms. Samantha Salvia, Project Manager, Contra Costa Water District, P.O. Box H2O, Concord, CA 94524–2099, (925) 688–8057, *alternativeintake@ccwater.com;* or Mr. Robert Eckart, Supervisory Environmental Specialist, Bureau of Reclamation, Mid-Pacific Region, 2800 Cottage Way, MP–152, Sacramento, CA, 95825–1898, (916) 978–5051, *reckart@mp.usbr.gov.* If you would like to be included on the EIS/EIR mailing list, please contact Ms. Salvia by e-mail at *alternativeintake@ccwater.com.*

SUPPLEMENTARY INFORMATION:

Background

CCWD's mission is ''to strategically provide its service area with a reliable supply of high-quality water at the lowest cost possible, in an environmentally responsible manner.'' CCWD relies entirely upon the Sacramento-San Joaquin Delta for its supply, which includes both Central Valley Project (CVP) water and water diverted under CCWD water rights. Water quality problems for CCWD result from elevated concentrations of salinity, minerals, bromide and organic carbon, and turbidity in Delta source water. These constituents can cause taste and odor problems for consumers and may contribute to health risks in some individuals. Water quality degradation in the Delta from increased diversions, upstream development, and runoff, have made it more difficult for CCWD to meet increasingly stringent drinking water regulations and the water quality objectives that CCWD has set for service to its customers.

To continue to protect and improve water quality delivered to its customers, CCWD is initiating a two-year planning study that will evaluate the benefits of CCWD adding a new, screened intake and conveyance system in the southwest portion of the central Delta, to access better source water quality. The study will complete project planning, alternatives analyses, a joint EIR/EIS, permitting, and preliminary engineering design by mid-2006. At that point, it will be decided whether to proceed with design and construction of the recommended project.

The proposed project would add a new intake at a location with better quality water, but would not increase CCWD's total diversion capacity (rate or annual quantity). The existing Old River Intake and Pump Station, with a current capacity of 250 cubic feet per second (cfs), would remain in place. The new up to 250 cfs intake would provide CCWD with the operational flexibility to divert water from Old River or the new intake to provide the highest water quality for CCWD customers (the total maximum diversion rate of 250 cfs would not change). A new pipeline, approximately two to four miles in length, would convey water from the new intake, in the southwest portion of the Delta, to CCWD's existing Old River conveyance system.

The proposed project would involve adding a new point of diversion to certain existing water rights held by CCWD and by Reclamation. CCWD would not seek to increase its water rights, CVP contract amounts, or Los Vaqueros Reservoir filling or release rates through this project; CCWD and Reclamation would only seek to add a new point of diversion.

If implemented, it is anticipated that the project would help protect CCWD customers' future water quality, ensure that CCWD is able to meet or exceed future drinking water regulatory requirements, and provide increased operational flexibility. The project would be developed in a way that avoids or minimizes impacts, including impacts to Delta water users and to the environment.

Additional Information

The environmental review will be conducted pursuant to NEPA, CEQA, the federal and state Endangered Species Acts, and other applicable laws, to analyze the potential environmental impacts of implementing a range of feasible alternatives. There are no known Indian Trust Assets or environmental justice issues associated with the proposed action. Public input on the range of alternatives to be considered will be sought through the public scoping process.

Our practice is to make comments, including names and home addresses of respondents, available for public review. Individual respondents may request that we withhold their home addresses from public disclosure, which we will honor to the extent allowable by law. There also may be circumstances in which we would withhold a respondent's identity from public disclosure, as allowable by law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public disclosure in their entirety.

Dated: January 18, 2005.

Frank Michny,

Regional Environmental Officer, Mid-Pacific Region.

[FR Doc. 05–1286 Filed 1–24–05; 8:45 am]

BILLING CODE 4310–MN–P

DEPARTMENT OF JUSTICE

[OVW Docket No. 0001]

Office on Violence Against Women; Notice of Meeting

AGENCY: Office on Violence Against Women, Justice.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of the forthcoming public meeting of the National Advisory Committee on Violence Against Women (hereinafter ''the Committee'').

DATES: The meeting will take place on February 10, 2005, from 8:30 a.m. to 4 p.m. and on February 11, 2005, from 8:30 am to 12 noon.

ADDRESSES: The meeting will take place at the Westin Embassy Row, 2100 Massachusetts Avenue NW., Washington, DC 20008.

FOR FURTHER INFORMATION CONTACT: Jana Sinclair White, The National Advisory Committee on Violence Against Women, 810 Seventh Street, NW., Washington, DC, 20531; by telephone at: (202) 307–6026; e-mail: *Jana.S.White@usdoj.gov;* or fax: (202) 307–3911. You may also view the Committee's Web site at: *http://www.ojp.usdoj.gov/vawo/nac/welcome.html.*

SUPPLEMENTARY INFORMATION: Notice of this meeting is required under section 10(a)(2) of the Federal Advisory Committee Act. The Committee is chartered by the Attorney General, and co-chaired by the Attorney General and the Secretary of Health and Human Services (the Secretary), to provide the Attorney General and the Secretary with practical and general policy advice concerning implementation of the

Violence Against Women Act of 1994, the Violence Against Women Act of 2000, and related laws. The Committee also assists in the efforts of the Department of Justice and the Department of Health and Human Services to combat violence against women, especially domestic violence, sexual assault, and stalking. Because violence against women is increasingly recognized as a public health problem of staggering human cost, the Committee brings national attention to the problem to increase public awareness of the need for prevention and enhanced victim services.

This meeting will primarily focus on the Committee's work; there will, however, be an opportunity for public comment on the Committee's role in providing general policy guidance on implementation of the Violence Against Women Act of 1994, the Violence Against Women Act of 2000, and related laws.

Schedule: This meeting will be held on February 10, 2005, from 8:30 a.m. until 4 p.m. and on February 11, 2005 from 8:30 am until 12 noon, and will include breaks and a working lunch. The meeting will begin with consideration of the draft report prepared by the drafting subcommittee of the Committee. Time will be reserved for public comment on February 10 beginning at 11:30 a.m. and ending at 12 p.m. See the section below for information on reserving time for public comment.

Access: This meeting will be open to the public but registration on a space-available basis is required. Persons who wish to attend must register at least six (6) days in advance of the meeting by contacting Jana Sinclair White by e-mail at: *Jana.S.White@usdoj.gov;* or fax: (202) 307–3911. All attendees will be required to sign in at the meeting registration desk. Please bring photo identification and allow extra time prior to the meeting. The meeting site is accessible to individuals with disabilities. Individuals who require special accommodations in order to attend the meeting should notify Jana Sinclair White by e-mail at: *Jana.S.White@usdoj.gov;* or fax at: (202) 307–3911, no later than February 2, 2005. After this date, we will attempt to satisfy accommodation requests, but cannot guarantee the availability of any requests.

Written Comments: Interested parties are invited to submit written comments by February 2, 2005, to Jana Sinclair White at The National Advisory Committee on Violence Against Women, 810 Seventh Street, NW., Washington, DC, 20531. Comments may also be submitted by e-mail at *Jana.S.White@usdoj.gov;* or fax at (202) 307–3911.

Public Comment: Persons interested in participating during the public comment period of the meeting, which will discuss the implementation of the Violence Against Women Act of 1994 and the Violence Against Women Act of 2000, are requested to reserve time on the agenda by contacting Jana Sinclair White by e-mail at *Jana.S.White@usdoj.gov;* or fax at (202) 307–3911. Requests must include the participant's name, organization represented, if appropriate, and a brief description of the issue. Each participant will be permitted approximately 3 to 5 minutes to present comments, depending on the number of individuals reserving time on the agenda. Participants are also encouraged to submit two written copies of their comments at the meeting.

Given the expected number of individuals interested in presenting comments at the meeting, reservations should be made as soon as possible. Persons unable to obtain reservations to speak during the meetings are encouraged to submit written comments, which will be accepted at the meeting site or may be mailed to the Committee at 810 Seventh Street, NW., Washington, DC, 20531.

Dated: January 18, 2005.

Diane M. Stuart,

Director, Office on Violence Against Women.

[FR Doc. 05–1266 Filed 1–24–05; 8:45 am]

BILLING CODE 4410–FX–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Agency Information Collection Activities: Proposed Collection; Comments Requested

ACTION: 30-Day Notice of Information Collection Under Review: Registrants' Inventory of Drugs Surrendered—DEA Form 41.

The Department of Justice (DOJ), Drug Enforcement Administration (DEA) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** Volume 69, Number 212, on page 64109, on November 3, 2004, allowing for a 60 day comment period.

The purpose of this notice is to allow for an additional 30 days for public comment until February 24, 2005. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the items contained in this notice, especially the estimated public burden and associated response time, should be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20503. Additionally, comments may be submitted to OMB via facsimile to (202) 395–5806.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

—Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Enhance the quality, utility, and clarity of the information to be collected; and

—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Extension of a currently approved collection.

(2) *Title of the Form/Collection:* Registrants' Inventory of Drugs Surrendered—DEA Form 41.

(3) *Agency form number, if any, and the applicable component of the Department sponsoring the collection: Form Number:* DEA Form 41. Office of Diversion Control, Drug Enforcement Administration, Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Business or other for-profit. Other: Not-for-profit institutions, federal government, state, local or tribal government. Title 21 CFR 1307.21

requires that any registrant desiring to voluntarily dispose of controlled substances shall list these controlled substances on DEA Form 41 and submit the form to the nearest DEA office. The DEA Form 41 is used to account for destroyed controlled substances, and its use is mandatory.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond/reply:* DEA estimates that 22,000 respondents respond annually to this collection, averaging 30 minutes per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* DEA estimates the total public burden for this collection to be 11,000 hours annually.

If additional information is required contact: Brenda E. Dyer, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Patrick Henry Building, Suite 1600, 601 D Street NW., Washington, DC 20530.

Dated: January 15, 2005.

Brenda E. Dyer,

Department Clearance Officer, Department of Justice.

[FR Doc. 05–1283 Filed 1–24–05; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Agency Information Collection Activities: Proposed Collection; Comments Requested

ACTION: 30-Day Notice of Information Collection Under Review: Controlled Substances Import/Export Declaration—DEA Form 236.

The Department of Justice (DOJ), Drug Enforcement Administration (DEA) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** Volume 69, Number 213, page 64323 on November 4, 2004, allowing for a 60-day comment period.

The purpose of this notice is to allow for an additional 30 days for public comment until February 24, 2005. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the items contained in this notice, especially the estimated public burden and associated response time, should be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20503. Additionally, comments may be submitted to OMB via facsimile to (202) 395–5806. Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

—Evaluate the accuracy of the agencies' estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Enhance the quality, utility, and clarity of the information to be collected; and

—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

Overview of This Information Collection

(1) Type of Information Collection: Extension of a currently approved collection.

(2) Title of the Form/Collection: Controlled Substances Import/Export Declaration—DEA Form 236.

(3) Agency form number, if any, and the applicable component of the Department sponsoring the collection: Form Number: DEA Form 236. Office of Diversion Control, Drug Enforcement Administration, Department of Justice.

(4) Affected public who will be asked or required to respond, as well as a brief abstract: Primary: Business or other for-profit. Other: None. Abstract: The DEA–236 provides the DEA with control measures over the importation and exportation of controlled substances as required by United States drug control laws and international treaties.

(5) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond/reply: DEA estimates that it takes 30 minutes to complete each form. DEA estimates that 224 respondents respond, as needed, to this collection.

(6) An estimate of the total public burden (in hours) associated with the collection: DEA estimates that this collection has an annual burden of 2,170 hours.

If additional information is required contact: Brenda E. Dyer, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Patrick Henry Building, Suite 1600, 601 D Street, NW., Washington, DC 20530.

Dated: January 15, 2005.

Brenda E. Dyer,

Department Clearance Officer, Department of Justice.

[FR Doc. 05–1284 Filed 1–24–05; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Agency Information Collection Activities: Proposed Collection; Comments Requested

ACTION: 30-Day Notice of Information Collection Under Review: Report of Theft or Loss of Controlled Substances—DEA Form 106.

The Department of Justice (DOJ), Office of Justice Programs (OJP) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** Volume 69, Number 206, page 62458 on October 26, 2004, allowing for a 60-day comment period.

The purpose of this notice is to allow for an additional 30 days for public comment until February 24, 2005. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the items contained in this notice, especially the estimated public burden and associated response time, should be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20503. Additionally, comments may be submitted to OMB via facsimile to (202) 395–5806. Written comments and

suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
—Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
—Enhance the quality, utility, and clarity of the information to be collected; and
—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

Overview of This Information Collection

(1) Type of Information Collection: Extension of a currently approved collection.

(2) Title of the Form/Collection: Report of Theft or loss of Controlled Substances—DEA form 106.

(3) Agency form number, if any, and the applicable component of the Department sponsoring the collection: Form Number: DEA Form 106. Office of Diversion Control, Drug Enforcement Administration, Department of Justice.

(4) Affected public who will be asked or required to respond, as well as a brief abstract: Primary: Business or other for-profit. Other: Not-for-profit, State, local or tribal government. Title 21 CFR 1301.74(c) and 1301.76(b) require DEA registrants to complete and submit a DEA–106 upon discovery of a theft or significant loss of controlled substances. This provides accurate accountability and allows DEA to monitor substances diverted for illicit purposes.

(5) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond/reply: DEA estimates that 5,659 registrants submit 8,310 forms annually for this collection. DEA estimates that each response takes 30 minutes.

(6) An estimate of the total public burden (in hours) associated with the collection: DEA estimates that this collection has a public burden of 4,155 hours annually.

If additional information is required contact: Brenda E. Dyer, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Patrick Henry Building, Suite 1600, 601 D Street NW., Washington, DC 20530.

Dated: January 14, 2005.

Brenda E. Dyer,

Department Clearance Officer, Department of Justice.

[FR Doc. 05–1285 Filed 1–24–05; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 04–32]

Al-Alousi, Inc., Denial of Registration

On March 16, 2004, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Al-Alousi, Inc. (AAI) proposing to deny its March 31, 2003, application for DEA Certificate of Registration as a distributor of list I chemicals. The Order to Show Cause alleged that granting AAI's application would be inconsistent with the public interest, as that term is used in 21 U.S.C. 823(h).

According to the DEA investigative file, the Order to Show Cause was sent by certified mail to AAI at its proposed registered location at 8760 Greenwell Springs Road, Baton Rouge, Louisiana. On April 14, 2004, AAI's owner, Mr. Humam Al-Alousi, requested a hearing and on April 26, 2004, Administrative Law Judge Mary Ellen Bittner ordered the parties to file prehearing statements by June 7, 2004. This date was later extended until August 24, 2004. As a result of AAI's failure to file a prehearing statement, Judge Bittner considered its hearing right to have been waived and issued an Order Terminating Proceedings on September 3, 2004. The investigative case file was then forwarded to the Deputy Administrator for a final order pursuant to 21 CFR 1301.46.

The Deputy Administrator finds that AAI has waived its hearing right and after considering relevant material from the investigative file, now enters her final order without a hearing pursuant to 21 CFR 1309.53(c) and (d) and 1316.67. The Deputy Administrator finds as follows.

List I chemicals are those that may be used in the manufacture of a controlled substance in violation of the Controlled Substances Act. 21 U.S.C. 802(34); 21 CFR 1310.02(a). Pseudoephedrine and ephedrine are list I chemicals commonly used to illegally manufacture methamphetamine, a Schedule II controlled substance. As noted in previous DEA final orders, methamphetamine is an extremely potent central nervous system stimulant, and its abuse is a persistent and growing problem in the United States. *See*, *e.g.*, Direct Wholesale, 69 FR 11,654 (2004); Branex, Inc., 69 FR 8,682 (2004); Yemen Wholesale Tobacco and Candy Supply, Inc., 67 FR 9,997 (2002); Denver Wholesale, 67 FR 99,986 (2002).

The Deputy Administrator's review of the investigative file reveals that AAI's president is Mr. Al-Alousi and his wife, Lois Al-Alousi, is vice-president. On or about March 31, 2003, an application was submitted by Mrs. Al-Alousi on behalf of AAI, seeking registration to distribute ephedrine and pseudoephedrine list I chemical products. Subsequently, AAI advised DEA that its application would only be for a registration to distribute pseudoephedrine products.

In connection with the pending application, an on-site pre-registration investigation was conducted at the proposed registered location in May 2003. Mr. Al-Alousi represented to investigators that he had purchased AAI in December 2002 and the company had previously done business at that location under a different name and owner.

The investigators' review showed that a prior DEA investigation of the former company and its owner had been conducted which adduced substantial information that the company had distributed list I chemicals without a DEA registration and knowingly distributed large quantities of list I chemicals to methamphetamine laboratories during the mid-to-late 1990's. The former owner, a citizen of Lebanon, had been arrested by U.S. Immigration and Naturalization Service officers for willfully and falsely representing himself as a citizen of the United States.

At the time of the DEA investigators' on-site pre-registration inspection of AAI's premises, the business sign still bore the former company's name and that name was also on a facsimile cover sheet and document which was sent by Mrs. Al-Alousi to DEA investigators during the pre-registration inquiry.

Mr. Al-Alousi advised investigators that AAI was now a wholesale distributor of cigarettes, washing powder, oil, candy and novelty items to approximately 150 convenience stores

and restaurants in the Baton Rouge area. He stated that all 150 of AAI's customers would be purchasing list I chemicals. In addition to its wholesale business, AAI operated a convenience store at the proposed registered address and many of its customers came to that location to pick up purchases at a check out counter. Given the facility's set-up, AAI's wholesale and retail customers and all of its employees would have physical access to the areas where the listed products would be stored.

During the investigation, the Al-Alousi's were unable to provide investigators any records of sales and purchases and stated their records were transferred weekly to a bookkeeper. According to a list provided investigators, the great majority of AAI's customers were convenience stores and gas stations. It was also determined that neither Mr. nor Mrs. Al-Alousi had any prior experience in the distribution of list I chemicals.

On July 9, 2003, investigators attempted to conduct verifications of twelve customers from AAI's list. Two addresses did not exist; one was a printing shop that was out of business; one was an apartment complex; one was a bar/pool hall; one was a fast-food stand; two alleged customers advised they had never done business with either AAI or its predecessor company; two others stated they only purchased paper and plastic products from its predecessor company and had never heard of AAI; and one stated he had purchased list I chemical cold products from AAI's predecessor but would not do so in the future and had never heard of AAI. The results of these verification attempts cast doubt on the veracity of Mr. Al-Alousi's representations regarding the nature of AAI's business and its prospective customers for list I chemical products.

DEA is aware that small illicit laboratories operate with listed chemical products often procured, legally or illegally, from non-traditional retailers of over-the-counter drug products, such as gas stations and small retail markets. Some retailers acquire product from multiple distributors to mask their acquisition of large amounts of listed chemicals. In addition, some individuals utilize sham corporations or fraudulent records to establish a commercial identity in order to acquire listed chemicals.

DEA knows by experience that there exists a ''gray market'' in which certain high strength, high quantity pseudoephedrine and ephedrine products are distributed only to convenience stores and gas stations, from where they have a high incidence of diversion. These grey market products are not sold in large discount stores, retail pharmacies or grocery stores, where sales of therapeutic over-the-counter drugs predominate.

DEA also knows from industry data, market studies and statistical analysis that over 90 percent of over-the-counter drug remedies are sold in drug stores, supermarket chains and ''big box'' discount retailers. Less than one percent of cough and cold remedies are sold in gas stations or convenience stores. Studies have indicated that most convenience stores could not be expected to sell more than $20.00 to $40.00 worth of products containing pseudoephedrine per month. The expected sales of ephedrine products are known to be even smaller. Furthermore, convenience stores handling gray market products often order more product than what is required for the legitimate market and obtain chemical products from multiple distributors.

Pursuant to 21 U.S.C. 823(h), the Deputy Administrator may deny an application for a Certificate of Registration if she determines that granting the registration would be inconsistent with the public interest. Section 823(h) requires that the following factors be considered in determining the public interest:

(1) Maintenance of effective controls against diversion of listed chemicals into other than legitimate channels;

(2) Compliance with applicable Federal, State and local law;

(3) Any prior conviction record under Federal or State laws relating to controlled substances or to chemicals controlled under Federal or State law;

(4) Any past experience of the applicant in the manufacture and distribution of chemicals; and

(5) Such other factors as are relevant to and consistent with the public health and safety.

As with the public interest analysis for practitioners and pharmacies pursuant to subsection (f) of section 823, these factors are to be considered in the disjunctive; the Deputy Administrator may rely on any one or a combination of factors and may give each factor the weight she deems appropriate in determining whether a registration should be revoked or an application for registration denied. *See, e.g.,* Energy Outlet, 64 FR 14,259 (1999). *See also*, Henry J. Schwartz, Jr., M.D., 54 FR 16,422 (1999).

The Deputy Administrator finds factors one, four and five relevant to the pending application for registration.

As to factor one, maintenance of effective controls against diversion of listed chemicals into other than legitimate channels, the DEA pre-registration inspection documented that many of AAI's customers would be coming to the registered location to pick up their products. Under this procedure, AAI would not be able to adequately verify the location and legitimacy of its customers. Additionally the listed chemicals would be stored such that AAI's retail and wholesale customers, as well as all of its employees, would have access to the listed chemical products, thus increasing risk of diversion. Accordingly, this factor weighs against the granting of AAI's pending application.

With regard to factor four, the applicant's past experience in the distribution of chemicals, the Deputy Administrator finds this factor relevant based on Mr. and Mrs. Al-Alousi's lack of knowledge and experience regarding the laws and regulations governing handing of list I chemical products. In prior DEA decisions, this lack of experience in handling list I chemical products has been a factor in denying pending applications for registration. *See, e.g.,* Direct Wholesale, supra, 69 FR 11,654; ANM Wholesale, 69 FR 11,652 (2004); Xtreme Enterprises Inc., 67 FR 76,195 (2002).

With regard to factor five, other factors relevant to and consistent with the public safety, the Deputy Administrator finds this factor weighs heavily against granting the application. Unlawful methamphetamine use is a growing public health and safety concern throughout the United States and the South. Ephedrine and pseudoephedrine are precursor products needed to manufacture methamphetamine and operators of illicit methamphetamine laboratories regularly acquire the precursor products needed to manufacture the drug from convenience stores and gas stations which, in prior DEA decisions, have been identified as constituting the grey market for list I chemical products. It is apparent that AAI intends on being a participant in this market.

While there are no specific prohibitions under the Controlled Substances Act regarding the sale of listed chemical products to these entities, DEA has nevertheless found these establishments serve as sources for the diversion of large amounts of listed chemical products. *See, e.g.,* ANM Wholesale, supra, 69 FR 11,652; Xtreme Enterprises, Inc., supra, 67 FR 76,195; Sinbad Distributing, 67 FR 10,232 (2002); K.V.M. Enterprises, 67 FR 70,968 (2002).

The Deputy Administrator has previously found that many

considerations weighed heavily against registering a distributor of list I chemicals because, ''[v]irtually all of the Respondent's customers, consisting of gas station and convenience stores, are considered part of the grey market, in which large amounts of listed chemicals are diverted to the illicit manufacture of amphetamine and methamphetamine.'' Xtreme Enterprises, Inc., supra, 67 FR at 76,197. As in Xtreme Enterprises, Inc., Mr. and Mrs. Al-Alousi's lack of a criminal record and stated intent to comply with the law and regulations are far outweighed by their lack of experience and the company's intent to sell pseudoephedrine products almost exclusively to the gray market.

The Deputy Administrator is also troubled by AAI's failure to provide accurate customer information to DEA investigators, indicating the company cannot be trusted to handle the responsibilities of a registrant. Further, its continued or implied use of its predecessor's name, an entity which prior investigations had linked with the diversion of listed chemicals to illicit laboratories, raises questions about AAI's customer base and the risk that its products might be sold to previous customers of AAI's predecessor and then diverted to illegal purposes.

Based on the foregoing, the Deputy Administrator concludes that granting the pending application would be inconsistent with the public interest.

Accordingly, the Deputy Administrator of the Drug Enforcement Administration, pursuant to the authority vested in her by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b) and 0.104, hereby orders the pending application for DEA Certificate of Registration, submitted by Al-Alousi, Inc., be, and it hereby is, denied. This order is effective February 24, 2005.

Dated: December 30, 2004.

Michele M. Leonhart,

Deputy Administrator.

[FR Doc. 05–1324 Filed 1–24–05; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Ray V. Surapaneni, D.O.; Revocation of Registration

On April 29, 2004, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Ray V. Surapaneni, D.O. (Dr. Surapaneni) who was notified of an opportunity to show cause as to why DEA should not revoke his DEA Certificate of Registration, BS3724932, pursuant to 21 U.S.C. 824(a)(3). Specifically, the Order to Show Cause alleged that Dr. Surapaneni's authority to handle controlled substances in the State of Missouri had been revoked.

The Order to Show Cause notified Dr. Surapaneni that should no request for a hearing be filed within 30 days, his hearing right would be deemed waived. Alternatively, he could waive a hearing and submit a written statement regarding his position on the matters of fact and law for the Deputy Administrator's consideration, along with the material within the investigative case file.

The Order to Show Cause was initially sent by certified mail to Dr. Surapaneni at an address which was not current. On September 2, 2004, the Order to Show Cause was resent and Dr. Surapaneni received it on September 6, 2004. In his September 10, 2004, letter to the Hearing Clerk, DEA Office of Administrative Law Judges, Dr. Surapaneni affirmatively waived a hearing and asked the Deputy Administrator to not revoke his registration and to consider the contents of the letter in deciding the matter.

The Deputy Administrator of DEA, after considering material from the investigative file and the written statement of Dr. Surapaneni, now enters her final order without a hearing pursuant to 21 CFR 1301.43(b) and (e) 1301.46.

The Deputy Administrator finds Dr. Surapaneni is currently registered with DEA as a practitioner authorized to handle controlled substances in Schedules II through V under DEA Certificate of Registration BS3724932, with a registered location of 1515 Union Avenue, Moberly, Missouri.

According to information in the investigative file, in June 2003, Dr. Surapaneni entered into a Memorandum of Agreement (MOA) with the DEA Saint Louis Field Division as a condition of renewing his DEA registration. Among the MOA's terms was a provision that his DEA registration would terminate automatically if he were to lose authority to handle controlled substances in Missouri, his State of registration.

On December 9, 2003, the Missouri Bureau of Narcotics and Dangerous Drugs (BNDD) notified Dr. Surapaneni that his Missouri Controlled Substances Registration No. 307766793, had been terminated and he did not ''currently have the authority to conduct any activities with controlled substances in the state of Missouri.'' The investigative file indicates his state controlled substances registration was terminated because it had been issued for a specific location in Paris, Missouri and, pursuant to a March 11, 2003, Settlement Agreement Between Dr. Surapaneni and BNDD, his registration would terminate immediately if he relocated his professional practice. BNDD subsequently discovered Dr. Surapaneni had never been employed by or practiced at the Paris, Missouri location. Efforts by DEA diversion investigators to obtain his certificate by surrender proved unsuccessful and show cause proceedings were then initiated.

In his written statement to the Deputy Administrator, Dr. Surapaneni indicates he was unable to join the Paris, Missouri, practice because he lacked start-up funds, attributing this financial plight to a previous office manager having embezzled $150,000 from him. Dr. Surapaneni also says he is seeking medical employment and intends to reapply for his Missouri registration once he has found a position.

However, Dr. Surapaneni does not dispute that his State controlled substances registration was terminated by BNDD or claim any current authority to handle controlled substances in that State. Therefore, the Deputy Administrator finds Dr. Surapaneni is currently not authorized to handle controlled substances in Missouri.

DEA does not have statutory authority under the Controlled Substances Act to issue or maintain a registration if the applicant or registrant is without State authority to handle controlled substances in the State in which he conducts business. *See* 21 U.S.C. 802(21), 823(f) and 824(a)(3). This prerequisite has been consistently upheld. *See Richard J. Clement, M.D.,* 68 FR 12, 103 (2003); *Dominick A. Ricci, M.D.,* 58 FR 51,104 (1993); *Bobby Watts, M.D.,* 53 FR 11,919 (1988).

Here, it is clear Dr. Surapaneni's State controlled substance registration was terminated and there is no information that action was ever stayed or that his registration has been reinstated. As a result, Dr. Surapaneni is not licensed to handle controlled substances in Missouri, where he is registered with DEA. Therefore, he is not entitled to maintain that registration.

Accordingly, the Deputy Administrator of the Drug Enforcement Administration, pursuant to the authority vested in her by 21 U.S.C. 823 and 824 and 28 C.F.R. 0.100(b) and 0.104, hereby orders that DEA Certificate of Registration, BS3724932, issued to Ray V. Surapaneni, D.O., be, and it hereby is, revoked. The Deputy Administrator further orders that any

pending applications for renewal or modification of the aforementioned registration be, and hereby are, denied. This order is effective February 24, 2005.

Dated: December 30, 2004.

Michele M. Leonhart,

Deputy Administrator.

[FR Doc. 05–1326 Filed 1–24–05; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

James E. Thomas, M.D., Revocation of Registration

On April 29, 2004, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to James E. Thomas, M.D. (Dr. Thomas) of Troy, Alabama, notifying him of an opportunity to show cause as to why DEA should not revoke his DEA Certificate of Registration AT7586829, as a practitioner, under 21 U.S.C. 824(a)(3) and deny any pending applications for renewal or modification of that registration pursuant to 21 U.S.C. 823(f). As a basis for revocation, the Order to Show Cause alleged that Dr. Thomas is not currently authorized to practice medicine or handle controlled substances in Alabama, his State of registration and practice. The Order to Show Cause also notified Dr. Thomas that should no request for a hearing be filed within 30 days, his hearing right would be deemed waived.

The Order to Show Cause was sent by certified mail to Dr. Thomas at his address of record at P.O. Drawer 947, Suite 2, Highway 231, Troy, Alabama. That correspondence was returned marked ''Not Deliverable as Addressed—Unable to Forward.'' It was then determined the local DEA office had sent three registered letters to Dr. Thomas' home and office addresses and all had been returned marked ''unforwardable.'' Further, the State of Alabama, Medical Licensure Commission (Alabama Commission) had tried to contact Dr. Thomas without success. The Deputy Administrator finds reasonable efforts to contact and serve Dr. Thomas with the Order to Show Cause have been made and DEA has not received a request for hearing or any other reply from Dr. Thomas or anyone purporting to represent him in this matter.

Therefore, the Deputy Administrator, finding (1) 30 days have passed since DEA's attempt to serve the Order to Show Cause at the registered location and that good faith efforts to locate Dr. Thomas have failed and (2) no request for a hearing having been received, concludes that Dr. Thomas is deemed to have waived his hearing right, *See* Steven A. Barnes, M.D., 69 FR 51,474 (2004); David W. Linder, 67 FR 12,579 (2002). After considering material from the investigative file, the Deputy Administrator now enters her final order without a hearing pursuant to 21 CFR 1301.43(d) and (e) and 1301.46.

The Deputy Administrator finds Dr. Thomas currently possesses DEA Certificate of Registration AT7586829, which expires on November 30, 2005. The Deputy Administrator further finds that on June 16, 2003, the Alabama Commission issued an Order revoking Dr. Thomas' license to practice medicine in Alabama. The suspension was based upon findings of fact, *inter alia,* that Dr. Thomas committed professional misconduct and ''is unable to practice medicine with reasonable skill and safety to patients by reason of illness, inebriation, excessive use of drugs, narcotics, alcohol, chemicals or other substances * * * ''

The investigative file contains no evidence the Alabama Commission's Order has been stayed, modified or terminated or that Dr. Thomas' medical license has been reinstated. Therefore, the Deputy Administrator finds Dr. Thomas is not currently authorized to practice medicine in the State of Alabama. As a result, it is reasonable to infer he is also without authorization to handle controlled substances in that State.

DEA does not have statutory authority under the Controlled Substances Act to issue or maintain a registration if the applicant or registrant is without State authority to handle controlled substances in the State in which he conducts business. *See* 21 U.S.C. 802(21), 823(f) and 824(a)(3). This prerequisite has been consistently upheld. *See* Stephen J. Graham, M.D., 69 FR 11,661 (2004); Dominick A. Ricci, M.D., 58 FR 51,104 (1993); Bobby Watts, M.D., 53 FR 11,919 (1988).

Here, it is clear Dr. Thomas' medical license has been revoked and he is not currently licensed to handle controlled substances in Alabama, where he is registered with DEA. Therefore, he is not entitled to a DEA registration in that State.

Accordingly, the Deputy Administrator of the Drug Enforcement Administration, pursuant to the authority vested in her by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b) and 0.104, hereby orders that DEA Certificate of Registration AT7586829, issued to James E. Thomas, M.D., be, and it hereby is, revoked. The Deputy Administrator further orders that any pending applications for renewal of such registration be, and they hereby are, denied. This order is effective February 24, 2005.

Dated: December 30, 2004.

Michele M. Leonhart,

Deputy Administrator.

[FR Doc. 05–1325 Filed 1–24–05; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF LABOR

Bureau of Labor Statistics

Notice of Decision To Revise Method for Estimation of Monthly Labor Force Statistics for Certain Subnational Areas

AGENCY: Bureau of Labor Statistics, Labor.

ACTION: Statement of policy.

SUMMARY: The Department of Labor, through the Bureau of Labor Statistics (BLS), is responsible for the development and publication of local area labor force statistics. In the Local Area Unemployment Statistics (LAUS) program, monthly estimates of the labor force, employment, unemployment, and the unemployment rate for more than 7,000 areas in the Nation are developed and issued monthly. With data for January 2005, to be published in March 2005, the monthly labor force estimates prepared in the LAUS program will be based on methodological improvements that resulted from the completion of a number of projects to improve the statistical basis of the estimates. In addition, the LAUS estimates will reflect updated geography and other techniques that are based on 2000 Census data.

EFFECTIVE DATE: These changes will be effective with January 2005 LAUS estimates issued in March 2005.

FOR FURTHER INFORMATION CONTACT: Sharon P. Brown, Chief, Division of Local Area Unemployment Statistics, Bureau of Labor Statistics, Telephone 202–691–6390.

SUPPLEMENTARY INFORMATION:

I. Summary of Comments

The BLS received one comment in response to the request for comments on the Proposal to Revise the Method for Estimation of Monthly Labor Force Statistics for Certain Subnational Areas. That commenter was opposed to the use of model based estimation for the Miami metropolitan division. In BLS's judgment the statistical modeling

methodology is superior to the existing method for Miami because it directly utilizes Current Population Survey (CPS) estimates of employment and unemployment, allows for the development of seasonally adjusted estimates, and provides measures of error on the data. The commenter also opposed the implementation of a method for adjusting place-of-work employment to place-of-residence using decennial census-based ratios for areas outside the area of estimation with known commutation. Based on research and simulations, the BLS feels that this dynamic approach will result in better estimation of resident employed in the intercensal period.

II. Additional Information

Since the BLS was given responsibility for the LAUS program in 1972, a hierarchy of estimation methods has been used to produce the State and area labor force estimates, based in large part on the availability and quality of data from the CPS, the official measure of the labor force for the nation. The BLS has continuously advanced the statistical basis of the LAUS estimates by researching and implementing improved statistically sound methodology, updating the methodology with decennial census data, and reflecting the latest decennial identification of geographic areas.

Estimates for States, the District of Columbia, New York City, Los Angles-Long Beach-Glendale Metropolitan Division. From 1996 on, the estimates for States, the District of Columbia, New York City, Los Angeles metropolitan area, and the balances of New York State and California were developed using signal-plus-noise models. These models relied heavily on monthly CPS data, as well as current wage and salary employment estimates and unemployment insurance statistics. The State CPS annual averages of employment and unemployment were used as benchmarks to the model-based estimates at the end of the year. In general, this method of model estimation and annual benchmarking resulted in an overestimate of employment and an underestimate of unemployment and the unemployment rate in States as compared to the national CPS estimates. The annual benchmarking approach reintroduced sampling error into the series and resulted in significant end-of-year revisions in a large number of States, caused economic anomalies that were an artifact of the benchmarking approach, distorted seasonality in the previous year so that analysis is impaired, and often missed shocks to the economy.

The improved model-based approach to estimation with real-time benchmarking addresses these issues. The models are signal-plus-noise models, where the signal is a bivariate model of the employment or unemployment level. Seasonal adjustment occurs within the model structure. Real-time benchmarking ensures that State estimates add to the national estimates of employment and unemployment each month. (The benchmark changes from annual State-level estimates of employment and unemployment to monthly national estimates of these measures.) In this way, economic shocks will be reflected in the State estimates on a real-time basis, and end-of-year revisions will be significantly smaller. The models with real-time benchmarking produce reliability measures for the seasonally adjusted and not seasonally adjusted series, and on over-the-month and over-the-year change.

Model-based Estimation in Six Additional Areas. Model-based estimation is extended to the following areas and the respective balance-of-State areas: Chicago metropolitan division, Cleveland metropolitan area, Detroit metropolitan area, Miami metropolitan division, New Orleans metropolitan area, and Seattle-Everett metropolitan division. This improves the statistical basis of the estimation for these areas, and provides important tools for analysis such as measures of error and seasonally adjusted series.

These area models are univariate and are benchmarked to the State employment and unemployment estimates on a real-time basis. As with the State models, seasonally adjusted series are produced, along with measures of error for the seasonally adjusted and not seasonally adjusted series, and on over-the-month and over-the-year change.

New and Reentrant Unemployment. Long-standing concerns were expressed in the regard to the estimation of unemployment at the substate level (for areas other than New York City, Los Angeles, and the balances of New York State and California). Difficulty in the measurement of unemployed new and reentrants to the labor market led to the use of large proportionate adjustment of area estimates to the State total unemployed as a way of controlling for the underestimate at the area level. The improved method addresses the issue of underestimation and eliminates the need for significant proportionate adjustment of area estimates to the monthly State levels of unemployment.

The new methodology incorporates the CPS new and reentrants State data and utilizes improved econometric modeling techniques. In this model, the values of the coefficients change from month to month as the models are updated with information from current observations. The model estimates are distributed to each labor market area in the State based on the area's share of the State population. New entrants are distributed based on the area's share of the State 16–19 year old population, and reentrants are distributed based on the area's share of the State 20 years and older population.

Residency Adjustment. The underlying concepts and definitions of all labor force data developed by the LAUS program are consistent with those of the CPS, including the requirement that measures relate to the place of residence of the labor force participant. Current, geographically comprehensive employment data at the area level are establishment-based and reflect jobs by place of work. Thus, these data must be adjusted to account for multiple-job holding and residency prior to use in the LAUS program. The prior Census-based residency adjustment procedure used a single ratio for the labor market area. Thus, it was the limited in the geographic scope for influencing the area's estimate of resident employed and static in nature. Also, labor market areas often are not defined to the point where commutation is zero, and, in the intercensal period, job growth can and does occur in the areas surrounding the estimating area.

In the new method, resident employment in an area is a function not only of the relationship between employed residents and jobs in that area, but in other areas within commuting distance. The procedure is more dynamic than the prior method insofar as job count changes in commuting areas can affect resident employment. As in the current procedure, however, the commuting ratios themselves are fixed for the intercensal period.

Detailed descriptions of the current and redesign approaches are available at the above address and at the BLS LAUS Web site *http://www.bls.gov/lau/home.htm*.

Signed in Washington, DC, this 14th day of January, 2005.

John M. Galvin,

Associate Commissioner, Office of Employment and Unemployment Statistics, Bureau of Labor Statistics.

[FR Doc. 05–1336 Filed 1–24–05; 8:45 am]

BILLING CODE 4510–24–P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Petitions for Modification

The following parties have filed petitions to modify the application of existing safety standards under section 101(c) of the Federal Mine Safety and Health Act of 1977.

1. Six M Coal Company

[Docket No. M–2004–053–C]

Six M Coal Company, 482 High Road, Ashland, Pennsylvania 17921 has filed a petition to modify the application of 30 CFR 75.1400 (Hoisting equipment; general) to its No. 1 Slope Mine (MSHA I.D. No. 36–09138) located in Daupin County, Pennsylvania. The petitioner proposes to use a slope conveyance (gunboat) in transporting persons without installing safety catches or other no less effective devices. The petitioner would instead use increased rope strength and secondary safety rope connections in place of such devices. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as the existing standard.

2. Consol Pennsylvania Coal Company

[Docket No. M–2005–001–C]

Consol Pennsylvania Coal Company, 1800 Washington Road, Pittsburgh, Pennsylvania 15241 has filed a petition to modify the application of 30 CFR 75.364(b)(2) (Weekly examination) to its Enlow Fork Mine (MSHA I.D. No. 36–07416) located in Greene County, Pennsylvania. The petitioner requests a modification of the existing standard to permit the use of monitoring stations in lieu of walking the complete entries of the return air course. The petitioner proposes to establish three monitoring stations in the affected area of the air course and have a certified person examine the stations on a weekly basis to determine the quantity and quality of air entering and exiting the stations. The petitioner states that the air quality measurements will be made using an MSHA approved hand-held methane and oxygen meter, and the examiner will record their initials, and the date and time of examinations on a date board maintained at each monitoring station, and in a book kept on the surface. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as the existing standard.

Request for Comments

Persons interested in these petitions are encouraged to submit comments via Federal eRulemaking Portal: *http://www.regulations.gov*; E-mail: *Comments@MSHA.gov;* Fax: (202) 693–9441; or Regular Mail/Hand Delivery/Courier: Mine Safety and Health Administration, Office of Standards, Regulations, and Variances, 1100 Wilson Boulevard, Room 2350, Arlington, Virginia 22209. All comments must be postmarked or received in that office on or before February 24, 2005. Copies of these petitions are available for inspection at that address.

Dated at Arlington, Virginia this 18th day of January 2005.

Rebecca J. Smith,

Deputy Director, Office of Standards, Regulations, and Variances.

[FR Doc. 05–1299 Filed 1–24–05; 8:45 am]

BILLING CODE 4510–43–P

NATIONAL AERONAUTICS AND SPACE ADMINSTRATION

[Notice (05–007)]

NASA Robotic and Human Exploration of Mars Strategic Roadmap Committee; Meeting

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended, the National Aeronautics and Space Administration announces a meeting of the NASA Robotic and Human Exploration of Mars Strategic Roadmap Committee.

DATES: Tuesday, February 8, 2005, 8 a.m. to 5 p.m., Wednesday, February 9, 2005, 8 a.m. to 5 p.m., Thursday, February 10, 2005, 8 a.m. to 3 p.m.

ADDRESSES: Carnegie Institution, second floor, 1530 P Street, NW., Washington, DC 20005.

FOR FURTHER INFORMATION CONTACT: Dr. Michael Meyer, 202–358–0307.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the seating capacity of the meeting room. Attendees will be requested to sign a register. The agenda for the meeting is as follows:

—Introductory remarks and review of agenda.
—Key capability drivers for Mars exploration: Roadmap sub-team reports and discussion.
—Invited Study Reports and Discussion.
—Action item group reports and discussion.
—Roadmap integration plans (optional).
—Synthesis of Mars exploration roadmap and pathways.
—Actions and writing assignments.
—Plans for roadmap committee interactions and next meeting.

It is imperative that the meeting be held on this date to accommodate the scheduling priorities of the key participants.

Dated: January 18, 2005.

P. Diane Rausch,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 05–1300 Filed 1–24–05; 8:45 am]

BILLING CODE 7510–13–P

THE NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Meetings of Humanities Panel

AGENCY: The National Endowment for the Humanities.

ACTION: Notice of meetings.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, as amended), notice is hereby given that the following meetings of the Humanities Panel will be held at the Old Post Office, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

FOR FURTHER INFORMATION CONTACT: Daniel Schneider, Advisory Committee Management Officer, National Endowment for the Humanities, Washington, DC 20506; telephone (202) 606–8322. Hearing-impaired individuals are advised that information on this matter may be obtained by contacting the Endowment's TDD terminal on (202) 606–8282.

SUPPLEMENTARY INFORMATION: The proposed meetings are for the purpose of panel review, discussion, evaluation and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by the grant applicants. Because the proposed meetings will consider information that is likely to disclose trade secrets and commercial or financial information obtained from a person and privileged or confidential and/or information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee meetings, dated July 19, 1993, I have determined that these meetings will be closed to the public pursuant to subsections (c)(4),

and (6) of section 552b of title 5, United States Code.

1. *Date:* February 1, 2005.
Time: 8:30 a.m.–5 p.m.
Room: 415.
Program: This meeting will review applications for History, submitted to the Office of Challenge Grants at the November 1, 2004 deadline.

2. *Date:* February 1, 2005.
Time: 8:30 a.m.–5:30 p.m.
Room: 415.
Program: This meeting will review applications for Humanities Projects in Media, submitted to the Division of Public Programs at the November 3, 2004 deadline.

3. *Date:* February 2, 2005.
Time: 9 a.m. to 5 p.m.
Room: 315.
Program: This meeting will review applications for Collaborative Research in European Studies, submitted to the Division of Research Programs at the November 1, 2004 deadline.

4. *Date:* February 3, 2005.
Time: 8:30 a.m. to 5 p.m.
Room: 415.
Program: This meeting will review applications for Colleges and Universities I, submitted to the Office of Challenge Grants at the November 1, 2004 deadline.

5. *Date:* February 4, 2005.
Time: 9 a.m. to 5 p.m.
Room: 315.
Program: This meeting will review applications for Collaborative Research in Literature and the Arts, submitted to the Division of Research Programs at the November 1, 2004 deadline.

6. *Date:* February 7, 2005.
Time: 9 a.m. to 5 p.m.
Room: 315.
Program: This meeting will review applications for Collaborative Research in Africa and Asia, submitted to the Division of Research Programs at the November 1, 2004 deadline.

7. *Date:* February 8, 2005.
Time: 8:30 a.m. 5 p.m.
Room: 415.
Program: This meeting will review applications for Art and Anthropology, submitted to the Office of Challenge Grants at the November 1, 2004 deadline.

8. *Date:* February 9, 2005.
Time: 9 a.m. to 5 p.m.
Room: 315.
Program: This meeting will review applications for Scholarly Editions in American History, submitted to the Division of Research Programs at the November 1, 2004 deadline.

9. *Date:* February 10, 2005.
Time: 9 a.m. to 5 p.m.
Room: 315.
Program: This meeting will review applications for Collaborative Research in Philosophy, Science, and Religion, submitted to the Division of Research Programs at the November 1, 2004 deadline.

10. *Date:* February 10, 2005.
Time: 8:30 a.m. 5 p.m.
Room: 415.
Program: This meeting will review applications for Colleges and Universities II, submitted to the Office of Challenge Grants at the November 1, 2004 deadline.

11. *Date:* February 11, 2005.
Time: 9 a.m. 5 p.m.
Room: 315.
Program: This meeting will review applications for Collaborative Research in American Studies, submitted to the Division of Research Programs at the November 1, 2004 deadline.

Daniel Schneider,
Advisory Committee Management Officer.

[FR Doc. 05–1313 Filed 1–24–05; 8:45 am]
BILLING CODE 7536–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 030–33542]

Notice of Availability of Environmental Assessment and Finding of No Significant Impact for License Amendment for Pharmacopeia, Incorporated's Facility in Monmouth Junction, NJ

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of availability.

FOR FURTHER INFORMATION CONTACT: John Nicholson, Commercial and R&D Branch, Division of Nuclear Materials Safety, Region I, 475 Allendale Road, King of Prussia, Pennsylvania, 19406, telephone (610) 337–5236, fax (610) 337–5269; or by email: *jjn@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Introduction

The Nuclear Regulatory Commission (NRC) is issuing a license amendment to Pharmacopeia, Inc. for Materials License No. 29–30152–01, to authorize release of its facility in Monmouth Junction, New Jersey for unrestricted use. NRC has prepared an Environmental Assessment (EA) in support of this action in accordance with the requirements of 10 CFR part 51. Based on the EA, the NRC has concluded that a Finding of No Significant Impact (FONSI) is appropriate. The amendment will be issued following the publication of this Notice.

II. EA Summary

The purpose of the action is to authorize the release of the licensee's Monmouth Junction, New Jersey facility for unrestricted use. Pharmacopeia, Inc. was authorized by NRC from February 1999 to use radioactive materials for research and development purposes at the site. On April 28, 2004, Pharmacopeia, Inc. requested that NRC release the facility for unrestricted use. Pharmacopeia, Inc. has conducted surveys of the facility and provided information to the NRC to demonstrate that the site meets the license termination criteria in Subpart E of 10 CFR part 20 for unrestricted use. Pharmacopeia, Inc. will continue licensed activities at another location, as authorized by the license.

The NRC staff has prepared an EA in support of the license amendment. The facility was remediated and surveyed prior to the licensee requesting the license amendment. The NRC staff has reviewed the information and final status survey submitted by Pharmacopeia, Inc. Based on its review, the staff has determined that there are no additional remediation activities necessary to complete the proposed action. Therefore, the staff considered the impact of the residual radioactivity at the facility and concluded that since the residual radioactivity meets the requirements in Subpart E of 10 CFR Part 20, a Finding of No Significant Impact is appropriate.

III. Finding of No Significant Impact

The staff has prepared the EA (summarized above) in support of the license amendment to release the facility for unrestricted use. The NRC staff has evaluated Pharmacopeia, Inc.''s request and the results of the surveys and has concluded that the completed action complies with the criteria in Subpart E of 10 CFR Part 20. The staff has found that the environmental impacts from the action are bounded by the impacts evaluated by NUREG–1496, Volumes 1–3, ''Generic Environmental Impact Statement in Support of Rulemaking on Radiological Criteria for License Termination of NRC-Licensed Facilities' (ML042310492, ML042320379, and ML042330385). On the basis of the EA, the NRC has concluded that the environmental impacts from the action are expected to be insignificant and has determined not to prepare an environmental impact statement for the action.

IV. Further Information

Documents related to this action, including the application for the license amendment and supporting documentation, are available electronically at the NRC's Electronic Reading Room at *http://www.nrc.gov/reading-rm/adams.html.* From this site, you can access the NRC's Agencywide Document Access and Management System (ADAMS), which provides text and image files of NRC's public documents. The ADAMS accession numbers for the documents related to this Notice are: The Environmental Assessment (ML043340345), Letter dated April 28, 2004, requesting the amendment (ML041330096), Letter dated September 14, 2004, providing additional information (ML042720160), and Letter from New Jersey Department of Environmental Protection dated November 15, 2004 (ML043290297). Please note that on October 25, 2004, the NRC terminated public access to ADAMS and initiated an additional security review of publicly available documents to ensure that potentially sensitive information is removed from the ADAMS database accessible through the NRC's web site. Interested members of the public may obtain copies of the referenced documents for review and/or copying by contacting the Public document Room pending resumption of public access to ADAMS. The NRC Public documents Room is located at NRC Headquarters in Rockville, MD, and can be contacted at (800) 397–4209 or (301) 415–4737, or by email to *pdr@nrc.gov.* The PDR reproduction contractor will copy documents for a fee. The PDR is open from 7:45 a.m. to 4:15 p.m., Monday through Friday, except on Federal holidays.

Dated at King of Prussia, Pennsylvania, this 14 day of January, 2005.

For the Nuclear Regulatory Commission.

James Dwyer,

Chief, Commercial and R&D Branch, Division of Nuclear Materials Safety Region I.

[FR Doc. 05–1282 Filed 1–24–05; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 40–8027]

Notice of Availability of Environmental Assessment and Finding of No Significant Impact for License Amendment for Sequoyah Fuels Corporation, Gore, OK

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of availability.

FOR FURTHER INFORMATION CONTACT: Myron Fliegel, Project manager, Fuel Cycle Facilities Branch, Division of Fuel Cycle Safety and Safeguards, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC, 20555. Telephone: (301) 415–6629; fax number: (301) 415–5955; e-mail: *mhf1@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Introduction

The Nuclear Regulatory Commission (NRC) is issuing a license amendment to Material License No. SUB–1010 issued to Sequoyah Fuels Corporation (the licensee), to authorize the licensee to dewater existing raffinate sludge and temporarily store the dewatered sludge at its Gore, Oklahoma facility prior to final disposition. NRC has prepared an Environmental Assessment (EA) in support of this amendment in accordance with the requirements of 10 CFR Part 51. Based on the EA, the NRC has concluded that a Finding of No Significant Impact (FONSI) is appropriate. The amendment will be issued following the publication of this Notice.

II. EA Summary

The purpose of the proposed amendment is to authorize the licensee to dewater existing raffinate sludge and temporarily store the dewatered sludge at its Gore, Oklahoma facility prior to final disposition. Approximately 1 million cubic feet of raffinate sludge was produced, as a waste, during the operation of the SFC facility. The sludge, which contains various metals in addition to uranium, thorium, and radium, is 15 to 20 percent solid material and is stored in three hypalon-lined impoundments on the site. It must be dewatered prior to permanent disposal, either in an onsite disposal cell or offsite at a licensed disposal facility. The licensee proposes to dewater the raffinate sludge using a pressurized plate press filtering process. The equipment would be set up in an area near the impoundments containing the sludge and dismantled at the conclusion of the dewatering process. The dewatered sludge would be put into 2200 pound capacity bags of woven polypropylene fabric and temporarily stored on a nearby concrete pad prior to final disposal. Temporary storage cells will be constructed on the concrete pad to contain the bags of raffinate sludge. The cells will be lined with 20 mil, high density cross-laminated polyethylene and covered with the same material.

On January 7, 2004, Sequoyah Fuels Corporation requested that NRC approve the proposed amendment. The licensee's request for the proposed change was previously noticed in the **Federal Register** on March 17, 2004 (69 FR 12715), with a notice of an opportunity to request a hearing.

The staff has prepared the EA in support of the proposed license amendment. The only environmental impact under normal conditions would be an increase in the radon concentration in the air at the site. However, the radon concentration at the site boundary would be well below the 10 CFR Part 20 standard. There is also a potential for release of some material during adverse meteorological conditions. In the unlikely event of a tornado strike on the cells, some of the sludge can be dispersed, but it is unlikely that it would be carried offsite. The licensee would be required to clean up the dispersed material. Some severe precipitation events could result in release of some sludge to the nearby Illinois River and Robert S. Kerr Reservoir but concentrations are unlikely to exceed the standards for normal releases in 10 CFR Part 20. The staff has concluded that the proposed action, to dewater existing raffinate sludge and temporarily store it in lined and covered cells, will result in minimal environmental impacts. Radon levels will be increased but will remain well within regulatory limits. In addition, there is the potential, under unusual conditions (e.g., during a severe storm), of releasing small amounts of contaminants in low concentrations, to the Robert S. Kerr Reservoir.

III. Finding of No Significant Impact

On the basis of the EA, NRC has concluded that there are no significant environmental impacts from the proposed amendment and has determined not to prepare an environmental impact statement.

IV. Further Information

Documents related to this action, including the application for amendment and supporting documentation, are available electronically at the NRC's Electronic Reading Room at *http://www.nrc.gov/reading-rm/adams.html.* From this site, you can access the NRC's Agencywide Document Access and Management System (ADAMS), which provides text and image files of NRC's public documents. The ADAMS accession numbers for the documents related to this notice are: SFC's amendment request, January 7, 2004, ML040150463 and NRC's Environmental Assessment,

January 12, 2005, ML050120184. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC's Public Document Room (PDR) Reference staff at 1–800–397–4209, 301–415–4737, or by e-mail to *pdr@nrc.gov*.

These documents may also be viewed electronically on the public computers located at the NRC's PDR, O 1 F21, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852. The PDR reproduction contractor will copy documents for a fee.

Dated at Rockville, Maryland, this 14 day of January, 2005.

For the Nuclear Regulatory Commission.

Myron Fliegel,

Project Manager, Fuel Cycle Facilities Branch, Division of Fuel Cycle Safety and Safeguards, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 05–1281 Filed 1–24–05; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Sunshine Act; Meeting

AGENCY: Nuclear Regulatory Commission.

DATE: Weeks of January 24, 31; February 7, 14, 21, 28, 2005.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

MATTERS TO BE CONSIDERED:

Week of January 24, 2005

Monday, January 24, 2005,

9:30 a.m. Discussion of Security Issues (Closed—Ex. 1);

1:30 p.m. Discussion of Security Issues (Closed—Ex. 1, 2, 3, & 4).

Tuesday, January 25, 2005,

9:30 a.m. Discussion of Security Issues (Closed—Ex. 1).

Week of January 31, 2005—Tentative

Thursday, February 3, 2005,

9:30 a.m. Briefing of Human Capital Initiatives (Closed—Ex. 2).

Week of February 7, 2005—Tentative

There are no meetings scheduled for the Week of February 7, 2005.

Week of February 14, 2005—Tentative

Tuesday, February 15, 2005,

9:30 a.m. Briefing on Office of Nuclear Material Safety and Safeguards Programs, Performance, and Plans—Waste Safety (Public Meeting) (Contact: Jessica Shin, (301) 415–8117).

This meeting will be webcast live at the Web address—*http://www.nrc.gov*.

Week of February 21, 2005—Tentative

Tuesday, February 22, 2005,

9:30 a.m. Briefing on Status of Office of the Chief Information Officer (OCIO) Programs, Performance, and Plans (Public Meeting) (Contact: Patricia Wolfe, (301) 415–6031).

This meeting will be webcast live at the Web address—*http://www.nrc.gov*.

1:30 p.m. Briefing on Emergency Preparedness Program Initiatives (Closed—Ex. 1). (This meeting was originally scheduled for February 15, 2005).

Wednesday, February 23, 2005,

9:30 a.m. Briefing on Status of Office of the Chief Financial Officer (OCFO). Programs, Performance, and Plans (Public Meeting) (Contact: Edward New, (301) 415–5646.

This meeting will be webcast live at the Web address—*http://www.nrc.gov*.

Thursday, February 24, 2005,

1 p.m. Briefing on Nuclear Fuel Performance (Public Meeting). (Contact: Frank Akstulewicz, (301) 415–1136).

This meeting will be webcast live at the Web address—*http://www.nrc.gov*.

Week of February 28, 2005—Tentative

There are no meetings scheduled for the Week of February 28, 2005.

Note: The schedule for Commission meetings is subject to change on short notice. To verify the status of meetings call (recording)—(301) 415–1292. Contact person for more information: Dave Gamberoni, (301) 415–1651.

* * * * *

ADDITIONAL INFORMATION: By a vote of 3–0 on January 19, 2005, the Commission determined pursuant to U.S.C. 552b(e) and § 9.107(a) of the Commission's rules that ''Affirmation of Proposed Order Resolving Public Citizen's Request for Hearing on the Commission's July 2, 2004, Spent Fuel Security Order,'' be held January 19, 2005, and on less than one week's notice to the public.

* * * * *

The NRC Commission Meeting Schedule can be found on the Internet at: *http://www.nrc.gov/what-we-do/policy-making/schedule.html*.

* * * * *

The NRC provides reasonable accommodation to individuals with disabilities where appropriate. If you need a reasonable accommodation to participate in these public meetings, or need this meeting notice or the transcript or other information from the public meetings in another format (*e.g.*, braille, large print), please notify the NRC's Disability Program Coordinator, August Spector, at (301) 415–7080, TDD: (301) 415–2100, or by e-mail at *aks@nrc.gov*. Determinations on requests for reasonable accommodation will be made on a case-by-case basis.

* * * * *

This notice is distributed by mail to several hundred subscribers; if you no longer wish to receive it, or would like to be added to the distribution, please contact the Office of the Secretary, Washington, DC 20555, (301) 415–1969. In addition, distribution of this meeting notice over the Internet system is available. If you are interested in receiving this Commission meeting schedule electronically, please send an electronic message to *dkw@nrc.gov*.

January 19, 2005.

Dave Gamberoni,

Office of the Secretary.

[FR Doc. 05–1351 Filed 1–21–05; 9:23 am]

BILLING CODE 7590–01–M

OFFICE OF PERSONNEL MANAGEMENT

[OMB No. 3206–0005]

Proposed Collection; Comment Request for Proposed Clearance of Revised Information Collections

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13), this notice announces that the Office of Personnel Management (OPM) intends to submit to the Office of Management and Budget a request for clearance of these information collections:

- Questionnaire for Non-Sensitive Positions, Standard Form 85 (SF 85);
- Questionnaire for Public Trust Positions, Standard Form 85P (SF 85P);
- Supplemental Questionnaire for Selected Positions, Standard Form 85P–S (SF 85P–S);
- Questionnaire for National Security Positions, Standard Form 86 (SF 86);
- Continuation Sheet for Questionnaires SF 86, 85P, and 85, Standard Form 86A (SF 86A);
- Certification Statement for SF 86, Standard Form SF 86C (SF 86C); and
- Parallel, electronic versions of the SF 85, SF 85P, and SF 86, including

accompanying releases, housed in a system named e-QIP (Electronic Questionnaires for Investigations Processing)

These information collections are completed by applicants for, or incumbents of, Government positions, or positions for the Government under contract, or by military personnel. The collections are used as the basis of information for background investigations to establish that such persons are suitable for:

- Employment or retention in employment;
- Employment or retention as contractor; or eligible for:
- A public trust position; or
- Employment or retention as a Federal employee, Federal contractor or military personnel in a sensitive or national security position requiring access to classified national security information or special nuclear information or material.

When use is necessary, the SF 86A is used in lieu of blank paper as a continuation of the form with which its use is associated and not for any unique purpose exclusive from the associated form.

Comments are particularly invited on:

- Whether this collection of information is necessary for the proper performance of functions of the Office of Personnel Management and its Center for Federal Investigative Services, which administers background investigations;
- Whether our estimate of the public burden of this collection is accurate, and based on valid assumptions and methodology; and
- Ways in which we can minimize the burden of the collection of information on those who are to respond, through use of the appropriate technological collection techniques or other forms of information technology.
- Ways in which we can enhance the quality, utility, and clarity of the information to be collected.

The SF 85, SF 85P, SF 85P–S, SF 86, SF 86A, and SF 86C are completed by both employees of the Federal Government and individuals not employed with the Federal Government, including Federal contractors, and military personnel.

Federal employees are defined as those individuals who are employed as civilian or military personnel with the Federal Government. Non-Federal employees include members of the general public and all individuals employed as Federal and military contractors, or individuals otherwise not directly employed by the Federal Government.

It is estimated that 17,000 non-Federal individuals will complete the SF 85 annually. Each form takes approximately 30 minutes to complete. The estimated annual public burden is 8,500 hours.

It is estimated that 49,000 non-Federal individuals will complete the SF 85P annually. Each form takes approximately 60 minutes to complete. The estimated annual burden is 49,000 hours.

It is estimated that 3,600 non-Federal individuals will complete the SF 85P–S annually. Each form takes approximately 10 minutes to complete. The estimated annual burden is 600 hours.

It is estimated that 56,000 non-Federal individuals will complete the SF 86 annually. Each form takes approximately 90 minutes to complete. The estimated annual burden is 84,000 hours.

It is estimated that 16,000 non-Federal individuals will complete the SF 86A annually. When this continuation form is used, however, no public burden estimate is provided as it is included with the time computed with the associated security questionnaire.

It is estimated that 1,200 non-Federal individuals will complete the SF 86C annually. Each form takes approximately 15 minutes to complete. The estimated annual burden is 300 hours.

e-QIP (Electronic Questionnaires for Investigations Processing) is a Web-based system application that houses or will house electronic versions or the SF 86, SF 85P, SF 85P–S, and SF 85. The SF 86 is in full production and the SF 85P, SF 85P–S and SF 85 will be available for full production by early 2005. This Internet data collection tool is used in place of—not in addition to—the paper versions of these forms. Individuals using the e-QIP versions will enjoy more convenience, faster processing time, and immediate data validation to ensure accuracy of their personal history information. The data requested on these forms is consistent with that requested on their paper counterparts. e-QIP is a newly implemented system, which accounts for approximately 5% of all security forms submitted at this time. As implementation among Federal agencies expands, it is anticipated that the percentage of all security forms processed through e-QIP will exceed 50% by 2006.

While e-QIP will significantly enhance the processing of security questionnaires for processing of background investigations, we do not expect an immediate discernable change to the public burden hours from those cited above for identical paper versions of the forms.

For copies of this proposal, contact Mary Beth Smith-Toomey on (202) 606–8358, Fax (202) 418–3251, or e-mail at *mbtoomey@opm.gov*. Please be sure to include a mailing address with your request.

DATES: Comments on this proposal should be received within 60 calendar days from the date of this publication.

ADDRESSES: Send or deliver comments to: Kathy Dillaman, Deputy Associate Director, Center for Federal Investigative Services, U.S. Office of Personnel Management, 1900 E. Street, Room 5416, Washington, DC 20415.

FOR INFORMATION REGARDING ADMINISTRATIVE COORDINATION CONTACT: Doug Steele—Program Analyst, Standards and Evaluations Group, Center for Federal Investigative Services, U.S. Office of Personnel Management, (202) 606–2325.

U.S. Office of Personnel Management.

Kay Coles James,

Director.

[FR Doc. 05–1280 Filed 1–24–05; 8:45 am]

BILLING CODE 6325–38–P

SMALL BUSINESS ADMINISTRATION

Data Collection Available for Public Comments and Recommendations

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Small Business Administration's intentions to request approval on a new and/or currently approved information collection.

DATES: Submit comments on or before March 28, 2005.

ADDRESSES: Send all comments regarding whether these information collections are necessary for the proper performance of the function of the agency, whether the burden estimates are accurate, and if there are ways to minimize the estimated burden and enhance the quality of the collections, to Johnny Kitts, Chief Fund Administrator, Office of Investment, Small Business Administration, 409 3rd Street SW., Suite 6300, Wash, DC 20416.

FOR FURTHER INFORMATION CONTACT: Johnny Kitts, Chief, Fund Administrator, 202–205–7587 *johnny.kitts@sba.gov* Curtis B. Rich, Management Analyst, 202–205–7030 *curtis.rich@sba.sba.*

SUPPLEMENTARY INFORMATION:

Title: ''25-Model Corp. Resol. or GP Certif., 33-Model Letter to Selling Agent 34-Bank ID, 1065 Appl, Lic. Assure. of Compliance.''

Description of Respondents: Applicants for SBA-guaranteed leverage.

Form No: 25, 33, 34, and 1065.

Annual Responses: 125.

Annual Burden: 110.

ADDRESSES: Send all comments regarding whether these information collections are necessary for the proper performance of the function of the agency, whether the burden estimates are accurate, and if there are ways to minimize the estimated burden and enhance the quality of the collections, to Louis Cupp, New Markets Policy, Office of Investment, Small Business Administration, 409 3rd Street SW., Suite 6300, Wash, DC 20416.

FOR FURTHER INFORMATION CONTACT: Louis Cupp, New Markets Policy Analysis, 202–619–0511 *louis.cupp@sba.gov* Curtis B. Rich, Management Analyst, 202–205–7030 *curtis.rich@sba.sba.*

Title: ''NMVC Program Application Interview Questions: SSBIC Applicant Tech, Proposal: Request for Approval of Management Services Fees.''

Description of Respondents: Program Applicants and participants; SSBIC'S receiving grants under the NMVC program.

Form No: 2215, 2216 and 2217.

Annual Responses: 38.

Annual Burden: 91.

ADDRESSES: Send all comments regarding whether this information collection is necessary for the proper performance of the function of the agency, whether the burden estimates are accurate, and if there are ways to minimize the estimated burden and enhance the quality of the collection, to Robert Dillier, Public Affairs Specialist, Office of Communications and Public Liaison, Small Business Administration, 409 3rd Street SW., Suite 7450, Wash, DC 20416

FOR FURTHER INFORMATION CONTACT: Robert Dillier, Public Affairs, 202–205–6086 *robert.dillier@sba.gov* or Curtis B. Rich, Management Analyst, 202–205–7030 *curtis.rich@sba.sba.*

Title: ''Voluntary Customer Surveys in accordance with E.O. 12862.''

Description of Respondents: SBA Customers.

Form No: N/A.

Annual Responses: 33,115.

Annual Burden: 11,038.

Jacqueline White,

Chief, Administrative Information Branch.

[FR Doc. 05–1323 Filed 1–24–05; 8:45 am]

BILLING CODE 8025–01–P

SOCIAL SECURITY ADMINISTRATION

Privacy Act of 1974; as Amended New System of Records and New Routine Use Disclosures

AGENCY: Social Security Administration (SSA).

ACTION: Proposed new system of records and proposed routine uses.

SUMMARY: In accordance with the Privacy Act (5 U.S.C. 552a(e)(4) and (e)(11)), we are issuing public notice of our intent to establish a new system of records entitled *Electronic Freedom of Information Act (eFOIA) System, 60–0340,* and routine uses applicable to this system of records. The proposed system of records will consist of Freedom of Information Act (FOIA) initial requests from individuals and groups of individuals and replies from SSA's Freedom of Information Officer; FOIA appeals and replies to those appeals; and information associated with FOIA initial and appeal requests (e.g., copies of records disclosed or withheld). We invite public comments on this proposal.

DATES: We filed a report of the proposed new system of records and proposed routine use disclosures with the Chairman of the Senate Committee on Homeland Security and Governmental Affairs, the Chairman of the House Committee on Government Reform, and the Director, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB) on January 11, 2005. The proposed system of records and routine uses will become effective on February 20, 2005, unless we receive comments warranting it not to become effective.

ADDRESSES: Interested individuals may comment on this publication by writing to the Executive Director, Office of Public Disclosure, Office of the General Counsel, Social Security Administration, Room 3–A–6 Operations Building, 6401 Security Boulevard, Baltimore, Maryland 21235–6401. All comments received will be available for public inspection at the above address.

FOR FURTHER INFORMATION CONTACT: Ms. Linda Thibodeaux, Lead Social Insurance Specialist, Strategic Issues Team, Office of Public Disclosure, Office of the General Counsel, Social Security Administration, Room 3–A–6 Operations Building, 6401 Security Boulevard, Baltimore, Maryland 21235, e-mail address at *linda.thibodeaux@ssa.gov,* or by telephone at (410) 965–9821.

SUPPLEMENTARY INFORMATION:

I. Background and Purpose of the Proposed *eFOIA System*

A. General Background

The Social Security Administration's Freedom of Information Act (FOIA) workload has increased rapidly in the last several years and is expected to continue increasing in volume. The existing system that is used to control and process this workload is antiquated and was not designed to interface with other systems that support the functionality of the *eFOIA System.* The proposed *eFOIA System* is an Internet Web-based integrated system that will afford the public an opportunity to make FOIA requests via the Internet and uses the Department of Treasury's pay.gov service to provide the customer with a fast and effective means to pay his or her FOIA fees. In addition, one system allows SSA staff to keep current with the growing FOIA workload and more fully comply with the provisions of the Electronic Freedom of Information Act Amendments of 1996 that amended the FOIA.

B. Collection and Maintenance of the Data for the Proposed New System of Records Entitled the eFOIA System

The information that SSA will collect and maintain in the *eFOIA System* will consist of initial FOIA requests from individuals or groups of individuals to SSA's Freedom of Information Officer and copies of replies to those requests; copies of FOIA appeal requests; and information SSA generates in responding to FOIA initial and appeal requests. The information maintained in the proposed *eFOIA System* will be maintained in electronic formats and will include information on all FOIA requests. Specifically, it will contain: (1) The requester's name, address, control number, and subject matter of the request; (2) incoming request; (3) replies to the request; (4) appeals based on the replies; and (4) replies to the appeals. We will retrieve information from the proposed *eFOIA System* by using the individual's name and/or address, control number assigned to the incoming request and subsequent correspondence or subject matter area. Thus the *eFOIA System* will constitute a system of records under the Privacy Act.

II. Proposed Routine Use Disclosures of Data Maintained in the Proposed *eFOIA System*

A. Proposed Routine Use Disclosures

We are proposing to establish routine uses of information that will be

maintained in the proposed *eFOIA System* as discussed below.

1. To the Office of the President for the purpose of responding to an individual pursuant to an inquiry received from that individual or from a third party on his or her behalf.

We will disclose information under this routine use only in situations in which an individual may contact the Office of the President, seeking that Office's assistance in a matter relating to information contained in this system of records. Information will be disclosed when the Office of the President makes an inquiry and indicates that it is acting on behalf of the individual whose record is requested.

2. To a congressional office in response to an inquiry from that office made at the request of the subject of a record.

We will disclose information under this routine use only in situations in which an individual may ask his or her congressional representative to intercede in a matter relating to information contained in this system of records. Information will be disclosed when the congressional representative makes an inquiry and indicates that he or she is acting on behalf of the individual whose record is requested.

3. To the Internal Revenue Service (IRS), as necessary for the purpose of auditing SSA's compliance with safeguard provisions of the Internal Revenue Code (IRC) of 1986, as amended.

We will disclose information under this routine use only as necessary to enable the IRS to audit SSA's compliance with the safeguard provisions of the IRC of 1986, as amended.

4. To the Department of Justice (DOJ) to defend SSA in FOIA litigation involving a record maintained in this system of records.

We will disclose information under this routine use only to DOJ as necessary to defend SSA when a member of the public files suit against SSA under the FOIA.

5. To the Department of Justice (DOJ), a court or other tribunal, or another party before such tribunal when:

(a) *SSA, or any component thereof; or*

(b) *any SSA employee in his/her official capacity; or*

(c) *any SSA employee in his/her individual capacity where DOJ (or SSA where it is authorized to do so) has agreed to represent the employee; or*

(d) *the United States or any agency thereof where SSA determines that the litigation is likely to affect the operation of SSA or any of its components, is a party to litigation or has an interest in such litigation, and SSA determines that the use of such records by DOJ, a court or other tribunal, or another party before such tribunal, is relevant and necessary to the litigation, provided, however, that in each case, SSA determines that such disclosure is compatible with the purpose for which the records were collected.*

We will disclose information under this routine use only as necessary to enable DOJ to effectively defend SSA, its components or employees, in litigation involving the proposed new system of records and ensure that courts and other tribunals have appropriate information.

6. Non-tax return information which is not restricted from disclosure by Federal law may be disclosed to the General Services Administration (GSA) and the National Archives and Records Administration (NARA) under 44 U.S.C. 2904 and 2906, as amended by NARA Act of 1984, for the use of those agencies in conducting records management studies.

The Administrator of GSA and the Archivist of NARA are charged by 44 U.S.C. 2904, as amended, with promulgating standards, procedures and guidelines regarding record management and conducting records management studies. 44 U.S.C. 2906, as amended, provides that GSA and NARA are to have access to Federal agencies' records and that agencies are to cooperate with GSA and NARA. In carrying out these responsibilities, it may be necessary for GSA and NARA to have access to this proposed system of records. In such instances, the routine use will facilitate disclosure.

7. To student volunteers, individuals working under a personal service contract, and other individuals performing functions for SSA but technically not having the status of Agency employees, if they need access to the records in order to perform their assigned agency functions.

Under certain Federal statutes, SSA is authorized to use the service of volunteers and participants in certain educational, training, employment and community service programs. Examples of such statutes and programs include: 5 U.S.C. 3111 regarding student volunteers and 42 U.S.C. 2753 regarding the College Work-Study Program. We contemplate disclosing information under this routine use only when SSA uses the services of these individuals, and they need access to information in this system to perform their assigned Agency duties.

8. To Federal, State, and local law enforcement agencies and private security contractors, as appropriate, information necessary:

- *To enable them to protect the safety of SSA employees and customers, the security of the SSA workplace, and the operation of SSA facilities, or*
- *To assist investigations or prosecutions with respect to activities that affect such safety and security or activities that disrupt the operation of SSA facilities.*

We will disclose information under this routine use to law enforcement agencies and private security contractors when information is needed to respond to, investigate, or prevent, activities that jeopardize the security and safety of SSA customers, employees or workplaces or that otherwise disrupt the operation of SSA facilities. Information would also be disclosed to assist in the prosecution of persons charged with violating Federal or local law in connection with such activities.

9. To contractors and other Federal agencies, as necessary, for the purpose of assisting SSA in the efficient administration of its programs. We contemplate disclosing information under this routine use only in situations in which SSA may enter into a contractual or similar agreement with a third party to assist in accomplishing an Agency function relating to this system of records.

We will disclose information under this routine use only in situations in which SSA may enter into a contractual agreement or similar agreement with a third party to assist in accomplishing an Agency function relating to this system of records.

10. The Commissioner shall disclose to the Secretary of Health and Human Services (HHS), or to any State, any record or information requested in writing by the Secretary to be so disclosed for the purpose of administering any program administered by the Secretary, if records or information of such type were so disclosed under applicable rules, regulations and procedures in effect before the date of enactment of the Social Security Independence and Program Improvements Act of 1994.

We will disclose information under this routine use only when the records or information of such type were so disclosed under applicable rules, regulations and procedures that were in effect prior to SSA becoming independent of HHS.

B. Compatibility of Proposed Routine Uses

The Privacy Act (5 U.S.C. 552a(b)(3)) and our disclosure regulations (20 CFR part 401) permit us to disclose

information under a published routine use for a purpose that is compatible with the purpose for which we collected the information. Section 401.150(c) of SSA Regulations permits us to disclose information under a routine use where necessary to carry out SSA programs. SSA Regulations at §401.120 provide that we will disclose information when a law specifically requires the disclosure. The proposed routine uses numbered 1 through 5 and 7 through 10 above will ensure SSA's efficient administration of the FOIA. The disclosure that would be made under routine use number 6 is required by Federal law. Thus, all routine uses are appropriate and meet the relevant statutory and regulatory criteria.

III. Records Storage Medium and Safeguards for the Proposed New System Entitled the *eFOIA System*

SSA will maintain information in the *eFOIA System* in electronic form. Only authorized SSA and contractor personnel who have a need for the information in the performance of their official duties will be permitted access to the information. We will safeguard the security of the information by requiring the use of access codes to enter the computer system that will maintain the data and will store computerized records in secured areas that are accessible only to employees who require the information to perform their official duties.

Contractor personnel having access to data in the proposed system of records will be required to adhere to SSA rules concerning safeguards, access and use of the data.

SSA and contractor personnel having access to the data on this system will be informed of the criminal penalties of the Privacy Act for unauthorized access to, or disclosure of, information maintained in this system. *See* 5 U.S.C. §552a(i)(1).

IV. Effect of the Proposed eFOIA System on the Rights of Individuals

Members of the public have the right under the FOIA to request information from Federal agencies. The proposed *eFOIA System* will enable SSA to more effectively and efficiently respond to requesters of information and manage SSA's Freedom of Information workload, thereby ensuring that individuals' rights under the FOIA are not abridged. Additionally, SSA will adhere to all applicable provisions of the Privacy Act, and other Federal statutes, that govern our use and disclosure of the information that will be maintained in the proposed *eFOIA System.* Thus, we do not anticipate that this proposed system of records will have any unwarranted adverse effect on the privacy or other rights of individuals who will be covered by the *eFOIA System.*

Dated: January 11, 2005.

Jo Anne B. Barnhart,

Commissioner.

Social Security Administration (SSA) Notice of System of Records Required by the Privacy Act of 1974; as Amended

SYSTEM NUMBER:

60–0340.

SYSTEM NAME:

Electronic Freedom of Information Act (eFOIA) System, SSA/OGC/OPD.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Office of Public Disclosure, Office of the General Counsel, Social Security Administration, 6401 Security Boulevard, Baltimore, Maryland 21235–6401.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals, or groups of individuals, who write to the Freedom of Information Officer, Social Security Administration.

CATEGORIES OF RECORDS IN THE SYSTEM:

Copies of Freedom of Information Act (FOIA) initial requests from individuals and groups of individuals and replies from SSA's Freedom of Information Officer; FOIA appeals and replies to those appeals; and SSA records that relate to initial and appeal requests (*e.g.*, copies of records that are disclosed and withheld).

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The Freedom of Information Act (5 U.S.C. 552).

PURPOSE(S):

This system will be used to manage the Agency's FOIA workload. This includes assigning work, processing work electronically, tracking the status of assignments and providing management information reports relating to the FOIA requests received by SSA.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Disclosure may be made for routine uses as indicated below. However, disclosure of any information defined as ''return or return information'' under 26 U.S.C. 6103 of the Internal Revenue Code (IRC) will not be made unless authorized by a statute, the Internal Revenue Service (IRS), or IRS regulations.

1. To the Office of the President for the purpose of responding to an individual pursuant to an inquiry received from that individual or from a third party on his or her behalf.

2. To a congressional office in response to an inquiry from that office made at the request of the subject of a record.

3. To the Internal Revenue Service (IRS), as necessary, for the purpose of auditing SSA's compliance with safeguard provisions of the Internal Revenue Code (IRC) of 1986, as amended.

4. To the Department of Justice (DOJ) to defend SSA in FOIA litigation involving a record maintained in this system of records.

5. To the Department of Justice (DOJ), a court or other tribunal, or another party before such tribunal when:

a. SSA, any component thereof; or

b. Any SSA employee in his/her official capacity; or

c. Any SSA employee in his/her individual capacity where DOJ (or SSA where it is authorized to do so) has agreed to represent the employee; or

d. The United States or any agency thereof where SSA determines that the litigation is likely to affect the operations of SSA or any of its components, is a party to litigation or has an interest in such litigation, and SSA determines that the use of such records by DOJ, a court or other tribunal, or another party before such tribunal, is relevant and necessary to the litigation, provided, however, that in each case, SSA determines that such disclosure is compatible with the purpose for which the records were collected.

Disclosure of any information defined as ''returns or return information'' under 26 U.S.C. 6103 of the Internal Revenue Code (IRC) will not be made unless authorized by a statute, the Internal Revenue Service (IRS), or IRS regulations.

6. Non-tax return information which is not restricted from disclosure by Federal law may be disclosed to the General Services Administration (GSA) and the National Archives and Records Administration (NARA) under 44 U.S.C. 2904 and 2906, as amended by NARA Act of 1984, for the use of those agencies in conducting records management studies.

7. To student volunteers, individuals working under a personal service contract, and other individuals performing functions for SSA but technically not having the status of Agency employees, if they need access

to the records in order to perform their assigned Agency functions.

8. To Federal, State, and local law enforcement agencies and private security contractors, as appropriate, information necessary:

a. To enable them to protect the safety of SSA employees and customers, the security of the SSA workplace, and the operation of SSA facilities, or

b. To assist investigations or prosecutions with respect to activities that affect such safety and security or activities that disrupt the operation of SSA facilities.

9. To contractors and other Federal agencies, as necessary, for the purpose of assisting SSA in the efficient administration of its programs. We contemplate disclosing information under this routine use only in situations in which SSA may enter into a contractual or similar agreement with a third party to assist in accomplishing an Agency function relating to this system of records.

10. The Commissioner shall disclose to the Secretary of Health and Human Services (HHS), or to any State, any record or information requested in writing by the Secretary to be so disclosed for the purpose of administering any program administered by the Secretary, if records or information of such type were so disclosed under applicable rules, regulations and procedures in effect before the date of enactment of the Social Security Independence and Program Improvements Act of 1994.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records in this system are maintained and stored in electronic form.

RETRIEVABILITY:

Records in this system are retrieved by a requester's or third party's first name, last name, Social Security Number (SSN), subject matter, or control number.

SAFEGUARDS:

Security measures include the use of access codes to enter the computer system which will maintain the data, the storage of computerized records in secured areas which are accessible only to employees who require the information in performing their official duties. Any manually maintained records will be kept in locked cabinets or in otherwise secure areas. SSA employees who have access to the data will be informed of the criminal penalties of the Privacy Act for unauthorized access to or disclosure of information maintained in the system. *See* 5 U.S.C. 552a(i)(1).

Contractor personnel having access to data in the system of records will be required to adhere to SSA rules concerning safeguards, access and use of the data.

RETENTION AND DISPOSAL:

Any document related to a FOIA request that has been denied will be retained (stored electronically) for six years from the response date. Requests that have been granted will be retained for two years from the response date. When the time period has elapsed, the case will be deleted provided (1) it is a closed case and (2) there are no open cases linked to that case. If the case is still open or linked to another open case, deletion will be delayed until closure of all cases involved.

SYSTEM MANAGER(S):

Freedom of Information Officer, Office of Public Disclosure, Office of the General Counsel, Social Security Administration, 6401 Security Boulevard, Baltimore, Maryland 21235–6401.

NOTIFICATION PROCEDURE(S):

An individual can determine if this system contains a record about him/her by writing to the systems manager(s) at the above address and providing his/her name, SSN or other information that may be in the system of records that will identify him/her. An individual requesting notification of records in person should provide the same information, as well as provide an identity document, preferably with a photograph, such as a driver's license or some other means of identification. If an individual does not have any identification documents sufficient to establish his/her identity, the individual must certify in writing that he/she is the person claimed to be and that he/she understands that the knowing and willful request for, or acquisition of, a record pertaining to another individual under false pretenses is a criminal offense.

If notification is requested by telephone, an individual must verify his/her identity by providing name, SSN, address, date of birth, place of birth, and at least one other piece of identifying information that parallels the record to which notification is being requested. If it is determined that the identifying information provided by telephone is insufficient, the individual will be required to submit a request in writing or in person. If an individual is requesting information by telephone on behalf of another individual, the subject individual must be connected with SSA and the requesting individual in the same phone call. SSA will establish the subject individual's identity (his/her name, SSN, address, date of birth and place of birth along with one other piece of information such as mother's maiden name) and ask for his/her permission to provide the information to the requesting individual.

If a request for notification is submitted by mail, an individual must include a notarized statement to SSA to verify his/her identity or must certify in the request that he/she is the person claimed to be and that he/she understands that the knowing and willful request for, or acquisition of, a record pertaining to another individual under false pretenses is a criminal offense. These procedures are in accordance with SSA Regulations (20 CFR 401.40).

RECORD ACCESS PROCEDURE(S):

Same as Notification procedures. Requesters also should reasonably specify the record contents they are seeking. These procedures are in accordance with SSA Regulations (20 CFR 401.50).

CONTESTING RECORD PROCEDURE(S):

Same as Notification procedures. Requesters should also reasonably identify the record, specify the information they are contesting, and state the corrective action sought and the reasons for the correction with supporting justification showing how the record is untimely, incomplete, inaccurate, or irrelevant. These procedures are in accordance with SSA Regulations (20 CFR 401.65).

RECORD SOURCE CATEGORIES:

Information is furnished by the inquirer and generated by SSA in response to FOIA requests.

SYSTEMS EXEMPT FROM CERTAIN PROVISIONS OF THE PRIVACY ACT:

None.

[FR Doc. 05–1251 Filed 1–24–05; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF STATE

[Public Notice 4962]

Bureau of Political-Military Affairs: Directorate of Defense Trade Controls; Notifications to the Congress of Proposed Commercial Export Licenses

ACTION: Notice.

SUMMARY: Notice is hereby given that the Department of State has forwarded

the attached Notifications of Proposed Export Licenses to the Congress on the dates shown on the attachments pursuant to sections 36(c) and 36(d) and in compliance with section 36(f) of the Arms Export Control Act (22 U.S.C. 2776).

DATES: *Effective Date:* As shown on each of the eighteen letters.

FOR FURTHER INFORMATION CONTACT: Mr. Peter J. Berry, Director, Office of Defense Trade Controls Licensing, Directorate of Defense Trade Controls, Bureau of Political-Military Affairs, Department of State (202) 663–2700.

SUPPLEMENTARY INFORMATION: Section 36(f) of the Arms Export Control Act mandates that notifications to the Congress pursuant to sections 36(c) and 36(d) must be published in the **Federal Register** when they are transmitted to Congress or as soon thereafter as practicable.

Dated: January 10, 2005.

Peter J. Berry,
Director, Office of Defense Trade Controls Licensing, Directorate of Defense Trade Controls, Bureau of Political-Military Affairs, Department of State.

November 16, 2004.

Dear Mr. Speaker: Pursuant to section 36(d) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed manufacturing license agreement for the manufacture of significant military equipment abroad.

The transaction contained in the attached certification involves the export of technical data, defense services and hardware for design, development, fabrication and export of Day/Night Range Sights specified for the HITFIST Turret for the Polish Army.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

James P. Terry,
Acting Assistant Secretary Legislative Affairs.

Enclosure: Transmittal No. DDTC 082–04.

The Honorable J. Dennis Hastert, Speaker of the House of Representatives.

November 17, 2004.

Dear Mr. Speaker: Pursuant to section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount of $50,000,000 or more.

The transaction contained in the attached certification involves the export of technical data, hardware and assistance to Mexico for the manufacture of connectors for aircraft, sea-going vessels, tanks and Multiple Launch Rocket Systems for import to the U.S.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Paul V. Kelly,
Assistant Secretary Legislative Affairs.

Enclosure: Transmittal No. DTC 081–04.

The Honorable J. Dennis Hastert, Speaker of the House of Representatives.

November 19, 2004.

Dear Mr. Speaker: Pursuant to section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed license for the export of defense articles that are firearms controlled under category I of the United States Munitions List sold commercially under a contract in the amount of $1,000,000 or more.

The transaction contained in the attached certification involves two licenses for the export of 1450 Colt M4 full-auto carbines, 300 Colt M16A4 full-auto rifles and associated equipment to the Special Operations Command, Armed Forces, United Arab Emirates.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Paul V. Kelly,
Assistant Secretary Legislative Affairs.

Enclosure: Transmittal No. DDTC 059–04.

The Honorable J. Dennis Hastert, Speaker of the House of Representatives.

November 19, 2004.

Dear Mr. Speaker: Pursuant to section 36(d) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed manufacturing license agreement for the manufacture of significant military equipment abroad.

The transaction contained in the attached certification involves the export of technical data, assistance and manufacturing know-how Augusta, Italy for the manufacture of Sikorsky Model S–61 helicopters and parts for resale to various countries.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Paul V. Kelly,
Assistant Secretary Legislative Affairs.

Enclosure: Transmittal No. DDTC 084–04

The Honorable J. Dennis Hastert, Speaker of the House of Representatives.

November 19, 2004.

Dear Mr. Speaker: Pursuant to section 36(c) and (d) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed manufacturing license agreement for the manufacture of significant military equipment abroad and the export of defense articles or defense services in the amount of $100,000,000 or more.

The transaction contained in the attached certification involves the export of technical data, hardware and assistance for the manufacture of T55 gas turbine engines, parts and components for the Japan Defense Agency CH–47 helicopter Program.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Paul V. Kelly,
Assistant Secretary Legislative Affairs.

Enclosure: Transmittal No. DDTC 088–04.

The Honorable J. Dennis Hastert, Speaker of the House of Representatives.

November 19, 2004.

Dear Mr. Speaker: Pursuant to section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed license for the export of defense articles that are firearms controlled under category I of the United States Munitions List sold commercially under a contract in the amount of $1,000,000 or more.

The transaction contained in the attached certification involves the export of 1,730 M4 carbines, ammunition and supporting equipment for use by the Department of Financial Administration, Ministry of Interior, Government of Kuwait.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Paul V. Kelly,
Assistant Secretary Legislative Affairs.

Enclosure: Transmittal No. DDTC 089–04.

The Honorable J. Dennis Hastert, Speaker of the House of Representatives.

November 19, 2004.

Dear Mr. Speaker: Pursuant to section 36(c) and (d) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed manufacturing license agreement for the manufacture of significant military equipment abroad and license for the export of defense articles or defense services sold commercially under a contract in the amount of $100,000,000 or more.

The transaction contained in the attached certification involves the export of technical data, defense services and hardware to Italy to support the manufacture and servicing of CH–47C helicopter, composite blades, parts and ground support equipment for end-use in Egypt, Italy, Morocco, and the United Arab Emirates.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Paul V. Kelly,
Assistant Secretary Legislative Affairs.

Enclosure: Transmittal No. DDTC 090–04.

The Honorable J. Dennis Hastert, Speaker of the House of Representatives.

November 19, 2004.

Dear Mr. Speaker: Pursuant to section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed license for the export of defense articles or defense services sold commercially under contract in the amount of $100,000,000 or more.

The transaction contained in the attached certification involves the export of defense services, technical data and defense articles for the manufacture in Canada of F110/F101/TF39/F404/F404–402/RM12 aircraft engine components for permanent import to the U.S.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Paul V. Kelly,
Assistant Secretary Legislative Affairs.

Enclosure: Transmittal No. DDTC 091–04.

The Honorable J. Dennis Hastert, Speaker of the House of Representatives.

November 19, 2004.

Dear Mr. Speaker: Pursuant to section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed license for the export of defense articles that are firearms controlled under category I of the United States Munitions List sold commercially under a contract in the amount of $1,000,000 or more.

The transaction contained in the attached certification involves the export of 1,195 M16A-Type Carbines, with 6-Position Telestock and Flash Hiders, and ammunition. These weapons are being sold to the Colombian Military for training and tactical operations.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Paul V. Kelly,
Assistant Secretary Legislative Affairs.

Enclosure: Transmittal No. DDTC 092–04.

The Honorable J. Dennis Hastert, Speaker of the House of Representatives.

November 19, 2004.

Dear Mr. Speaker: Pursuant to section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount of $50,000,000 or more.

The transaction contained in the attached certification involves the export of technical data, defense services and hardware to India for the manufacture of the Flight Control System for the Light Combat Aircraft for the Indian Ministry of Defense.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Paul V. Kelly,
Assistant Secretary Legislative Affairs.

Enclosure: Transmittal No. DDTC 093–04.

The Honorable J. Dennis Hastert, Speaker of the House of Representatives.

November 19, 2004.

Dear Mr. Speaker: Pursuant to section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed license for the export of defense articles or defense services sold commercially under contract in the amount of $50,000,000 or more.

The transaction contained in the attached certification involves the export of technical data, defense services and hardware to Mexico, Greece and France for the manufacture of electrical wiring harnesses and wiring harness panel assemblies for the F–16, C–130, P–3, S–3 and F–22 aircraft in the U.S.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Paul V. Kelly,
Assistant Secretary Legislative Affairs.

Enclosure: Transmittal No. DDTC 094–04.

The Honorable J. Dennis Hastert, Speaker of the House of Representatives.

November 19, 2004.

Dear Mr. Speaker: Pursuant to section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed license for the export of defense articles or defense services sold commercially under contract in the amount of $100,000,000 or more.

The transaction contained in the attached certification involves the export of technical data and defense services to Japan for the manufacture of various electrical components for UH–60, P–3C and F–15 aircraft in the Japan Defense Agency's (JDA) inventory.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Paul V. Kelly,
Assistant Secretary Legislative Affairs.

Enclosure: Transmittal No. DDTC 095–04.

The Honorable J. Dennis Hastert, Speaker of the House of Representatives.

December 7, 2004.

Dear Mr. Speaker: Pursuant to section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount of $50,000,000 or more.

The transaction contained in the attached certification involves the export of technical data, defense services and hardware to Colombia in direct support of the Colombian Army's HELAS Project.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Paul V. Kelly,

Assistant Secretary Legislative Affairs.

Enclosure: Transmittal No. DDTC 039–04.

The Honorable J. Dennis Hastert, Speaker of the House of Representatives.

December 7, 2004.

Dear Mr. Speaker: Pursuant to section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount of $50,000,000 or more.

The transaction contained in the attached certification involves the export of technical data, defense services and hardware to Colombia in direct support of Colombian Government Illicit Crop Eradication Programs.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Paul V. Kelly,

Assistant Secretary Legislative Affairs.

Enclosure: Transmittal No. DDTC 040–04.

The Honorable J. Dennis Hastert, Speaker of the House of Representatives.

December 7, 2004.

Dear Mr. Speaker: Pursuant to section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed license for the export of major defense equipment sold commercially under a contract in the amount of $25,000,000 or more.

The transaction contained in the attached certification involves the export of 115 Rolling Airframe Missile (RAM) Guided Missile Round Pack (GMRP) MK 44 Mod 2 and MK 47 Mod 8, two blast test vehicles and shipping containers for the Greek Navy.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Paul V. Kelly,

Assistant Secretary Legislative Affairs.

Enclosure: Transmittal No. DDTC 046–04.

The Honorable J. Dennis Hastert, Speaker of the House of Representatives.

December 7, 2004.

Dear Mr. Speaker: Pursuant to section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount of $100,000,000 or more.

The transaction contained in the attached certification involves the export of technical data and defense services for the manufacture of upper wing skins for the Joint Strike Fighter Aircraft program.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Paul V. Kelly,

Assistant Secretary Legislative Affairs.

Enclosure: Transmittal No. DDTC 051–04.

The Honorable J. Dennis Hastert, Speaker of the House of Representatives.

December 7, 2004.

Dear Mr. Speaker: Pursuant to section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed license for the export of defense articles or defense services sold commercially under contract in the amount of $50,000,000 or more.

The transaction contained in the attached certification involves the export of technical data, defense services and hardware to Bolivia for implementation of UH–1 and UH–1 II aircraft operations, maintenance, training and logistics support for the Bolivian Government's Illicit Crop Eradication Program.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Paul V. Kelly,

Assistant Secretary Legislative Affairs.

Enclosure: Transmittal No. DDTC 083–04.

The Honorable J. Dennis Hastert, Speaker of the House of Representatives.

December 7, 2004.

Dear Mr. Speaker: Pursuant to section 36(c) and (d) of the Arms Export Control Act, I am transmitting herewith, certification of a proposed manufacturing license agreement for the manufacture of significant military equipment abroad and the export of defense articles or defense services in the amount of $100,000,000 or more.

The transactions described in the attached certification involve the manufacture in Russia and the United States of RD–180 two-chamber rocket motors for use on Atlas launch vehicles, including the USAF Evolved Expandable Launch Vehicle.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Paul V. Kelly,

Assistant Secretary Legislative Affairs.

Enclosure: Transmittal No. DDTC 086–04.

The Honorable J. Dennis Hastert, Speaker of the House of Representatives.

Dated: January 17, 2005.

Peter J. Berry,

Director, Office of Defense Trade Controls, Licensing, Department of State.

[FR Doc. 05–1366 Filed 1–24–05; 8:45 am]

BILLING CODE 4710–25–P

DEPARTMENT OF STATE

[Public Notice 4961]

United States Climate Change Science Program

ACTION: Request expert review of the Intergovernmental Panel on Climate Change (IPCC) ''Special Report on Carbon Dioxide Capture and Storage'' (SRCCS).

SUMMARY: In addition to periodic assessments of the science, impacts, and socio-economic aspects of climate change, the IPCC provides, on request, advice to the Conference of the Parties to the United Nations Framework Convention on Climate Change (UNFCCC) and its bodies. The Seventh Conference of the Parties (COP) of the UNFCCC expressed interest in carbon capture and storage by inviting the IPCC to prepare a Technical Paper on geological carbon storage technologies. The IPCC noted that a Technical Paper, which is limited in its scope to summarizing existing IPCC reports,

would be difficult to produce using the very limited material covered in the IPCC Third Assessment Report. At its 20th session (February 2003), the IPCC decided to prepare a Special Report (which, like a full assessment report, covers all available literature) and approved an outline and schedule. Working Group III is overseeing preparation of this Special Report, which is being written by a team of over 100 authors under established IPCC rules and procedures.

The IPCC Secretariat has informed the U.S. Department of State that the second-order SRCCS draft is available for expert and Government review. The Climate Change Science Program Office (CCSPO) is coordinating the solicitation of comments by U.S. experts and stakeholders to inform development of an integrated set of U.S. Government comments on the report. Instructions on how to format comments are available at *http://www.climatescience.gov/Library/ipcc/srccs-review.htm*, as is the document itself. Comments must be sent to CCSPO by 23 February 2005 to be considered for inclusion in the U.S. Government collation.

TIME AND DATE: Properly formatted comments should be sent to CCSPO at *srccs-USGreview@climatescience.gov* by COB Wednesday, 23 February 2005. Include report acronym and reviewer surname in e-mail subject title to facilitate processing.

FOR FURTHER INFORMATION CONTACT: David Dokken, U.S. Climate Change Science Program, Suite 250, 1717 Pennsylvania Ave., NW., Washington, DC 20006 (*http://www.climatescience.gov*).

Dated: January 18, 2005.

Daniel A. Reifsnyder,

Office Director, Office of Global Change, Bureau of Oceans and International Environmental and Scientific Affairs, Department of State.

[FR Doc. 05–1365 Filed 1–24–05; 8:45 am]

BILLING CODE 4710–09–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8609

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13(44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 8609, Low-Income Housing Credit Allocation Certification and Schedule A (Form 8609), Annual Statement.

DATES: Written comments should be received on or before March 28, 2005 to be assured of consideration.

ADDRESSES: Direct all written comments to Paul Finger Internal Revenue Service, room 6512, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Larnice Mack at Internal Revenue Service, room 6512, 1111 Constitution Avenue NW., Washington, DC 20224, or at (202) 622–3179, or through the internet at (*Larnice.Mack@irs.gov*).

SUPPLEMENTARY INFORMATION:

Title: Low-Income Housing Credit Allocation Certification and Schedule A (Form 8609), Annual Statement.

OMB Number: 1545–0988.

Form Number: Form 8609 and Schedule A (Form 8609).

Abstract: Owners of residential low-income rental buildings may claim a low-income housing credit for each qualified building over a 10-year credit period. Form 8609 is used to obtain a housing credit allocation from the housing credit agency. The form, along with Schedule A, is used by the owner to certify necessary information required by the law.

Current Actions: There are no changes being made to Form 8609 or Schedule A at this time.

Type of Review: Extension of a current OMB approval.

Affected Public: Business or other for-profit organizations, individuals, and state, local or tribal governments.

Estimated Number of Respondents: 120,000.

Estimated Time Per Respondent: 25 hours., 3 minutes.

Estimated Total Annual Burden Hours: 3,058,200.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: January 18, 2005.

Paul Finger,

IRS Reports Clearance Officer.

[FR Doc. 05–1329 Filed 1–24–05; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 2553

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13(44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 2553, Election by a Small Business Corporation.

DATES: Written comments should be received on or before March 28, 2005 to be assured of consideration.

ADDRESSES: Direct all written comments to Paul Finger, Internal Revenue Service, room 6516, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to R. Joseph Durbala at Internal Revenue Service, room 6516, 1111 Constitution Avenue NW., Washington, DC 20224, or at (202) 622–3634, or through the internet at *RJoseph.Durbala@irs.gov*.

SUPPLEMENTARY INFORMATION:

Title: Election by a Small Business Corporation.

OMB Number: 1545–0146.

Form Number: 2553.

Abstract: Form 2553 is filed by a qualifying corporation to elect to be an ''S'' Corporation as defined in Internal Revenue Code section 1361. The information obtained is necessary to determine of the election should be accepted by the IRS. When the election is accepted, the qualifying corporation is classified as an ''S'' Corporation and the corporation's income is taxed to the shareholders of the corporation.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Businesses and Farms.

Estimated Number of Respondents: 500,000.

Estimated Time Per Respondent: 17 hrs., 7 min.

Estimated Total Annual Burden Hours: 8,555,000.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: January 18, 2005.

Paul Finger,

IRS Reports Clearance Officer.

[FR Doc. 05–1331 Filed 1–24–05; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8838

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 8838, Consent To Extend the Time To Assess Tax Under Section 367-Gain Recognition Agreement.

DATES: Written comments should be received on or before March 28, 2005 to be assured of consideration.

ADDRESSES: Direct all written comments to Paul Finger, Internal Revenue Service, room 6516, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to R. Joseph Durbala at Internal Revenue Service, room 6516, 1111 Constitution Avenue NW., Washington, DC 20224, or at (202) 622–3634, or through the internet at *RJoseph.Durbala@irs.gov*.

SUPPLEMENTARY INFORMATION:

Title: Consent To Extend the Time To Assess Tax Under Section 367-Gain Recognition Agreement.

OMB Number: 1545–1395.

Form Number: 8838.

Abstract: Form 8838 is used to extend the statute of limitations for U.S. persons who transfer stock or securities to a foreign corporation. The form is filed when the transferor makes a gain recognition agreement. This agreement allows the transferor to defer the payment of tax on the transfer. The IRS uses Form 8838 so that it may assess tax against the transferor after the expiration of the original statute of limitations.

Current Actions: There are no changes being made to the Form 8838 at this time.

Type of Review: Extension of a current approval.

Affected Public: Business or other for-profit organizations and individuals.

Estimated Number of Respondents: 1000.

Estimated Time Per Respondent: 8 hrs., 14 min.

Estimated Total Annual Burden Hours: 8,230.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: January 18, 2005.

Paul Finger,

IRS Reports Clearance Officer.

[FR Doc. 05–1332 Filed 1–24–05; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[PS–262–82]

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning an existing final regulation, PS–262–82 (TD 8600), Definition of an S Corporation. (§ 1.1361–3).

DATES: Written comments should be received on or before March 28, 2005 to be assured of consideration.

ADDRESSES: Direct all written comments to Paul Finger, Internal Revenue Service, Room 6512, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the regulations should be directed to Larnice Mack at Internal Revenue Service, Room 6512, 1111 Constitution Avenue NW., Washington, DC 20224, or at (202) 622–3179, or through the Internet at *(Larnice.Mack@irs.gov).*

SUPPLEMENTARY INFORMATION:

Title: Definition of an S Corporation.

OMB Number: 1545–0731.

Regulation Project Number: PS–262–82.

Abstract: This regulation provides the procedures and the statements to be filed by certain individuals for making the election under Internal Revenue Code section 136(d)(2), the refusal to consent to that election, or the revocation of that election. The statements required to be filed are used to verify that taxpayers are complying with requirements imposed by Congress under subchapter S.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations and individuals.

Estimated Number of Respondents: 1,005.

Estimated Time Per Respondent: 1 hour.

Estimated Total Annual Burden Hours: 1,005.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record.

Comments Are Invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: January 18, 2005.

Paul Finger,

IRS Reports Clearance Officer.

[FR Doc. 05–1333 Filed 1–24–05; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8878

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13(44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 8878, IRS e-file Signature Authorization-Application for Extension of Time To File.

DATES: Written comments should be received on or before March 28, 2005 to be assured of consideration.

ADDRESSES: Direct all written comments to Paul Finger, Internal Revenue Service, room 6512, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Larnice Mack at Internal Revenue Service, room 6512, 1111 Constitution Avenue, NW., Washington, DC 20224, or at (202) 622–3179, or through the internet at *(Larnice.Mack@irs.gov).*

SUPPLEMENTARY INFORMATION:

Title: IRS e-file Signature Authorization-Application for Extension of Time To File.

OMB Number: 1545–1755.

Form Number: 8878.

Abstract: Form 8878 is used to allow taxpayers to enter their PIN on their electronically filed application for extension of time to file.

Current Actions: There are no changes being made to the form at this time.

Affected Public: Individuals or households. Estimated Number of Respondents: 1,000,000.

Estimated Time Per Respondent: 38 minutes.

Estimated Total Annual Burden Hours: 630,000.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the

agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: January 18, 2005.

Paul Finger,

IRS Reports Clearance Officer.

[FR Doc. 05–1334 Filed 1–24–05; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Area 5 Taxpayer Advocacy Panel (Including the States of Iowa, Kansas, Minnesota, Missouri, Nebraska, North Dakota, Oklahoma, South Dakota, and Texas)

AGENCY: Internal Revenue Service (IRS) Treasury.

ACTION: Notice.

SUMMARY: An open meeting of the Area 5 Taxpayer Advocacy Panel will be conducted. 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 Friday, February 18, 2005, from 10 a.m. to 4 p.m. Central Time and Saturday, February 19, from 8 a.m. to 12 p.m. Central Time.

FOR FURTHER INFORMATION CONTACT: Mary Ann Delzer at 1–888–912–1227, or (414) 297–1604.

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 a meeting of the Area 5 Taxpayer Advocacy Panel will be held Friday, February 18, 2005, from 10 a.m. to 4 p.m. Central Time, and Saturday, February 19, from 8 a.m. to 12 p.m. Central Time, at Homewood Suites, 4143 Governors Row, Austin, TX. You can submit written comments to the panel by faxing to (414) 297–1623, or by mail to Taxpayer Advocacy Panel, Stop1006MIL, 310 West Wisconsin Avenue, Milwaukee, WI 53203–2221, or you can contact us at *www.improveirs.org*. This meeting is not required to be open to the public, but because we are always interested in community input, we will accept public comments. Please contact Mary Ann Delzer at 1–888–912–1227 or (414) 297–1604 for additional information.

The agenda will include the following: Various IRS issues.

Dated: January 18, 2005.

Tersheia Carter,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. 05–1328 Filed 1–24–05; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Area 2 Taxpayer Advocacy Panel (Including the States of Delaware, North Carolina, South Carolina, New Jersey, Maryland, Pennsylvania, Virginia, West Virginia and the District of Columbia)

AGENCY: Internal Revenue Service (IRS) Treasury.

ACTION: Notice.

SUMMARY: An open meeting of the Area 2 Taxpayer Advocacy Panel will be conducted in Columbia, S.C. The Taxpayer Advocacy Panel is soliciting public comments, ideas, and suggestions on improving customer service at the Internal Revenue Service.

DATES: The meeting will be held Friday, February 18, 2005, and Saturday, February 19, 2005.

FOR FURTHER INFORMATION CONTACT: Inez E. De Jesus at 1–888–912–1227 (toll-free), or 954–423–7977 (non toll-free).

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 2 Taxpayer Advocacy Panel will be held Friday, February 18, 2005 from 8 a.m. to 12 p.m. and from 1 p.m. to 5 p.m. ET and Saturday, February 19, 2004 from 8 a.m. to 12 p.m. ET in Columbia, S.C. at the Internal Revenue Service office, 1835 Assembly Street, Columbia, S.C. 29201. For information or to confirm attendance, notification of intent to attend the meeting must be made with Inez De Jesus. Ms. De Jesus may be reached at 1–888–912–1227 or 954–423–7977, or write Inez E. De Jesus, TAP Office, 1000 South Pine Island Rd., Suite 340, Plantation, FL 33324, or post comments to the Web site: *http://www.improveirs.org.* The agenda will include the following: Various IRS issues.

Dated: January 19, 2005.

Martha Curry,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. 05–1330 Filed 1–24–05; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0055]

Proposed Information Collection Activity: Proposed Collection; Comment Request

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection, and allow 60 days for public comment in response to the notice. This notice solicits comments on information needed to determine surviving spouse of a veteran eligibility for a VA home loan.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before March 28, 2005.

ADDRESSES: Submit written comments on the collection of information to Nancy J. Kessinger, Veterans Benefits Administration (20M35), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 or e-mail: *irmnkess@vba.va.gov.* Please refer to ''OMB Control No. 2900–0055'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Nancy J. Kessinger at (202) 273–7079 or FAX (202) 275–5947.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Public Law 104–13; 44 U.S.C. 3501–3521), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's

functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title: Request for Determination of Loan Guaranty Eligibility—Unmarried Surviving Spouses, VA Form 26–1817.

OMB Control Number: 2900–0055.

Type of Review: Extension of a currently approved collection.

Abstract: VA Form 26–1817 is completed by unmarried surviving spouse of veterans as a formal request for a certificate of eligibility for home loan benefits. An unmarried surviving spouse may be entitled to home loan benefits if the veteran's death occurred while serving on active duty or was a direct result of service-connected disabilities. VA uses the data collected to verify the veteran's service-connected death and status of the applicant as unmarried surviving spouse.

Affected Public: Individuals or households.

Estimated Annual Burden: 250 hours.

Estimated Average Burden Per Respondent: 15 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 1,000.

Dated: January 12, 2005.

By direction of the Secretary:

Loise Russell,

Director, Records Management Service.

[FR Doc. 05–1305 Filed 1–24–05; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0094]

Proposed Information Collection Activity: Proposed Collection; Comment Request

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection, and allow 60 days for public comment in response to the notice. This notice solicits comments on the information needed to determine whether a claimant served in the Commonwealth Army of the Philippines or in recognized guerrilla organizations.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before March 28, 2005.

ADDRESSES: Submit written comments on the collection of information to Nancy J. Kessinger, Veterans Benefits Administration (20S52), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 or e-mail *irmnkess@vba.va.gov.* Please refer to ''OMB Control No. 2900–0094'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Nancy J. Kessinger at (202) 273–7079 or FAX (202) 275–5947.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Public Law 104–13; 44 U.S.C. 3501–3521), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title: Supplement to VA Forms 21–526, 21–534, and 21–535 (For Philippine Claims), VA Form 21–4169.

OMB Control Number: 2900–0094.

Type of Review: Extension of a currently approved collection.

Abstract: VA Form 21–4169 is used to collect certain applicants' service information, place of residence, proof of service, and whether the applicant was a member of pro-Japanese, pro-German, or anti-American Filipino organizations. VA use the information collected to determine the applicant's eligibility for benefits based on Commonwealth Army or recognized guerrilla services.

Affected Public: Individuals or households.

Estimated Annual Burden: 250 hours.

Estimated Average Burden Per Respondent: 15 minutes.

Frequency of Response: One-time.

Estimated Number of Respondents: 1,000.

Dated: January 12, 2005.

By direction of the Secretary.

Loise Russell,

Director, Records Management Service.

[FR Doc. 05–1306 Filed 1–24–05; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

Advisory Committee on Women Veterans; Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under Public Law 92–463 (Federal Advisory Committee Act) that the Advisory Committee on Women Veterans will meet February 8–10, 2005, from 8:15 a.m. to 4 p.m. each day, in room 630, VA Central Office, 810 Vermont Avenue, NW., Washington, DC 20420. The meeting is open to the public.

The purpose of the Committee is to advise the Secretary of Veterans Affairs regarding the needs of women veterans with respect to health care, rehabilitation, compensation, outreach, and other programs and activities administered by VA designed to meet such needs. The Committee will make recommendations to the Secretary regarding such programs and activities.

On February 8, the agenda will include briefings and updates on issues related to women veterans' in the Veterans Health Administration (VHA), including any treatment issues related to Operation Iraqi Freedom and Operation Enduring Freedom combat veterans and VA's ''Seamless Transition'' initiative; next steps and implementation of the Capital Asset Realignment for Enhanced Services (CARES) recommendations; briefings and updates on issues in the Veterans Benefits Administration; a briefing from VHA's Women Veterans Health Program Director; legislative issues related to veterans; presentation of Certificates of Appointment to four new Committee members, and a briefing from the National Cemetery Administration. On February 9, the Committee will receive updates and briefings on VA research and studies related to women's health issues, upcoming initiatives of the

Center for Women Veterans, and will discuss any new issues that the Committee members may introduce. On February 10, the Committee will be briefed on VA's homeless programs, VA's National Veterans Employment Program, the VA/DoD Health Executive Council, and research efforts related to the rate of PTSD in women veterans by ethnicity and geographic location.

Any member of the public wishing to attend should contact Ms. Rebecca Schiller, at the Department of Veterans Affairs, Center for Women Veterans (00W), 810 Vermont Avenue, NW., Washington, DC 20420. Ms. Schiller may be contacted either by phone at (202) 273–6193, fax at (202) 273–7092, or e-mail at *00W@mail.va.gov.* Interested persons may attend, appear before, or file statements with the Committee. Written statements must be filed before the meeting, or within 10 days after the meeting.

Dated: January 13, 2005.

By direction of the Secretary.

E. Philip Riggin,

Committee Management Officer.

[FR Doc. 05–1304 Filed 1–24–05; 8:45 am]

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Federal Register

Tuesday,
January 25, 2005

Part II

Department of Education

Scientifically Based Evaluation Methods; Notice

DEPARTMENT OF EDUCATION

RIN 1890–ZA00

Scientifically Based Evaluation Methods

AGENCY: Department of Education.

ACTION: Notice of final priority.

SUMMARY: The Secretary of Education announces a priority that may be used for any appropriate programs in the Department of Education (Department) in FY 2005 and in later years. We take this action to focus Federal financial assistance on expanding the number of programs and projects Department-wide that are evaluated under rigorous scientifically based research methods in accordance with the Elementary and Secondary Education Act of 1965 (ESEA), as reauthorized by the No Child Left Behind Act of 2001 (NCLB). The definition of scientifically based research in section 9201(37) of NCLB includes other research designs in addition to the random assignment and quasi-experimental designs that are the subject of this priority. However, the Secretary considers random assignment and quasi-experimental designs to be the most rigorous methods to address the question of project effectiveness. While this action is of particular importance for programs authorized by NCLB, it is also an important tool for other programs and, for this reason, is being established for all Department programs. Establishing the priority on a Department-wide basis will permit any office to use the priority for a program for which it is appropriate.

EFFECTIVE DATE: This priority is effective February 24, 2005.

FOR FURTHER INFORMATION CONTACT: Margo K. Anderson, U.S. Department of Education, 400 Maryland Avenue, SW., room 4W333, Washington, DC 20202–5910. Telephone: (202) 205–3010.

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SUPPLEMENTARY INFORMATION:

General

The ESEA as reauthorized by the NCLB uses the term *scientifically based research* more than 100 times in the context of evaluating programs to determine what works in education or ensuring that Federal funds are used to support activities and services that work. This final priority is intended to ensure that appropriate federally funded projects are evaluated using scientifically based research. Establishing this priority makes it possible for any office in the Department to encourage or to require appropriate projects to use scientifically based evaluation strategies to determine the effectiveness of a project intervention.

We published a notice of proposed priority in the **Federal Register** on November 4, 2003 (68 FR 62445). Except for a technical change to correct an error in the language of the priority, one minor clarifying change, and the addition of a definitions section, there are no differences between the notice of proposed priority and this notice of final priority. The definitions section provides the generally accepted meaning for technical terms used throughout the document.

Analysis of Comments

In response to our invitation in the notice of proposed priority, almost 300 parties submitted comments on the proposed priority. Although we received substantive comments, we determined that the comments did not warrant changes. However, we have reviewed the notice since its publication and have made a change based on that review. An analysis of the comments and changes is published as an appendix to this notice.

Note: This notice does not solicit applications. In any year in which we choose to use this priority, we invite applications for new awards under the applicable program through a notice in the **Federal Register**. When inviting applications we designate the priority as absolute, competitive preference, or invitational. The effect of each type of priority follows:

Absolute priority: Under an absolute priority we consider only applications that meet the priority (34 CFR 75.105(c)(3)).

Competitive preference priority: Under a competitive preference priority we give competitive preference to an application by either (1) awarding additional points, depending on how well or the extent to which the application meets the competitive preference priority (34 CFR 75.105(c)(2)(i)); or (2) selecting an application that meets the competitive priority over an application of comparable merit that does not meet the priority (34 CFR 75.105(c)(2)(ii)).

When using the priority to give competitive preference to an application, the Secretary will review applications using a two-stage process. In the first stage, the application will be reviewed without taking the priority into account. In the second stage of review, the applications rated highest in stage one will be reviewed for competitive preference.

Invitational priority: Under an invitational priority we are particularly interested in applications that meet the invitational priority. However, we do not give an application that meets the invitational priority a competitive or absolute preference over other applications (34 CFR 75.105(c)(1)).

Priority

The Secretary establishes a priority for projects proposing an evaluation plan that is based on rigorous scientifically based research methods to assess the effectiveness of a particular intervention. The Secretary intends that this priority will allow program participants and the Department to determine whether the project produces meaningful effects on student achievement or teacher performance.

Evaluation methods using an experimental design are best for determining project effectiveness. Thus, when feasible, the project must use an experimental design under which participants—*e.g.*, students, teachers, classrooms, or schools—are randomly assigned to participate in the project activities being evaluated or to a control group that does not participate in the project activities being evaluated.

If random assignment is not feasible, the project may use a quasi-experimental design with carefully matched comparison conditions. This alternative design attempts to approximate a randomly assigned control group by matching participants—*e.g.*, students, teachers, classrooms, or schools—with non-participants having similar pre-program characteristics.

In cases where random assignment is not possible and participation in the intervention is determined by a specified cutting point on a quantified continuum of scores, regression discontinuity designs may be employed.

For projects that are focused on special populations in which sufficient numbers of participants are not available to support random assignment or matched comparison group designs, single-subject designs such as multiple baseline or treatment-reversal or interrupted time series that are capable of demonstrating causal relationships can be employed.

Proposed evaluation strategies that use neither experimental designs with random assignment nor quasi-experimental designs using a matched comparison group nor regression discontinuity designs will not be considered responsive to the priority

when sufficient numbers of participants are available to support these designs. Evaluation strategies that involve too small a number of participants to support group designs must be capable of demonstrating the causal effects of an intervention or program on those participants.

The proposed evaluation plan must describe how the project evaluator will collect—before the project intervention commences and after it ends—valid and reliable data that measure the impact of participation in the program or in the comparison group.

If the priority is used as a competitive preference priority, points awarded under this priority will be determined by the quality of the proposed evaluation method. In determining the quality of the evaluation method, we will consider the extent to which the applicant presents a feasible, credible plan that includes the following:

(1) The type of design to be used (that is, random assignment or matched comparison). If matched comparison, include in the plan a discussion of why random assignment is not feasible.

(2) Outcomes to be measured.

(3) A discussion of how the applicant plans to assign students, teachers, classrooms, or schools to the project and control group or match them for comparison with other students, teachers, classrooms, or schools.

(4) A proposed evaluator, preferably independent, with the necessary background and technical expertise to carry out the proposed evaluation. An independent evaluator does not have any authority over the project and is not involved in its implementation.

In general, depending on the implemented program or project, under a competitive preference priority, random assignment evaluation methods will receive more points than matched comparison evaluation methods.

Definitions

As used in this notice—

Scientifically based research (section 9101(37) NCLB):

(A) Means research that involves the application of rigorous, systematic, and objective procedures to obtain reliable and valid knowledge relevant to education activities and programs; and

(B) Includes research that—

(i) Employs systematic, empirical methods that draw on observation or experiment;

(ii) Involves rigorous data analyses that are adequate to test the stated hypotheses and justify the general conclusions drawn;

(iii) Relies on measurements or observational methods that provide reliable and valid data across evaluators and observers, across multiple measurements and observations, and across studies by the same or different investigators;

(iv) Is evaluated using experimental or quasi-experimental designs in which individuals entities, programs, or activities are assigned to different conditions and with appropriate controls to evaluate the effects of the condition of interest, with a preference for random-assignment experiments, or other designs to the extent that those designs contain within-condition or across-condition controls;

(v) Ensures that experimental studies are presented in sufficient detail and clarity to allow for replication or, at a minimum, offer the opportunity to build systematically on their findings; and

(vi) Has been accepted by a peer-reviewed journal or approved by a panel of independent experts through a comparably rigorous, objective, and scientific review.

Random assignment or experimental design means random assignment of students, teachers, classrooms, or schools to participate in a project being evaluated (treatment group) or not participate in the project (control group). The effect of the project is the difference in outcomes between the treatment and control groups.

Quasi experimental designs include several designs that attempt to approximate a random assignment design.

Carefully matched comparison groups design means a quasi-experimental design in which project participants are matched with non-participants based on key characteristics that are thought to be related to the outcome.

Regression discontinuity design means a quasi-experimental design that closely approximates an experimental design. In a regression discontinuity design, participants are assigned to a treatment or control group based on a numerical rating or score of a variable unrelated to the treatment such as the rating of an application for funding. Eligible students, teachers, classrooms, or schools above a certain score (''cut score'') are assigned to the treatment group and those below the score are assigned to the control group. In the case of the scores of applicants' proposals for funding, the ''cut score'' is established at the point where the program funds available are exhausted.

Single subject design means a design that relies on the comparison of treatment effects on a single subject or group of single subjects. There is little confidence that findings based on this design would be the same for other members of the population.

Treatment reversal design means a single subject design in which a pre-treatment or baseline outcome measurement is compared with a post-treatment measure. Treatment would then be stopped for a period of time, a second baseline measure of the outcome would be taken, followed by a second application of the treatment or a different treatment. For example, this design might be used to evaluate a behavior modification program for disabled students with behavior disorders.

Multiple baseline design means a single subject design to address concerns about the effects of normal development, timing of the treatment, and amount of the treatment with treatment-reversal designs by using a varying time schedule for introduction of the treatment and/or treatments of different lengths or intensity.

Interrupted time series design means a quasi-experimental design in which the outcome of interest is measured multiple times before and after the treatment for program participants only.

Executive Order 12866

This notice of final priority has been reviewed in accordance with Executive Order 12866. Under the terms of the order, we have assessed the potential costs and benefits of this regulatory action.

The potential costs associated with the notice of final priority are those we have determined as necessary for administering applicable programs effectively and efficiently.

In assessing the potential costs and benefits—both quantitative and qualitative—of this notice of final priority, we have determined that the benefits of the final priority justify the costs.

We have also determined that this regulatory action does not unduly interfere with State, local, and tribal governments in the exercise of their governmental functions.

Intergovernmental Review

Some of the programs affected by this final priority are subject to Executive Order 12372 and the regulations in 34 CFR part 79. One of the objectives of the Executive order is to foster an intergovernmental partnership and a strengthened federalism. The Executive order relies on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

This document provides early notification of our specific plans and actions for these programs.

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(Catalog of Federal Domestic Assistance Number does not apply.)

Program Authority: ESEA, as reauthorized by the No Child Left Behind Act of 2001, Pub. L. 107–110, January 8, 2002.

Dated: January 17, 2005.

Rod Paige,

Secretary of Education.

Appendix—Analysis of Comments

Comment: Twenty-nine comments were received in support of the priority for random assignment studies of education policies and program interventions. Commenters noted that random assignment evaluations have been essential to understanding what works, what does not work, and what is harmful among interventions in many areas of public policy—including employment and training, welfare programs, health insurance, subsidies, pregnancy prevention, criminal justice, and substance abuse.

Discussion: The Secretary agrees with this comment.

Change: None.

Comment: One hundred and eighty-three respondents commented that random assignment is not the only method capable of generating understandings of causality. They stated that the Secretary's proposal would elevate experimental over quasi-experimental, observational, single-subject, and other designs which are sometimes more feasible and equally valid. However, 21 respondents commented that the priority correctly identifies random assignment experimental designs as the methodological standard for what constitutes scientific evidence for determining whether an intervention produces meaningful effects. The commenters pointed out that attempts to draw conclusions about intervention effects based on other methods have often led to misleading results. They stated that the priority is consistent with widely recognized methodological standards in the social and medical sciences.

Discussion: The Secretary agrees that a random assignment design is not the only method capable of providing estimates of program effectiveness; however, it is the most defensible method in that it reliably produces an unbiased estimate of effectiveness. Conclusions about causality based on other methods, including the quasi-experimental designs included in this priority, have been shown to be misleading compared with experimental evidence. This is largely due to the difficulty in establishing equal treatment and comparison groups on all important characteristics related to the outcome variable with methods other than random assignment. The Secretary agrees with the latter commenters that random assignment is the standard for scientific evidence for determining the project effectiveness.

Change: None.

Comment: One hundred and seventy-three respondents commented that random assignment methods examine a limited number of isolated factors that are neither limited nor isolated in natural settings. These commenters stated that the complex nature of causality renders random assignment methods less capable of discovering causality than designs sensitive to local culture and conditions. Four respondents commented that random assignment methods estimate only the impact of the treatment and that the response to the treatment may vary according to contextual factors. These four respondents noted that random assignment assures that the contextual factors affecting outcomes are the same for the treatment and the control group and, therefore, the impact of the treatment is unambiguous. They noted further that it has not been demonstrated that evaluation methods ''sensitive'' to local culture and conditions can provide unambiguous answers as to whether the treatment is the cause of the observed outcome.

Discussion: The Secretary agrees with the latter comments. A major strength of the random assignment design is that it yields comparable treatment and control groups with respect to all characteristics and conditions, both observable and unobservable. When participants, *e.g.* students, teachers, classrooms, or schools, are randomly assigned to the project or to a control group, the only difference between the two groups is the impact of the treatment. While quasi-experimental designs, including carefully matched comparison groups, are also permitted under this priority, it is a practical impossibility to match on numerous characteristics and conditions, especially those that are unobservable or difficult to measure. However, case studies that collect information on local culture and conditions are an important complement to a random assignment study by providing a deeper understanding of the conditions that may influence the effectiveness of an intervention.

Change: None.

Comment: One hundred and eighty-six respondents commented that random assignment should sometimes be ruled out for reasons of ethics. For example, randomly assigning experimental subjects to educationally inferior treatments, or denying control groups access to important instructional opportunities, is not ethically acceptable even when the results might be enlightening. Another 13 respondents commented that the priority recognizes that there are cases in which random assignment is not ethical and, in such cases, identifies quasi-experimental designs and single-subject designs as alternatives that may be justified by the circumstances of particular interventions.

Discussion: The Secretary agrees with both comments. There are occasions when random assignment is not an acceptable or feasible method of evaluation. The Department will address these issues in deciding whether or not to apply this priority in specific program competitions. Also, consistent with the American Psychological Association ethics code and in accordance with 34 CFR part 97, the Department has adopted the Common Rule for protection of human subjects in research including Subpart D dealing with inclusion of children in research. Grantees submit their plans for all research involving human subjects to an Institutional Review Board. All research involving human subjects must be conducted in accordance with an approved research protocol. This includes obtaining informed consent for participation when required by the Institutional Review Board as a condition of approval.

In general, random assignment does not pose ethical issues when employed to test the effectiveness of a new service or product that is believed to be beneficial and when the number of students who are equally eligible for and seeking that service is more than the number who can be served. When all applicants cannot be served, random assignment is fair, because it gives all participants an equal chance of being selected for the program.

When a random assignment evaluation is not ethical or not feasible, this priority includes quasi-experimental designs such as carefully matched comparison groups, regression discontinuity designs, single-subject designs, and interrupted time series that are capable of estimating program impacts. However, quasi-experimental designs do not provide the level of confidence in causal relationships that random assignment designs provide.

Change: None.

Comment: One hundred and seventy-four respondents commented that although it may be important to examine causality prior to wide implementation, pilot or exploratory programs are often too small in scale to provide reliable conclusions.

Discussion: The priority recognizes that for projects that are focused on special populations in which sufficient numbers of participants are not available to support random assignment or matched comparison group designs, single-subject designs such as multiple baseline or treatment-reversal or interrupted time series that are capable of demonstrating causal relationships can be employed. These small-scale or efficacy studies should lead to large-scale or effectiveness studies. Further, this priority is only relevant to programs for which demonstrations of effectiveness are

reasonable and relevant. The priority would generally not be applied in competitions to fund pilot or exploratory programs.

Change: None.

Comment: Two hundred and forty-two respondents commented that the choice of a research method must be determined by the goal or question being asked. They stated that alternative and mixed methods are rigorous and scientific and are important in knowing how well a program was implemented and what is ''inside the box.'' Another group of 14 respondents commented that the priority does not preclude non-experimental designs, but gives clear priority to experimental designs for determining project effectiveness. These commenters noted that there may be areas in which an experimental design may not be feasible and non-experimental methods, including observational studies, may provide information on how to move research forward.

Discussion: The Secretary agrees with these comments. There are many research questions other than effectiveness that can be pursued. For these questions, research designs other than experimental and quasi-experimental would be appropriate. This priority is to be applied only when the question to be addressed is program effectiveness. The priority would be inappropriate if it were applied, for example, to applications in which the primary question is the fidelity of program implementation.

Change: None.

Comment: Twenty respondents expressed concern that the Department will make the priority a requirement for all grant competitions regardless of the intervention.

Discussion: The Secretary does not intend to make random assignment a requirement for all of the Department's grant competitions. The priority is intended for use only with discretionary grant programs in which grantees may use their funds to implement clearly specified interventions, and when the Department desires to obtain evidence of the impact of those interventions on relevant outcomes.

Change: None.

Comment: One hundred and sixty-eight respondents disagreed with the Department's statement in the notice of proposed priority that ''this regulatory action does not unduly interfere with State, local, and tribal governments in the exercise of their governmental functions.'' They took the position that as provision and support of programs are governmental functions so, too, is determining program effectiveness.

Discussion: As indicated above, the priority is for use only with discretionary grant programs in which awards are made on the basis of competition. The Secretary often establishes priorities for such programs and does not agree that supporting projects that would use scientific methods to evaluate the effectiveness of the interventions being implemented with grant funds would interfere with State, local, and tribal governments in the exercise of their governmental functions.

Change: None.

Comment: Six respondents expressed concern that the priority might limit what is studied or result in poorer quality programs being funded because of the additional points given to the evaluation priority.

Discussion: When using the priority to give competitive preference to an application, the Secretary intends to review applications using a two-stage process. The first stage would review the application without taking the priority into account. In the second stage of review, the applications rated highest in stage one would be reviewed for competitive preference. This will ensure that applications of lower program quality will not be funded as a result of additional points for the evaluation priority.

Change: Although no change has been made in the priority, the description of the competitive preference is clarified to include a two-stage review.

Comment: Nine respondents recommended that the Department continue to recognize the importance of independent evaluators.

Discussion: The priority gives preference to independent evaluators who have no authority over the project and are not involved in its implementation. Thus the importance of independent evaluators is recognized.

Change: None.

Comment: Twenty-three respondents expressed concern that there would be inadequate financial and technical resources in small programs and in rural areas to carry out a random assignment study and may prevent congressionally-intended beneficiary communities from receiving federal assistance.

Discussion: The priority provides for the use of alternate designs where insufficient numbers of participants are available to support random assignment or matched comparison group designs. The Secretary believes that investing in projects that generate evidence regarding the effectiveness of specified interventions would provide benefits beyond the individual grantee, and thus would represent a wise use of program dollars.

Change: None.

Comment: None.

Discussion: In order to make this priority more understandable to the general public, the Secretary believes that the priority would be improved by adding generally accepted definitions for technical terms used throughout the document. This may be helpful to practitioners and others who are interested in strengthening the evaluations of proposed projects but who may not be familiar with the specific types of evaluation described in this notice.

Change: The Secretary has added a definitions section to provide generally-accepted definitions of terms used throughout the document.

[FR Doc. 05–1317 Filed 1–24–05; 8:45 am]

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The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

RULES GOING INTO EFFECT JANUARY 25, 2005

ENVIRONMENTAL PROTECTION AGENCY

Air quality implementation plans; approval and promulgation; various States:
- Idaho; published 1-25-05

HEALTH AND HUMAN SERVICES DEPARTMENT

Health care access:
- Interstate quarantine; establishment of vaccination clinics and user fee for the flu; published 1-25-05

TREASURY DEPARTMENT

Internal Revenue Service

Income taxes:
- Defined contribution plans; distribution forms elimination; published 1-25-05

COMMENTS DUE NEXT WEEK

AGENCY FOR INTERNATIONAL DEVELOPMENT

Assistance awards to U.S. non-Governmental organizations; marking requirements; comments due by 2-3-05; published 12-20-04 [FR 04-27791]

AGRICULTURE DEPARTMENT

Agricultural Marketing Service

Cotton classing, testing and standards:
- Classification services to growers; 2004 user fees; Open for comments until further notice; published 5-28-04 [FR 04-12138]

Dates (domestic) produce or packed in—
- California; comments due by 2-3-05; published 1-24-05 [FR 05-01179]

Fish and shellfish; mandatory country of origin labeling; comments due by 2-2-05; published 12-28-04 [FR 04-28349]

AGRICULTURE DEPARTMENT

Food Safety and Inspection Service

Meat and poultry inspection:
- Food labeling—
  - Ready-to-eat meat and poultry products; listeria monocytogenes workshops for small and very small plants; comments due by 1-31-05; published 12-2-04 [FR 04-26516]
- Listeria monocytogenes interim final rule; effectiveness assessment; report availability; comments due by 1-31-05; published 12-2-04 [FR 04-26515]

AGRICULTURE DEPARTMENT

Acquisition regulations:
- Miscellaneous amendments; comments due by 2-2-05; published 1-3-05 [FR 04-28439]

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration

Civil procedures; comments due by 1-31-05; published 1-5-05 [FR 04-28751]

COURT SERVICES AND OFFENDER SUPERVISION AGENCY FOR THE DISTRICT OF COLUMBIA

Semi-annual agenda; Open for comments until further notice; published 12-22-03 [FR 03-25121]

DEFENSE DEPARTMENT

Acquisition regulations:
- Pilot Mentor-Protege Program; Open for comments until further notice; published 12-15-04 [FR 04-27351]

DEFENSE DEPARTMENT

Engineers Corps

Nationwide permit program; miscellaneous amendments; comments due by 1-31-05; published 11-30-04 [FR 04-26263]

ENERGY DEPARTMENT

Meetings:
- Environmental Management Site-Specific Advisory Board—
  - Oak Ridge Reservation, TN; Open for comments until further notice; published 11-19-04 [FR 04-25693]

ENERGY DEPARTMENT

Energy Efficiency and Renewable Energy Office

Commercial and industrial equipment; energy efficiency program:
- Test procedures and efficiency standards—
  - Commercial packaged boilers; Open for comments until further notice; published 10-21-04 [FR 04-17730]

ENERGY DEPARTMENT

Federal Energy Regulatory Commission

Electric rate and corporate regulation filings:
- Virginia Electric & Power Co. et al.; Open for comments until further notice; published 10-1-03 [FR 03-24818]

Natural Gas Policy Act:
- Natural gas pipeline companies; selective discounting policy; comments due by 1-31-05; published 12-2-04 [FR 04-26535]

ENVIRONMENTAL PROTECTION AGENCY

Air programs:
- Fuels and fuel additives—
  - Gasoline produced or imported for use in Hawaii, Alaska, Puerto Rico, and Virgin Islands; antidumping baselines; comments due by 2-3-05; published 1-4-05 [FR 05-00043]
  - Hazardous air pollutants from mobile sources; emissions control; default baseline values; comments due by 2-3-05; published 1-4-05 [FR 05-00042]

Air quality implementation plans; approval and promulgation; various States:
- Kentucky; comments due by 2-2-05; published 1-3-05 [FR 04-28702]
- New Mexico; comments due by 1-31-05; published 12-30-04 [FR 04-28501]
- Texas; comments due by 2-2-05; published 1-3-05 [FR 04-28700]

Environmental statements; availability, etc.:
- Coastal nonpoint pollution control program—
  - Minnesota and Texas; Open for comments until further notice; published 10-16-03 [FR 03-26087]

Toxic substances:
- Enzymes and proteins; nomenclature inventory; comments due by 1-30-05; published 12-17-04 [FR 04-27642]
- Significant new uses—
  - Polybrominated diphenylethers; comments due by 2-4-05; published 12-6-04 [FR 04-26731]

Water pollution control:
- National Pollutant Discharge Elimination System—
  - Concentrated animal feeding operations in New Mexico and Oklahoma; general permit for discharges; Open for comments until further notice; published 12-7-04 [FR 04-26817]

Water pollution; effluent guidelines for point source categories:
- Meat and poultry products processing facilities; Open for comments until further notice; published 9-8-04 [FR 04-12017]

FEDERAL COMMUNICATIONS COMMISSION

Common carrier services:
- Interconnection—
  - Incumbent local exchange carriers unbounding obligations; local competition provisions; wireline services offering advanced telecommunications capability; Open for comments until further notice; published 12-29-04 [FR 04-28531]
- Telephone Consumer Protection Act; implementation—
  - Interstate telephone calls; Florida statute and telemarketing law; declaratory ruling petition; comments due by 2-2-05; published 1-3-05 [FR 04-28419]
  - Interstate telephone calls; Indiana revised statutes and administrative code; declaratory ruling petition; comments due by 2-2-05; published 1-3-05 [FR 04-28417]
  - Interstate telephone calls; Wisconsin statutes and administrative code; declaratory ruling petition; comments due by 2-2-05; published 1-3-05 [FR 04-28418]

Radio stations; table of assignments:
- Arkansas; comments due by 1-31-05; published 12-29-04 [FR 04-28424]
- Minnesota; comments due by 1-31-05; published 12-29-04 [FR 04-28422]
- North Carolina; comments due by 1-31-05; published 12-29-04 [FR 04-28416]

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HEALTH AND HUMAN SERVICES DEPARTMENT

Food and Drug Administration

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Human drugs:

Nasal decongestant drug products (OTC); final monograph amendment; comments due by 1-31-05; published 11-2-04 [FR 04-24423]

Reports and guidance documents; availability, etc.:

Evaluating safety of antimicrobial new animal drugs with regard to their microbiological effects on bacteria of human health concern; Open for comments until further notice; published 10-27-03 [FR 03-27113]

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HEALTH AND HUMAN SERVICES DEPARTMENT

Acquisition regulations:

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HOMELAND SECURITY DEPARTMENT

Coast Guard

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Marine liquefied natural gas spills; thermal and vapor dispersion exclusion zones; rulemaking petition; comments due by 2-1-05; published 11-3-04 [FR 04-24454]

HOMELAND SECURITY DEPARTMENT

U.S. Citizenship and Immigration Services

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HOUSING AND URBAN DEVELOPMENT DEPARTMENT

Community planning and development programs; consolidated submissions:

Consolidated plan; revisions and updates; comments due by 1-31-05; published 12-30-04 [FR 04-28430]

Manufactured home construction and safety standards:

Manufacturing Housing Consensus Committee recommendations; comments due by 1-31-05; published 12-1-04 [FR 04-26381]

Mortgage and loan insurance programs:

Home equity conversion mortgages; long term care insurance; mortgagor's single up-front mortgage premium; waiver; comments due by 2-1-05; published 12-3-04 [FR 04-26591]

INTERIOR DEPARTMENT

Fish and Wildlife Service

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Endangered and threatened species:

Florida manatee; protection areas—

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NUCLEAR REGULATORY COMMISSION

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SECURITIES AND EXCHANGE COMMISSION

Securities:

Securities offerings reform; registration, communications, and offering processes; modification; comments due by 1-31-05; published 11-17-04 [FR 04-24910]

SMALL BUSINESS ADMINISTRATION

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Small business size standards:

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SOCIAL SECURITY ADMINISTRATION

Social security benefits, special veterans benefits, and supplemental security income:

Federal old age, survivors, and disability insurance, and aged, blind, and disabled—

Cross-program recovery of benefit overpayments; expanded authority; comments due by 2-2-05; published 1-3-05 [FR 04-28693]

OFFICE OF UNITED STATES TRADE REPRESENTATIVE

Trade Representative, Office of United States

Generalized System of Preferences:

2003 Annual Product Review, 2002 Annual Country Practices Review, and previously deferred product decisions; petitions disposition; Open for comments until further notice; published 7-6-04 [FR 04-15361]

TRANSPORTATION DEPARTMENT

Air travel; nondiscrimination on basis of disability:

Regulation update, reorganization, and clarification; statutory requirement to cover foreign air carriers; comments due by 2-2-05; published 11-4-04 [FR 04-24371]

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

Airworthiness directives:

Airbus; comments due by 1-31-05; published 12-16-04 [FR 04-27505]

Bell Helicopter Textron Canada; comments due by 1-31-05; published 12-1-04 [FR 04-26425]

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Federal Highway Administration

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TRANSPORTATION DEPARTMENT

Federal Railroad Administration

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TRANSPORTATION DEPARTMENT

National Highway Traffic Safety Administration

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TREASURY DEPARTMENT

Alcohol and Tobacco Tax and Trade Bureau

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Texoma area; Montague County, et al., TX; comments due by 1-31-05; published 11-30-04 [FR 04-26329]

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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