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

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

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket No. 04–118–1]

Karnal Bunt; Regulated Areas

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule and request for comments.

SUMMARY: We are amending the Karnal bunt regulations to make changes to the list of areas or fields regulated because of Karnal bunt, a fungal disease of wheat. We are adding certain areas in La Paz, Maricopa, and Pinal Counties, AZ, and Riverside County, CA, to the list of regulated areas either because they were found during surveys to contain a bunted wheat kernel, or because they are within the 3-mile-wide buffer zone around fields or areas affected with Karnal bunt. We are also removing certain areas or fields in Maricopa and Pinal Counties, AZ, and Imperial County, CA, from the list of regulated areas based on our determination that those fields or areas meet our criteria for release from regulation. These actions are necessary to prevent the spread of Karnal bunt to noninfected areas of the United States and to relieve restrictions on certain areas that are no longer necessary.

DATES: This interim rule is effective March 28, 2005. We will consider all comments that we receive on or before May 27, 2005.

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

- *EDOCKET:* Go to *http://www.epa.gov/feddocket* to submit or view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Once you have entered EDOCKET, click on the ''View Open APHIS Dockets'' link to locate this document.
- *Postal Mail/Commercial Delivery:* Please send four copies of your comment (an original and three copies) to Docket No. 04–118–1, Regulatory Analysis and Development, PPD, APHIS, Station 3C71, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comment refers to Docket No. 04–118–1.
- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov* and follow the instructions for locating this docket and submitting comments.

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

Other Information: You may view APHIS documents published in the **Federal Register** and related information on the Internet at *http://www.aphis.usda.gov/ppd/rad/webrepor.html.*

FOR FURTHER INFORMATION CONTACT: Dr. Vedpal Malik, Agriculturalist, Invasive Species and Pest Management, PPQ, APHIS, 4700 River Road Unit 134, Riverdale, MD 20737–1236; (301) 734–6774.

SUPPLEMENTARY INFORMATION:

Background

Karnal bunt is a fungal disease of wheat (*Triticum aestivum*), durum wheat (*Triticum durum*), and triticale (*Triticum aestivum* X *Secale cereale*), a hybrid of wheat and rye. Karnal bunt is caused by the smut fungus *Tilletia indica* (Mitra) Mundkur and is spread primarily through the movement of infected seed. Some countries in the international wheat market regulate Karnal bunt as a fungal disease requiring quarantine; therefore, without measures taken by the Animal and Plant Health Inspection Service (APHIS), United States Department of Agriculture, to prevent its spread, the presence of Karnal bunt in the United States could have significant consequences with regard to the export of wheat to international markets.

Upon detection of Karnal bunt in Arizona in March of 1996, Federal quarantine and emergency actions were imposed to prevent the interstate spread of the disease to other wheat producing areas in the United States. The quarantine continues in effect, although it has since been modified, both in terms of its physical boundaries and in terms of its restrictions on the production and movement of regulated articles from regulated areas. The regulations regarding Karnal bunt are set forth in 7 CFR 301.89–1 through 301.89–16 (referred to below as the regulations).

The regulations in § 301.89–3(e) provide that we will classify a field or area as a regulated area when it is:

- A field planted with seed from a lot found to contain a bunted wheat kernel;
- A distinct definable area that contains at least one field that was found during survey to contain a bunted wheat kernel. The distinct definable area may include an area where Karnal bunt is not known to exist but where intensive surveys are required because of the areas's proximity to a field found during survey to contain a bunted kernel; or
- A distinct definable area that contains at least one field that has been determined to be associated with grain at a handling facility containing a bunted kernel of a host crop. The distinct definable area may include an area where Karnal bunt is not known to exist but where intensive surveys are required because of the area's proximity to the field associated with the bunted kernel at the handling facility.

The boundaries of distinct definable areas are determined using the criteria in paragraphs (b) through (d) of § 301.89–3, which provide for the regulation of less than an entire State, the inclusion of noninfected acreage in a regulated area, and the temporary designation of nonregulated areas as regulated areas. Paragraph (c) of § 301.89–3 states that the Administrator may include noninfected acreage within a regulated area due to its proximity to an infestation or inseparability from the infected locality for regulatory purposes, as determined by:

- Projections of the spread of Karnal bunt along the periphery of the infestation;

• The availability of natural habitats and host materials within the noninfected acreage that are suitable for establishment and survival of Karnal bunt; and

• The necessity of including noninfected acreage within the regulated area in order to establish readily identifiable boundaries.

When we include noninfected acreage in a regulated area for one or more of the reasons previously listed, the noninfected acreage, along with the rest of the acreage in the regulated area, is intensively surveyed. Negative results from surveys of the noninfected acreage provide assurance that all infected acreage is within the regulated area. In effect, the noninfected acreage serves as a buffer zone between fields or areas affected with Karnal bunt and areas outside of the regulated area.

Under the regulations in § 301.89–3(f), a field known to have been infected with Karnal bunt, as well as any non-infected acreage surrounding the field, will be released from regulation if:

• The field is no longer being used for crop production; or

• Each year for a period of 5 consecutive years, the field is subjected to any one of the following management practices (the practice used may vary from year to year): (1) Planted with a cultivated non-host crop, (2) tilled once annually, or (3) planted with a host crop that tests negative, through the absence of bunted kernels, for Karnal bunt.

The regulations in § 301.89–3(g) describe the boundaries of the regulated areas in Arizona, California, and Texas. In this interim rule, we are amending § 301.89–3(g) by removing certain areas or fields in Maricopa and Pinal Counties, AZ, and Imperial County, CA, from the list of regulated areas, based on our determination that these fields or areas are eligible for release from regulation under the criteria in § 301.89–3(f). This action relieves restrictions on fields within those areas that are no longer warranted.

We are also adding certain areas in La Paz, Maricopa, and Pinal Counties, AZ, and Riverside County, CA, to the list of regulated areas either because the fields within those areas were found during detection and delineating surveys to contain a bunted wheat kernel, or because the fields within those areas fall within the 3-mile-wide buffer zone around fields affected with Karnal bunt. This action is necessary in order to help prevent the spread of Karnal bunt into noninfected areas of the United States.

Arizona

The list of regulated areas in Arizona includes individual fields and other distinct, definable areas in La Paz, Maricopa, and Pinal Counties. In this interim rule, we are removing 1,912 acres (77 fields) in Pinal County and 11,520 acres (63 fields) in Maricopa County from the list of regulated areas. We are taking this action based upon our determination that the fields or areas have met one or more of the criteria in § 301.89–3(f) of the regulations.

We are also adding new regulated areas in LaPaz, Maricopa, and Pinal Counties, AZ, due to the detection of bunted wheat kernels there or the application of the 3-mile-wide buffer zone around fields affected with Karnal bunt. These additional areas in La Paz, Maricopa, and Pinal Counties involve approximately 278,453 acres (6,343 fields).

California

The list of regulated areas in California includes areas in Imperial and Riverside Counties. In this interim rule, we are removing 3,241 acres (85 fields) in eastern Riverside County, and 4,470 acres (95 fields) in Imperial County. We are taking this action based upon our determination that the fields or areas have met one or more of the criteria in § 301.89–3(f). With this action, there are no longer any regulated areas in Imperial County.

We are also adding new regulated areas in Riverside County, CA, due to the detection of bunted wheat kernels there or the application of the 3-mile-wide buffer zone around fields affected with Karnal bunt. These additional regulated areas in Riverside County involve approximately 10,262 acres (186 fields).

Immediate Action

Immediate action is necessary to help prevent Karnal bunt from spreading to noninfected areas of the United States. This rule will also relieve restrictions on certain fields or areas that are no longer warranted. Under these circumstances, the Administrator has determined that prior notice and opportunity for public comment are contrary to the public interest and that there is good cause under 5 U.S.C. 553 for making this action effective less than 30 days after publication in the **Federal Register**.

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

Executive Order 12866 and Regulatory Flexibility Act

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

We are removing certain fields in Arizona and California from the list of regulated areas. The areas to be deregulated are located in Maricopa and Pinal Counties, AZ, and Imperial and Riverside Counties, CA. These fields are being deregulated based on our determination that they have met the criteria in § 301.89–3(f) for being released from regulation.

Additionally, we are adding certain fields in La Paz, Maricopa, and Pinal Counties, AZ, and Riverside County, CA, to the list of regulated areas. These areas are being added because they were found during surveys to contain a bunted wheat kernel, or because they are within the 3-mile-wide buffer zone around fields or areas affected with Karnal bunt.

Deregulating certain areas in Arizona and California will benefit producers in these areas who wish to produce host crops in the future. Deregulation will allow producers to move wheat grain and seed with no restrictions. Prior to this rule, any wheat, durum wheat, or triticale grown in those fields could be moved into or through a non-regulated area without restriction only if it first tested negative for bunted kernels. In addition, any wheat, durum wheat, or triticale grown in those fields could not be used as seed within or outside a regulated area unless it was tested and found free of bunted kernels and spores. Thus, deregulation allows for freer movement of grain and seed in those areas that are affected by this aspect of the interim rule.

The impact of this rule on individual producers is not likely to be significant. The elimination of restrictions will increase marketing opportunities for producers, with impacts on prices those producers may set for their wheat, durum wheat, or triticale. Producers whose fields are deregulated may enjoy increased market opportunities for any wheat, durum wheat, or triticale they grow in the future (*e.g.* the availability of export markets). They may also receive a higher commodity price for their wheat, durum wheat, or triticale, although any price changes would most likely be small. This is due in part to the perceived notion that wheat produced in a regulated area is of lower quality. Deregulation may remove this stigma.

Despite the increased ability to move grain and seed, as well as a potential

increase in the price received for wheat, the benefits to individual producers are not likely to be significant. There are several reasons for this. First, grain in regulated areas is tested for Karnal bunt at no charge to the producer. Thus, removing this testing requirement does not translate into a cost savings for producers, but merely eliminates an inconvenience. Second, little to no wheat seed will be grown in the affected areas of Maricopa and Pinal Counties, AZ, and Imperial and Riverside Counties, CA. In 2003, seed demand accounted for approximately 5.2 percent of total domestic wheat production. Given such a small percentage and the small size of the area in question relative to other wheat producing regions, it is not expected that this region will grow a significant amount of wheat for seed. Thus, the benefits associated with removing restrictions on the movement of seed are expected to be minimal in this area. Finally, as mentioned previously, the areas affected by the rule are very small players in the overall wheat market. In 2003, Maricopa and Pinal Counties accounted for only 0.07 and 0.14 percent of total U.S. wheat production, respectively, while Imperial and Riverside Counties accounted for 0.22 percent and 0.05 percent, respectively, of total production. Therefore, deregulation of these areas would not influence the price of wheat to a significant degree if at all.

Regulation of certain areas in La Paz, Maricopa, and Pinal Counties, AZ, and Riverside County, CA, is also unlikely to have a profound effect on individual producers. In this case, producers will still be allowed to transport and market their grain in non-regulated areas if it tests negative for bunted kernels. As stated above, this cost is borne by the government and not by individual producers, so producers are only affected by the inconvenience of testing. Further, little or no wheat seed is expected to be produced in these areas, so the restrictions on seed movement should be negligible. Finally, although producers may see a more limited market for their product and face lower prices, the influence of this wheat producing area is small. In 2003, the counties mentioned above together accounted for only 0.3 percent of total U.S. wheat production. Thus, any price changes would be very small.

The Regulatory Flexibility Act requires that agencies consider the economic impact of rule changes on small businesses, organizations, and governmental jurisdictions. Those most likely affected by this interim rule are producers whose fields have been added to the list of regulated areas. Additionally, those farmers whose fields have been removed from the list of regulated areas and plan to grow wheat in the future will also be affected. The number of producers likely to be affected by this interim rule is not expected to be large. Also, it is not expected that the interim rule will have a significant impact on the affected producers. The reasons for this are presented in the preceding paragraphs.

Producers affected by the interim rule are likely to be small in size based on the U.S. Small Business Administration (SBA) standards for wheat farmers, with supporting data from the 2002 Census of Agriculture (2002 Census), which is the most recent census available. The SBA classifies wheat producers with total annual sales of not more than $750,000 as small entities. According to 2002 Census data, there were a total of 7,294 farms in Arizona in 2002. Of this number, 91 percent had annual sales in 2002 of less than $500,000, which is well below the SBA's small entity threshold of $750,000 for wheat farms. The percentage of farms with annual sales of less than $500,000 in California out of a total of 79,631 farms was 90 percent. Therefore, these findings, in conjunction with those above, demonstrate that although most of the entities impacted by the rule are expected to be small, the impact on those entities is not expected to be significant.

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

Executive Order 12372

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

Executive Order 12988

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

Paperwork Reduction Act

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

List of Subjects in 7 CFR Part 301

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

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

PART 301—DOMESTIC QUARANTINE NOTICES

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

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

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

■ 2. In § 301.89–3, paragraph (g) is amended as follows:

■ a. Under the heading ''Arizona,'' by revising the entry for La Paz County to read as set forth below.

■ b. Under the heading ''Arizona,'' in the entry for Maricopa County, by revising paragraphs (1), (2), and (4) to read as set forth below.

■ c. Under the heading ''Arizona,'' by revising the entry for Pinal County to read as set forth below.

■ d. Under the heading ''California,'' by removing the entry for Imperial County and revising the entry for Riverside County to read as set forth below.

§ 301.89–3 Regulated areas.

* * * * *

(g) * * *

ARIZONA

La Paz County. Beginning at the northeast corner of sec. 19, T. 8 N., R. 20 W.; then south to the southeast corner of sec. 31, T. 7 N., R. 20 W.; then west to the northeast corner of sec. 2, T. 6 N., R. 21 W.; then south to the southeast corner of sec. 2, T. 6 N., R. 21 W.; then west to the southwest corner of sec. 2, T. 6 N., R. 21 W.; then south to the southeast corner of sec. 15, T. 6 N., R. 21 W., then west to the southwest corner of sec. 13, T. 6 N., R. 22 W.; then north to the northwest corner of sec. 24, T. 7 N., R. 22 W.; then east to the northeast corner of sec. 24, T. 7 N., R. 22 W.; then north to the point of intersection with the Colorado River; then northeast along the Colorado River to its intersection with the northern boundary of sec. 16, T. 8 N., R. 21 W.; then east to the northeast corner of sec. 14, T. 8 N., R. 21 W.; then south to the southeast corner of sec. 14, T. 8 N., R. 21 W.; then east to the point of beginning.

Maricopa County. (1) Beginning at the southeast corner of sec. 20, T. 1S., R. 2 E.; then west to the southwest corner of sec. 24, T. 1 S., R. 1 E.; then north to the northwest corner of sec. 24, T. 1 S., R. 1 E.; then west

to the southwest corner of sec. 14, T. 1 S., R. 1 E.; then north to the northwest corner of sec. 14, T. 1 S., R.1 E.; then west to the southwest corner of sec. 9, T. 1 S., R. 1 E.; then north to the northwest corner of sec. 9, T. 1 S., R. 1 E.; then west to the southwest corner of sec. 5, T. 1 S., R. 1 E.; then north to the northwest corner of sec. 5, T. 1 S., R. 1 E.; then west to the northeast corner of sec. 6, T. 1 S., R. 1 W.; then south to the southeast corner of sec. 7, T. 1 S., R. 1 W.; then west to the northeast corner of sec. 14, T. 1 S., R. 2 W.; then south to the southeast corner of sec. 14, T. 1 S., R. 2 W.; then west to the northeast corner of sec. 20, T. 1 S., R. 2 W.; then south to the southeast corner of sec. 20, T. 1 S., R. 2 W.; then west to the northeast corner of sec. 29, T. 1 S., R. 3 W.; then south to the southeast corner of sec. 29, T. 1 S., R. 3 W.; then west to the southwest corner of sec. 26, T. 1 S., R. 5 W.; then north to the northwest corner of sec. 14, T. 1 N., R. 5 W.; then east to the southwest corner of sec. 7, T. 1 N., R. 2 W.; then north to the northwest corner of sec. 7, T. 1 N., R, 2 W.; then east to the northeast corner of sec. 7, T. 1 N., R. 2 W.; then north to the northwest corner of sec. 5, T. 1 N., R, 2 W.; then east to the northeast corner of sec. 5, T. 1 N., R. 2 W.; then north to the northwest corner of sec. 28, T. 2 N., R 2 W.; then east to the northeast corner of sec. 28, T. 2 N., R. 2 W.; then north to the northwest corner of sec. 3, T. 3 N., R. 2 W.; then east to the northeast corner of sec. 1, T. 3 N., R. 1 W.; then south to the northwest corner of sec. 19, T. 3 N., R. 1 E.; then east to the northeast corner of sec. 20, T. 3 N., R. 1 E.; then south to the northeast corner of sec. 29, T. 3 N., R. 1 E.; then east to the northeast corner of sec. 27, 3 N., R. 1 E.; then south to the southeast corner of sec. 27, T. 3 N., R. 1 E.; then east to the northeast corner of sec. 35, T. 3 N., R. 1 E.; then south to the southeast corner of sec. 35, T. 3N., R. 1E.; then east to the northeast corner of sec. 1, T. 2 N., R. 1 E.; then south to the northeast corner of sec. 1, T. 1 N., R. 1 E.; then east to the northeast corner of sec. 4, T. 1 N., R. 2 E.; then south to the northwest corner of sec. 15, T. 1 N., R. 2 E.; then east to the northeast corner of sec. 15, T. 1 N., R. 2 E.; then south to the southeast corner of sec. 27, T. 1 N., R. 2 E.; then west to the southwest corner of sec. 27, T. 1 N., R. 2 E.; then south to the southwest corner of sec. 34, T. 1 N., R. 2 E.; then east to the northeast corner of sec. 3, T. 1 S., R. 2 E.; then south to the southeast corner of sec. 3, T. 1 S., R. 2 E.; then west to the southwest corner of sec. 3, T. 1 S., R. 2 E.; then south to the southeast corner of sec. 16, T. 1 S., R. 2 E.; then west to the southwest corner of sec. 16, T. 1 S., R. 2 E.; then south to the point of beginning.

(2) Beginning at the intersection of the Maricopa/Pinal County line and the southeast corner of sec. 36, T. 2 S., R. 7 E.; then west along the Maricopa/Pinal County line to the southwest corner of sec. 31, T. 2 S., R. 5 E.; then north to the southeast corner of sec. 25, T. 2 S., R. 4 E.; then west to the southwest corner of sec. 25, T. 2 S., R. 4 E.; then north to the southwest corner of sec. 13, T. 2 S., R. 4 E.; then west to the southwest corner of sec. 15, T. 2 S., R. 4 E.; then north to the northwest corner of sec. 3, T. 2 S., R. 4 E., then east to the southwest corner of sec. 35, T. 1 S., R. 4 E.; then north to the northwest corner of sec. 35, T. 1 S., R. 4 E.; then east to the northeast corner of sec. 33, T. 1 S., R. 5 E.; then north to the northwest corner of sec. 22, T. 1 S., R. 5 E.; then east to the northeast corner of sec. 19, T. 1 S., R. 6 E.; then north to the northwest corner of sec. 8, T. 1 S., R. 6 E.; then east to the southwest corner of sec. 3, T. 1 S., R. 6 E.; then north to the northwest corner of sec. 3, T. 1 S., R. 6 E; then east to the northeast corner of sec. 2, T. 1 S., R. 6 E.; then south to the southeast corner of sec. 2, T. 1 S., R. 6 E.; then east to the northeast corner of sec. 7, T. 1S., R. 7E.; then south to the northwest corner of sec. 5, T. 2 S., R. 7 E.; then east to the northeast corner of sec. 3, T. 2 S., R. 7 E.; then north to the northwest corner of sec. 35, T. 1 S., R. 7 E.; then east to the northeast corner of sec. 36, T. 1 S, R. 7 E. and the Maricopa/Pinal County line; then south along the Maricopa/Pinal County line to the point of beginning.

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(4) Beginning at the southeast corner of sec. 36, T. 2 N., R. 5 E.; then west to the southwest corner of sec. 31, T. 2 N., R. 5 E.; then north to the northwest corner of sec. 7, T. 2 N., R. 5 E.; then east to the northeast corner of sec. 12, T. 2 N., R. 5 E.; then south to the point of beginning.

Pinal County: (1) Beginning at the intersection of the Maricopa/Pinal County line and the northwest corner of sec. 31, T. 1 S., R. 8 E.; then east to the northeast corner of sec. 32, T. 1 S., R. 8 E.; then south to the northwest corner of sec. 4, T. 2 S., R. 8 E.; then east to the northeast corner of sec. 4, T. 2 S., R. 8 E., then south to the southeast corner of sec. 16, T. 2 S., R. 8 E.; then east to the northeast corner of sec. 22, T. 2 S., R. 8 E.; then south to the southeast corner of sec. 27, T. 2 S., R. 8 E.; then west to the southeast corner of sec. 28, T. 2 S., R. 8 E.; then south to the southeast corner of sec. 4, T. 3 S., R. 8 E.; then west to the northeast corner of sec. 8, T. 3 S., R. 8 E.; then south to the southeast corner of sec. 8, T. 3 S., R. 8 E.; then west to the southwest corner of sec. 12, T. 3 S., R. 7 E.; then north to the southeast corner of sec. 2, T. 3 S., R. 7 E.; then west to the northeast corner of sec. 9, T. 3 S., R. 6 E.; then south to the southeast corner of sec. 4, T. 4 S., R. 6 E.; then west to the southwest corner of sec. 5, T. 4 S., R. 6 E.; then north to the northwest corner of sec. 5, T. 4 S., R. 6 E.; then west to the southwest corner of sec. 34, T. 3 S., R. 5 E.; then north to the northwest corner of sec. 10, T. 3 S., R. 5 E.; then west to the southwest corner of sec. 6, T. 3 S., R. 5 E.; then north to the northwest corner of sec. 6, T. 3 S., R. 5 E. and the intersection of the Maricopa/Pinal County line; then east along the Maricopa/Pinal County line to the southeast corner of sec. 36, T. 2 S., R. 7 E.; then north along the Maricopa/Pinal County line to the point of beginning.

(2) Beginning at the southeast corner of sec. 5, T. 6 S., R. 4 E.; then west to the southwest corner of sec. 1, T. 6 S., R. 3 E.; then south to the southeast corner of sec. 14, T. 6 S., R. 3 E.; then west to the southwest corner of sec. 14, T. 6 S., R. 3 E.; then south to the southeast corner of sec. 22, T. 6 S., R. 3 E.; then west to the southwest corner of sec. 19, T. 6 S., R. 3 E.; then north to the southeast corner of sec. 13, T. 6 S., R. 2 E.; then west to the southwest corner of sec. 13, T. 6 S., R. 2 E.; then north to the southwest corner of sec. 25, T. 5 S., R. 2 E.; then west to the southwest corner of sec. 26, T. 5 S., R. 2 E.; then north to the northwest corner of sec. 35, T. 4 S., R. 2 E.; then east to the northeast corner of sec. 35, T. 4 S., R. 2 E.; then north to the northwest corner of sec. 25, T. 4 S., R. 2 E.; then east to the southwest corner of sec. 20, T. 4 S., R. 3 E.; then north to the northwest corner of sec. 20, T. 4 S., R. 3 E.; then east to the northeast corner of sec. 24, T. 4 S., R. 3 E.; then south to the northeast corner of sec. 25, T. 4S., R. 3E.; then east to the northeast corner of sec. 28, T. 4 S., R. 4 E.; then south to the northwest corner of sec. 34, T. 4 S., R. 4 E.; then east to the northeast corner of sec. 35, T. 4 S., R. 4 E.; then south to the northwest corner of sec. 1, T. 5 S., R. 4 E.; then east to the northeast corner of sec. 1, T. 5 S., R. 4 E.; then south to the southeast corner of sec. 1, T. 5 S., R. 4 E.; then west to the northeast corner of sec. 12, T. 5 S., R. 4 E.; then south to the southeast corner of sec. 24, T. 5 S., R. 4 E.; then west to the southwest corner of sec. 24, T. 5 S., R. 4 E.; then south to the northeast corner of sec. 35, T. 5 S., R. 4 E.; then west to the northwest corner of sec. 35, T. 5 S., R. 4 E.; then south to the southeast corner of sec. 37, T. 5 S., R. 4 E.; then west to the northwest corner of sec. 50, T. 5 S., R. 4 E.; then south to the southeast corner of sec. 49, T. 6 S., R. 4 E.: then west to the northeast corner of sec. 5, T. 6 S., R. 4 E.; then south to the point of beginning.

(3) The following individual fields in Pinal County are regulated areas: 309021804, 309042601, 309050104, 309050109, 309050122, 309050209.

CALIFORNIA

Riverside County. That portion of Riverside County known as the Palo Verde Valley (in part) bounded by a line drawn as follows: Beginning at the intersection of Neighbours Boulevard and West Hobson Way; then east on West Hobson Way to Arrowhead Boulevard; then north on Arrowhead Boulevard to West 11th Avenue; then east on West 11th Avenue to Defrain Boulevard; then north on Defrain Boulevard to 10th Avenue; then east on 10th Avenue to the southern boundary line of secs. 23 and 24, T. 6 S., R. 23 E.; then east along that boundary line to the California/Arizona State line; then south along the State line to the southern boundary line of secs. 25, 26, and 27, T. 8 S., R. 22 E.; then west along that boundary line to 36th Avenue; then west on 36th Avenue to Stephenson Boulevard; then north on Stephenson Boulevard to 34th Avenue; then west on 34th Avenue to Keim Boulevard; then north along an imaginary line to the intersection of 28th Avenue and Keim Boulevard; then north on Keim Boulevard to its northernmost point; then from that point northeast along an imaginary line to the intersection of Stephenson Boulevard and West 14th Avenue; then east along West 14th Avenue to Neighbours Boulevard; then north on Neighbours Boulevard to the point of beginning.

* * * * *

Done in Washington, DC, this 22nd day of March 2005.

Elizabeth E. Gaston,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 05–6029 Filed 3–25–05; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 985

[Docket No. FV04–985–2 IFR–A2]

Marketing Order Regulating the Handling of Spearmint Oil Produced in the Far West; Revision of the Salable Quantity and Allotment Percentage for Class 3 (Native) Spearmint Oil for the 2004–2005 Marketing Year

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule with request for comments.

SUMMARY: This rule further amends prior interim final rules that increased the quantity of Class 3 (Native) spearmint oil produced in the Far West that handlers may purchase from, or handle for, producers during the 2004–2005 marketing year. This rule increases the Native spearmint oil salable quantity by an additional 85,936 pounds from 1,267,562 pounds to 1,353,498 pounds, and the allotment percentage by an additional 4 percent from 59 percent to 63 percent. The Spearmint Oil Administrative Committee (Committee), the agency responsible for local administration of the marketing order for spearmint oil produced in the Far West, unanimously recommended this rule to avoid extreme fluctuations in supplies and prices and to help maintain stability in the Far West spearmint oil market.

DATES: Effective June 1, 2004, through May 31, 2005; comments received by April 25, 2005, will be considered prior to issuance of a final rule.

ADDRESSES: Interested persons are invited to submit written comments concerning this rule. Comments must be sent to the Docket Clerk, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue, SW., STOP 0237, Washington, DC 20250–0237; Fax: (202) 720–8938; E-mail: *moab.docketclerk@usda.gov*; or Internet: *http://www.regulations.gov*. All comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be made available for public inspection in the Office of the Docket Clerk during regular business hours, or can be viewed at: *http://www.ams.usda.gov/fv/moab.html*.

FOR FURTHER INFORMATION CONTACT: Susan M. Hiller, Northwest Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1220 SW Third Avenue, Suite 385, Portland, Oregon 97204; Telephone: (503) 326–2724, Fax: (503) 326–7440; or George Kelhart, Technical Advisor, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue, SW., STOP 0237, Washington, DC 20250–0237; Telephone: (202) 720–2491, Fax: (202) 720–8938.

Small businesses may request information on complying with this regulation by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue, SW., STOP 0237, Washington, DC 20250–0237; Telephone: (202) 720–2491, Fax: (202) 720–8938, or E-mail: *Jay.Guerber@usda.gov*.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Order No. 985, as amended (7 CFR part 985), regulating the handling of spearmint oil produced in the Far West (Washington, Idaho, Oregon, and designated parts of Nevada and Utah), hereinafter referred to as the ''order.'' The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.''

The Department of Agriculture (USDA) is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is not intended to have retroactive effect. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with USDA a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. A handler is afforded the opportunity for a hearing on the petition. After the hearing USDA would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review USDA's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

The initial salable quantity and allotment percentages for Scotch and Native spearmint oils for the 2004–2005 marketing year were recommended by the Committee at its October 8, 2003, meeting. The Committee recommended salable quantities of 766,880 pounds and 773,474 pounds, and allotment percentages of 40 percent and 36 percent, respectively, for Scotch and Native spearmint oils. A proposed rule was published in the **Federal Register** on January 23, 2004 (69 FR 3272). Comments on the proposed rule were solicited from interested persons until February 23, 2004. No comments were received. Subsequently, a final rule establishing the salable quantities and allotment percentages for Scotch and Native spearmint oils for the 2004–2005 marketing year was published in the **Federal Register** on March 22, 2004 (69 FR 13213).

Pursuant to authority contained in §§ 985.50, 985.51, and 985.52 of the order, the Committee has made unanimous Committee recommendations to increase the quantity of Native spearmint oil that handlers may purchase from, or handle for, producers during the 2004–2005 marketing year, which ends on May 31, 2005. An interim final rule was published in the **Federal Register** on October 21, 2004 (69 FR 61755), which increased the salable quantity from 773,474 pounds to 1,095,689 pounds, and the allotment percentage from 36 percent to 51 percent. Comments on the interim final rule were solicited from interested persons until December 20, 2004. No comments were received. In addition, an amended interim final rule was published in the **Federal Register** on February 23, 2005 (70 FR 8712), which further increased the salable quantity by 171,873 pounds to 1,267,562 pounds, and the allotment percentage by 8 percent to 59 percent. Comments on the amended interim final rule are being solicited from interested persons through April 25, 2005.

This rule further amends the interim final rule published on February 23, 2005, and is based on a unanimous Committee recommendation made at a meeting on February 23, 2005, to increase the salable quantity an additional 85,936 pounds from 1,267,562 pounds to 1,353,498 pounds, and the allotment percentage an

additional 4 percent from 59 percent to 63 percent.

The salable quantity is the total quantity of each class of oil that handlers may purchase from, or handle for, producers during a marketing year. The total salable quantity is divided by the total industry allotment base to determine an allotment percentage. Each producer is allotted a share of the salable quantity by applying the allotment percentage to the producer's individual allotment base for the applicable class of spearmint oil.

Taking into consideration the following discussion on adjustments to the Native spearmint oil salable quantity, the 2004–2005 marketing year salable quantity of 1,267,562 pounds is increased to 1,353,498 pounds.

The original total industry allotment base for Native spearmint oil for the 2004–2005 marketing year was established at 2,148,539 pounds and was revised at the beginning of the 2004–2005 marketing year to 2,148,410 pounds to reflect a 2003–2004 marketing year loss of 129 pounds of base due to non-production of some producers' total annual allotments. When the revised total allotment base of 2,148,410 pounds is applied to the originally established allotment percentage of 36 percent, the 2004–2005 marketing year salable quantity of 773,474 pounds was effectively modified to 773,428 pounds.

By increasing the salable quantity and allotment percentage, this further amended interim final rule makes an additional amount of Native spearmint oil available by releasing oil from the reserve pool. When applied to each individual producer, the 4 percent allotment percentage increase allows each producer to take up to an amount equal to 4 percent of their allotment base from their Native spearmint oil reserve. This action makes an additional 51,971 pounds of Native spearmint oil available to the market. This figure is less than the salable quantity increase because not all producers have enough native spearmint oil left in their reserves to take full advantage of this release.

The following table summarizes the Committee recommendation:

Native Spearmint Oil Recommendation

(A) Estimated 2004–2005 Allotment Base—2,148,539 pounds. This is the estimate that the original 2004–2005 Native spearmint oil salable quantity and allotment percentage was based on.

(B) Revised 2004–2005 Allotment Base—2,148,410 pounds. This is 129 pounds less than the estimated allotment base of 2,148,539 pounds. This is less because some producers failed to produce all of their 2003–2004 allotment.

(C) Initial 2004–2005 Allotment Percentage—36 percent. This was recommended by the Committee on October 8, 2003.

(D) Initial 2004–2005 Salable Quantity—773,474. This figure is 36 percent of 2,148,539 pounds.

(E) Revised 2004–2005 Salable Quantity—773,428 pounds. This figure reflects the salable quantity initially available after the beginning of the 2004–2005 marketing year due to the 129 pound reduction in the industry allotment base to 2,148,410 pounds.

(F) First Revision to the 2004–2005 Salable Quantity and Allotment Percentage

(1) Increase in Allotment Percentage—15 percent. The Committee recommended a 12 percent increase at its September 13, 2004, meeting and an additional 3 percent increase at its October 6, 2004, meeting, for a total increase of 15 percent, which was effective on October 21, 2004.

(2) 2004–2005 Allotment Percentage—51 percent. This figure was derived by adding the first revised increase of 15 percent to the initial 2004–2005 allotment percentage of 36 percent.

(3) Calculated 2004–2005 Salable Quantity—1,095,689 pounds. This figure is 51 percent of the revised 2004–2005 allotment base of 2,148,410 pounds.

(4) Computed Increase in the 2004–2005 Salable Quantity—322,262 pounds. This figure is 15 percent of the revised 2004–2005 allotment base of 2,148,410 pounds.

(G) Second Revision to the 2004–2005 Salable Quantity and Allotment Percentage

(1) Increase in Allotment Percentage—8 percent. The Committee recommended an 8 percent increase at its meeting on January 20, 2005, which was effective on February 23, 2005.

(2) 2004–2005 Allotment Percentage—59 percent. This figure was derived by adding the 8 percent to the first revised 2004–2005 allotment percentage of 51 percent.

(3) Calculated 2004–2005 Salable Quantity—1,267,562 pounds. This figure is 59 percent of the revised 2004–2005 allotment base of 2,148,410 pounds.

(4) Computed Increase in the 2004–2005 Salable Quantity—171,873 pounds. This figure is 8 percent of the revised 2004–2005 allotment base of 2,148,410 pounds.

(H) Third Revision to the 2004–2005 Salable Quantity and Allotment Percentage

(1) Increase in Allotment Percentage—4 percent. This was recommended by the Committee on February 23, 2005.

(2) 2004–2005 Allotment Percentage—63 percent. This figure was derived by adding the 4 percent to the second revised 2004–2005 allotment percentage of 59 percent.

(3) Calculated 2004–2005 Salable Quantity—1,353,498 pounds. This figure is 63 percent of the revised 2004–2005 allotment base of 2,148,410 pounds.

(4) Computed Increase in the 2004–2005 Salable Quantity—85,936 pounds. This figure is 4 percent of the revised 2004–2005 allotment base of 2,148,410 pounds.

In making this recommendation, the Committee considered all available information on price, supply, and demand. The Committee also considered reports and other information from handlers and producers in attendance at the meeting and the report given by the Committee manager from handlers and producers who were not in attendance. The 2004–2005 marketing year began on June 1, 2004. Handlers have reported purchases of 1,070,801 pounds of Native spearmint oil for the period of June 1, 2004, through February 15, 2005. This amount exceeds the five-year average of 899,979 pounds for this period by 170,822 pounds. On average, handlers indicated that the estimated total demand for the 2004–2005 marketing year could range from a minimum of 1,269,000 pounds to as much as 1,279,000 pounds. This amount exceeds the five-year average for an entire marketing year of 973,456 pounds by as little as 295,544 pounds and as much as 305,544 pounds. Therefore, based on past history, the industry may not be able to meet market demand without this increase. When the Committee made its initial recommendation for the establishment of the Native spearmint oil salable quantity and allotment percentage for the 2004–2005 marketing year, it had anticipated that the year would end with an ample available supply.

Based on its analysis of available information, USDA has determined that the salable quantity and allotment percentage for Native spearmint oil for the 2004–2005 marketing year should be increased to 1,353,498 pounds and 63 percent, respectively.

This amended rule further relaxes the regulation of Native spearmint oil and will allow for market needs and improve producer returns. In conjunction with the issuance of this rule, the Committee's revised marketing policy statement for the 2004–2005 marketing year has been reviewed by

USDA. The Committee's marketing policy statement, a requirement whenever the Committee recommends implementing volume regulations or recommends revisions to existing volume regulations, meets the intent of § 985.50 of the order. During its discussion of revising the 2004–2005 salable quantities and allotment percentages, the Committee considered: (1) The estimated quantity of salable oil of each class held by producers and handlers; (2) the estimated demand for each class of oil; (3) prospective production of each class of oil; (4) total of allotment bases of each class of oil for the current marketing year and the estimated total of allotment bases of each class for the ensuing marketing year; (5) the quantity of reserve oil, by class, in storage; (6) producer prices of oil, including prices for each class of oil; and (7) general market conditions for each class of oil, including whether the estimated season average price to producers is likely to exceed parity. Conformity with USDA's ''Guidelines for Fruit, Vegetable, and Specialty Crop Marketing Orders'' has also been reviewed and confirmed.

The increase in the Native spearmint oil salable quantity and allotment percentage allows for anticipated market needs for this class of oil. In determining anticipated market needs, consideration by the Committee was given to historical sales, and changes and trends in production and demand.

Initial Regulatory Flexibility Analysis

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities. Accordingly, AMS has prepared this initial regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and the rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are currently 8 handlers of spearmint oil who are subject to regulation under the marketing order and 98 producers of Class 3 (Native) spearmint oil in the regulated area. Small agricultural service firms are defined by the Small Business Administration (SBA) (13 CFR 121.201) as those having annual receipts of less than $5,000,000, and small agricultural producers are defined as those having annual receipts of less than $750,000.

Based on SBA's definition of small entities, the Committee estimates that 2 of the 8 handlers regulated by the order could be considered small entities. Most of the handlers are large corporations involved in the international trading of essential oils and the products of essential oils. In addition, the Committee estimates that 15 of the 98 Native spearmint oil producers could be classified as small entities under the SBA definition. Thus, a majority of handlers and producers of Far West spearmint oil may not be classified as small entities.

The Far West spearmint oil industry is characterized by producers whose farming operations generally involve more than one commodity, and whose income from farming operations is not exclusively dependent on the production of spearmint oil. A typical spearmint oil-producing operation has enough acreage for rotation such that the total acreage required to produce the crop is about one-third spearmint and two-thirds rotational crops. Thus, the typical spearmint oil producer has to have considerably more acreage than is planted to spearmint during any given season. Crop rotation is an essential cultural practice in the production of spearmint oil for weed, insect, and disease control. To remain economically viable with the added costs associated with spearmint oil production, most spearmint oil-producing farms fall into the SBA category of large businesses.

Small spearmint oil producers generally are not as extensively diversified as larger ones and as such are more at risk to market fluctuations. Such small producers generally need to market their entire annual crop and do not have the luxury of having other crops to cushion seasons with poor spearmint oil returns. Conversely, large diversified producers have the potential to endure one or more seasons of poor spearmint oil markets because income from alternate crops could support the operation for a period of time. Being reasonably assured of a stable price and market provides small producing entities with the ability to maintain proper cash flow and to meet annual expenses. Thus, the market and price stability provided by the order potentially benefit the small producer more than such provisions benefit large producers. Even though a majority of handlers and producers of spearmint oil may not be classified as small entities, the volume control feature of this order has small entity orientation.

This rule further amends an interim final rule that was published in the **Federal Register** on October 21, 2004 (69 FR 61755) and amended on February 23, 2005 (70 FR 8712). Specifically, the rule published on October 21, 2004, increased the salable quantity from 773,474 pounds to 1,095,689 pounds, and the allotment percentage from 36 percent to 51 percent for Native spearmint oil for the 2004–2005 marketing year. The rule that subsequently amended the interim final rule was published on February 23, 2005, and increased the salable quantity an additional 171,873 pounds to 1,267,562 pounds, and the allotment percentage an additional 8 percent to 59 percent. This rule further amends that interim final rule to increase the salable quantity an additional 85,936 pounds to 1,353,498 pounds, and the allotment percentage an additional 4 percent to 63 percent. This rule relaxes the regulation of Native spearmint oil and will allow producers to meet market needs and improve returns.

An econometric model was used to assess the impact that volume control has on the prices producers receive for their commodity. Without volume control, spearmint oil markets would likely be over-supplied, resulting in low producer prices and a large volume of oil stored and carried over to the next crop year. The model estimates how much lower producer prices would likely be in the absence of volume controls.

The recommended salable percentages, upon which 2004–2005 producer allotments are based, are 40 percent for Scotch and 63 percent for Native (a 27 percentage point increase from the original salable percentage of 36 percent). Without volume controls, producers would not be limited to these allotment levels, and could produce and sell additional spearmint. The econometric model estimated a $1.30 per pound decline in the season average producer price (for both classes of spearmint oil) resulting from the higher quantities that would be produced and marketed if volume controls were not used (*i.e.,* if the salable percentages were set at 100 percent). A previous price decline estimate of $1.71 per pound was based on the 2004–2005 salable percentages (40 percent for Scotch and 36 percent for Native) published in the **Federal Register** on March 22, 2004 (69 FR 13213).

The 2003 Far West producer price for both classes of spearmint oil was $9.50 per pound, which is below the average of $11.33 for the period of 1980 through 2002, based on National Agricultural Statistics Service data. The surplus situation for the spearmint oil market that would exist without volume

controls in 2004–2005 also would likely dampen prospects for improved producer prices in future years because of the buildup in stocks.

The use of volume controls allows the industry to fully supply spearmint oil markets while avoiding the negative consequences of over-supplying these markets. The use of volume controls is believed to have little or no effect on consumer prices of products containing spearmint oil and will not result in fewer retail sales of such products.

Based on projections available at the meetings, the Committee considered alternatives to the 4 percent increase. The Committee not only considered leaving the Native spearmint oil salable quantity and allotment percentage unchanged, but also looked at various increases ranging from 3 percent to 5 percent. The Committee reached its recommendation to again increase the salable quantity and allotment percentage for Native spearmint oil after careful consideration of all available information, and believes that the level recommended will achieve the objectives sought. Without the increase, the Committee believes the industry would not be able to meet market needs.

This rule will not impose any additional reporting or recordkeeping requirements on either small or large spearmint oil handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

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

Further, the Committee meetings were widely publicized throughout the spearmint oil industry and all interested persons were invited to attend the meetings and participate in Committee deliberations. Like all Committee meetings, the September 13, 2004, October 6, 2004, January 20, 2005, and the February 23, 2005, meetings were public meetings and all entities, both large and small, were able to express their views on each of the recommended increases in the 2004–2005 Native spearmint oil salable quantity and allotment percentage.

Finally, interested persons are invited to submit information on the regulatory and informational impacts of this action on small businesses.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at: *http://www.ams.usda.gov/fv/moab.html*. Any questions about the compliance guide should be sent to Jay Guerber at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

This rule invites comments on a revision to the salable quantity and allotment percentage for Native spearmint oil for the 2004–2005 marketing year. Comments must be received by April 25, 2005. This closing date is deemed appropriate to receive comments in a timely manner and this date corresponds to the ending date of the comment period for the amended interim final rule. Any comments received will be considered prior to finalization of this rule.

After consideration of all relevant material presented, including the Committee's recommendation, and other information, it is found that this further amended interim final rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it is also found and determined upon good cause that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice prior to putting this rule into effect and that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** because: (1) This rule increases the quantity of Native spearmint oil that may be marketed during the marketing year which ends on May 31, 2005; (2) the current quantity of Native spearmint oil may be inadequate to meet demand for the remainder of the marketing year, thus making the additional oil available as soon as is practicable is beneficial to both handlers and producers; (3) the Committee unanimously recommended this change at a public meeting and interested parties had an opportunity to provide input; and (4) this rule provides an appropriate comment period and any comments received will be considered prior to finalization of this rule.

List of Subjects in 7 CFR Part 985

Marketing agreements, Oils and fats, Reporting and recordkeeping requirements, Spearmint oil.

■ For the reasons set forth in the preamble, 7 CFR part 985 is amended as follows:

PART 985—MARKETING ORDER REGULATING THE HANDLING OF SPEARMINT OIL PRODUCED IN THE FAR WEST

■ 1. The authority citation for 7 CFR part 985 continues to read as follows:

Authority: 7 U.S.C. 601–674.

■ 2. In § 985.223, paragraph (b) is revised to read as follows:

[**Note:** This section will not appear in the annual Code of Federal Regulations.]

§ 985.223 Salable quantities and allotment percentages—2004–2005 marketing year.

* * * * *

(b) Class 3 (Native) oil—a salable quantity of 1,353,498 pounds and an allotment percentage of 63 percent.

Dated: March 23, 2005.

Kenneth C. Clayton,

Acting Administrator, Agricultural Marketing Service.

[FR Doc. 05–6081 Filed 3–23–05; 3:55 pm]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 993

[Docket No. FV05–993–1 FR]

Dried Prunes Produced in California; Increased Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This rule increases the assessment rate established for the Prune Marketing Committee (committee) under Marketing Order No. 993 for the 2004–05 and subsequent crop years from $4.00 to $6.00 per ton of salable dried prunes. The committee locally administers the marketing order which regulates the handling of dried prunes grown in California. Authorization to assess dried prune handlers enables the committee to incur expenses that are reasonable and necessary to administer the program. The committee recommended a higher assessment rate because the 2004–05 crop is very small, and the higher assessment rate is needed to generate funds to meet program expenses and provide an adequate financial reserve. The crop year began August 1 and ends July 31. The assessment rate will remain in effect indefinitely unless modified, suspended, or terminated.

EFFECTIVE DATE: March 29, 2005.

FOR FURTHER INFORMATION CONTACT: Toni Sasselli, Program Analyst, or Terry Vawter, Marketing Specialist, California Marketing Field Office, Fruit and Vegetable Programs, AMS, USDA, 2202 Monterey Street, Suite 102B, Fresno, California 93721; Telephone: (559) 487–5901; Fax (559) 487–5906; or George Kelhart, Technical Advisor, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue SW., STOP 0237, Washington, DC 20250–0237;

Telephone: (202) 720–2491, Fax: (202) 720–8938.

Small businesses may request information on complying with this regulation by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue SW., STOP 0237, Washington, DC 20250–0237; Telephone: (202) 720–2491, Fax: (202) 720–8938, or E-mail: *Jay.Guerber@usda.gov.*

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement No. 110 and Marketing Order No. 993, both as amended (7 CFR part 993), regulating the handling of dried prunes grown in California, hereinafter referred to as the ''order.'' The marketing agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.''

The Department of Agriculture (USDA) is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. Under the marketing order now in effect, California dried prune handlers are subject to assessments. Funds to administer the order are derived from such assessments. It is intended that the assessment rate as issued herein will be applicable to all assessable dried prunes beginning August 1, 2004, and continue until amended, suspended, or terminated. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with USDA a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. Such handler is afforded the opportunity for a hearing on the petition. After the hearing USDA would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review USDA's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

This rule increases the assessment rate established for the committee for the 2004–05 and subsequent crop years from $4.00 to $6.00 per ton of salable dried prunes.

The California dried prune marketing order provides authority for the committee, with the approval of USDA, to formulate an annual budget of expenses and collect assessments from handlers to administer the program. The members of the committee are producers and handlers of California dried prunes. They are familiar with the committee's needs and with the costs for goods and services in their local area and are thus in a position to formulate an appropriate budget and assessment rate. The assessment rate is formulated and discussed in a public meeting. Thus, all directly affected persons have an opportunity to participate and provide input.

The committee recommended an assessment rate of $4.00 per salable ton of prunes for the 2004–05 and subsequent crop years on June 23, 2004. USDA approved that assessment rate and published it in the **Federal Register** on September 28, 2004 (69 FR 55733.) That assessment rate was to continue in effect from crop year to crop year unless modified, suspended, or terminated by USDA upon recommendation and information submitted by the committee or other information available to USDA. At the time of the June 23 meeting, the estimated prune crop was expected to be 68,950 salable tons.

However, the committee met again on December 8, 2004, and unanimously recommended an increased assessment rate of $6.00 per ton of salable dried prunes and an increase in 2004–05 expenditures to $283,218. At its June 23, 2004, meeting, the committee recommended expenditures totaling $275,800. The assessment rate of $6.00 per ton is $2.00 higher than the rate currently in effect, and $4.00 per ton more than the assessment rate in effect during the 2003–2004 crop year.

The committee recommended a higher assessment rate because a very small crop was received by handlers during the crop year. The salable prune production this year is expected to be only 47,203 tons, the smallest crop since 1918. The assessment rate of $6.00 per ton is expected to provide sufficient funds for committee operations this year and provide an adequate financial reserve.

In comparison, the budgeted expenditures for the 2003–2004 crop year were $322,022 and the assessment rate was $2.00 per salable ton of prunes, based upon an estimated crop of 170,500 salable tons.

The following table compares the major budget expenditures recommended by the committee on December 8, 2004, and major budget expenditures in the previously-approved 2004–05 budget.

Budget expense categories	Approved budget 2004–05	Revised budget 2004–05
Total Personnel Salaries	$181,335	$178,335
Total Operating Expenses	84,931	75,431
Reserve for Contingencies	9,534	29,452

The assessment rate recommended by the committee was derived by dividing anticipated expenses by the estimated salable tons of California dried prunes. Production of dried prunes for the year is estimated to be 47,203 salable tons, which should provide $283,218 in assessment income. Income derived from handler assessments is expected to be adequate to cover budgeted expenses. The committee is authorized to use excess assessment funds from the 2004–05 crop year (currently estimated at $29,452) for up to 5 months beyond the end of the crop year to meet 2005–06 crop year expenses. At the end of the 5-month period, the committee must refund or credit excess funds to handlers, as prescribed by § 993.81(c).

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

Although this assessment rate will be in effect for an indefinite period, the committee will continue to meet prior to or during each crop year to recommend a budget of expenses and consider recommendations for modification of the assessment rate. The dates and times of committee meetings are available from the committee or USDA. Committee meetings are open to the public and interested persons may express their views at these meetings. USDA will evaluate committee recommendations and other available information to determine whether modification of the assessment rate is needed. Further rulemaking will be undertaken as necessary. The committee's 2004–05 budget and those for subsequent crop years will be reviewed and, as appropriate, approved by USDA.

Final Regulatory Flexibility Analysis

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Agricultural Marketing Service (AMS)

has considered the economic impact of this rule on small entities. Accordingly, AMS has prepared this final regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and the rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 1,100 producers of dried prunes in the production area and approximately 22 handlers subject to regulation under the marketing order. The Small Business Administration (13 CFR 121.201) defines small agricultural producers as those whose annual receipts are less than $750,000, and small agricultural service firms as those whose annual receipts are less than $5,000,000.

Eight of the 22 handlers (36.4 percent) shipped over $5,000,000 of dried prunes and could be considered large handlers by the Small Business Administration. Fourteen of the 22 handlers (63.6 percent) shipped under $5,000,000 of dried prunes and could be considered small handlers. An estimated 32 producers, or less than 3 percent of the 1,100 total producers, would be considered large growers with annual income over $750,000. Therefore, the majority of handlers and producers of California dried prunes may be classified as small entities.

This rule increases the assessment rate established for the committee and collected from handlers for the 2004–05 and subsequent crop years from $4.00 to $6.00 per ton of salable dried prunes. The committee unanimously recommended revised 2004–05 expenditures of $283,218 and an increased assessment rate of $6.00 per ton of salable dried prunes at the meeting on December 8, 2004. The recommended expenditures are slightly higher than the committee's initial estimate of $275,800 for 2004–05. The assessment rate of $6.00 per ton is $2.00 higher than the current rate. The quantity of salable dried prunes for the 2004–05 crop year is now estimated at 47,203 salable tons. Thus, the $6.00 rate should provide $283,218 in assessment income and be adequate to meet this year's expenses.

The following table compares the major budget expenditures recommended by the committee on December 8, 2004 and major budget expenditures in the previously-approved 2004–05 budget.

Budget expense categories	Approved budget 2004–05	Revised budget 2004–05
Total Salaries	$181,335	$178,331
Operating Expenses	84,931	75,431
Reserve for Contingencies	9,534	29,452

Prior to arriving at its budget of $283,218, the committee considered information from various sources, such as the committee's Executive Subcommittee. An alternative to this action would be to continue with the $4.00 per ton assessment rate. However, an assessment rate of $4.00 per ton in combination with the estimated crop of 47,203 salable tons would not generate sufficient monies to fund all the budget items for 2004–05 and provide an adequate financial reserve. The assessment rate of $6.00 per ton of salable dried prunes was determined by dividing the total recommended budget by the estimated salable dried prunes. The committee is authorized to use excess assessment funds from the 2004–05 crop year (currently estimated at $29,452) for up to 5 months beyond the end of the crop year to fund 2005–06 crop year expenses. At the end of the 5-month period, the committee must refund or credit excess funds to handlers, as prescribed by § 993.81(c). Anticipated assessment income collected during 2004–05 would be adequate to cover authorized expenses.

The grower price for the 2004–05 crop year is expected to average about $750 per salable ton of dried prunes. Based on an estimated 47,203 salable tons of dried prunes, assessment revenue during the 2004–05 crop year is expected to be less than 1 percent of the total expected grower revenue.

This action increases the assessment obligation imposed on handlers. While assessments impose some additional costs on handlers, the costs are minimal and uniform on all handlers. Some of the additional costs may be passed on to producers. However, these costs are offset by the benefits derived by the operation of the marketing order. In addition, the committee's meeting was widely publicized throughout the California dried prune industry and all interested persons were invited to attend the meeting and participate in committee deliberations on all issues. Like all committee meetings, the December 8, 2004, meeting was a public meeting and all entities, both large and small, were able to express views on this issue.

This rule imposes no additional reporting or recordkeeping requirements on either small or large California dried prune handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

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

A proposed rule concerning this action was published in the **Federal Register** on February 4, 2005 (70 FR 5944). Copies of the proposed rule were also provided to prune handlers. Finally, the proposal was made available through the Internet by USDA and the Office of the Federal Register. A 30-day comment period ending on March 7, 2005, was provided for interested persons to respond to the proposal. No comments were received.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at: *http://www.ams.usda.gov/fv/moab/html*. Any questions about the compliance guide should be sent to Jay Guerber at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

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

Pursuant to 5 U.S.C. 553, it also found and determined that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** because the 2004–05 crop year began on August 1, 2004, and the marketing order requires that the rate of assessment for each crop year apply to all assessable prunes handled during the crop year. Further, the Committee needs sufficient funds to pay its expenses which are incurred on a continuous basis. Handlers are aware of this rule which was unanimously recommended at a public meeting. Also, a 30-day comment period was provided for in the proposed rule and no comments were received.

List of Subjects in 7 CFR Part 993

Marketing agreements, Plums, Prunes, Reporting and recordkeeping requirements.

■ For the reasons set forth in the preamble, 7 CFR part 993 is amended as follows:

PART 993—DRIED PRUNES PRODUCED IN CALIFORNIA

■ 1. The authority citation for 7 CFR part 993 continues to read as follows:

Authority: 7 U.S.C. 601–674.

■ 2. Section 993.347 is revised to read as follows:

§ 993.347 Assessment rate.

On and after August 1, 2004, an assessment rate of $6.00 per ton is established for California dried prunes.

Dated: March 22, 2005.

Kenneth C. Clayton,

Acting Administrator, Agricultural Marketing Service.

[FR Doc. 05–5984 Filed 3–25–05; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 94

[Docket No. 02–002–2]

Classical Swine Fever Status of Mexican States of Campeche, Quintana Roo, Sonora, and Yucatan

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are amending the regulations by adding the Mexican States of Campeche, Quintana Roo, Sonora, and Yucatan to the lists of regions considered free of classical swine fever (CSF). We have conducted a series of risk evaluations and have determined that these four States have met our requirements for being recognized as free of this disease. This action allows the importation into the United States of pork, pork products, live swine, and swine semen from these regions. In addition, this rule requires live swine, pork, and pork products imported into the United States from the four Mexican States to be certified as having originated in one of those States or in another region recognized by the Animal and Plant Health Inspection Service as free of CSF and as not having been commingled, prior to export to the United States, with animals and animal products from regions where CSF exists.

DATES: *Effective Date:* April 12, 2005.

FOR FURTHER INFORMATION CONTACT: Dr. Hatim Gubara, Staff Veterinarian, Regionalization Evaluation Services Staff, National Center for Import and Export, VS, APHIS, 4700 River Road Unit 38, Riverdale, MD 20737–1231; (301) 734–4356.

SUPPLEMENTARY INFORMATION:

Background

The Animal and Plant Health Inspection Service (APHIS) of the United States Department of Agriculture (USDA) regulates the importation of animals and animal products into the United States to guard against the introduction of animal diseases not currently present or prevalent in this country. The regulations pertaining to the importation and exportation of animals and animal products are set forth in the Code of Federal Regulations (CFR), title 9, chapter I, subchapter D (9 CFR parts 91 through 99).

On September 30, 2002, we published in the **Federal Register** (67 FR 61293–61300, Docket No. 02–002–1) a proposal to amend the regulations in §§ 94.9 and 94.10 by adding the Mexican States of Campeche, Quintana Roo, Sonora, and Yucatan to the lists of regions considered free of classical swine fever (CSF), thus relieving restrictions on the importation into the United States of pork, pork products, live swine, and swine semen from these regions. We also proposed to remove references to those four States in § 94.15(b) because we believed that paragraph, which, among other things, governs the transiting through the United States of pork and pork products not otherwise eligible for entry into the United States under part 94, would no longer apply to those States once they were recognized as CSF-free. Finally, we proposed to remove § 94.21, which contained provisions for the importation of pork and pork products from Sonora and Yucatan, because our recognition of those two Mexican States as free of CSF meant that those provisions would no longer apply.

Note: Since the proposed rule's publication, §§ 94.19 through 94.25 have been redesignated as §§ 94.20 through 94.26, respectively. Throughout this final rule, we use the current section numbers in part 94. Thus, where the proposed rule referred to § 94.20, this final rule refers to § 94.21.

We solicited comments concerning our proposal for 60 days ending November 29, 2002. We received one comment by that date. It was from a domestic pork producers' association.

The commenter opposed the proposal, raising a number of issues that we will discuss in the paragraphs that follow. Areas of concern mentioned by the commenter included APHIS' risk assessment methodology; the conditions under which live swine and swine semen would be imported from the four Mexican States; the possibility that imports of those two commodities, in particular, could transmit not only CSF to U.S. herds but other diseases as well; the conditions under which pork and pork products would be imported into the United States from the four Mexican States; the adequacy of controls on the movement of products from CSF-affected regions into the four Mexican States; the possibility of commingling of products originating in the four States with products imported into those States from surrounding CSF-affected regions; swine identification and traceback in Mexico; and the adequacy of some aspects of the veterinary infrastructure in the four Mexican States.

The commenter noted that for a separate CSF-related rulemaking, APHIS conducted a risk analysis that included quantitative risk assessments for live swine, swine semen, and pork. (The rulemaking cited by the commenter involved the recognition of a region in the European Union (EU) consisting of Austria, Belgium, Greece, the Netherlands, Portugal, and parts of Germany and Italy as free of CSF; that rulemaking was completed with the publication of a final rule in the **Federal Register** (68 FR 16922–16940, Docket No. 98–090–5) on April 7, 2003.) The commenter stated that risk analyses conducted for our September 2002 proposed rule regarding the four Mexican States did not include separate assessments for live swine and swine semen, even though, in general, there are higher levels of risk associated with importing live animals and germ plasm than with importing pork and pork products. The commenter requested an explanation of the apparent disparity in the risk determination procedures used in the two rulemakings.

In conducting the analyses that provided the basis for our September 2002 proposed rule concerning Campeche, Quintana Roo, Sonora, and Yucatan, we used our standard approach, which is described in § 92.2 of the regulations, and we found the risk of CSF transmission to the United States via imports from these four Mexican States to be low. Historically, we have not conducted separate risk analyses for live swine and swine semen in similar rulemakings. Our typical approach when evaluating a region for disease-free status has been to conduct qualitative analyses. Regions that have met criteria for disease freedom, such as the four Mexican States covered by this rulemaking, are typically those that have not reported an outbreak of the relevant disease in many years, do not allow vaccinations that might mask

disease, and whose products are considered to present a relatively low risk for disease transmission. Regions for which quantitative analyses are conducted, on the other hand, are typically those which a qualitative evaluation suggests might be associated with a higher level of risk due to the presence of such risk factors as recent disease outbreaks or a continuing program of vaccination. One such risk factor that influenced our approach to the EU risk analysis cited by the commenter was the presence of CSF in wild boars in the EU. That risk factor was not known to exist in the four Mexican States. The EU rule was also much larger in scope than our September 2002 proposed rule, involving various countries within the EU and regions within EU countries.

The commenter pointed out that the risk evaluation documentation supporting equivalent rulemaking involving Baja California, Baja California Sur, Chihuahua, and Sinaloa—a final rule covering the CSF status of those four Mexican States was published in the **Federal Register** (68 FR 47835–47842) on August 12, 2003—included probability functions for commercial and backyard herds, while the documentation for the September 2002 proposed rule did not include these mathematical results.

In the rulemaking involving Baja California, Baja California Sur, Chihuahua, and Sinaloa, information that lent itself to the type of analysis cited by the commenter was made available to us by the Mexican Government. We did not require the Mexican Government to furnish that information, however, and do not routinely require such information. Generally, our qualitative risk analyses do not include probability functions.

The commenter also suggested that the risk analyses that provided the basis for the current rulemaking did not accord with the recommendations of the Office International des Epizooties (OIE) for conducting such analyses. OIE recommends that an import risk analysis contain four components: Release assessment, exposure assessment, consequence assessment, and risk estimation. According to the commenter, neither our evaluation of the three Yucatan Peninsula States nor our evaluation of Sonora contained exposure or consequence assessments.

We believe that the risk analyses that we conducted for the four Mexican States did conform to OIE guidelines. The evaluation we conducted was a release assessment. The OIE guidelines state that, if the release assessment demonstrates no significant risk, the risk assessment may conclude at that point. Because we determined the risk values for release to be small, we did not conduct exposure or consequence assessments.

Noting the higher risk of disease transmission associated with live swine and swine semen relative to that of pork or pork products, the commenter requested additional information about the conditions under which live swine would be imported into the United States from the four Mexican States covered by this rulemaking and about the types, locations, biosecurity policies, etc., of the semen centers that would have the potential to ship semen for use in U.S. swine herds.

Though this final rule allows imports of live swine and swine semen from Campeche, Quintana Roo, Sonora, and Yucatan, we do not intend to issue import permits for live swine and swine semen from Mexico until we have resolved several issues related to the presence of blue eye disease in Mexico (those issues are discussed in greater detail later in this document). We are confident that once the blue eye disease issue is settled, the regulations will provide for the safe importation into the United States of live swine and swine semen from the four Mexican States.

Live swine may be imported into the United States only in accordance with §§ 93.500 through 93.521. These sections include, among other things, requirements for import permits, health certification, inspection and cleaning of conveyances used to transport swine, inspection of swine at the port of entry, and quarantine methods and facilities. Section 93.507, which pertains to port-of-entry inspection, provides that only those swine found to be free of communicable diseases and not to have been exposed to communicable diseases in the 60 days prior to their importation are eligible for entry. Section 93.510 requires that all imported swine be quarantined for a period of not less than 15 days, dating from the arrival of the swine at the port of entry. For the most part, the regulations in part 93 provide effective prevention against transmission of CSF to the U.S. swine population by means of imports of live swine. As we noted in the preamble to our August 2003 final rule covering Baja California, Baja California Sur, Chihuahua, and Sinaloa, however, a review of the regulations led us to determine that we needed to provide more protection against the possible commingling of live swine from certain CSF-free regions with swine from other regions before the eligible swine are exported to the United States. In that final rule, we added to 9 CFR part 94 a new § 94.24 (as noted, that section has since been redesignated as § 94.25), which contained a certification requirement intended to ensure that live swine, as well as pork and pork products, imported from Baja California, Baja California Sur, Chihuahua, and Sinaloa originated in one of those States or in another region recognized by APHIS as free of CSF and that, prior to export to the United States, such animals and animal products have not been commingled with animals and animal products from regions where CSF exists. The risk factors cited in connection with imports from those four CSF-free Mexican States—they supplement their pork supplies with fresh (chilled or frozen) pork imported from regions designated in §§ 94.9 and 94.10 as being affected by CSF, share a common land border with CSF-affected regions, or import live swine from CSF-affected regions under conditions less restrictive than would be acceptable for importation into the United States—also apply to Campeche, Quintana Roo, Sonora, and Yucatan. Therefore, in this final rule, in addition to adding Campeche, Quintana Roo, Sonora, and Yucatan to the lists in §§ 94.9 and 94.10 of regions where CSF is not known to exist, we are also adding those four Mexican States to the list of regions in § 94.25 to which certification requirements apply to live swine, pork, and pork products.

Swine semen may be imported into the United States only in accordance with §§ 98.30 through 98.36. These sections include requirements for the inspection, unloading, cleaning, and disinfection of aircraft, other means of conveyance, and shipping containers used to move animal semen into the United States; import permits; and health certificates and other documents. Part 98 also offers protection against the commingling of animal semen from disease-free and disease-affected regions. Paragraph (b) of § 98.31 states that animal semen may not be imported into the United States from any region other than that in which it was collected. Paragraph (f) of § 98.35 requires that all shipping containers carrying animal semen for importation into the United States must be sealed with an official seal of the national veterinary service of the region of origin. Also, under part 98, import permits for semen may be denied because of, among other things, communicable disease conditions in the region of origin or in a region through which the shipment has been or will be transported. Taken together, these and other provisions in part 98 make the prospect of CSF

transmission to U.S. swine herds via the importation of swine semen from Campeche, Quintana Roo, Sonora, and Yucatan very unlikely. As we noted in the preamble to the August 2003 final rule, we did not think it necessary to make any changes in the regulations pertaining to semen.

Another concern expressed by the commenter, who raised the same issue in connection with the rulemaking covering Baja California, Baja California Sur, Chihuahua, and Sinaloa, was that allowing the importation of live swine and swine semen from Campeche, Quintana Roo, Yucatan, and Sonora could increase the risk of infection of U.S. swine herds with diseases such as pseudorabies, vesicular stomatitis, and blue eye disease.

The inspection, permitting, certification, and quarantine provisions in part 93 allow APHIS to screen imported live swine for pseudorabies and to take effective measures to prevent its spread, including refusal of entry. Under § 93.507, APHIS may refuse entry to swine found upon inspection at the port of entry to have a communicable disease or to have been exposed to such a disease within 60 days of their exportation to the United States. Live swine from Mexico are not considered likely to transmit vesicular stomatitis to U.S. herds, and we do not require testing of either live swine or other species from Mexico for that disease. Blue eye disease does provide some cause for concern. Although several laboratory tests have been developed for the detection of that disease, none has been validated or is commercially available in the United States. Moreover, APHIS does not have current and complete information on the geographic distribution of blue eye disease in Mexico. In the absence of specific clinical signs, a reliable laboratory test, and complete epidemiological information, specific mitigation measures for blue eye disease of swine are difficult to design. Under § 93.504(a)(3), however, APHIS may deny permits for the importation of live swine due to communicable disease conditions in the region of origin, among other reasons. Similarly, under § 98.34(a)(3), APHIS may deny import permits for animal semen because of communicable disease conditions in the region of origin, among other reasons. We intend to rely on our authority under 9 CFR parts 93 and 98 to support our decision not to issue any permits for the importation of live swine and swine semen from any Mexican States until the issue of blue eye disease can be addressed more comprehensively. With that goal in mind, APHIS intends to collect information and conduct an assessment of the risk of introducing blue eye disease in live swine and swine semen imported from Mexico.

The commenter also questioned why the import conditions we proposed to apply to pork and pork products from Campeche, Quintana Roo, Sonora, and Yucatan differed from the provisions already in place in § 94.21 for the importation of those commodities from Sonora and Yucatan. Among other things, § 94.21 includes requirements that pork or pork products from Yucatan and Sonora be derived from swine that were born and raised in Sonora or Yucatan and slaughtered in Sonora or Yucatan at a federally inspected slaughter plant that is under the direct supervision of a full-time salaried veterinarian of the Government of Mexico; that, if processed, the pork or pork product was processed in either Sonora or Yucatan in a federally inspected processing plant that is under the direct supervision of a full-time salaried veterinarian of the Government of Mexico; that the pork or pork product has not been in contact with pork or pork products from any State in Mexico other than Sonora or Yucatan or from any other region not recognized as CSF-free; and that the shipment of pork or pork products has not been in any State in Mexico other than Sonora or Yucatan or in any other region not recognized as CSF-free en route to the United States, unless it has been shipped in sealed containers. Since we proposed to remove § 94.21, the commenter asked why we thought such mitigations were no longer needed.

Risk evaluations carried out during the 1990s led APHIS to conclude that pork and pork products could safely be imported into the United States from Yucatan and Sonora under conditions designed to prevent the commingling of such products prior to exportation with pork and pork products from surrounding regions with lower CSF status. Consequently, on January 11, 2000, we published in the **Federal Register** (65 FR 1529–1537, Docket No. 97–079–2) the final rule setting out the conditions for imports from those two Mexican States. Unlike the current rulemaking, however, the January 2000 final rule did not recognize Yucatan and Sonora as free of CSF. Generally, import requirements tend to be less stringent for disease-free than for disease-affected regions, so it was to be expected that the requirements described in our September 2002 proposed rule would not be as rigorous as those imposed on Sonora and Yucatan in the earlier rulemaking. Our subsequent review of the regulations, however, led us to incorporate most of the safeguards against the commingling of pork and pork products prior to importation into the United States that were contained in § 94.21 into the certification requirements of § 94.25. Under this final rule, imports of pork and pork products from Campeche, Quintana Roo, Yucatan, and Sonora will have to meet the certification requirements of § 94.25.

The commenter also requested more information regarding the location, disease status, and surveillance of feral swine populations in Mexico. Such information would be helpful, according to the commenter, in understanding the risk of CSF transmission across the feral-domestic swine interface in Mexico.

Populations of feral swine exist in most Mexican States. There are no specific surveillance programs in effect for these populations; therefore, no definitive statements can be made about their health status. We only view feral swine as a cause for concern if such animals are transmitting disease to swine being raised for slaughter. We have no evidence to suggest that this is happening or that CSF is circulating or has ever circulated in feral swine in Mexico. In addition, we do not currently conduct CSF surveillance in feral swine within the continental United States, where there is also no evidence to suggest that CSF is circulating in feral swine. Therefore, in view of our obligation under the World Trade Organization-Sanitary and Phytosanitary Measures agreement not to impose discriminatory measures on other countries, we do not think it appropriate to require Mexico to conduct CSF surveillance in feral swine.

The commenter noted that the feeding of CSF-infected meat waste to swine is known to be one of the principal means of introducing CSF into previously free areas and that our supporting documents suggested that the majority of waste food feeding occurs in backyard farms. According to the commenter, while feeding of waste food from airlines within CSF eradication zones is not permitted, feeding of other waste food is unregulated. The commenter requested information on what risk mitigation strategies were considered in APHIS' risk estimation, given the potential for interaction between backyard and feral swine, and the possibility of unregulated waste food being fed to backyard swine.

Safeguards are in place in Mexico to prevent the transmission of CSF by means of feeding CSF-infected waste meat to swine. In CSF-free Mexican States and States undergoing eradication, the feeding of table scraps

to swine is prohibited, in both commercial and backyard operations. Backyard swine are fed on their owners' premises, where wild swine are not given access to the food. In the unlikely event that backyard swine in a CSF-free zone could have access to table scraps, these scraps would include pork from the same free zone or from another zone with the same health status, since it is forbidden to introduce raw pork or raw pork byproducts from an area in the control or eradication phase into a CSF-free zone.

Noting that producers provide significant funding for animal health activities in the four Mexican States, including laboratory facilities and functions in some States, the commenter questioned whether APHIS could be assured that these responsibilities would be properly carried out when producers had significant market downturns that decreased their income and their ability to maintain their commitments to disease programs.

As we noted in both the risk analyses for the four Mexican States and the proposed rule, for both economic and animal health reasons, the swine industry in the Yucatan Peninsula and Sonora is committed to producing quality hogs and maintaining CSF-free status. Industry leaders have demonstrated awareness of animal disease control measures necessary to ensure the maintenance of a healthy and productive animal industry. The eradication of CSF from the four Mexican States was largely due to the dedication and persistence of the industry and to its willingness to work with animal health officials to ensure that the disease is not reintroduced.

The commenter also requested information on the status of a national swine identification program in Mexico, on how slaughtered swine are traced back to their farms of origin, and on whether traceback of live swine or semen importations could be done if needed.

There is no official national system for the individual identification of swine in Mexico, so each farm or State or regional swine-producers' union or association establishes its own local registration system among its members. An official Mexican standard is now being drafted that will make it possible to have a uniform identification system, which for swine will entail an individual identification in the form of an eartag or tattoo containing information about the State of origin and a consecutive number for the animal assigned by the Federal Secretariat for Agriculture, Livestock, Rural Development, Fisheries and Food Safety (SAGARPA), under the control of the State Livestock Promotion and Protection Committees.

There is an adequate system in place in Mexico to ensure that slaughtered swine can be traced back to their premises of origin. The federally inspected abattoirs (the Spanish acronym is TIF) have government veterinarians who inspect the animals ante and post mortem. Each lot of animals is placed in a pen, and each animal is identified with the pen number. There is a slaughter schedule that takes the animals pen by pen. In the event that any abnormality is detected during the inspection, the lot to which the animal belongs can be determined from the plant's records, which include information concerning the identity of the farm of origin. Municipal abattoirs keep logbooks containing information on the animals' origins.

Mexico is also able to trace back shipments of live swine and swine semen to their premises of origin. Shipments of live swine and swine semen, whether imported into Mexico from another country or moving within Mexico, must be accompanied by animal health certificates. According to Article 24 of Mexico's Federal Animal Health Law, the animal health certificate must contain, among other things, information regarding the place of origin and specific destination of the animals, animal products, or other materials in the shipment. This required information makes traceback possible when needed.

Noting that in the site visit report for the Yucatan Peninsula, APHIS had recommended that Mexican laboratories obtain a source of CSF-infected, gamma-irradiated (virus inactivated) tissue for use as a positive control for the CSF fluorescent antibody tissue section test, the commenter asked whether this recommendation had been followed.

It was not possible to carry out the recommendation to obtain CSF-infected, gamma-irradiated tissue because neither of the two national reference laboratories has performed this process and it is not required for authorizing clinical diagnostic laboratories. The Regional Central Laboratory in Merida, Yucatan, is authorized to perform the immunoperoxidase, enzyme-linked immunosorbent assay, and immunofluorescence test for CSF, however, for which it uses a conjugate prepared by PRONABIVE and a monoclonal conjugate prepared by the University of Iowa. The laboratory does not use a positive control, since the State of Yucatan is a CSF-free zone, and it would be hazardous to have virus samples or tissue with virus in such a zone.

The commenter expressed some concern about a statement in our site visit report for the Yucatan Peninsula States that could be interpreted as indicating that authorized industry associations could set movement control rules.

The technical guidelines for movements of swine and pork products and byproducts nationwide in Mexico are contained in NOM–037–ZOO–1995, National Classical Swine Fever Campaign, and compliance is compulsory throughout all of Mexico. Under these guidelines, no industry association may establish any movement control rules, but such associations may be authorized by SAGARPA to issue the animal health certificates required for animal movements. For an industry association to issue animal health certificates, it must have a veterinarian authorized to do so, must be a member of one of Mexico's five national certification bodies, and must meet all applicable requirements set forth in NOM–037–ZOO–1995.

The commenter also discussed some narrower issues pertaining to the individual States covered by the proposed rule. Areas of concern included the veterinary infrastructure of the individual States, the disease status of adjacent regions, and movement controls.

The commenter noted that the documents supporting the current rulemaking indicated that, within the Federal component of the Mexican animal health infrastructure, 109 veterinarians are currently certified to treat CSF and pseudorabies, yet none of them reside in Campeche. The commenter expressed the concern that the lack of such certified veterinarians in Campeche could cause delays in the diagnosis of these diseases.

We do not believe that the lack of veterinarians residing in Campeche would result in delays in diagnosing CSF or pseudorabies in that State because State and Federal personnel, working in concert, provide adequate coverage. Under the National Epidemiological Surveillance System, continuous surveys are conducted of both technically advanced and backyard swine production facilities for these and other diseases, and followup action is taken where necessary.

Samples are obtained from both types of facilities by SAGARPA and State veterinarians, who are supported by the State Livestock Promotion and Protection Committee. In addition, the official animal health infrastructure in

the State encompasses the operations of laboratories, slaughterhouses, checkpoints, and quarantine stations, and the control of movements of animals and animal products.

Noting that there were six animal health centers located in the State of Campeche but that none was authorized to diagnose CSF, the commenter asked whether the State had received expected funding that could result in such authorization.

While the funding has not yet materialized, diagnostic support for Campeche is currently available from the Regional Central Laboratory in Merida, Yucatan, which is approved to diagnose CSF and provides regional service for Yucatan, Campeche, and Quintana Roo. Moreover, since Campeche is an area that is free of CSF, the Exotic Animal Disease Commission's (EADC's) high-security laboratory in Mexico City provides the first level of diagnostic support in suspicious cases, while the scheduled annual surveys are channeled to the Regional Central Laboratory in Merida. Both laboratories participate in diagnosing CSF in the State of Campeche.

The commenter argued that the CSF status of Campeche's neighboring Mexican States, particularly that of Chiapas, should be considered when defining the CSF status in regions contiguous to Campeche. The commenter noted that the narrow central region of the neighboring Mexican State of Tabasco separates Campeche from Chiapas by only 15 kilometers and that new outbreaks of CSF had been reported in either Tabasco or Chiapas every year from 1996 to 2001.

In fact, although evaluation of adjacent regions is a routine component of an APHIS review, APHIS solicited additional information. In the year 2001, seven outbreaks of CSF were recorded in Chiapas and two in Tabasco. The risks posed by these outbreaks for swine production in the State of Campeche are mitigated, however, by the animal movement control and inspection activities conducted by SAGARPA, the State Government of Campeche, and the State Livestock Promotion and Protection Committees. As we noted in the preamble to the September 2002 proposed rule, animal movement into the Yucatan Peninsula States is tightly controlled. A regional quarantine line, known as the ''Peninsula-Tabasco Quarantine Line,'' has 10 inspection points that conduct animal health inspection activities and vehicle disinfection.

The commenter also requested more recent information with regard to the effectiveness of the quarantine line, noting that 2,881 seizures of swine were recorded in 1998.

The Mexican Government has furnished data on the total number of seizures of swine, poultry, and bovine products and byproducts, as well as products of plant origin, made at this quarantine line for the years 2001 and 2002. In 2001, there were 408 seizures, and in 2002, 7,488.

The commmenter also inquired as to whether there was any additional evidence of CSF outbreaks in the Petán region of Guatemala, which abuts Campeche.

We have no additional evidence of CSF outbreaks in that region. According to information the Mexican Government has received from Guatemala, the Petán Region is free of CSF, and Guatemala conducts epidemiological surveillance activities in that region in order to keep it free. CSF is more commonly reported in the southern region of Guatemala, which is not contiguous to Campeche.

The commenter expressed some of the same concerns about the veterinary infrastructure of Quintana Roo as about Campeche, citing the absence of veterinarians certified to diagnose CSF and pseudorabies residing in the State and the consequent possibility that diagnosis of these diseases could be delayed. Since the surveillance activities and veterinary infrastructure of Quintana Roo parallel those of Campeche, we do not see delayed diagnosis as an issue of particular concern for Quintana Roo.

The commenter requested information on how pork product importation is controlled at Puerto Morelos and who is responsible for the inspection and verification process. The commenter pointed out that a supporting document furnished by the Government of Mexico contained a statement that pork and pork products entering Quintana Roo by boat, chiefly bound for Cancun, undergo inspection at Puerto Morelos, yet there are no international port authorities there because Puerto Morelos is not considered to be a commercial port.

We view the existing controls on the movement of pork and pork products into Quintana Roo by boat as adequate to prevent the introduction of CSF into the State. Quintana Roo imports pork and pork products produced in and shipped from TIF plants in the Mexican States of Aguascalientes, Chiapas, Michoacan, Nuevo Leon, Sonora, Tamaulipas, Yucatan, and the Federal District. These products are subject to regulations set down in Mexican Official Standard NOM–037–ZOO–1995, National Campaign against Classical Swine Fever, and in NOM–007–ZOO–1994, National Campaign against Aujeszky's Disease (*i.e.*, pseudorabies). No pork products are received into Quintana Roo from abroad, so we do not view the absence of international port authorities at Puerto Morelos as problematic.

The commenter noted that, of the Mexican States from which Quintana Roo imports pork products and byproducts, only Sonora and Yucatan are recognized in this rulemaking as free of CSF. The commenter requested information on how SAGARPA would control movements of products into Quintana Roo and what guarantees with regard to compliance with heat treatment protocols would be provided to APHIS.

As we have noted, pork and pork products entering Quintana Roo or other CSF-free zones must have been produced in and shipped from TIF plants. The Mexican Government regulations are more stringent for products produced in TIF plants located in CSF-affected zones than for products produced in plants in CSF-free zones. Only cooked or matured products are allowed to enter Quintana Roo from non-free zones, and these products are subject to various shipping, temperature, and recordkeeping requirements. Such products may only be transported in sealed vehicles. When the shipments of such pork and pork products arrive in the destination State, the Government-or Ministry-authorized personnel assigned to the checkpoints at the entrance to the State review the animal health certificate, certify that the seal has not been removed, and remove the seal and inspect the load to determine that it corresponds to what is stated in the animal health certificate.

In addition to the existing controls placed upon the movement of pork and pork products from CSF control or eradication zones into free zones, as mentioned earlier, in order to be eligible to enter the United States, pork or pork products from Quintana Roo (as well as the other three Mexican States in this rule) will have to meet the certification requirements of § 94.25. These include requirements that the pork or pork products must have been derived from swine born and raised in a CSF-free region and slaughtered in such a region at a federally inspected slaughter plant; that the pork or pork products have never been commingled with pork or pork products that have been in a CSF-affected region; and that the pork or pork products have not transited through such a region unless moved directly through the region to their

destination in a sealed means of conveyance with the seal intact upon arrival at the point of destination. We are confident that these certification requirements, as well as the existing Mexican Government regulations regarding the movement of pork and pork products into CSF-free zones, will provide effective protection against commingling of products prior to their export from Quintana Roo to the United States.

The commenter also expressed some concerns about infrastructure and product movement issues with regard to Sonora. The commenter asked whether the diagnostic laboratories operated by the group of 174 producers located in the State of Sonora are accredited by the Government of Mexico to test for CSF and also inquired about who has responsibility for reporting diagnostic activities to the State. The commenter also claimed that it is unclear how documents are administered in Sonora for inter- and intrastate livestock movements. Noting that the document entitled ''Characterization of the State of Sonora for International Recognition as a CSF-Free Zone'' indicates that health certificates for control of animal movements are issued by livestock groups and have the signature of a veterinarian, the commenter requested information on where the data regarding these movements reside, in case access is needed for disease traceback purposes.

At present there is one laboratory in Sonora that is authorized by SAGARPA to conduct CSF diagnostic tests. This laboratory, called the ''Laboratorio Pecuarius,'' has personnel trained and authorized by SAGARPA to perform diagnostic activities according to national and international standards. The Laboratorio Pecuarius sends a monthly electronic report to the National Epidemiological Surveillance System on diagnoses made, including those related to CSF. This report is endorsed by the person in charge of the laboratory, who is an authorized veterinarian. In addition, the EADC follows up on any clinical suspicions of CSF and has diagnostic support from the EADC's high-security laboratory, since CSF is classified as an exotic disease for Sonora.

We view Sonora's system of document administration for animal movement as adequate to allow traceback when necessary. Various copies of the animal health certificate that must accompany animals in transit are made and kept. One copy is kept by the user, another by the center issuing the certificate, and another by SAGARPA. Access to these documents may be obtained in two ways: Centrally, at SAGARPA's offices, and at the local level, through the issuing center. In addition, this information is processed by each certification body and sent to SAGARPA, which is in charge of compiling it and can have access to it if required.

Noting that live swine entering the State of Yucatan are registered animals with high genetic value and come overland from Sonora and Sinaloa, the commenter requested information on what processes are in place to prevent the introduction of communicable diseases of swine into the State from infections that may occur as swine shipments move through regions of Mexico known to be infected by CSF, pseudorabies, and other diseases.

Effective controls are in place to prevent the infection of swine in transit to Yucatan. Swine entering Yucatan from another Mexican State must come from a CSF-free State, such as Sonora or Sinaloa, in order to be marketed as breeding stock in Yucatan. Such shipments must be accompanied by animal health certificates. The vehicles in which the swine are carried must be kept sealed from the point of origin to the destination. If the vehicles that transported the swine move through a CSF-control zone before returning to their place of origin, they must be washed and disinfected with an authorized disinfectant. If the swine have traveled through States or zones of inferior health status, they must be kept in isolation for 20 days at their final destination. During this confinement, serological tests for CSF are conducted. Swine imported into Yucatan from regions outside Mexico must have originated in regions recognized as being CSF-free and must also be isolated upon arrival in Yucatan.

In addition to the controls placed upon swine in transit by the Mexican Government, § 94.25 includes, among other things, a requirement that live swine intended for export to the United States may not have transited a CSF-affected region unless moved directly through the region to their destination in a sealed means of conveyance with the seal intact upon arrival at the point of destination.

Miscellaneous

As we noted earlier in this document, in our September 2002 proposed rule, we had proposed to remove references to Campeche, Quintana Roo, Sonora, and Yucatan that were contained in § 94.15(b) of the regulations because we believed that paragraph, which, among other things, governs the transiting through the United States of pork and pork products not otherwise eligible for entry into the United States under part 94, would no longer apply to those States once we recognized them as CSF-free. Some of the pork and pork products produced in those States for export, however, may be produced in plants that are not approved by the Food Safety and Inspection Service of the USDA to export products to the United States. Such pork and pork products, while ineligible for importation into the United States under the conditions of this final rule, are allowed to transit through the United States under current § 94.15(b). In order to allow such products to continue to transit the United States, we have decided not to finalize our proposed changes to § 94.15(b).

Therefore, for the reasons given in the proposed rule and in this document, we are adopting the proposed rule as a final rule, with the changes discussed in this document.

Effective Date

This is a substantive rule that relieves restrictions and, pursuant to the provisions of 5 U.S.C. 553, may be made effective less than 30 days after publication in the **Federal Register**. This rule adds the Mexican States of Campeche, Quintana Roo, Sonora, and Yucatan to the lists of CSF-free regions and allows pork, pork products, live swine, and swine semen to be imported into the United States from those four Mexican States under certain conditions. We have determined that 15 days are needed to ensure that APHIS and Department of Homeland Security—Bureau of Customs and Border Protection personnel at ports of entry receive official notice of this change in the regulations. Therefore, the Administrator of the Animal and Plant Health Inspection Service has determined that this rule should be effective 15 days after publication in the **Federal Register**.

Executive Order 12866 and Regulatory Flexibility Act

This rule has been reviewed under Executive Order 12866. The rule has been determined to be not significant for the purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget.

This rule amends the regulations in 9 CFR part 94 by adding the Mexican States of Campeche, Quintana Roo, Sonora, and Yucatan to the lists of regions in §§ 94.9 and 94.10 considered free of CSF and to the list of CSF-free regions in § 94.25 from which live swine, pork, and pork products intended for export to the United States

must be certified as having originated in one of those regions or in another region recognized by APHIS as free of CSF and as not having been commingled, prior to export to the United States, with animals and animal products from regions where CSF exists.

Based on the assumption that Campeche, Quintana Roo, Sonora, and Yucatan will not drastically increase their levels of production of live swine, swine semen, pork, and pork products over those of the last few years, we do not anticipate that U.S. producers of those commodities will experience any substantial negative economic effects as a result of this rulemaking. This is because the United States is expected to import only a small amount of those commodities from the four Mexican States.

This rule is likely to have a minimal effect on U.S. live swine markets, both in the short term and in the medium term. As noted earlier, we will not begin issuing import permits for live swine or swine semen from the four Mexican States until our concerns about blue eye disease are allayed. When such imports do commence, we expect that their volume will be limited and their economic impact small. Hog inventory of the four States covered by this rulemaking amounted to about 5 percent of U.S. hog and pig inventory in 2001.[1] Moreover, the four States covered by this rulemaking account for only about 13 percent of Mexico's live swine production. In 2001, the State of Sonora produced 10 percent of Mexico's live swine, Yucatan 2.3 percent, Quintana Roo 0.7 percent, and Campeche 0.2 percent. Figures for live swine are provided in table 1.

TABLE 1.—LIVE HOGS IN FOUR MEXICAN STATES AND MEXICO AS A WHOLE, 2001

State	Hogs in commercial farms	Hogs in backyard operations	All hogs
Campeche	6,612 (in 5 farms)	31,607 (in 137,174 farms)	38,219
Quintana Roo	29,179 (in 38 farms)	137,174 (in 13,450 farms)	166,353
Sonora	2,536,000 (in 174 farms)	200 (unknown farms)	2,536,200
Yucatan	500,000 (in 252 farms)	82,672 (in 8,786 farms)	582,672
Sum of four States	3,071,791	251,653	3,323,444
Mexico	25,736,000 (pig crop + beginning stocks) in both commercial and backyard operations		

Source: Risk Assessments of Importing Pork into the United States from the Mexican States of Campeche, Quintana Roo, Sonora, and Yucatan; Risk Analysis Systems, PPD, APHIS, USDA.

This rulemaking is also unlikely to have a significant effect on U.S. pork and pork products markets because, as with live swine, the United States is unlikely to import large amounts of these commodities from Campeche, Quintana Roo, Sonora, and Yucatan. The United States is a net exporter of pork, while Mexico, as indicated below in tables 2 and 3, is a net importer. Between 2000 and 2002, Mexico imported between 130,000 and 325,000 metric tons and exported between 35,000 and 61,000 metric tons.

TABLE 2.—MEXICAN PORK PRODUCTION AND IMPORTS

[In metric tons]

Calendar year	2000	2001	2002	2000–2002 average
Production	1,035,000	1,057,000	1,085,000	1,059,000
Imports	130,000	150,000	325,000	201,667
Total supply	1,165,000	1,207,000	1,410,000	1,260,667

Source: USDA, FAS, GAIN Report # MX4014, Mexico, Livestock and Products, Semiannual Reports 2001 and 2004.

TABLE 3.—MEXICAN PORK CONSUMPTION AND EXPORTS

[In metric tons]

Calendar year	2000	2001	2002	2000–2002 average
Exports	35,000	40,000	61,000	45,333
Domestic consumption	1,130,000	1,167,000	1,349,000	1,215,333
Total demand	1,165,000	1,207,000	1,410,000	1,260,667

Source: USDA, FAS, GAIN Report # MX4014, Mexico, Livestock and Products, Semiannual Reports 2001 and 2004.

Economic Impact on Small Entities

The Regulatory Flexibility Act requires that agencies consider the economic impact of their rules on small entities. The domestic entities most likely to be affected by our declaring the Mexican States of Campeche, Quintana Roo, Sonora, and Yucatan free of CSF are pork producers.

According to the 1997 Agricultural Census, there were about 102,106 hog and pig farms in the United States in that year, of which 93 percent received $750,000 or less in annual revenues. Agricultural operations with $750,000 or less in annual receipts are considered small entities, according to the Small Business Administration (SBA) size criteria.

We do not expect that U.S. hog producers, U.S. exporters of live hogs,

[1] Agricultural Outlook, Aug. 2002, p.47.

or U.S. exporters of pork and pork products, small or otherwise, will be affected significantly by this final rule. This is because, for the reasons discussed above, the amount of live swine, pork, other pork products, and swine semen imported into the United States from the Mexican States of Sonora, Yucatan, Campeche, and Quintana Roo is likely to be small.

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

Executive Order 12988

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

Paperwork Reduction Act

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

List of Subjects in 9 CFR Part 94

Animal diseases, Imports, Livestock, Meat and meat products, Milk, Poultry and poultry products, Reporting and recordkeeping requirements.

■ Accordingly, we are amending 9 CFR part 94 as follows:

PART 94—RINDERPEST, FOOT-AND-MOUTH DISEASE, FOWL PEST (FOWL PLAGUE), EXOTIC NEWCASTLE DISEASE, AFRICAN SWINE FEVER, CLASSICAL SWINE FEVER, AND BOVINE SPONGIFORM ENCEPHALOPATHY: PROHIBITED AND RESTRICTED IMPORTATIONS

■ 1. The authority citation for part 94 continues to read as follows:

Authority: 7 U.S.C. 450, 7701–7772, and 8301–8317; 21 U.S.C. 136 and 136a; 31 U.S.C. 9701; 7 CFR 2.22, 2.80, and 371.4.

§ 94.9 [Amended]

■ 2. In § 94.9, paragraph (a) is amended by removing the words ''Chihuahua, and Sinaloa'' and adding the words ''Campeche, Chihuahua, Quintana Roo, Sinaloa, Sonora, and Yucatan'' in their place.

§ 94.10 [Amended]

■ 3. In § 94.10, paragraph (a) is amended by removing the words ''Chihuahua, and Sinaloa'' and adding the words ''Campeche, Chihuahua, Quintana Roo, Sinaloa, Sonora, and Yucatan'' in their place.

§ 94.21 [Removed and Reserved]

■ 4. Section 94.21 is removed and reserved.

§ 94.25 [Amended]

■ 5. In § 94.25, paragraph (a) is amended by removing the words ''Chihuahua, and Sinaloa'' and adding the words ''Campeche, Chihuahua, Quintana Roo, Sinaloa, Sonora, and Yucatan'' in their place.

Done in Washington, DC, this 22nd day of March 2005.

W. Ron DeHaven,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 05–6028 Filed 3–25–05; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

12 CFR Part 25

[Docket No. 05–06]

RIN 1557–AC86

FEDERAL RESERVE SYSTEM

12 CFR Part 228

[Regulation BB; Docket No. R–1205]

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 345

RIN 3064–AC82

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

12 CFR Part 563e

[No. 2005–06]

RIN 1550–AB91

Community Reinvestment Act Regulations

AGENCIES: Office of the Comptroller of the Currency, Treasury (OCC); Board of Governors of the Federal Reserve System (Board); Federal Deposit Insurance Corporation (FDIC); and Office of Thrift Supervision, Treasury (OTS).

ACTION: Joint final rule.

SUMMARY: The OCC, Board, FDIC, and OTS (collectively, ''we'' or ''the agencies'') are adopting, in final form, without change, the joint interim rule that was published for comment in the **Federal Register** on July 8, 2004. This joint final rule conforms our regulations implementing the Community Reinvestment Act (CRA) to changes in: the Standards for Defining Metropolitan and Micropolitan Statistical Areas published by the U.S. Office of Management and Budget (OMB) in December 2000; census tracts designated by the U.S. Census Bureau (Census); and the Board's Regulation C, which implements the Home Mortgage Disclosure Act (HMDA). The joint final rule also makes a technical correction to a cross-reference within our CRA regulations. This joint final rule does not make substantive changes to the requirements of the CRA regulations, and it is identical to the joint interim final rule adopted by the agencies.

DATES: This joint final rule is effective on March 28, 2005.

FOR FURTHER INFORMATION CONTACT: *OCC:* Karen Tucker, National Bank Examiner, Compliance Policy Division, (202) 874–4428; Margaret Hesse, Special Counsel, Community and Consumer Law Division, (202) 874–5750; or Patrick T. Tierney, Attorney, Legislative and Regulatory Activities Division, (202) 874–5090, Office of the Comptroller of the Currency, 250 E Street, SW., Washington, DC 20219.

Board: William T. Coffey, Senior Review Examiner, (202) 452–3946; Catherine M.J. Gates, Oversight Team Leader, (202) 452–3946; Kathleen C. Ryan, Counsel, (202) 452–3667; or Dan S. Sokolov, Senior Attorney, (202) 452–2412, Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, NW., Washington, DC 20551.

FDIC: Pamela Freeman, Policy Analyst, (202) 898–6568, Division of Supervision and Consumer Protection; Susan van den Toorn, Counsel, (202) 898–8707; or Richard M. Schwartz, Counsel, (202) 898–7424, Legal Division, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, DC 20429.

OTS: Celeste Anderson, Project Manager, Compliance Policy, (202) 906–7990; or Richard Bennett, Counsel, Regulations and Legislation Division, (202) 906–7409, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

SUPPLEMENTARY INFORMATION:

Introduction

On July 8, 2004, the agencies published a joint interim rule with

request for comment in the **Federal Register** (69 FR 41181) that amended our regulations implementing the CRA (12 U.S.C. 2901 *et seq.*). The joint interim rule conformed the agencies' CRA regulations to recent actions of OMB, Census, and the Board.[1] Together, the agencies received nine discrete comments: six from community organizations, two from financial institutions, and one from an industry trade organization.

Summary of Changes Made by the Joint Interim Rule and Comments Received

Changes Resulting From OMB Revisions

OMB updates its standards for defining statistical areas approximately every 10 years. The agencies' CRA regulations use OMB's standards for defining metropolitan areas for purposes of CRA data collection and reporting, and for delineating institutions' assessment area(s). Under OMB's 1990 standards, metropolitan areas consisted of: (1) metropolitan statistical areas (MSAs) and (2) larger consolidated metropolitan statistical areas (CMSAs). These CMSAs consisted of primary metropolitan statistical areas (PMSAs).

In 2000, OMB adopted new Standards for Defining Metropolitan and Micropolitan Statistical Areas, which replaced OMB's 1990 standards. 65 FR 82228 (Dec. 27, 2000). The 2000 standards retain the basic concept of an MSA (an area with at least 50,000 population), but divided MSAs having a single core with a population of at least 2.5 million into ''metropolitan divisions.'' OMB directed all agencies that conduct statistical activities to collect and publish data for MSAs using the most recent definition of the area.[2] The joint interim rule made several changes to the CRA regulations to incorporate OMB's new standards and definitions.

The joint interim rule removed the definition of ''CMSA'' and all references to CMSAs because OMB no longer uses that term. As discussed below, where the regulations referred to CMSAs, the joint interim rule replaced ''CMSA'' with ''MSA.''

The joint interim rule revised the definition of ''MSA'' to remove the reference to PMSA, another term that OMB no longer uses. The revised definition of ''MSA'' refers only to metropolitan statistical areas, as defined by OMB (12 CFR 25.12(r), 228.12(r), 345.12(r), and 563e.12(q)).

We added a definition of ''metropolitan division'' in the joint interim rule because in certain large MSAs, OMB has delineated ''metropolitan divisions,'' which are the statistical areas for which the agencies have determined that CRA data are to be reported, median family income is to be calculated, and within which an institution's CRA performance is to be evaluated (12 CFR 25.12(q), 228.12(q), 345.12(q) and 563e.12(p)).

Next, the joint interim rule clarified that an institution may designate an assessment area that includes one or more metropolitan divisions within a large MSA (12 CFR 25.41, 228.41, 345.41, and 563e.41), just as an institution previously could have designated an assessment area that included one or more PMSAs. Although the agencies' regulations prior to publication of the joint interim rule allowed an institution to delineate an entire CMSA as an assessment area, examiners evaluated CRA performance at the PMSA level using PMSA income data. The joint interim rule's supplementary information section explained that examiners similarly will evaluate CRA performance at the metropolitan division level in those MSAs that are divided into metropolitan divisions, even if the institution delineates an assessment area of more than one metropolitan division, an entire MSA, or more than one contiguous MSA.

Prior to the adoption of the joint interim rule, 12 CFR 25.41(e)(4), 228.41(e)(4), 345.41(e)(4), and 563e.41(e)(4) stated that an assessment area ''[m]ay not extend substantially beyond a CMSA boundary * * *.'' The joint interim rule changed these provisions to replace ''CMSA'' with ''MSA'' to conform the terminology to the new OMB area standards. The regulations still allow an institution to delineate an assessment area consisting of more than one contiguous MSA. *See* 12 CFR 25.41(c)(1), 228.41(c)(1), 345.41(c)(1), and 563e.41(c)(1). The border of such an assessment area, however, may not extend substantially beyond the boundaries of the MSAs in the assessment area.

Finally, the joint interim rule added a new definition of ''nonmetropolitan area,'' which is any area that is not included in an MSA (12 CFR 25.12(s), 228.12(s), 345.12(s), and 563e.12(r)).[3] In a related matter, the joint interim rule changed the agency-prepared annual aggregate disclosure statements to include a statement for the ''nonmetropolitan portion of each state'' rather than the ''non-MSA portion of each state,'' which was the language prior to the change, to ensure consistent terminology throughout the regulation. *See* 12 CFR 25.42(i), 228.42(i), 345.42(i), and 563e.42(i).

Some community organizations commented that financial institutions should be required to designate an assessment area consisting of an entire MSA, rather than having the option to designate an assessment area limited to one or more metropolitan divisions within an MSA. They were concerned that the option to choose a metropolitan division would allow institutions to exclude from their assessment area(s) the urban areas in the Detroit-Livonia-Warren MSA, and in other large MSAs that are divided into metropolitan divisions. As discussed in the supplementary information section of the joint interim rule, OMB's boundaries cause some census tracts in the Detroit-Livonia-Dearborn Metropolitan Division (which consists only of Wayne County and represents the urban center of Detroit) to change classification from moderate-to middle-income, while some census tracts in the suburban Warren-Farmington Hills-Troy Metropolitan Division change classification from middle-to moderate-income. 69 FR 41183 (July 8, 2004). The commenters argued that institutions will be encouraged by these changes to exercise their option to include only the suburban metropolitan division(s) in their assessment area(s).

The agencies have carefully considered the commenters' concern. However, for the following reasons, we are not adopting the suggested change. The change advocated by the commenters would represent a significant departure from the CRA regulations regarding assessment area delineation, which allow institutions to delineate assessment areas smaller or larger than an entire MSA, if certain conditions are met. Under the 1995 CRA regulations, an assessment area can be as small as the census tracts in which the institution has its main office, its branches, and its deposit-taking ATMs;

[1] The joint rulemaking is not related to the agencies' comprehensive review of the CRA regulations and the proposed revisions to the regulations that were published for comment on February 6, 2004, at 69 FR 5729.

[2] *See* OMB Bulletin No. 03–04 (June 6, 2003), available at *http://www.whitehouse.gov/omb/bulletins/b03–04.html* and OMB Bulletin No. 04–03 (Feb. 18, 2004), available at *http://www.whitehouse.gov/omb/bulletins/fy04/b04–03.html.*

[3] As we noted in the supplementary information section of the joint interim rule, a ''micropolitan statistical area'' is a new statistical area, defined by OMB in 2000, that is a ''nonmetropolitan area.'' 69 FR at 41184. A micropolitan statistical area is a ''core-based statistical area'' (as is an MSA), and has at least one urban cluster that has a population of at least 10,000, but less than 50,000.

or a political subdivision such as a city, county, or town; or it could consist of a single PMSA, an entire MSA, or a CMSA, if the conditions are met.[4] One of the conditions has been, and continues to be, that the area designated does not arbitrarily exclude low-or moderate-income geographies or reflect illegal discrimination.[5] Further, the regulations allow, and continue to allow, institutions to delineate assessment areas smaller than an entire MSA. An institution can delineate assessment areas that are political subdivisions and may even adjust the boundaries of its assessment areas to include only the portion of a political subdivision that it reasonably can be expected to serve. An adjustment is particularly appropriate in the case of an assessment area that otherwise would be extremely large, of unusual configuration, or divided by significant geographic barriers.[6] Requiring institutions to delineate assessment areas no smaller than an entire MSA may be unreasonable for institutions that have delineated smaller assessment areas based on their institutional size, capacity, and business strategy.

Unusual assessment area concerns, such as those presented by the Detroit-Livonia-Warren MSA, can be better addressed by examiners on a case-by-case basis, using the current CRA regulations and examination procedures.[7] The CRA regulations continue to prohibit delineating assessment areas that reflect illegal discrimination or that arbitrarily exclude low-or moderate-income neighborhoods.[8] If an institution in Detroit, or another MSA, changes its assessment area(s) to exclude urban areas, examiners will look at factors such as income levels inside and outside an institution's assessment area, the institution's size, financial condition, where it lends, and its business strategy to determine whether the institution is engaging in redlining.[9] Further, in the service test, examiners consider branch distribution among geographies of different income categories and branch closings, particularly in low- and moderate-income geographies. Examination staffs at all of the agencies are aware of the new OMB boundaries and the potential impact on income level classifications. The agencies believe that these provisions are sufficient to prevent institutions from inappropriately redrawing their assessment areas to exclude urban metropolitan divisions.

Finally, the agencies do not believe that the joint final rule will result in wholesale redlining of urban Detroit as commenters suggested. Data from 2003 on the branch locations and assessment area(s) of the 32 institutions in Detroit that were deemed ''large'' for CRA purposes suggest that a substantial majority of those institutions would not exclude the urban metropolitan division from their assessment area(s). Specifically, 20 of the large institutions in Detroit had at least one branch in Wayne County. Of the 20 institutions, 16 had assessment areas that included Wayne County and the suburban counties, and had branches in both Wayne County and the suburban counties. Three institutions had assessment areas and branches only in Wayne County, and one had assessment areas that included both Wayne County and the suburban counties, but had branches only in Wayne County. Thus, those institutions cannot entirely exclude the Detroit-Livonia-Dearborn Metropolitan Division from their assessment area(s).[10]

One financial institution commenter suggested that, rather than replacing the term ''CMSA'' with ''MSA'', the agencies should have replaced ''CMSA'' with ''CSA'' (combined statistical area), another new area standard that OMB adopted in 2000. The agencies believe that it may be appropriate for some institutions to delineate an assessment area based on a CSA. The agencies have not, however, made the suggested change to the regulation because a CSA is not the direct equivalent of a CMSA under the 1990 standards. A CMSA was an MSA with a population of at least 1 million; in contrast, a CSA may be much smaller or much larger than a CMSA in population. For example, a CSA may consist of two Micropolitan Statistical Areas. The Micropolitan Statistical Area is a new statistical unit introduced in the 2000 standards and consists of an area with a population between 10,000 and 49,999. On the other hand, a CSA may be quite populous; it may consist of three or more MSAs and multiple Micropolitan Statistical Areas. Therefore, the agencies believe that whether an assessment area should consist of a CSA is best left to each institution, considering its size, business strategy, capacity, and constraints, and subject to review by the appropriate Federal financial institution supervisory agency. Further, if an institution designates an assessment area that consists of a CSA that includes an MSA and a Micropolitan Statistical Area, the examiner must separately evaluate performance in the MSA and the Micropolitan Statistical Area (*i.e.*, the nonmetropolitan area) because each of these areas has a distinct median family income.

For the reasons set forth above, the agencies are adopting as final the provisions conforming our regulations to OMB's statistical area changes as they were published in the joint interim rule.

Changes Resulting From Census Revisions

Prior to the joint interim rule, the CRA regulations defined the term ''geography'' as ''a census tract or a block numbering area delineated by the United States Bureau of the Census in the most recent decennial census.'' Beginning with Census 2000, the U.S. Census Bureau assigned census tracts in all counties, making block numbering areas unnecessary.[11] Therefore, in the joint interim rule, we changed the regulations' definition of ''geography'' to omit the term ''block numbering area'' (12 CFR 25.12(k), 228.12(k), 345.12(k), and 563e.12(j)).

[4] *See* 12 CFR 25.41(c) & (d), 228.41(c) & (d), 345.41(c) & (d), and 563e.41(c) & (d) in effect prior to the changes adopted by the joint interim rule; *see also* Interagency Questions and Answers Regarding Community Reinvestment, 66 FR 36620, 36640–41 (July 12, 2001) (hereinafter Qs and As) (questions and answers addressing § _.41(c) & (d)).

[5] 12 CFR 25.41(e)(2) & (3), 228.41(e)(2) & (3), 345.41(e)(2) & (3), and 563e.41(e)(2) & (3). Redlining violates the Equal Credit Opportunity Act, 15 U.S.C. 1691 *et seq.*, and the Fair Housing Act, 42 U.S.C. 3601 *et seq.* Evidence of discriminatory credit practices adversely affects an agency's evaluation of an institution's performance under the CRA. 12 CFR 25.28(c), 228.28(c), 345.28(c), and 563e.28(c).

[6] 12 CFR 25.41(d), 228.41(d), 345.41(d), and 563e.41(d). *See also* Qs and As at 66 FR 36641 (question and answer § _.41(d)–1 (Adjustments to Geographic Area(s))).

[7] As noted in the supplementary information section of the joint interim rule, many of the 11 MSAs that were subdivided into metropolitan divisions experienced no or negligible change in census tract income level classification because of the OMB changes, based on Board staff estimates. For example, in the following MSAs, 0 percent to 0.05 percent of census tracts changed from either moderate-income to middle-income, or from middle-income to moderate-income, as a result of OMB's boundaries: Dallas-Fort Worth-Arlington; Los Angeles-Long Beach-Santa Ana; Miami-Ft. Lauderdale-Miami Beach; San Francisco-Oakland-Fremont; and Seattle-Tacoma-Bellevue.

[8] 12 CFR 25.41(e)(3), 228.41(e)(3), 345.41(e)(3), and 563e.41(e)(3).

[9] *See* Qs and As at 66 FR 36641 (particularly questions and answers § _.41(d)–1 (Adjustments to Geographic Area(s)) and § _.41(e)(3)–1 (May Not Arbitrarily Exclude Low-or Moderate-Income Geographies)).

[10] One additional institution included Wayne County in its assessment area and had branches only in the suburban Detroit counties. Eleven institutions had branches and assessment area(s) only in the suburban counties that make up the Warren-Farmington Hills-Troy Metropolitan Division.

[11] *See, e.g.*, U.S. Census Bureau, Geographic Terms and Concepts (definition of ''census tract'') *available at http://www.census.gov/geo/www/tiger/glossry2.html#CensusTract.*

The agencies did not receive any comments addressing this change. Accordingly, the agencies are adopting the change based on Census revisions without modification. We are adopting this change as final as it was published in the joint interim rule.

Changes Resulting From Revisions to the Board's Regulation C

Prior to the joint interim rule, the CRA regulations defined a ''home mortgage loan'' to mean a ''home improvement loan'' or a ''home purchase loan'' as defined in the regulations implementing the Home Mortgage Disclosure Act (12 CFR part 203). The interagency CRA guidance that we published clarified that this definition of ''home mortgage loan'' also included refinancings of home improvement and home purchase loans.[12]

The Board substantially revised the HMDA regulation (Regulation C) in 2002, effective January 1, 2004.[13] Revised Regulation C defined the term, ''refinancing,'' so that a loan is reportable as a refinancing if it satisfies and replaces an existing obligation, and both the new and the existing obligation are secured by a lien on a dwelling. 12 CFR 203.2(k). As a result of the revisions to Regulation C, we changed the definition of ''home mortgage loan,'' found at 12 CFR 25.12(l), 228.12(l), 345.12(l), and 563e.12(k), to include refinancings, as well as home purchase loans and home improvement loans, as defined in the Board's regulations at 12 CFR 203.2.

As we noted in the supplementary information section of the joint interim rule, because of the change in the Regulation C definition, loans to refinance small business or small farm loans, where a dwelling continues to serve as collateral solely through an abundance of caution, will now be reportable as refinancings under Regulation C. Those loans will also be reportable for Call Report and Thrift Financial Report purposes as small business or small farm loans, resulting in the potential for ''double counting'' of these loans in CRA examinations. *See* 69 FR 41184–85.

Two community organization commenters asserted that our CRA regulations should prohibit such double reporting of small business loans and small farm loans secured by residential real estate for purposes of CRA. The agencies are not changing the CRA regulation to address the commenters' suggestion. The suggested change would likely increase the data collection and reporting burden for financial institutions, without increasing the effectiveness of CRA examinations. As stated in the supplementary information to the joint interim rule, the agencies do not anticipate that ''double-reported'' loans will be so numerous as to affect the typical institution's CRA rating. In the event that an institution reports a significant number or amount of loans as both home mortgage and small business or farm loans, examiners will consider that overlap in evaluating the institution's performance.

Accordingly, the agencies are adopting the change based on the Board's Regulation C revisions without modification. We are adopting this change as it was published in the joint interim rule.

Technical Correction

The joint interim rule also corrected an error in the cross-reference found in 12 CFR 25.27(g)(1), 228.27(g)(1), 345.27(g)(1), and 563e.27(g)(1). Those provisions, which address the time for an agency's decision following receipt of a completed strategic plan, previously referred the reader to paragraph (d) of 12 CFR 25.27, 228.27, 345.27, or 563e.27, respectively, for a description of the materials that had to be included with a strategic plan submission. This information is found instead in paragraph (e) of 12 CFR 25.27, 228.27, 345.27, or 563e.27. Therefore, we corrected the cross-references in 12 CFR 25.27(g)(1), 228.27(g)(1), 345.27(g)(1), and 563e.27(g)(1) to refer to paragraph (e) of 12 CFR 25.27, 228.27, 345.27, and 563e.27, respectively.

The agencies did not receive any comments addressing this technical correction. Accordingly, the agencies are adopting the technical correction that was published in the joint interim rule as final without modification.

General Comment

A financial industry trade association commented that inasmuch as the changes to the CRA regulations are designed to coordinate the CRA rules with existing regulatory changes, it does not object to the revisions. However, the commenter pointed out that these types of changes add to the regulatory burden for the small community bank. The agencies are aware that many regulatory changes impact regulated entities in some manner. However, the changes made by the joint interim rule and this joint final rule are necessary because institutions could not have complied with the regulations as previously written. For example, some of the statistical areas referenced in the previous regulations no longer exist.

Effective Date

The Administrative Procedure Act provides that, subject to several exceptions, a substantive rule may not be made effective until 30 days after publication in the **Federal Register**. 5 U.S.C. 553(d). However, an agency may make a rule immediately effective upon publication if the agency finds good cause for doing so and publishes its findings with the rule. Likewise, section 302 of the Riegle Community Development and Regulatory Improvement Act of 1994 (CDRI), Public Law 103–325, authorizes a banking agency to issue a rule to be effective before the first day of the calendar quarter that begins on or after the date on which the regulations are published in final form if the agency finds good cause for an earlier effective date. 12 U.S.C. 4802(b)(1)(B).

As described in the supplementary information section of the joint interim rule, the agencies found good cause to dispense with the 30-day delayed effective date pursuant to 5 U.S.C. 553(d)(3). The agencies also determined that good cause existed to adopt an effective date that is before the first day of the calendar quarter that begins on or after the date on which the regulation is published, as would otherwise be required by section 302 of the CDRI (12 U.S.C. 4802(b)(1)(B)). The joint interim rule became effective upon publication because financial institutions must use the new statistical area standards and definitions when adjusting assessment area delineations and collecting loan data during calendar year 2004 (beginning with loans made as of January 1, 2004) for reporting by March 1, 2005. The changes adopted in the joint interim rule merely conformed our CRA regulations to recent changes by OMB, Census, and the Board and corrected a cross-reference—they were not substantive. That reasoning also applies to the joint final rule, which is identical to the joint interim rule. Accordingly, the agencies conclude that it is unnecessary and contrary to public interest to delay the effective date of this joint final rule.

Regulatory Analysis

Paperwork Reduction Act

There are no information collection requirements in this joint final rule.

Regulatory Flexibility Act

Pursuant to section 605(b) of the Regulatory Flexibility Act (5 U.S.C.

[12] *See* Qs and As at 66 FR 36628 (July 12, 2001) (question and answer §§ _.12(m) & 563e.12(l)–1).

[13] 67 FR 7222 (Feb. 15, 2002); 67 FR 30771 (May 8, 2002).

605(b)), the OCC, Board, FDIC, and OTS hereby certify that this joint final rule will not have a significant economic impact on a substantial number of small entities. The agencies expect that this joint final rule will not have significant secondary or incidental effects on a substantial number of small entities or create any additional burden on small entities. This joint final rule merely confirms that the joint interim rule, which made a technical correction and conformed terminology in the current CRA regulations to terms and definitions already adopted by OMB, Census, and the Board, is final. Accordingly, a regulatory flexibility analysis is not required.

OCC and OTS Executive Order 12866 Determinations

The OCC and the OTS have determined that this joint final rule is not a significant regulatory action as defined in Executive Order 12866.

OCC and OTS Unfunded Mandates Reform Act of 1995 Determinations

Section 202 of the Unfunded Mandates Reform Act of 1995 (Unfunded Mandates Act) (2 U.S.C. 1532) requires that covered agencies prepare a budgetary impact statement before promulgating a rule that includes any Federal mandate that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year. If a budgetary impact statement is required, section 205 of the Unfunded Mandates Act also requires covered agencies to identify and consider a reasonable number of regulatory alternatives before promulgating a rule. The OCC and OTS have determined that this joint final rule will not result in expenditures by State, local, and tribal governments, or by the private sector, of $100 million or more in any one year. Accordingly, neither agency has prepared a budgetary impact statement or specifically addressed the regulatory alternatives considered.

The Treasury and General Government Appropriations Act, 1999—Assessment of Impact of Federal Regulation on Families

The FDIC has determined that this joint final rule will not affect family well-being within the meaning of section 654 of the Treasury and General Government Appropriations Act, enacted as part of the Omnibus Consolidated and Emergency Supplemental Appropriations Act of 1999, Public Law 105–277 (5 U.S.C. 601 note).

OCC Executive Order 13132 Determination

The OCC has determined that this joint final rule does not have any Federalism implications, as required by Executive Order 13132.

List of Subjects

12 CFR Part 25

Community development, Credit, Investments, National banks, Reporting and recordkeeping requirements.

12 CFR Part 228

Banks, Banking, Community development, Credit, Investments, Reporting and recordkeeping requirements.

12 CFR Part 345

Banks, Banking, Community development, Credit, Investments, Reporting and recordkeeping requirements.

12 CFR Part 563e

Community development, Credit, Investments, Reporting and recordkeeping requirements, Savings associations.

Department of the Treasury

Office of the Comptroller of the Currency

12 CFR Chapter I

PART 25—COMMUNITY REINVESTMENT ACT AND INTERSTATE DEPOSIT PRODUCTION REGULATIONS

■ Accordingly, the joint interim rule amending 12 CFR part 25, which was published at 69 FR 41181 on July 8, 2004, is adopted as a joint final rule without change.

Board of Governors of the Federal Reserve System

12 CFR Chapter II

PART 228—COMMUNITY REINVESTMENT (REGULATION BB)

■ Accordingly, the joint interim rule amending 12 CFR part 228, which was published at 69 FR 41181 on July 8, 2004, is adopted as a joint final rule without change.

Federal Deposit Insurance Corporation

12 CFR Chapter III

PART 345—COMMUNITY REINVESTMENT

■ Accordingly, the joint interim rule amending 12 CFR part 345, which was published at 69 FR 41181 on July 8, 2004, is adopted as a joint final rule without change.

Department of the Treasury

Office of Thrift Supervision

12 CFR Chapter V

PART 563e—COMMUNITY REINVESTMENT

■ Accordingly, the joint interim rule amending 12 CFR part 563e, which was published at 69 FR 41181 on July 8, 2004, is adopted as a joint final rule without change.

Dated: February 14, 2005.

Julie L. Williams,

Acting Comptroller of the Currency.

By order of the Board of Governors of the Federal Reserve System, March 2, 2005.

Jennifer J. Johnson,

Secretary of the Board.

Dated: March 18, 2005.

By Order of the Board of Directors of the Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

Dated: February 11, 2005.

By the Office of Thrift Supervision.

James E. Gilleran,

Director.

[FR Doc. 05–5983 Filed 3–25–05; 8:45 am]

BILLING CODE 4810–33–P; 6210–01–P; 6714–01–P; 6720–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2004–19757; Directorate Identifier 2001–NM–273–AD; Amendment 39–14024; AD 2005–06–04]

RIN 2120–AA64

Airworthiness Directives; British Aerospace Model BAe 146 and Model Avro 146–RJ Series Airplanes

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

ACTION: Final rule.

SUMMARY: The FAA is superseding an existing airworthiness directive (AD), which applies to certain British Aerospace Model BAe 146 and Model Avro 146–RJ series airplanes. That AD currently requires a one-time measurement of the thickness of the outer links on the side stays of the main landing gear (MLG), and related investigative and corrective actions as necessary; and provides for replacement of a thin outer link with a new or

serviceable part in lieu of certain related investigative inspections. This new AD requires repetitive inspections for cracking of the outer links on the MLG side stays, and corrective actions if necessary. This new action also expands the applicability, provides for optional terminating action for the repetitive inspections, and reduces the repetitive inspection interval. This AD is prompted by new crack findings on airplanes not subject to the existing AD, and the determination that the profile gauge's slipping over the outer link profile is not a factor in the identified unsafe condition. We are issuing this AD to prevent cracking of the outer links of the MLG side stays, which could result in failure of a side stay and consequent collapse of the landing gear.

DATES: This AD becomes effective May 2, 2005.

The incorporation by reference of a certain publication listed in the AD is approved by the Director of the Federal Register as of May 2, 2005.

ADDRESSES: For service information identified in this AD, contact British Aerospace Regional Aircraft American Support, 13850 Mclearen Road, Herndon, Virginia 20171.

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–2004–19757; the directorate identifier for this docket is 2001–NM–273–AD.

FOR FURTHER INFORMATION CONTACT: Todd Thompson, Aerospace Engineer, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–1175; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION: The FAA proposed to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) with an AD to supersede AD 99–17–12, amendment 39–11260 (64 FR 45870, August 23, 1999). The existing AD applies to certain British Aerospace Model BAe 146 and Model Avro 146–RJ series airplanes. The proposed AD was published in the **Federal Register** on December 1, 2004 (69 FR 69829), to require a one-time measurement of the thickness of the outer links on the side stays of the main landing gear (MLG), and related investigative and corrective actions as necessary; and provides for replacement of a thin outer link with a new or serviceable part in lieu of certain related investigative inspections. The proposed AD also expanded the applicability of the existing AD, provided for optional terminating action for the repetitive inspections, and reduced the repetitive inspection interval.

Comments

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

Request To Correct Typographical Error in Preamble

The commenter recommends the correction of a typographical error that appears in the Secondary Service Information table in the proposed AD. (That table is included in the Relevant Service Information section of the preamble of the proposed AD). The commenter notes that one of the column headers references BAE Systems (Operations) Limited Inspection Service Bulletin ISB.32–1536, but that the correct citation is ISB.32–156. The commenter suggests correcting the typographical error to eliminate any confusion to anyone who reads the proposed AD.

We agree with the commenter's concern and acknowledge that the typographical error did appear in the published versions of the proposed AD. The Secondary Service Information table is not restated in this AD, so no change is possible regarding this issue.

Changes to This AD

In order to comply with the service information citation guidelines of the Office of the Federal Register, we have revised Notes 2 and 3 of this AD. In Note 2 we changed the citation from ''BAE Inspection Service Bulletin ISB.32–156'' to ''BAE Systems (Operations) Limited Inspection Service Bulletin ISB.32–156, Revision 1, dated July 3, 2001.'' In Note 3 we made that same change; revised ''32–162–70657CD'' to ''SB.32–162–70657C.D;'' clarified that Messier-Dowty Repair Scheme 450187952 is included in Section 32–10–65 of the Messier-Dowty 201105001 and 201105002 Component Maintenance Manual, and Section 32–10–73 of the Messier-Dowty 201299001 and 201299002 Component Maintenance Manual; and corrected the manufacturer name and document number for SB.32–144.

Conclusion

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

Costs of Compliance

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

ESTIMATED COSTS

Action	Work hours	Average hourly labor rate	Parts	Cost per airplane	Number of U.S.-registered airplanes	Fleet cost
Inspection	1	$65	None	$65, per inspection cycle	60	$3,900, per inspection cycle.

Authority for This Rulemaking

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

We are issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701, ''General requirements.'' Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for

safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

We have determined that this 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 removing amendment 39–11260 (64 FR 45870, August 23, 1999), and by adding the following new airworthiness directive (AD):

2005–06–04 BAE Systems (Operations) Limited (Formerly British Aerospace Regional Aircraft): Amendment 39–14024. Docket No. FAA–2004–19757; Directorate Identifier 2001–NM–273–AD.

Effective Date

(a) This AD becomes effective May 2, 2005.

Affected ADs

(b) This AD supersedes AD 99–17–12, amendment 39–11260 (64 FR 45870, August 23, 1999).

Applicability

(c) This AD applies to Model BAe 146 and Avro 146–RJ series airplanes, certificated in any category, having any side stay identified in Messier-Dowty Service Bulletin 146–32–147, dated May 29, 2001.

Unsafe Condition

(d) This AD was prompted by new crack findings on airplanes not subject to the existing AD, and the determination that the profile gauge's slipping over the outer link profile is not a factor in the identified unsafe condition. We are issuing this AD to prevent cracking of the outer links of the MLG side stays, which could result in failure of a side stay and consequent collapse of the landing gear.

Compliance

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

Inspection

(f) At the applicable time specified in paragraph (f)(1) or (f)(2) of this AD: Perform a detailed inspection for cracks of the outer links on the MLG side stays, in accordance with the Accomplishment Instructions of BAE Systems (Operations) Limited Inspection Service Bulletin ISB.32–156, Revision 1, dated July 3, 2001. Repair cracks before further flight in accordance with the service bulletin. Thereafter, repeat the inspection at intervals not to exceed 2,000 flight cycles, until the actions specified in paragraph (g) of this AD have been done. Although the service bulletin specifies to report certain information to the manufacturer, this AD does not require a report.

(1) If the number of flight cycles accumulated on the side stay can be positively determined: Inspect before the accumulation of 2,000 total flight cycles on the side stay, or within 500 flight cycles after the effective date of this AD, whichever occurs later.

(2) If the number of flight cycles accumulated on the side stay cannot be positively determined: Inspect within 500 flight cycles 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.''

Note 2: BAE Systems (Operations) Limited Inspection Service Bulletin ISB.32–156, Revision 1, dated July 3, 2001, refers to Messier-Dowty Service Bulletin 146–32–147, dated May 29, 2001, as an additional source of service information for the inspection.

Optional Terminating Action

(g) Relocation of each affected grease nipple to the upper surface of the outer link of the MLG side stays terminates the repetitive inspection requirements of this AD, if the relocation action is done in accordance with paragraph 2.C. of the Accomplishment Instructions of BAE Systems (Operations) Limited Inspection Service Bulletin ISB.32–156, Revision 1, dated July 3, 2001.

Note 3: BAE Systems (Operations) Limited Inspection Service Bulletin ISB.32–156, Revision 1, dated July 3, 2001; refers to BAE Systems (Operations) Limited Modification Service Bulletin SB.32–162–70657C.D, dated September 26, 2001; Messier-Dowty Repair Scheme 450187952, included in Section 32–10–65 of the Messier-Dowty 201105001 and 201105002 Component Maintenance Manual, and Section 32–10–73 of the Messier-Dowty 201299001 and 201299002 Component Maintenance Manual; and British Aerospace Service Bulletin SB.32–144, dated December 11, 1996; as additional sources of service information for accomplishment of the actions associated with the relocation specified in paragraph (g) of this AD.

Parts Installation

(h) As of the effective date of this AD, no person may install on any airplane an MLG side stay having a part number identified in paragraph 1.A. of Messier-Dowty Service Bulletin 146–32–147, dated May 29, 2001, unless that part has been inspected and all applicable related investigative and corrective actions have been performed in accordance with the requirements of this AD.

Alternative Methods of Compliance (AMOCs)

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

Related Information

(j) British airworthiness directive 004–05–2001 also addresses the subject of this AD.

Material Incorporated by Reference

(k) You must use BAE Systems (Operations) Limited Inspection Service Bulletin ISB.32–156, Revision 1, dated July 3, 2001, 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 British Aerospace Regional Aircraft American Support, 13850 Mclearen Road, Herndon, Virginia 20171. 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. To review copies of the service information, go to the National Archives and Records Administration (NARA). For information on the availability

of this material at the NARA, call (202) 741–6030, or go to *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

Issued in Renton, Washington, on March 14, 2005.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 05–5575 Filed 3–25–05; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2005–20748; Directorate Identifier 2005–NM–063–AD; Amendment 39–14031; AD 2005–07–07]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A310 Series Airplanes; and Model A300 B4–600, B4–600R, and F4–600R Series Airplanes, and Model C4 605R Variant F Airplanes (Collectively Called A300–600)

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

ACTION: Final rule; request for comments.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain Airbus Model A310 series airplanes; and Model A300 B4–600, B4–600R, and F4–600R series airplanes, and Model C4 605R Variant F airplanes (collectively called A300–600). This AD requires one-time general visual, detailed, and tap test inspections for discrepancies in the structural integrity of the rudder and its attachments, and corrective actions if necessary. This AD is prompted by a report that, during cruise, a Model A310 series airplane lost most of its rudder, which was made from composite-fiber-reinforced plastic. Investigation revealed that most of the rudder, including the front spar portion above the three servo control actuators was missing. We are issuing this AD to prevent detachment of the rudder from the airplane, which could degrade airplane handling qualities and result in reduced controllability of the airplane.

DATES: Effective March 28, 2005.

The incorporation by reference of certain publications listed in the AD is approved by the Director of the Federal Register as of March 28, 2005.

We must receive comments on this AD by May 27, 2005.

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

- DOT Docket Web site: Go to *http://dms.dot.gov* and follow the instructions for sending your comments electronically.
- Government-wide rulemaking Web site: Go to *http://www.regulations.gov* and follow the instructions for sending your comments electronically.
- Mail: Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, room PL–401, Washington, DC 20590.
- Fax: (202) 493–2251.
- Hand Delivery: Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

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

You can examine the contents of this AD docket on the Internet at *http://dms.dot.gov*, or in person at the Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street, SW., room PL–401, on the plaza level of the Nassif Building, Washington, DC. This docket number is FAA–2005–20748; the directorate identifier for this docket is 2005–NM–063–AD.

Examining the Docket

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

FOR FURTHER INFORMATION CONTACT: Tim Backman, Aerospace Engineer, ANM–116, International Branch, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2797; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION: The Direction Générale de l'Aviation Civile (DGAC), which is the airworthiness authority for France, notified us that an unsafe condition may exist on certain Airbus Model A310 series airplanes; and Model A300 B4–600, B4–600R, and F4–600R series airplanes, and Model C4 605R Variant F airplanes (collectively called A300–600). The DGAC advises that, during cruise, a Model A310 series airplane lost most of its rudder, which was made from composite-fiber-reinforced plastic (CFRP). Investigation revealed that most of the rudder, including the front spar portion above the three servo control actuators was missing. The cause of this rudder loss is under investigation. This condition, if not corrected, could result in detachment of the rudder from the airplane, which could degrade airplane handling qualities and result in reduced controllability of the airplane.

Similar Airplane Models

A rudder having the same part number as that installed on Model A310 series airplanes also is installed on Model A300–600 series airplanes. Therefore, the latter airplanes are also subject to the identified unsafe condition and are included in the applicability of the U.S. AD.

Further, a rudder having the same part number is installed on early versions of Model A330 and A340 series airplanes. However, we have confirmed that the affected rudder is not installed on any Model A330 series airplanes of U.S. registry. Additionally, there are no Model A340 series airplanes on the U.S. Register.

Relevant Service Information

Airbus has issued All Operators Telex (AOT) A310A55–2035 (for A310 series airplanes) and AOT A300–600 55A6035 (for A300–600 series airplanes), both dated March 16, 2005. The AOTs describe procedures for one-time general visual, detailed visual, and tap test inspections for damage in the structural integrity of the rudder and its attachments. The inspection procedures include a general visual inspection for damage of the rear spar aft face of the vertical stabilizer, including the trailing edge structure; a detailed visual inspection of the rudder hinge arms and support fittings, the actuator support fittings and the rudder hinge fittings; and a tap test inspection for damage of the rudder side panels of the leading edge from the bottom to top and the forward trailing edge connection from the bottom up to hinge No. 5 around the hoisting points and certain additional areas. The AOTs also specify contacting the manufacturer for certain repair conditions and reporting of inspection results. The DGAC mandated the service information and issued French airworthiness directive UF–2005–048, dated March 18, 2005, to ensure the continued airworthiness of these airplanes in France.

FAA's Determination and Requirements of This AD

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

Therefore, we are issuing this AD to prevent detachment of the rudder from the airplane, which could degrade airplane handling qualities and result in reduced controllability of the airplane. This AD requires accomplishing the actions specified in the service information described previously, except as discussed under ''Differences Between the AD and the Service Information.'' The AD also requires sending the inspection results to Airbus, regardless of the findings.

Differences Among the AD, French Airworthiness Directive and Service Information

Although the French airworthiness directive and the AOTs specify that operators may contact the manufacturer for certain repair conditions, this AD requires operators to repair those conditions per a method approved by either the FAA or the DGAC (or its delegated agent). In light of the type of repair that would be required to address the unsafe condition, and consistent with existing bilateral airworthiness agreements, we have determined that, for this AD, a repair approved by either the FAA or the DGAC (or its delegated agent) would be acceptable for compliance with this AD.

The French airworthiness directive and AOTs specify inspecting the rudder attachments and the rudder side panels for damage and reporting findings to the manufacturer, but there is no definition of the type of damage to inspect for or findings to report. This AD requires inspecting for discrepancies in the structural integrity of the rudder and its attachments. For the general visual and detailed inspections, the discrepancies to inspect for and report include corrosion, cracks, abrasion, scratches, and dents. For the tap test, the discrepancies to inspect for and report include delamination in the outer CFRP layers and debonding between the outer CFRP layers and the honeycomb core.

Clarification of Certain Sections in Airbus A310 and A300–600 Structural Repair Manuals

Although the French airworthiness directive and AOTs do not identify the sections in the SRMs that specify damage limits for the rudder attachments and the rudder side panels, those sections are specified in Note 3 of this AD.

Clarification of Inspection Terminology/AOT Number

In this AD, the ''detailed visual inspection'' specified in the AOTs is referred to as a ''detailed inspection.'' We have included the definition for a detailed inspection in a note in the AD.

The French airworthiness directive identifies the AOT number for A310 series airplanes as A310 55A2035; however, the number is transposed in the AOT and identified as A310A55–2035. This AD will identify the AOT number as A310A55–2035 to adhere to the Office of the Federal Register guidelines for materials incorporated by reference.

Interim Action

This is considered to be interim action. The inspection report that is required by this AD will enable the FAA, DGAC, and the manufacturer to obtain better insight into the potential unsafe condition, and eventually to develop final action to address it, if necessary. If final action is identified, the FAA may consider further rulemaking.

FAA's Determination of the Effective Date

An unsafe condition exists that requires the immediate adoption of this AD; therefore, providing notice and opportunity for public comment before the AD is issued is impracticable, and good cause exists to make this AD effective upon publication in the **Federal Register**.

Comments Invited

This AD is a final rule that involves requirements that affect flight safety and was not preceded by notice and an opportunity for public comment; however, we invite you to submit any relevant written data, views, or arguments regarding this AD. Send your comments to an address listed under **ADDRESSES**. Include ''Docket No. FAA–2005–20748; Directorate Identifier 2005–NM–063–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the AD. We will consider all comments received by the closing date and may amend the AD in light of those comments.

We will post all comments we receive, without change, to *http://dms.dot.gov*, including any personal information you provide. We will also post a report summarizing each substantive verbal contact with FAA personnel concerning this AD. Using the search function of our docket Web site, anyone can find and read the comments in any of our dockets, including the name of the individual who sent the comment (or signed the comment on behalf of an association, business, labor union, etc.). You can review the DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78), or you can visit *http://dms.dot.gov*.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

3. Will not have a significant economic impact, positive or negative, on a substantial number of small entities

under the criteria of the Regulatory Flexibility Act.

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

2005–07–07 Airbus: Amendment 39–14031. Docket No. FAA–2005–20748; Directorate Identifier 2005–NM–063–AD.

Effective Date

(a) This AD becomes effective March 28, 2005.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Airbus Model A310 Series Airplanes; and Model A300 B4–600, B4–600R, and F4–600R series airplanes, and Model C4 605R Variant F airplanes (collectively called A300–600); certificated in any category; equipped with any composite-fiber-reinforced plastic (CFRP) rudder with part number (P/N) A55471500 series installed.

Unsafe Condition

(d) This AD was prompted by a report that, during cruise, a Model A310 series airplane lost most of its rudder, which was made from CFRP. The FAA is issuing this AD to prevent detachment of the rudder from the airplane, which could degrade airplane handling qualities and result in reduced controllability of the airplane.

Compliance

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

One-Time Inspections

(f) Within 550 flight hours or 3 months after the effective date of this AD, whichever is first: Perform one-time general visual, detailed, and tap test inspections for discrepancies in the structural integrity of the rudder and its attachments, in accordance with Airbus All Operators Telex (AOT) A310A55–2035 (for A310 series airplanes) and Airbus AOT A300–600 55A6035 (for A300–600 series airplanes), both dated March 16, 2005. For the one-time general visual and detailed inspections, discrepancies include corrosion, cracks, abrasion, scratches, and dents. For the tap test, discrepancies include delamination in the outer CFRP layers and debonding between the outer CFRP layers and the honeycomb core.

Note 1: For the purposes of this AD, a general visual inspection is: ''A visual examination of an interior or exterior area, installation, or assembly to detect obvious damage, failure, or irregularity. This level of inspection is made from within touching distance unless otherwise specified. A mirror may be necessary to enhance visual access to all exposed surfaces in the inspection area. This level of inspection is made under normally available lighting conditions such as daylight, hangar lighting, flashlight, or droplight and may require removal or opening of access panels or doors. Stands, ladders, or platforms may be required to gain proximity to the area being checked.''

Note 2: For the purposes of this AD, a detailed inspection is: ''An intensive examination of a specific item, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at an intensity deemed appropriate. Inspection aids such as mirror, magnifying lenses, etc., may be necessary. Surface cleaning and elaborate procedures may be required.''

Actions Accomplished Previously

(g) Inspections accomplished within the last 18 months before the effective date of this AD in accordance with section 4.2.2 of Airbus AOTs A310A55–2035 and A300–600 55A6035, both dated March 16, 2005; are considered acceptable for compliance with the corresponding actions specified in paragraph (f) of this AD, after the inspection results are reported to Airbus as required in paragraph (i) of this AD.

Corrective Actions

(h) If any discrepancy of the rudder attachments that exceeds the limits specified in the Airbus A310 or A300–600 Structural Repair Manual (SRM), or any discrepancy of the rudder side panels is found during any inspection required by paragraph (f) of this AD: Before further flight, repair or otherwise disposition, in accordance with a method approved by the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate; or the Direction Générale de l'Aviation Civile (DGAC) (or its delegated agent).

Note 3: Limits for allowable damage and rework for the rudder attachment fittings are specified in Sections 55–40–00, 55–36–42, 55–30–00, and 55–46–11 of the Airbus A310 and A300–600 SRM.

Reporting Requirement

(i) Within 10 days after accomplishing all the inspections required by paragraph (f) of this AD: Submit Airbus Technical Disposition 943.0267/05, Issue A, ''CFRP Rudder—Inspection Reporting Sheets'' with the inspection results (both positive and negative findings) to Airbus Customer Service Engineering, Mr. X. Jolivet, SEE83, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex France; fax (+33) 5 61 93 36 14. Under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), the Office of Management and Budget (OMB) has approved the information collection requirements contained in this AD and has assigned OMB Control Number 2120–0056.

Note 4: The reporting sheets referenced in paragraph (j) of this AD will be provided by Airbus, as specified in Section 2., of Airbus AOTs A310A55–2035 and A300–600 55A6035, both dated March 16, 2005.

Parts Installation

(j) As of the effective date of this AD, no person may install on any airplane a CFRP rudder, P/N A55471500 series, unless the requirements specified in paragraphs (f), (h) and (i) of this AD have been accomplished.

Alternative Methods of Compliance (AMOCs)

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

Related Information

(l) French airworthiness directive UF–2005–048, dated March 18, 2005, also addresses the subject of this AD.

Material Incorporated by Reference

(m) You must use Airbus All Operators Telex A310A55–2035, dated March 16, 2005; and Airbus All Operators Telex A300–600 55A6035, dated March 16, 2005; as applicable; 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 these documents in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. For copies of the service information, contact Airbus, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. To view the AD docket go to the Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street, SW., room PL–401, Nassif Building, Washington, DC. To review copies of the service information, go to 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.*

Issued in Renton, Washington, on March 23, 2005.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 05–6106 Filed 3–25–05; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2005–20061; Airspace Docket No. 05–ACE–3]

Modification of Class E Airspace; Ozark, MO

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule; confirmation of effective date.

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

EFFECTIVE DATE: 0901 UTC, May 12, 2005.

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

SUPPLEMENTARY INFORMATION: The FAA published this direct final rule with a request for comments in the **Federal Register** on February 10, 2005 (70 FR 7021) and the **Federal Register** subsequently published a correction to the rule on Friday, February 18, 2005 (70 FR 8432). The FAA uses the direct final rulemaking procedure for a non-controversial rule where the FAA believes that there will be no adverse public comment. This direct final rule advised the public that no adverse comments were anticipated, and that unless a written adverse comment, or a written notice of intent to submit such an adverse comment, were received within the comment period, the regulation would become effective on May 12, 2005. No adverse comments were received, and thus this notice confirms that this direct final rule will become effective on that date.

Issued in Kansas City, MO, on March 15, 2005.

Anthony D. Roetzel,

Acting Area Director, Western Flight Services Operations.

[FR Doc. 05–5966 Filed 3–25–05; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2005–20062; Airspace Docket No. 05–ACE–4]

Modification of Class E Airspace; Nevada, MO

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule; confirmation of effective date.

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

EFFECTIVE DATE: 0901 UTC, May 12, 2005.

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

SUPPLEMENTARY INFORMATION: The FAA published this direct final rule with a request for comments in the **Federal Register** on February 10, 2005 (70 FR 7020). The FAA uses the direct final rulemaking procedure for a non-controversial rule where the FAA believes that there will be no adverse public comment. This direct final rule advised the public that no adverse comments were anticipated, and that unless a written adverse comment, or a written notice of intent to submit such an adverse comment, were received within the comment period, the regulation would become effective on May 12, 2005. No adverse comments were received, and thus this notice confirms that this direct final rule will become effective on that date.

Issued in Kansas City, MO, on March 15, 2005.

Anthony D. Roetzel,

Acting Area Director, Western Flight Services Operations.

[FR Doc. 05–5967 Filed 3–25–05; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 145

[Docket No. FAA–1999–5836]

RIN 2120–AI60

Repair Stations

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; delay of effective date.

SUMMARY: The FAA is delaying the effective date of the final rule requiring each repair station to have an approved training program. This action is necessary because applicable guidance material is not yet available to assist repair stations in developing their programs. The delayed date will give repair stations sufficient time to develop their programs and will give the FAA time to evaluate and approve them.

DATES: The effective date of § 145.163 published at 66 FR 41117 (August 6, 2001) is delayed until April 6, 2006. The amendments in this final rule become effective April 6, 2006.

FOR FURTHER INFORMATION CONTACT: Mr. Herbert E. Daniel, Aircraft Maintenance Division, General Aviation and Repair Station Branch (AFS–340), Federal Aviation Administration, 800 Independence Ave., SW., Washington, DC 20591; facsimile (202) 267–5115; e-mail *Herbert.E.Daniel@faa.gov* or by telephone at (202) 267–3109; or Mr. Dan Bachelder, AFS–340, at the address or facsimile listed above or e-mail *Dan.Bachelder@faa.gov* or by telephone at (202) 267–7027.

SUPPLEMENTARY INFORMATION:

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 title 49, subtitle VII, part A, subpart III, section 44701, General requirements, and section 44707, Examining and rating air agencies. Under section 44701, the FAA may prescribe regulations and standards in the interest of safety for inspecting, servicing, and overhauling aircraft, aircraft engines, propellers, and appliances. It may also prescribe equipment and facilities for, and the timing and manner of, inspecting,

servicing, and overhauling. Under section 44707, the FAA may examine and rate repair stations.

This regulation is within the scope of section 44701 since it pertains to the new requirement for repair stations to have FAA-approved training programs in the interest of enhancing safety. The regulation is within the scope of section 47707 since it will assist repair stations in developing better training programs by allowing them to develop those programs based on FAA-issued guidance materials.

The Final Rule

On July 30, 2001, the FAA issued a final rule to update and revise repair station regulations (66 FR 41088, August 6, 2001). In that rulemaking action, the FAA established a new requirement that each repair station have an employee training program approved by the FAA that consists of initial and recurrent training. In the preamble to the final rule, the FAA stated, ''Before the effective date of the final rule, the FAA will issue advisory material regarding the required training program.'' The effective date for the new training requirements was set two years after the effective date of the revised rule for repair stations to provide repair stations time to develop their programs. The new training requirements are scheduled to become effective on April 6, 2005.

On December 22, 2004, the FAA published a Notice of Availability of draft Advisory Circular AC 145–RSTP. This document would provide guidance to repair stations for their training programs. In response to multiple comments from industry associations, the FAA has extended the comment period to March 22, 2005 (70 FR 3243; January 21, 2005). The extended comment period will enable repair station operators to submit meaningful comments on whether the guidance material is useful in developing training programs that comply with § 145.163.

When the comment period closes, the FAA will review the comments. We expect commenters will have meaningful suggestions for improving the guidance. We also expect that some commenters will call attention to new training technologies that would benefit a training program. The FAA will need time to consider the comments and to incorporate meaningful changes into AC 145–RSTP that will benefit these smaller entities in the development of their training programs.

Further, due to recent events in the European Union, the European Commission (EC) has passed and implemented commission regulation 2042/2003. This regulation also impacts the domestic United States by requiring all European-registered aircraft to be maintained in accordance with annex 2, part 145. The FAA recognizes that 1,275 US-based 14 CFR part 145 repair stations are also approved under EC regulation 2042 and are now required to meet the repair station manual supplement requirements of EC 2042, hereinafter referred to as European Aviation Safety Agency (EASA) part 145. This new requirement to transition from the former Joint Aviation Authority (JAA) to EASA part 145 will require many US-based repair stations to revise their current JAA supplements to the EASA part 145 supplement requirements. Concurrently with its review and evaluation of the U.S.-certificated repair stations' training programs, the FAA also must allot resources to review and accept these EASA part 145 manual supplement revisions. In light of these developments and the United States' international agreements, as well as FAA international obligations, the FAA finds that implementing the § 145.163 training program and EASA supplement to repair station manuals by April 6, 2005 would impose a significant burden on the repair station industry as well as the FAA.

Delaying the effective date of 14 CFR 145.163 for 12 months will have the ancillary benefit of reducing the burden on the 1,275 U.S.-based repair stations that must meet the EASA part 145 manual supplement requirements. They will have additional time in which to develop both those revisions and the training programs required by § 145.163. Similarly, the extension will provide additional time for the FAA to review them.

In summary, the FAA is delaying the effective date of 14 CFR 145.163 for 12 months because:

1. We have extended the comment period on the proposed guidance material and, therefore, have not yet issued the final guidance, and

2. We want to adhere as closely as possible to a transition period between the time the guidance is issued and the effective date of the rule. The additional time will enable repair stations to use that guidance material when it becomes available in developing their programs.

Paperwork Reduction Act

There are no new requirements for information collection associated with this amendment.

International Compatibility

In keeping with U.S. obligations under the Convention on International Civil Aviation, it is FAA policy to comply with International Civil Aviation Organization (ICAO) Standards and Recommended Practices to the maximum extent practicable. The FAA has reviewed the corresponding ICAO Standards and Recommended Practices and has identified no differences with these regulations.

Good Cause for ''No Notice''

Sections 553(b)(3)(B) and 553(d)(3) of the Administrative Procedures Act (APA) (5 U.S.C. 553(b)(3)(B) and 553(d)(3)) authorize agencies to dispense with certain notice procedures for rules when they find ''good cause'' to do so. Under section 553(b)(3)(B), the requirements of notice and opportunity for comment do not apply when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' The FAA finds that notice and public comment on this final rule are impracticable. For the APA, ''impracticable'' means that, if notice and comment procedures were followed, they would defeat the purpose of the rule. As explained previously, the purpose of this final rule is to extend the effective date for the repair station training requirements from April 6, 2005, to April 6, 2006. Coordinating and issuing rulemaking documents will take time under current procedures. We cannot issue a notice, receive comments, and issue a final rule before the current effective date. Repair stations will also need adequate time before the effective date to develop their training programs following guidance to be provided by the FAA. Therefore, any delay in issuing this final rule would subject repair stations to confusion and the expense of trying to establish training programs hurriedly without final guidance from the FAA. Therefore, it is ''impracticable'' to provide notice and opportunity to comment.

Good Cause for Immediate Adoption

In accordance with 5 U.S.C. 553(b)(3)(B), FAA finds good cause for issuing this rule without prior notice and comment. Seeking public comment is impracticable, unnecessary, and contrary to the public interest. This delay of effective date will give repair stations sufficient time to use FAA guidance material in preparing to operate under the amended regulations for repair stations. Given the imminence of the effective date, seeking prior public comments on this temporary delay would have been impracticable, as well as contrary to the public interest in the orderly promulgation and implementation of this rule.

Economic Evaluation, Regulatory Flexibility Determination, Trade Impact Assessment, and Unfunded Mandates Assessment

Changes to Federal regulations must undergo several economic analyses. First, Executive Order 12866 directs each Federal agency to propose or adopt a regulation only if the agency makes a reasoned determination that the benefits of the intended regulation justify its costs. Second, the Regulatory Flexibility Act of 1980 requires agencies to analyze the economic impact of regulatory changes on small entities. Third, the Trade Agreements Act (19 U.S.C. 2531–2533) bans agencies from setting standards that create unnecessary obstacles to the foreign commerce of the United States. In developing U.S. standards, the Trade Act requires agencies to consider international standards. Where suitable, the Trade Act directs agencies to use those international standards as the basis of U.S. standards. Fourth, the Unfunded Mandates Reform Act of 1995 requires agencies to prepare a written assessment of the costs, benefits, and other effects of proposed or final rules. This requirement applies only to rules that include a Federal mandate on State, local, or tribal governments, likely to result in a total expenditure of $100 million or more in any one year (adjusted for inflation). In conducting these analyses, the FAA determines that this rule:

(1) Has benefits which justify its costs and is not a ''significant regulatory action'' as defined in the Executive Order and as defined in DOT's Regulatory Policies and Procedures;

(2) Will not have a significant impact on a substantial number of small entities;

(3) Has minimal effects on international trade; and

(4) Does not impose an unfunded mandate on State, local, or tribal governments or on the private sector.

Economic Summary

This rule delays the effective date for repair stations to establish their training programs in accordance with § 145.163. This action is necessary because applicable guidance material is not yet available to assist repair stations in developing their programs. The extended date will give repair stations sufficient time to develop their programs and will give the FAA time to evaluate and approve them.There will also be a decrease in overall paperwork and costs if this rule has the extended effective date.

Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) of 1980, 5 U.S.C. 601–612, establishes ''as a principle of regulatory issuance that agencies shall endeavor, consistent with the objective of the rule and of applicable statutes, to fit regulatory and informational requirements to the scale of the business, organizations, and governmental jurisdictions subject to the regulation.'' To achieve that principle, the RFA requires agencies to solicit and consider flexible regulatory proposals to explain the rationale for their actions. The RFA covers a wide-range of small entities, including small businesses, not-for-profit organizations, and small governmental jurisdictions.

Agencies must perform a review to determine whether a proposed or final rule will have a significant economic impact on a substantial number of small entities. If the agency determines that it will, the agency must prepare a regulatory flexibility analysis as described in the RFA.

However, if an agency determines that a proposed or final rule is not expected to have a significant economic impact on a substantial number of small entities, section 605(b) of the RFA provides that the head of the agency may so certify and a regulatory flexibility analysis is not required. The certification must include a statement providing the factual basis for this determination, and the reasoning should be clear.

This final rule merely delays the effective date for § 145.163. Its economic impact is minimal. Therefore, we certify that this action will not have a significant economic impact on a substantial number of small entities.

Trade Impact Assessment

The Trade Agreement Act of 1979 prohibits Federal agencies from establishing any standards or engaging in related activities that create unnecessary obstacles to the foreign commerce of the United States. Legitimate domestic objectives, such as safety, are not considered unnecessary obstacles. The statute also requires consideration of international standards and, where appropriate, that they be the basis for U.S. standards. The FAA has assessed the potential effect of this final rule and determined that it has only a domestic impact.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (the Act), is intended, among other things, to curb the practice of imposing unfunded Federal mandates on State, local, and tribal governments. Title II of the Act requires each Federal agency to prepare a written statement assessing the effects of any Federal mandate in a proposed or final agency rule that may result in a $100 million or more expenditure (adjusted annually for inflation) in any one year by State, local, and tribal governments, in the aggregate, or by the private sector; such a mandate is deemed to be a ''significant regulatory action.'' The FAA currently uses an inflation-adjusted value of $120.7 million in lieu of $100 million.

This final rule does not contain such a mandate. Therefore, the requirements of Title II of the Unfunded Mandates Reform Act of 1995 do not apply.

Executive Order 13132, Federalism

The FAA has analyzed this final rule under the principles and criteria of Executive Order 13132, Federalism. We determined that this action will not have a substantial direct effect on the States, or the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, we have determined that this final rule does not have federalism implications.

Environmental Analysis

FAA Order 1050.1E identifies FAA actions that are categorically excluded from preparation of an environmental assessment or environmental impact statement under the National Environmental Policy Act in the absence of extraordinary circumstances. The FAA has determined this proposed rulemaking action qualifies for the categorical exclusion identified in paragraph 312(d) and involves no extraordinary circumstances.

Regulations That Significantly Affect Energy Supply, Distribution, or Use

The FAA has analyzed this final rule under Executive Order 13211, Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use (66 FR 28355, May 18, 2001). We have determined that it is not a ''significant energy action'' under the executive order because it is not a ''significant regulatory action'' under Executive Order 12866, and it is not likely to have a significant adverse effect on the supply, distribution, or use of energy.

List of Subjects in 14 CFR Part 145

Air carriers, Air transportation, Aircraft, Aviation safety, Recordkeeping and reporting requirements, Safety.

The Amendment

■ For the reasons set forth above, the Federal Aviation Administration is delaying the effective date of 14 CFR 145.163 and amending part 145 as follows:

PART 145—REPAIR STATIONS

■ 1. The authority citation for part 145 is revised to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701–44702, 44707, 44709, 44717.

■ 2. Revise § 145.163(a) introductory text to read as follows:

§ 145.163 Training requirements.

(a) A certificated repair station must have an employee training program approved by the FAA that consists of initial and recurrent training. For purposes of meeting the requirements of this paragraph, beginning April 6, 2006—

* * * * *

Issued in Washington, DC, on March 17, 2005.

Marion C. Blakey,

Administrator.

[FR Doc. 05–5856 Filed 3–22–05; 3:29 pm]

BILLING CODE 4910–13–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 179

[Docket No. 2003F–0088]

Irradiation in the Production, Processing, and Handling of Food; Correction

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting a final rule that appeared in the **Federal Register** of December 23, 2004 (69 FR 76844). The document amended the food additive regulations by establishing a new maximum permitted energy level of x rays for treating food of 7.5 million electron volts provided the x rays are generated from machine sources that use tantalum or gold as the target material, with no change in the maximum permitted dose levels or uses currently permitted by FDA's food additive regulations. The document was published with two errors in the preamble section. This document corrects those errors.

DATES: Effective December 23, 2004.

FOR FURTHER INFORMATION CONTACT: Celeste Johnston, Center for Food Safety and Applied Nutrition (HFS–265), Food and Drug Administration, 5100 Paint Branch Pkwy., College Park, MD 20740–3835, 301–436–1282.

SUPPLEMENTARY INFORMATION: In FR Doc. 04–28043, appearing on page 76844 in the **Federal Register** of Thursday, December 23, 2004, the following corrections are made:

1. On page 76844, in the second column, under ''**I. Introduction**,'' the second sentence is corrected to read: ''Since the publication of the notice, IBA Guardion, a division of IBA responsible for this petition, has been sold to PPM Ventures, which subsequently changed the name of this division to Sterigenics International, Inc., 2015 Spring Rd., suite 650, Oak Brook, IL 60523.''

2. On page 76846, in the third column, under ''**VIII. References**,'' the citation for reference 2 is corrected to read ''Gregoire, O., Cleland, M. R., Mittendorfer, J., et al., ''Radiological Safety of Food Irradiation With High Energy X-Rays: Theoretical Expectations and Experimental Evidence,'' *Radiation Physics and Chemistry*, vol. 67, pp. 169–183, 2003.''

Dated: March 18, 2005.

Leslye M. Fraser,

Director, Office of Regulations and Policy, Center for Food Safety and Applied Nutrition.

[FR Doc. 05–6024 Filed 3–25–05; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

31 CFR Part 560

Iranian Transactions Regulations

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Final rule.

SUMMARY: The Office of Foreign Assets Control (''OFAC'') of the U.S. Department of the Treasury is revising the Iranian Transactions Regulations to clarify the applicability of certain general licenses to brokers and dealers in securities.

DATES: *Effective Date:* March 28, 2005.

FOR FURTHER INFORMATION CONTACT: Chief of Policy Planning and Program Management, tel. 202/622–4855, Chief of Licensing, tel.: 202/622–2480, Chief of Compliance, tel. 202/622–2490, or Chief Counsel, tel.: 202/622–2410, Office of Foreign Assets Control, Department of the Treasury, Washington, DC 20220 (not toll free numbers).

SUPPLEMENTARY INFORMATION:

Electronic and Facsimile Availability

This file is available for download without charge in ASCII and Adobe Acrobat readable (*.PDF) formats at GPO Access. GPO Access supports HTTP, FTP, and Telnet at *fedbbs.access.gpo.gov.* It may also be accessed by modem dialup at 202/512–1387 followed by typing ''/GO/FAC.'' Paper copies of this document can be obtained by calling the Government Printing Office at 202/512–1530. This document and additional information concerning the programs of the Office of Foreign Assets Control are available for downloading from the Office's Internet Home Page: *http://www.treas.gov/ofac*, or via FTP at *ofacftp.treas.gov.* Facsimiles of information are available through the Office's 24-hour fax-on-demand service: call 202/622–0077 using a fax machine, fax modem, or (within the United States) a touch-tone telephone.

Background

The Iranian Transactions Regulations, 31 CFR part 560 (the ''ITR''), implement a series of Executive orders, beginning with Executive Order 12957, issued on March 15, 1995. In that order, the President declared a national emergency pursuant to IEEPA to deal with the unusual and extraordinary threat to the national security, foreign policy, and economy of the United States constituted by the actions and policies of the Government of Iran, including its support for international terrorism, its efforts to undermine the Middle East peace process and its efforts to acquire weapons of mass destruction and the means to deliver them. To deal with this threat, Executive Order 12957 imposed prohibitions on certain transactions with respect to the development of Iranian petroleum resources. On May 6, 1995, the President issued Executive Order 12959 imposing comprehensive trade sanctions to further respond to this threat, and on August 19, 1997, the President issued Executive Order 13059 consolidating and clarifying the previous orders.

The Treasury Department's Office of Foreign Assets Control (''OFAC'') is amending the ITR to include definitions relating to registered brokers and dealers in securities and to clarify the application to such brokers and dealers of general licenses relating to funds transfers to and from Iran and to the operation of Iranian accounts. To this

end, OFAC is adding a new provision at 31 CFR 560.321 to establish a regulatory definition of the term *United States registered broker or dealer in securities* and amending § 560.320 of the ITR to clarify that the term *Iranian accounts* includes accounts of persons located in Iran or of the Government of Iran maintained on the books of a United States registered broker or dealer in securities. Section 560.516 of the ITR is being amended to clarify that United States registered brokers or dealers in securities are authorized to process certain transfers of funds to or from Iran. Section 560.517 of the ITR is being amended to clarify that United States registered brokers or dealers in securities are within the scope of the general license authorizing the exportation of certain Iranian account-related services to Iran. A corresponding technical change to § 560.532 of the ITR is also included.

Public Participation

Because the amendment of the ITR involves a foreign affairs function, the provisions of Executive Order 12866 and the Administrative Procedure Act (5 U.S.C. 553) (the ''APA'') requiring notice of proposed rulemaking, opportunity for public participation, and delay in effective date, are inapplicable. Because no notice of proposed rulemaking is required for this rule, the Regulatory Flexibility Act (5 U.S.C. 601–612) does not apply.

Paperwork Reduction Act

The collections of information related to 31 CFR parts 31 CFR parts 560 are contained in 31 CFR part 501 (the ''Reporting, Procedures and Penalties Regulations''). Pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), those collections of information have been approved by the Office of Management and Budget under control number 1505–0164. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid control number.

List of Subjects in 31 CFR Part 560

Administrative practice and procedure, Banks, banking, Brokers, Securities, Iran.

■ For the reasons set forth in the Preamble, 31 CFR part 560 is amended as follows:

PART 560—IRANIAN TRANSACTIONS REGULATIONS

■ 1. The authority citation for part 560 continues to read as follows:

Authority: 3 U.S.C. 301; 18 U.S.C. 2339B, 2332d; 22 U.S.C. 2349aa–9; 31 U.S.C. 321(b); 50 U.S.C. 1601–1651, 1701–1706; Pub. L. 101–410, 104 Stat. 890 (28 U.S.C. 2461 note); Pub. L. 106–387, 114 Stat. 1549; E.O. 12613, 52 FR 41940, 3 CFR, 1987 Comp., p. 256; E.O. 12957, 60 FR 14615, 3 CFR, 1995 Comp., p. 332; E.O. 12959, 60 FR 24757, 3 CFR, 1995, Comp., 356; E.O. 13059, 62 FR 44531, 3 CFR, 1997 Comp., p. 217.

Subpart C—General Definitions

■ 2. Revise § 560.320 to read as follows:

§ 560.320 Iranian accounts.

The term *Iranian accounts* means accounts of persons located in Iran or of the Government of Iran maintained on the books of either a United States depository institution or a United States registered broker or dealer in securities.

■ 3. Add a new § 560.321 to subpart C to read as follows:

§ 560.321 United States registered broker or dealer in securities.

The term *United States registered broker or dealer in securities* means any U.S. citizen, permanent resident alien, or entity organized under the laws of the United States or of any jurisdiction within the United States, including its foreign branches, or any agency, office or branch of a foreign entity located in the United States, that:

(a) Is a ''broker'' or ''dealer'' in securities within the meanings set forth in the Securities Exchange Act of 1934;

(b) Holds or clears customer accounts; and

(c) Is registered with the Securities and Exchange Commission under the Securities Exchange Act of 1934.

Subpart E—Licenses, Authorizations, and Statements of Licensing Policy

■ 4. Amend § 560.516 by redesignating paragraphs (b) through (d) as paragraphs (c) through (e), respectively, and adding a new paragraph (b) to read as follows:

§ 560.516 Payment and United States dollar clearing transactions involving Iran.

* * * * *

(b) United States registered brokers or dealers in securities are authorized to process transfers of funds to or from Iran, or for the direct or indirect benefit of persons in Iran or the Government of Iran, if the transfer is covered in full by any of the conditions set forth in paragraphs (a)(2) through (4) of this section and does not involve the debiting or crediting of an Iranian account.

* * * * *

■ 5. Amend § 560.517 by revising the section heading and paragraph (b) and adding paragraph (c) to read as follows:

§ 560.517 Exportation of services: Iranian accounts at United States depository institutions or United States registered brokers or dealers in securities.

* * * * *

(b) United States registered brokers or dealers in securities are prohibited from performing services with respect to Iranian accounts, as defined in § 560.320, at the instruction of the Government of Iran or persons located in Iran, except that United States registered brokers or dealers in securities are authorized to provide and be compensated for services and incidental transactions with respect to:

(1) The limited maintenance of an Iranian account, including only the payment into such account of interest, cash dividends, and stock dividends; the debiting of service charges; and the execution of stock splits and dividend reinvestment plans; and

(2) At the request of the account party, the closing of Iranian accounts through the one-time liquidation of all assets in the account at fair market value and the lump sum transfer only to the account party of all proceeds derived therefrom and all remaining funds in the account.

(c) Specific licenses may be issued with respect to the operation of Iranian accounts that constitute accounts of:

(1) Foreign government missions and their personnel in Iran; or

(2) Missions of the Government of Iran in the United States.

■ 6. Revise the last sentence of paragraph (d) of § 560.532 to read as follows:

§ 560.532 Payment for and financing of export and reexport of commercial commodities, medicine, and medical devices.

* * * * *

(d) * * * *See* § 560.516(c).

* * * * *

Dated: February 9, 2005.

Robert W. Werner,

Director, Office of Foreign Assets Control.

Approved: February 18, 2005.

Juan C. Zarate,

Assistant Secretary (Terrorist Financing).

[FR Doc. 05–6046 Filed 3–23–05; 3:08 pm]

BILLING CODE 4810–25–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[CGD01–05–011]

RIN 1625–AA00, AA87

Safety and Security Zones; TOPOFF 3, New London, CT

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rulemaking.

SUMMARY: The Coast Guard is establishing safety and security zones around waterfront areas in New London, Connecticut during the Congressionally-mandated third Top Officials exercise. These zones are necessary to provide for the safety and security of participants in the exercise, the surrounding shore and maritime communities from potential sabotage or subversive acts aimed at this large scale, high profile exercise. These temporary safety and security zones prohibit persons or vessels from entering unless authorized by the Captain of the Port, Long Island Sound or designated representative.

DATES: This rule is effective from 12:01 a.m. on April 2, 2005 until 11:59 p.m. on April 10, 2005.

ADDRESSES: You may mail comments and related material to Waterways Management Division, Coast Guard Group/Marine Safety Office Long Island Sound, 120 Woodward Avenue, New Haven, CT 06512. Coast Guard Group/Marine Safety Office Long Island Sound maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at Group/Marine Safety Office Long Island Sound, New Haven, CT, between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Lieutenant A. Logman, Chief, Waterways Management Division, Coast Guard Group/Marine Safety Office Long Island Sound at (203) 468–4429.

SUPPLEMENTARY INFORMATION:

Regulatory History

On February 18, 2005, we published a notice of proposed rulemaking (NPRM) entitled ''Safety and Security Zones; TOPOFF 3, New London, CT.'' **Federal Register** (69 FR 8309). No comments were received on the proposed rule. No public hearing was requested, and none was held.

In accordance with 5 U.S.C. (d)(3), the Coast Guard finds good cause for making this rule effective less than 30 days after publication in the **Federal Register**. Final plans for this exercise were not finalized with sufficient time to publish an NPRM and Final Rule in accordance with the publication requirements of 5 U.S.C. 553. However, the Coast Guard wished to provide the public with the opportunity to comment on this rulemaking. By doing so, the timeframe for the publication of the final rule has been reduced to less than 30 days. The delay inherent in publication of this final rule 30 days in advance of its effective date is contrary to the public interest and impracticable, as immediate action is needed to protect participants in this exercise, scheduled for April 4–10, 2005. The Coast Guard Group, Marine Safety Office Long Island Sound will make this Final Rule widely available to the maritime community and general public through notification in the Local Notice to Mariners, marine safety information bulletins and through local waterways users groups.

Background and Purpose

The third Top Officials (TOPOFF) exercise, will take place from April 4 through April 10, 2005. TOPOFF 3 is the third of the Congressionally-mandated weapons of mass destruction (WMD) national exercise series. TOPOFF 3 will use a series of exercise activities of increasing complexity, and will simulate a terrorist WMD campaign with simulated attacks occurring in the States of Connecticut and New Jersey. Additional TOPOFF activities will be conducted within the United Kingdom as part of a partnership to strengthen security in both nations. The specific scenarios for the exercise are still being developed. In New London, Connecticut, these activities will take place mainly in the vicinity of Fort Trumbull State Park. Additional activities associated with this exercise will take place in the vicinity of Ocean Beach in New London.

There will be approximately 800 participants in TOPOFF 3, from various federal, state and local agencies. Numerous high-level public officials will participate. Participants will be transported to Fort Trumbull via land and water transportation. Due to the high visibility and high profile of the participants, safety and security zones are warranted to safeguard participants and the surrounding community from sabotage or other subversive acts, accidents or other hazards of a similar nature.

Discussion of Comments and Changes

No comments were received in response to the NPRM, and no changes have been made to the final rule.

Discussion of Rule

This rule creates safety and security zones surrounding Fort Trumbull State Park and Ocean Beach in New London, Connecticut. The safety and security zones established herein are effective from April 2, 2005 through April 10, 2005. This effective period covers the scheduled exercise dates from April 4 through April 10, 2005, and provides for an additional period leading up to the exercise to provide for monitoring and searching of the area being utilized for the exercise.

The safety and security zone surrounding Fort Trumbull State Park encompass the waters of the Thames River approximately 100-yards from Fort Trumbull State Park and the Parks piers. The Fort Trumbull Safety and Security Zone includes all waters of the Thames River bounded as follows: beginning at the end of the New England Seafood pier at approximate position 41°20′49.7″ N, 072°05′41.6″ W, thence running in an easterly direction to position 41°20′50.9″ N, 072°05′36.5″ W, thence in a southeasterly direction to position 41°20′43.1″ N, 072°05′19.7″ W, then south to position 41°20′34.9″ N, 072°05′19.6″ W, thence southwesterly to a point on the western shore of the Thames River at position, 41°20′26.6″ N, 072°05′38.9″ W, thence northerly along the western shore of the Thames River to a position on the shore of the Thames River at position 41°20′29.3″ N, 072°05′39.7″ W, thence along the shore of the Thames River to the point of beginning.

The safety and security zone surrounding Ocean Beach encompass the waters of Long Island Sound approximately 100-yards off of Ocean Beach. The Ocean Beach Safety and Security Zone includes all waters of Long Island Sound bounded by lines as follows: beginning at a position on the shore of New London Connecticut at position 41°18′31.4″ N, 072°05′39.6″ W, thence running southeasterly to position 41°18′29.3″ N, 072°05′36.9″ W, thence running position southwesterly to position 41°18′11.8″ N, 072°06′2.8″ W, thence running northwesterly to position 41°18′14.5″ N, 072°06′6.1″ W, thence running northeasterly along the shore to the point of beginning.

Entry into these zones is prohibited unless authorized by the Captain of the Port, Long Island Sound. Any violation of the safety and security zones described herein is punishable by,

among others, civil and criminal penalties, in rem liability against the offending vessel, and license sanctions.

Regulatory Evaluation

This rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not ''significant'' under the regulatory policies and procedures of the Department of Homeland Security (DHS). We expect the economic impact of this rule to be so minimal that a full Regulatory Evaluation under the regulatory policies and procedures of DHS is unnecessary. This regulation may have some impact on the public, but the potential impact will be minimized for the following reasons: vessels may transit in all areas of the Thames River and Long Island Sound other than those areas covered by the safety and security zones established herein. Vessels wishing to transit to Fort Trumbull Marina may request permission to transit through the Fort Trumbull and Ocean Beach Safety and Security Zones from the Captain of the Port, Long Island Sound or their on-scene representatives. Commercial fishing vessels wishing to operate in the zones may request permission to enter the zones in advance of their effective dates from the COTP, Long Island Sound. Usage of Ocean Beach for swimming in April is extremely minimal; persons wishing to use Ocean Beach for swimming can utilize other beaches in the New London area. Moreover, there is no anticipated economic impact arising from the closure of the waters off of Ocean Beach to swimming. Additionally, there will be extensive advanced notifications made to the maritime community via the Local Notice to Mariners, marine information broadcasts and local area maritime committees. The safety and security zones have been narrowly tailored to impose the least impact on maritime interests yet provide the level of safety and protection deemed necessary for this high visibility event.

Small Entities

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

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. This rule may affect the following entities, some of which may be small entities: commercial vessels wishing to transit, fish or anchor in the portions of the Thames River or Long Island Sound covered by this rule. For the reasons outlined in the Regulatory Evaluation section above, this rule will not have a significant impact on a substantial number of small entities.

Assistance for Small Entities

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

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

Collection of Information

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

Federalism

The Coast Guard has analyzed this rule under Executive Order 13132, Federalism, and has determined that this rule does not have implications for federalism under that Order.

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

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

Energy Effects

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

Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical.

Voluntary consensus standards are technical standards (*e.g.*, specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

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

Environment

The Coast Guard has considered the environmental impact of this rule and concluded that, under figure 2–1, paragraph (34)(g) of Commandant Instruction M16475.1D, this rule is categorically excluded from further environmental documentation. A ''Categorical Exclusion Determination'' is available in the docket where indicated under **ADDRESSES.**

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. From 12:01 a.m. on April 2, 2005 to 11:59 p.m. on April 10, 2005 add temporary § 165.T01–011 to read as follows:

§ 165.T01–011 Security and Safety Zone; TOPOFF 3, New London, CT.

(a) *Locations.* (1) *Fort Trumbull Safety and Security Zone.* The following area is a safety and security zone: All waters of the Thames River in an area bounded as follows: beginning at the end of the New England Seafood pier at approximate position 41°20′49.7″ N, 072°05′41.6″ W, thence running in an easterly direction to position 40°20′50.9″ N, 072°05′36.5″ W, thence in a southeasterly direction to position 41°20′43.1″ N, 072°05′19.7″ W, then south to position 41°20′34.9″ N, 072°05′19.6″ W, thence southwesterly to a point on the western shore of the Thames River at position, 41°20′26.6″ N, 072°05′38.9″ W, thence northerly along the western shore of the Thames River to a position on the shore of the Thames River at position 41°20′29.3″ N, 072°05′39.7″ W, thence along the shore of the Thames River to the point of beginning.

(2) *Ocean Beach Safety and Security Zone.* The following area is a safety and security zone: All waters of Long Island Sound off of New London, Connecticut in an area bounded as follows: beginning at a position on the shore of New London Connecticut at position 41°18′31.4″ N, 072°05′39.6″ W, thence running southeasterly to position 41°18′29.3″ N, 072°05′36.9″ W, thence running position southwesterly to position 41°18′11.8″ N, 072°06′2.8″ W, thence running northwesterly to position 41°18′14.5″ N, 072°06′6.1″ W, thence running northeasterly along the shore to the point of beginning.

(b) *Effective date.* This rule is effective from 12:01 a.m. on April 2, 2005 until 11:59 p.m. on April 10, 2005.

(c) *Regulations.* (1) In accordance with the general regulations in 165.23 and 165.33 of this part, entry into or movement within these zones is prohibited unless authorized by the Captain of the Port (COTP), Long Island Sound.

(2) All persons and vessels shall comply with the instructions of the COTP, or the designated on-scene U.S. Coast Guard representative. On-scene Coast Guard patrol personnel include commissioned, warrant, and petty officers of the Coast Guard on board Coast Guard, Coast Guard Auxiliary, and local, state, and federal law enforcement vessels.

Dated: March 22, 2005.

Peter J. Boynton,

Captain, U.S. Coast Guard, Captain of the Port, Long Island Sound.

[FR Doc. 05–6143 Filed 3–24–05; 12:37 pm]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 174

[USCG–2003–15708]

RIN 1625–AA75

Terms Imposed by States on Numbering of Vessels

AGENCY: Coast Guard, DHS.

ACTION: Final rule; correction.

SUMMARY: The Coast Guard is correcting the preamble to a final rule that appeared in the **Federal Register** of March 18, 2005 (70 FR 13102). The final rule expands the number of conditions that a State may require in order for owners to obtain vessel numbering certificates in that State. The preamble to the final rule contains an error in the regulatory evaluation.

DATES: Effective April 18, 2005.

FOR FURTHER INFORMATION CONTACT: Audrey Pickup, Office of Boating Safety, at Coast Guard Headquarters, telephone 202–267–0872.

SUPPLEMENTARY INFORMATION: In rule FR Doc. 04–28227 published in the **Federal Register** of March 18, 2005 (70 FR 13104), correct the two paragraphs that appear on page 13104 under the heading ''Regulatory Evaluation'' to read:

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

''We expect the economic impact of this rule to be so minimal that a full Regulatory Evaluation is unnecessary.''

Dated: March 22, 2005.

Steve Venckus,

Chief, Regulations and Administrative Law, United States Coast Guard, DHS.

[FR Doc. 05–5968 Filed 3–25–05; 8:45 am]

BILLING CODE 4910–15–P

LIBRARY OF CONGRESS

Copyright Office

37 CFR Part 202

[Docket No. RM 2005–3]

Registration of Claims to Copyright, Group Registration of Published Photographs

AGENCY: Copyright Office, Library of Congress.

ACTION: Final regulations.

SUMMARY: The Copyright Office of the Library of Congress is amending its final regulations concerning group registration of published photographs to limit to 750 the number of photographs that may be identified on continuation sheets submitted with a single application form and filing fee. The regulation continues to place no limit on the number of photographs that may be included in a single group registration when the applicant elects not to use continuation sheets and instead identifies the date of publication for each photograph on the deposited image and the applicant meets the other

regulatory requirements for group registration of published photographs. The regulation also clarifies that the date of publication for each photograph may be identified in a text file on the CD–ROM or DVD that contains the photographic images or on a list that accompanies the deposit and provides the publication date for each image.

DATES: Effective March 28, 2005.

FOR FURTHER INFORMATION CONTACT: David O. Carson, General Counsel, or Charlotte Douglass, Principal Legal Advisor, P.O. Box 70400, Washington, DC 20024–0400, Telephone (202) 707–8380. Telefax: (202) 707–8366.

SUPPLEMENTARY INFORMATION: The copyright law permits a claim to copyright to be registered in the Copyright Office at any time during the subsistence of the copyright, when an application form is accompanied by the appropriate deposit of a copyrightable work and a filing fee. 17 U.S.C. 408(a). Section 408(b) generally requires the deposit of two complete copies or phonorecords of a published work, but it authorizes the Register of Copyrights by regulation to reduce the number deposited for particular classes. 17 U.S.C. 408(c)(1). The Register may also ameliorate the requirement for individual registrations where a group of separately published related works is sought to be registered together. *Id.* The legislative history of the 1976 Copyright Act offers ''a group of photographs by one photographer'' as a possibly appropriate grouping. H.R. Rep. No. 1476, 94th Cong., 2d Sess. 154 (1976).

In 2001, after notice, public comment, and careful consideration, the Office established a regulation permitting group registration of published photographs. 37 CFR 202.3(b)(9). 66 FR 37142 (July 17, 2001). That rule permitted an unlimited number of photographs that were taken by the same person and published within the same calendar year, and for which the copyrights are owned by the same person or entity, to be registered with one application and fee. An applicant may choose from three options to register such a group: The applicant may either (1) submit a group of photographs published within three months before receipt in the Copyright Office and give the range of dates within that period on the application for registration at space 3b; (2) submit a group of photographs published within a calendar year, give the range of dates within that period on the application for registration at space 3b, and identify with each deposited image the date of its publication; or (3) submit a group of photographs published within a calendar year, give the range of dates within that period on the application for registration at space 3b, and identify each photograph on a continuation sheet noting thereon its date of publication.[1]

During the rulemaking process for group registration of photographs, the Office proposed a rule that would limit the number of photographs that could be registered in a group to no more than 500. 65 FR 26162, 26166 (May 5, 2000). In response to the request for comments, many depositors asserted that the number of photographs should not be so limited. 66 FR 37143, 37145 (July 17, 2001). One commenter stated that some photographers took more than 500 images in one or two days. Another commenter noted that she produced thousands of images per quarter. *Id.* In response, the Office issued a final rule that did not limit the number of photographs that could be submitted with one group photograph claim. The Office stated that:

> In light of the comments from photographers observing that the proposed 500-photo limit is too low, the Office has reexamined its reasons for proposing such a limit. The Office has concluded that the administrative burdens of processing a group registration of a large number of photos in excess of 500 would be acceptable. Therefore, the final rule contains no limitation on the number of photographs that may be included in a group.

66 FR 37148.

On the basis of this assumed technical capability of the Office system to handle a large number of photos, the Office did not contemplate that it would receive continuation sheets listing nearly 15,000 photographs, nor did it contemplate that the production of such certificates would be as disruptive as it has been to Office operations. Recent experience with the end-stage processing of continuation sheets of a group of photographs that include more than 750 photographs listed on more than 50 continuation sheets has proved administratively burdensome. Whatever the technical capability of Office equipment might be to produce certificates with an unlimited number of continuation sheets, the practical reality of doing so requires an excessive amount of staff, time, equipment, and materials. As a consequence, the cost effectiveness of making these group registrations, at the current filing fee of $30.00 per group, is seriously out of balance.

To relate recent empirical evidence, one recent claim consisted of a staggering total of 1,776 continuation sheets. The Office required three hours for initial processing of the claim, including stamping, examining, labeling, scanning and packaging the claim for imaging. The next step to process the claim, producing the image for the registration record, required four and one-half hours to complete and used 1777 registration number bar code labels. To print the 1777 page certificate took an additional one and one-half hours during which no other printing could be accomplished on that equipment. Then, the certificate had to be packaged and mailed, at an inordinate expenditure of three and one-half reams of certificate paper, postage and packaging costs. Altogether, at the end stage of the registration process, this single registration required more than 12 hours to complete. Making matters worse, the Office currently has on hand 15 additional claims of this kind, at various stages in registration processing. Each of these claims is accompanied by continuation sheets ranging from approximately 1090 to 2423 in number. The Office production structure for registration of claims simply does not accommodate such a time frame for a single registration—group or otherwise—in a system which registered nearly 661,500 claims in fiscal year 2004.

At the time the final rule on group registration of photographs was announced in 2001, the Copyright Office did not predict that the amount of staff time, equipment usage, and production materials that would be required to produce certificates with a large number of continuation sheets would prove so impracticable as to undermine the Office's productivity. In view of recent claims that the Office has received, including three claims of 2068, 2118 and 2423 pages respectively, as well as other claims that it anticipates receiving should this registration pattern take hold, the Office has determined that it must now limit to 50 the number of continuation sheets that may accompany a group registration for published photographs. The amended regulation allows for 750 photos to be listed on the continuation sheets that are part of the application and made part of the certificate of registration, and permits the applicant to submit additional claims in groups of 750 or fewer photographs with additional filing fees for registration where the continuation sheet option is preferred. Applicants may continue to submit

[1] The regulation encouraged applicants to use the latter option because the registration certificate, of which the continuation sheets are a part, serves as prima facie evidence of the date of publication of a work when it is registered within five years of first publication.

applications for group registration of photographs without any limitation on the number of photographs if they select one of the options that does not involve use of continuation sheets.

At some future time, the Office may be able to resume group registration for photographs with an unlimited number of continuation sheets. When the Office's business processing systems have been re-engineered, new information technology systems will be employed to accomplish much of the processing of claims digitally and it may at that time be possible to liberalize the current restriction.

The Office is also clarifying that when an applicant for group registration of photographs elects not to use continuation sheets to identify dates of publication, the option that permits the dates of publication to be identified ''on the deposited image'' does not require that the date of publication appear on the deposited image itself. In order to make this clear, § 202.3(b)(9)(iv) is being amended to state that the date of publication may be provided in any of four different ways: Either (1) on each deposited image, (2) in a text file on the CD–ROM or DVD that contains the deposited photographic images, (3) on a list that accompanies the deposit and provides the publication date for each image, or (4) on the continuation sheet provided by the Copyright Office.

A notice and comment period is normally required prior to promulgation of a regulation. Administrative Procedure Act, 5 U.S.C. 553(b). The Office has already conducted notice and comment on this issue and has given this issue consideration in promulgating its final rule (*See* Notice of Proposed Rulemaking, Registration of Claims to Copyright, Group Registration of Photographs, 65 FR at 26165 (May 5, 2000); Final Regulation, Registration of Claims to Copyright, Group Registration of Photographs, 66 FR at 37148 (July 17, 2001).) That rule concluded that the administrative burden of processing a group registration of a large number of photos in excess of 500 would be acceptable based on a projection of what such processing would involve. 66 FR 37148. As detailed above, however, actual experience has proved otherwise. Based on recent experience, the Office has determined that currently it is administratively unfeasible to continue to accept applications for group registrations of photographs with more than 50 continuation sheets.

The APA waives the requirement for notice and comment when ''the agency for good cause finds (and incorporates the finding and a brief statement of reasons therefor in the rules issued) that notice and public procedure are impracticable, unnecessary, or contrary to the public interest.'' 5 U.S.C. 552(b)(B). It is impracticable to conduct prepublication notice and comment where compliance with the normal APA procedures would jeopardize the agency's assigned missions. *See* S. Rep. No. 752, 79th Cong., 1st Sess. 14 (1945); S. Doc. No. 248, 79th Cong., 2d Sess. 140, 148, 157 (1946). Although the Office provides a host of other services, a primary duty of the Copyright Office is to register claims to copyright. 17 U.S.C. 701(b); 410(a). Prompt registration is central to the mission of the Office because it meets the needs of applicants, obtains new works for Library of Congress collections, and promotes creativity by effectively administering the national registry.

Providing notice and comment for this rulemaking would be impracticable because it has become apparent that providing such notice and awaiting and evaluating comments would have potentially serious adverse impacts on the Office's ability to comply with its statutory duties. At an increasing rate, the Office is receiving group photograph claims with escalating numbers of continuation sheets. As noted above, three recent claims have involved applications containing as many as 2423 pages. The Office cannot consistently process thousands of continuation sheets with one claim and provide registration services for the volume of claims it is charged with managing each year. Further delay would aggravate the threat that this pattern will continue to uncontrollable proportions, thus indicating that notice and comment would in fact be counterproductive. If the Office provided prior notice and comment for its rule limiting the number of photographs identified on continuation sheets as part of a group claim, the delay would exacerbate the present difficulties by permitting continued large submissions and perhaps even encouraging a flurry of such submissions in order to take advantage of the existing rules before the amendment's effective date, jeopardizing even more the Office's ability to fulfill its responsibility under the copyright law.

Specifically, pre-publication notice and comment would harm the Office's registration processing function for the reason that the continued submission of claims in this manner could affect the pendency of overall registrations. The time between filing for registration and receiving a registration certificate may increase, and the Office's expense in processing these extremely large group registrations would have no reasonable relationship to the fee charged. If the Office were to devote a disproportionate amount of time to register such large group claims, its ability to provide timely and cost effective service to the public at large would be negatively affected. On the other hand, from an applicant's point of view, the number limit is only being placed on registrations made under one group option. The other options will remain open for an unlimited number of photographs with one application form and one filing fee, currently $30.00.

Section 553 of the Administrative Procedure Act also provides for a notice of not less than 30 days before the effective date of a regulation, except as otherwise provided by the agency for good cause found and published with the rule. 5 U.S.C. 553(d)(3). The reasons for expedited rulemaking here are to ease an immediate administrative burden and to forestall the likelihood of even further administrative hardship. The Office has only recently begun to receive applications for group registrations of photographs containing hundreds of continuation sheets, but recent experience indicates that such applications will continue to be received, perhaps at an increasing pace. The Office cannot take the risk of becoming inundated with a last-minute rush of large continuation-sheet submissions to take advantage of the final days of the present rule. The amendment's immediate effective date will preclude the submission of an overwhelming number of late claims, which would further exacerbate the negative effect such registrations have on the Copyright Office's processing operations.

As part of the ''good cause'' calibration of the APA's section 553(d)(3), the necessity for immediate implementation must be balanced against the necessity for affected persons to have a reasonable time to prepare for the effective date of the new rule. To date, it appears that the exceptionally large continuation sheet claims are being submitted by only one entity. The Office is directly notifying that entity of this amendment to the group registration regulation which has been necessitated due to problems caused by registration in this manner. For registration materials that have been received by the Copyright Office before the effective date of this amendment but are still being processed, the rules issued in 2001 will continue to apply, although in particular cases, the Office may request that the applicant resubmits separate applications, each with no more than 50 continuation sheets. In such cases, no additional fees

will be assessed and the effective date of registration will be the date the group of photographs was originally submitted in conformity with then current regulations. With respect to any applications including more than 50 continuation sheets that are received by the Office on or after the effective date of this amendment, the applicant will be given the option of obtaining a registration certificate that does not include the continuation sheets, with the continuation sheets being included with the deposit to identify the dates of publication of the photographic images as permitted under § 202.3(b)(9)(iv).

This amendment is therefore issued as a final rule effective on the date it is published in the **Federal Register**.

Regulatory Flexibility Act

The Copyright Office, though located in the Library of Congress and part of the legislative branch, is not an ''agency'' subject to the Regulatory Flexibility Act, 5 U.S.C. 601–612. Nevertheless, the Register of Copyrights has considered the effect of a proposed amendment on small businesses. This amendment continues to offer photographers, who usually constitute small businesses, the ability to register their copyrights in large groups for a modest fee while it ensures that the Copyright Office can process those registrations in an efficient manner and at a reasonable cost.

List of Subjects in 37 CFR Part 202

Claims, Copyright.

Final Regulation

■ For the reasons set forth in the preamble, the Copyright Office amends 37 CFR part 202 as follows:

PART 202—REGISTRATION OF CLAIMS TO COPYRIGHT

■ 1. The authority citation for part 202 continues to read as follows:

Authority: 17 U.S.C. 408, 702.

■ 2. Section 202.3 is amended as follows:
■ (a) By revising paragraph (b)(9)(iv);
■ (b) By redesignating paragraphs (b)(9)(v) through (ix) as paragraphs (vi) through (x); and
■ (c) By adding a new paragraph (b)(9)(v).

The additions and revisions to § 202.3 read as follows:

§ 202.3 Registration of copyright.

* * * * *

(b) * * *

(9) * * *

(iv) If the photographs in a group were all published on the same date, the date of publication must be identified in space 3b of the application. If the photographs in a group were not all published on the same date, the range of dates of publication (*e.g.,* February 15–September 15, 2004) must be provided in space 3b of the application, and the date of publication of each photograph within the group must be identified either:

(A) On each deposited image;

(B) In a text file on the CD–ROM or DVD that contains the deposited photographic images;

(C) On a list that accompanies the deposit and provides the publication date for each image; or

(D) On a special continuation sheet provided by the Copyright Office. Dates of publication must be provided in a way that clearly identifies the date of publication for each individual photograph in the group.

(v) If the applicant chooses to identify the date of publication for each photograph in the group on a continuation sheet, the application may include no more than 50 continuation sheets identifying no more than 750 photographs. For these purposes, the applicant must use the special continuation sheet for registration of a group of photographs made available by the Copyright Office.

* * * * *

Dated: March 18, 2005.

Marybeth Peters,

Register of Copyrights.

Approved by:

James H. Billington,

The Librarian of Congress.

[FR Doc. 05–6059 Filed 3–25–05; 8:45 am]

BILLING CODE 1410–30–P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 3

RIN 2900–AM14

Exclusions From Income and Net Worth Computations

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: This document amends the Department of Veterans Affairs (VA) adjudication regulations to exclude from income and net worth computations in the pension and parents' dependency and indemnity compensation programs benefits or payments received pursuant to the Medicare Prescription Drug Discount Card and Transitional Assistance Program in the Medicare Prescription Drug, Improvement, and Modernization Act of 2003. This amendment is necessary to conform the regulations to statutory provisions.

DATES: *Effective date:* March 28, 2005.

FOR FURTHER INFORMATION CONTACT: Maya Ferrandino, Consultant (211A), Compensation and Pension Service, Policy and Regulations Staff, Veterans Benefits Administration, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 273–7232.

SUPPLEMENTARY INFORMATION: All income is countable when VA determines entitlement to income-based benefits unless specifically excluded by law. Section 101 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (MMA), Public Law 108–173, added section 1860D–31 to the Social Security Act (42 U.S.C. 1395w–141), creating a Medicare prescription drug discount card and transitional assistance program. This program allows Medicare beneficiaries to pool their purchasing power to secure substantial discounts on their medicines. Medicare beneficiaries at or below 135 percent of the federal poverty level can qualify for $600 in additional assistance for the remainder of 2004 and another $600 in 2005. The drug discounts and $600 in transitional assistance became available on June 1, 2004.

A provision of the MMA clarifies the potential interaction between the drug discount card and transitional assistance and VA's pension and parents dependency and indemnity compensation benefits by stating that, ''[t]he availability of negotiated prices or transitional assistance under this Section shall not be treated as benefits or otherwise taken into account in determining an individual's eligibility for, or the amount of benefits under, any other Federal program.'' Section 1860D–31(g)(6) of the Social Security Act. Therefore, the transitional assistance program and any savings associated with the prescription drug discount card are not income or net worth for VA purposes. This document amends 38 CFR 3.261, 3.262, 3.263, 3.272, and 3.275 to reflect this statutory change.

This final rule merely restates statutory provisions. Accordingly, there is a basis for dispensing with prior notice and comment and the delayed effective date provisions of 5 U.S.C. 552 and 553.

Paperwork Reduction Act

This document contains no provisions constituting a collection of information under the Paperwork Reduction Act (44 U.S.C. 3501–3521).

Regulatory Flexibility Act

Because no notice of proposed rulemaking was required in connection with the adoption of this final rule, no regulatory flexibility analysis is required under the Regulatory Flexibility Act (5 U.S.C. 601–612). Even so, the Secretary hereby certifies that this regulatory amendment will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act.

Unfunded Mandates

The Unfunded Mandates Reform Act of 1995 requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before developing any rule that may result in an expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of $100 million or more (adjusted annually for inflation) in any given year. This rule would have no such effect on State, local, or tribal governments, or the private sector.

Catalog of Federal Domestic Assistance Numbers

The Catalog of Federal Domestic Assistance program numbers for this proposal are 64.104, 64.105, and 64.110.

List of Subjects in 38 CFR Part 3

Administrative practice and procedure, Claims, Disability benefits, Health care, Pensions, Veterans, Vietnam.

Approved: February 10, 2005.

Gordon H. Mansfield,

Deputy Secretary of Veterans Affairs.

■ For the reasons set forth in the preamble, 38 CFR part 3 is amended as follows:

PART 3—ADJUDICATION

Subpart A—Pension, Compensation, and Dependency and Indemnity Compensation

■ 1. The authority citation for part 3, subpart A continues to read as follows:

Authority: 38 U.S.C. 501(a), unless otherwise noted.

■ 2. In § 3.261, paragraph (a) is amended by adding entry (42) at the end of the table to read as follows:

§ 3.261 Character of income; exclusions and estates.

* * * * *

(a) * * *

Income	Dependency (parents)	Dependency and indemnity compensation (parents)	Pension; old-law (veterans, surviving spouses and children)	Pension; section 306 (veterans, surviving spouses and children)	See–
* *	*	*	*	*	*
(42) Income received under the Medicare prescription drug discount card and transitional assistance program (42 U.S.C. 1395w–141(g)(6)).	Excluded	Excluded	Excluded	Excluded	§ 3.262 (aa)

■ 3. Section 3.262 is amended by:

■ a. Adding paragraph (aa) immediately following the first authority citation at the end of paragraph (z); and

■ b. Removing the second authority citation at the end of the section.

The addition reads as follows:

§ 3.262 Evaluation of income.

* * * * *

(aa) *Medicare Prescription Drug Discount Card and Transitional Assistance Program.* For purposes of old law pension, section 306 pension, and parents' dependency and indemnity compensation, the payments received under the Medicare transitional assistance program and any savings associated with the Medicare prescription drug discount card will not be considered income.

(Authority: 42 U.S.C. 1395w–141(g)(6))

■ 4. Section 3.263 is amended by:

■ a. Adding an authority citation at the end of paragraph (f).

■ b. Adding paragraph (i) immediately following the first authority citation at the end of paragraph (h).

■ c. Removing the second authority citation at the end of section.

The additions read as follows:

§ 3.263 Corpus of estate; net worth.

* * * * *

(f) * * *

(Authority: Sec. 105, Pub. L. 100–383; 102 Stat. 905; Sec. 6. Pub. L. 102–371; 106 Stat. 1167, 1168)

* * * * *

(i) *Medicare Prescription Drug Discount Card and Transitional Assistance Program.* There shall be excluded from the corpus of estate or net worth of a claimant payments received under the Medicare transitional assistance program and any savings associated with the Medicare prescription drug discount card.

(Authority: 42 U.S.C. 1395w–141(g)(6))

■ 5. Section 3.272 is amended by:

■ a. Revising the authority citation at the end of paragraph (u).

■ b. Adding paragraph (w) immediately following the first authority citation at the end of paragraph (v).

■ c. Removing the second authority citation at the end of the section.

The revision and addition read as follows:

§ 3.272 Exclusions from income.

* * * * *

(u) * * *

(Authority: 38 U.S.C. 1833(c))

* * * * *

(w) *Medicare Prescription Drug Discount Card and Transitional Assistance Program.* The payments received under the Medicare transitional assistance program and any savings associated with the Medicare prescription drug discount card.

(Authority: 42 U.S.C. 1395w–141(g)(6))

■ 6. Section 3.275 is amended by:

■ a. Revising the authority citation for paragraph (i).

■ b. Adding paragraph (k) immediately following the first authority citation at the end of paragraph (j).

■ c. Removing the second authority citation at the end of the section.

The revision and addition read as follows:

§ 3.275 Criteria for evaluating net worth.

* * * * *

(i) * * *

(Authority: 38 U.S.C. 1833(c))

* * * * *

(k) *Medicare Prescription Drug Discount Card and Transitional Assistance Program.* There shall be excluded from the corpus of estate or

net worth of a claimant payments received under the Medicare transitional assistance program and any savings associated with the Medicare prescription drug discount card.

(Authority: 42 U.S.C. 1395w–141(g)(6))

[FR Doc. 05–5973 Filed 3–25–05; 8:45 am]

BILLING CODE 8320–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[TX–107–1–7496; FRL–7890–1]

Approval and Promulgation of Implementation Plans; Texas; Post 1996 Rate-of-Progress Plan, Adjustments to the 1990 Base Year Emissions Inventory, and Motor Vehicle Emissions Budgets for the Dallas/Fort Worth Ozone Nonattainment Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving a State Implementation Plan (SIP) revision for the State of Texas. This revision includes the Post 1996 Rate-of-Progress (ROP) plan, adjustments to the 1990 base year emissions inventory, and ROP Motor Vehicle Emissions Budgets for the Dallas/Fort Worth (DFW) ozone nonattainment area. This plan shows planned emission reductions required by the Clean Air Act (Act) from 1996 to 1999 to improve air quality in the Dallas/Fort Worth Area. The reductions are from the 1990 base year emissions inventory. The adjustments to the 1990 base year emissions inventory improve that inventory. The Motor Vehicle Emissions Budgets are used for determining conformity of transportation projects to the SIP. This action satisfies the Act's requirements for a serious ozone nonattainment area's Post 1996 Rate-of-Progress requirements and approves the Motor Vehicle Emissions Budgets under the Rate-of-Progress Plan.

DATES: This rule is effective on April 27, 2005.

ADDRESSES: Copies of the documents relevant to this action are in the official file which is available at the Air Planning Section (6PD–L), Environmental Protection Agency, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202–2733. The file will be made available by appointment for public inspection in the Region 6 FOIA Review Room between the hours of 8:30 a.m. and 4:30 p.m. weekdays except for legal holidays. Contact the person listed in the **FOR FURTHER INFORMATION CONTACT** paragraph below to make an appointment. If possible, please make the appointment at least two working days in advance of your visit. There will be a 15 cent per page fee for making photocopies of documents. On the day of the visit, please check in at the EPA Region 6 reception area at 1445 Ross Avenue, Suite 700, Dallas, Texas.

Copies of any State submittals and EPA's technical support document are also available for public inspection at the State Air Agency listed below during official business hours by appointment:

Texas Commission on Environmental Quality, Office of Air Quality, 12124 Park 35 Circle, Austin, Texas 78753.

FOR FURTHER INFORMATION CONTACT: Herbert R. Sherrow, Jr., Air Planning Section (6PD–L), Environmental Protection Agency, Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202–2733, telephone (214) 665–7237; fax number 214–665–7263; e-mail address *sherrow.herb@epa.gov.*

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

Outline

I. What Action Is EPA Taking?
II. What Is the Background for This Action?
III. What Comments Were Received During the Public Comment Period, January 18, 2001, to March 19, 2001?
IV. Final Action
V. Statutory and Executive Order Reviews

I. What Action Is EPA Taking?

EPA is approving the Post 1996 Rate of Progress (ROP) plan, the adjustments to the 1990 base year emissions inventory, and the Motor Vehicle Emissions Budgets (MVEB) for the DFW ozone nonattainment area, submitted by Texas on October 25, 1999 and found complete on January 6, 2000.

II. What Is the Background for This Action?

We proposed approval of these SIP elements on January 28, 2001. We waited to take final action until the issue on the appropriate use of the MOBILE5 on-road mobile emission model was determined in *Sierra Club* v. *EPA,* 356 F.3d 296 (DC Cir. 2004). The Court found that the use of MOBILE5 was acceptable even if a more recent version was available because MOBILE5 was the best available version at the time the plan was prepared.

The Post 1996 ROP plan (9% plan) was designed to reduce ozone forming emissions from the baseline emissions by 9% in the DFW nonattainment area for the years 1997–1999. We received no new information that would change the approvability of the ROP target calculations and none of the credits relied upon for meeting the ROP targets have changed since our proposal date. Therefore, this plan meets the Reasonable Further Progress requirements of the Act (section 182(c)(2)). The MVEBs associated with the 9% plan have been found to meet the adequacy criteria, effective January 27, 2000, and are consistent with the ROP plan. Therefore, they too are approvable. The adjustments to the 1990 base year emissions inventory improved the inventory through improvements in methodology implemented subsequent to the submission of the original inventory.

Please refer to 66 FR 4764, January 18, 2001, and its technical support document for details on the 9% Plan, the adjusted 1990 emissions inventory, and the MVEBs.

III. What Comments Were Received During the Public Comment Period, January 18, 2001, to March 19, 2001?

We did not receive any comments on the 9% Plan, the MVEBs, or the adjustments to the 1990 base year emissions inventory.

IV. Final Action

EPA is approving the Post 1996 Rate of Progress plan, the adjustments to the 1990 base year emissions inventory, and the Motor Vehicle Emissions Budgets submitted by Texas on October 25, 1999, for the DFW ozone nonattainment area. The VOC MVEB for the ROP plan is 147.22 tons per day and the NO_X MVEB is 284.14 tons per day.

V. Statutory and Executive Order Reviews

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

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

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

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

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by May 27, 2005. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (*See* section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Intergovernmental relations, Nitrogen oxides, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: March 8, 2005.

Richard E. Greene,

Regional Administrator, Region 6.

■ 40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

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

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

Subpart SS—Texas

■ 2. In § 52.2270, the table in paragraph (e) entitled ''EPA approved nonregulatory provisions and quasi-regulatory measures'' is amended by adding two new entries to the end of the table to read as follows:

§ 52.2270 Identification of plan.

* * * * *

(e) * * *

EPA APPROVED NONREGULATORY PROVISIONS AND QUASI-REGULATORY MEASURES IN THE TEXAS SIP

Name of SIP provision	Applicable geographic or nonattainment area	State approval/submittal date	EPA approval date	Comments
* *	* *		* *	*
Approval of the Post-1996 Rate-of-Progress Plan and Motor Vehicle Emission Budgets.	Dallas-Fort Worth	10/25/1999	3/28/05, [Insert *FR* page number where document begins]	
Adjustments to the 1990 base year emissions inventory.	Dallas-Fort Worth	10/25/1999	3/28/05, [Insert *FR* page number where document begins]	

[FR Doc. 05–6042 Filed 3–25–05; 8:45 am]
BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[FRL–7889–8]

South Carolina: Final Authorization of State Hazardous Waste Management Program Revision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Immediate final rule.

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

DATES: This Final authorization will become effective on May 27, 2005, unless EPA receives adverse written comment by April 27, 2005. If EPA receives such comment, it will publish a timely withdrawal of this immediate final rule in the **Federal Register** and inform the public that this authorization will not take effect.

ADDRESSES: Send written comments to Thornell Cheeks, South Carolina Authorizations Coordinator, RCRA Programs Branch, Waste Management Division, U.S. Environmental Protection Agency, Atlanta Federal Center, 61 Forsyth Street, SW., Atlanta, GA, 30303–3104; (404) 562–8479. The application can be viewed electronically at *http://www.regulation.gov*. Electronic comments on the application can be made from this site. You may also e-mail your comments to *Cheeks.Thornell@epa.gov*. You can view and copy South Carolina's applications from 9 a.m. to 4 p.m. at the following addresses: South Carolina Department of Health and Environmental Control, 2600 Bull Street, Columbia, South Carolina 29201, (803) 896–4174; and EPA Region 4, Atlanta Federal Center, Library, 61 Forsyth Street, SW., Atlanta, Georgia 30303; (404) 562–8190, John Wright, Librarian.

FOR FURTHER INFORMATION CONTACT: Thornell Cheeks, South Carolina Authorizations Coordinator, RCRA Programs Branch, Waste Management Division, U.S. Environmental Protection Agency, Atlanta Federal Center, 61 Forsyth Street, SW., Atlanta, GA, 30303–3104; (404) 562–8479.

SUPPLEMENTARY INFORMATION:

A. Why Are Revisions to State Programs Necessary?

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

B. What Decisions Have We Made in This Rule?

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

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

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

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

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

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

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

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

If EPA receives comments that oppose this authorization, we will withdraw this rule by publishing a document in the **Federal Register** before the rule becomes effective. EPA will base any further decision on the authorization of the State program changes on the proposal mentioned in the previous paragraph. We will then address all public comments in a later final rule. You may not have another opportunity to comment. If you want to comment on this authorization, you must do so at this time.

If we receive comments that oppose only the authorization of a particular change to the State hazardous waste program, we will withdraw that part of this rule but the authorization of the program changes that the comments do

not oppose will become effective on the date specified above. The **Federal Register** withdrawal document will specify which part of the authorization will become effective, and which part is being withdrawn.

F. What Has South Carolina Previously Been Authorized for?

South Carolina initially received Final authorization on November 8, 1985, effective November 22, 1985 (50 FR 46437) to implement the RCRA hazardous waste management program. We granted authorization for changes to their program on September 8, 1988, effective November 7, 1988 (53 FR 34758), February 10, 1993, effective April 12, 1993 (58 FR 7865), November 29, 1994, effective January 30, 1995 (59 FR 60901), April 26, 1996, effective June 25, 1996 (61 FR 18502), October 4, 2000, effective December 4, 2000 (65 FR 59135) and August 21, 2001, effective October 22, 2001 (66 FR 43798).

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

On November 11, 2004 South Carolina submitted a final complete program revision application, seeking authorization of their changes in accordance with 40 CFR 271.21. South Carolina's provisions consists of provisions promulgated July 1, 2002, through June 30, 2003, otherwise known as RCRA XIII. The rule adoption for the provisions of RCRA XIII covered in this action became effective June 25, 2004. South Carolina Statues at sections 44–56–1 through 840 and sections 44–96–10 through 470 allow the South Carolina Department of Health and Environmental Control to administer the rules governing hazardous waste management. We now make an immediate final decision, subject to receipt of written comments that oppose this action, that South Carolina's hazardous waste program revisions satisfy all of the requirements necessary to qualify for Final authorization. Therefore, we grant South Carolina Final authorization for the following program changes:

Federal requirements	**Federal Register**	Analogous state authority
Zinc Fertilizer Rule, Checklist 200, RCRA XIII, HSWA/Non-HSWA.	67 FR 48393–48415; July 24, 2002.	SCHWM R.61–79.261.4. SCHWM R.61–79.261.4(a)(20). SCHWM R.61–79.261.4(a)(20)(i). SCHWM R.61–79.261.4(a)(20)(ii). SCHWM R.61–79.261.4(a)(20)(ii)(A). SCHWM R.61–79.261.4(a)(20)(ii)(B). SCHWM R.61–79.261.4(a)(20)(ii)(B)(1). SCHWM R.61–79.261.4(a)(20)(ii)(B)(2). SCHWM R.61–79.261.4(a)(20)(ii)(B)(3). SCHWM R.61–79.261.4(a)(20)(ii)(C). SCHWM R.61–79.261.4(a)(20)(ii)(D). SCHWM R.61–79.261.4(a)(20)(ii)(D)(1). SCHWM R.61–79.261.4(a)(20)(ii)(D)(2). SCHWM R.61–79.261.4(a)(20)(ii)(D)(3). SCHWM R.61–79.261.4(a)(20)(iii). SCHWM R.61–79.261.4(a)(20)(iii)(B). SCHWM R.61–79.261.4(a)(20)(iii)(C). SCHWM R.61–79.261.4(a)(20)(iii)(D). SCHWM R.61–79.261.4(a)(20)(iv). SCHWM R.61–79.261.4(a)(20)(v). SCHWM R.61–79.261.4(a)(21). SCHWM R.61–79.261.4(a)(21)(i). SCHWM R.61–79.261.4(a)(21) (i)(A). SCHWM R.61–79.261.4(a)(21)(i)(B). SCHWM R.61–79.261.4(a)(21)(ii). SCHWM R.61–79.261.4(a)(21)(iii). SCHWM R.61–79.261.4(a)(21)(iii)(A). SCHWM R.61–79.261.4(a)(21)(iii)(B). SCHWM R.61–79.261.4(a)(21)(iii)(C). SCHWM R.61–79.261.4(a)(21)(iii)(D). SCHWM R.61–79.261.4(a)(21)(iii)(E). SCHWM R.61–79.261.4(a)(21)(iii)(F). SCHWM R.61–79.266.20. SCHWM R.61–79.266.20(d). SCHWM R.61–79.266.20(d)(1). SCHWM R.61–79.266.20(d)(2). SCHWM R.61–79.268.40.
Treatment Variance for Radioactivity, Checklist 201, RCRA XIII, HSWA Provision.	67 FR 62618–62624; October 7, 2002.	SCHWM R.61–79.268.40/Table.
Hazardous Air Pollutant Standards for Combuster—Corrections 2, Checklist 202, RCRA XIII, HSWA Provision.	67 FR 77687–77692; December 19, 2002.	SCHWM R.61–79.270.19(e). SCHWM R.61–79.270.22 (intro). SCHWM R.61–79.270.62 (intro). SCHWM R.61–79.270.66 (intro).

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

There are no State requirements that are more stringent or broader in scope than the Federal requirements.

I. Who Handles Permits After the Authorization Takes Effect?

South Carolina will issue permits for all the provisions for which it is authorized and will administer the permits it issues. EPA will continue to administer any RCRA hazardous waste permits or portions of permits which we issued prior to the effective date of this authorization. We will not issue any more new permits or new portions of permits for the provisions listed in the Table above after the effective date of this authorization. EPA will continue to implement and issue permits for HSWA requirements for which South Carolina is not yet authorized.

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

South Carolina is not authorized to carry out its hazardous waste program in Indian country within the State, which includes the Catawba Indian Nation. Therefore, this action has no effect on Indian country. EPA will continue to implement and administer the RCRA program in these lands.

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

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

L. Administrative Requirements

The Office of Management and Budget has exempted this action from the requirements of Executive Order 12866 (58 FR 51735, October 4, 1993), and therefore this action is not subject to review by OMB. This action authorizes State requirements for the purpose of RCRA section 3006 and imposes no additional requirements beyond those imposed by State law. Accordingly, I certify that this action will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this action authorizes pre-existing requirements under State law and does not impose any additional enforceable duty beyond that required by State law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). For the same reason, this action also does not significantly or uniquely affect the communities of Tribal governments, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely authorizes State requirements as part of the State RCRA hazardous waste program without altering the relationship or the distribution of power and responsibilities established by RCRA. This action also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant and it does not make decisions based on environmental health or safety risks. 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.

Under RCRA section 3006(b), EPA grants a State's application for authorization as long as the State meets the criteria required by RCRA. It would thus be inconsistent with applicable law for EPA, when it reviews a State authorization application, to require the use of any particular voluntary consensus standard in place of another standard that otherwise satisfies the requirements of RCRA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272) do not apply. As required by Section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the ''Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings' issued under the executive order. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this document and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2). This action will be effective May 27, 2005.

List of Subjects in 40 CFR Part 271

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

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

Dated: March 17, 2005.

A. Stanley Meiburg,

Deputy Regional Administrator, Region 4.

[FR Doc. 05–6040 Filed 3–25–05; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. NHTSA–03–15351]

RIN 2127–AJ40

Federal Motor Vehicle Safety Standards; Child Restraint Systems

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

ACTION: Final rule, response to petitions for reconsideration.

SUMMARY: This document responds to petitions for reconsideration of a June 24, 2003 final rule that incorporated

improved test dummies and updated procedures into Federal Motor Vehicle Safety Standard No. 213 and extended the standard to child restraints recommended for use by children weighing up to 30 kilograms (65 pounds). That final rule responded to Section 14 of the Transportation Recall Enhancement, Accountability and Documentation Act of 2000. NHTSA received petitions for reconsideration of different aspects of the final rule from Ford and from Denton ATD. This document denies Ford's petition and grants Denton's.

DATES: The amendments made in this rule are effective April 27, 2005. If you wish to petition for reconsideration of this rule, your petition must be received by May 12, 2005.

ADDRESSES: If you wish to petition for reconsideration of this rule, you should refer in your petition to the docket number of this document and submit your petition to: Administrator, Room 5220, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590.

The petition will be placed in the docket. Anyone is able to search the electronic form of all documents 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.*

FOR FURTHER INFORMATION CONTACT: For non-legal issues, you may call Mike Huntley of the NHTSA Office of Crashworthiness Standards, at 202–366–0029.

For legal issues, you may call Deirdre Fujita of the NHTSA Office of Chief Counsel, at 202–366–2992.

You may send mail to both of these officials at the National Highway Traffic Safety Administration, 400 Seventh St., SW., Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

Background

On June 24, 2003 (68 FR 37620; Docket NHTSA–15351), NHTSA published a final rule that made a number of revisions to Federal Motor Vehicle Safety Standard (FMVSS) No. 213, ''Child Restraint Systems,'' including amendments that incorporated improved child restraint test dummies and updated procedures used to test child restraints, and that extended the application of the standard to restraints recommended for use by children weighing up to 30 kilograms (kg) (65 pounds (lb)).[1] The final rule fulfilled a mandate in Section 14 of the Transportation Recall Enhancement, Accountability and Documentation Act (the TREAD Act) (November 1, 2000, Pub. L. 106–414, 114 Stat. 1800) that NHTSA initiate a rulemaking for the purpose of improving the safety of child restraints.

As part of its response to the TREAD Act, NHTSA revised FMVSS No. 213 to update the test devices and procedures used in dynamically evaluating child restraints for compliance with the standard. The final rule updated the seat assembly on which child restraints are tested to make the seat assembly more representative of those in today's vehicles. The final rule changed the seat bottom and the seat back cushion angles, the spacing between the anchors of the lap belt, and, to replicate a rear seating position, changed the seat back from a flexible seat back to a fixed one. The agency also assessed and validated the reasonableness of the sled pulse.

Sled pulse. In Standard No. 213's dynamic sled test, a child restraint is tested with a crash test dummy on a representative vehicle bench seat (seat assembly). The seat assembly, child restraint and test dummy are accelerated in a manner simulating a vehicle crash. The child restraint must manage the force from the simulated crash so that the forces imparted to the dummy are kept within tolerable limits. The severity of the crash pulse is a function of its onset rate, peak acceleration, time of peak g occurrence, and its duration.

FMVSS No. 213 has a relatively severe crash pulse, in that the sled is accelerated relatively quickly to an acceleration of approximately 24 g's (24 times the force of gravity) and maintains the 24 g level for a relatively long time period (37 to 42 milliseconds) before returning to zero acceleration. A dynamic test condition of FMVSS No. 213's 48 kilometers per hour (kph) (30 miles per hour) sled test is that the acceleration of the test platform must be within a curve[2] depicted in the standard (S6.1.1(b)(1)). The sled acceleration can not exceed the upper limit of the curve. The laboratory test procedure (TP) for FMVSS No. 213 also provided a lower limit for the curve, and thus gave a tolerance band, or corridor, for the acceleration of the sled (TP–213–04, September 1, 1997; Section D.3.3). Prior to the TREAD Act rulemaking, the corridor was about 3 to 4 g's wide. To ensure that the acceleration of the sled was within the relatively narrow 3 to 4 g wide corridor, compliance tests were typically conducted at a ΔV of approximately 28.5 mph.

Changes to the Pulse. The TREAD Act directed NHTSA to initiate a rulemaking to consider, among other matters, whether FMVSS No. 213's dynamic test reflects the designs of modern-day passenger motor vehicles. As part of its response to the Act, NHTSA analyzed the crash pulses of over 150 vehicles tested under FMVSS No. 208 and the agency's frontal New Car Assessment Program (NCAP). Average crash pulses from tests of cars, sport utility vehicles (SUVs), trucks, and vans were obtained and then filtered. The peak velocity, peak g, and duration of the crash pulse were recorded. NHTSA determined in that rulemaking that the crash pulse used in FMVSS No. 213 was very similar to the pulse of light trucks, SUVs and small school buses in acceleration onset rate and peak magnitude. Because these vehicles were regularly used to transport children in child restraints, the agency decided that a crash pulse that was not less than the severity of the pulses generated by those vehicles was reasonable for FMVSS No. 213. Such a pulse would better ensure (in contrast to a less stringent pulse) that child restraints will not structurally degrade in a crash, will adequately restrain child occupants and will limit to tolerable levels the forces to a child's head and torso, regardless of the vehicle in which the restraint is used.

Accordingly, the agency did not significantly revise the existing pulse but instead adjusted it. The final rule adopted a trapezoidal-shaped corridor to define the upper and lower limits of the pulse. The corridor was about 6 g's wide, which is 2 to 3 g's wider than the pulse formerly specified in FMVSS No. 213. Those changes achieved several goals. Use of a trapezoidal shape to define the maximum and minimum corridors of the sled pulse made the pulse similar in shape to those used in FMVSS No. 208, ''Occupant crash protection,'' and in ECE Regulation 44. The wider corridor enabled NHTSA to test child restraints closer to 48 kph (30 mph) while maintaining the peak g acceleration of the standard's pulse. The wider corridor also made it easier for testing facilities to produce pulses that were within the limits of the corridor,

[1] NHTSA published a technical amendment to the rule at 69 FR 42595, July 16, 2004 (Docket No. 18075) which added cross-references to 49 CFR part 572 subpart S, ''Hybrid III Six-Year-Old Weighted Child Test Dummy.''

[2] The curve depicted in Figure 2, S6.1.1(b)(1), applies to child restraints manufactured before August 1, 2005. Figure 2A, S6.1.1(b)(1), applies to child restraints manufactured on or after August 1, 2005. Figure 2A and related amendments were adopted into FMVSS No. 213 by the TREAD Act final rule.

which meant that more facilities could participate in FMVSS No. 213 testing. The existing pulse was also extended from 80 ms to about 90 ms in duration. This change made the pulse more representative of the crash pulses of today's vehicles (including light trucks, SUVs and small school buses), which are longer in duration than the existing FMVSS No. 213 pulse.

Ford Petition. Ford petitioned for reconsideration of the changes to the sled test pulse specification. *http://dmses.dot.gov/docimages/pdf87/251702_web.pdf* Ford stated that the new pulse corridor would allow increased average acceleration of the pulse, which Ford thought was contrary to the agency's intent. Ford stated that broadening the pulse corridors from 3 g to 6 g allows a 30 mph ΔV by increasing average acceleration instead of increasing pulse duration. Ford also stated that the difference between the most and least severe 30 mph ΔV pulses allowed by the corridor is about 25%. The petitioner stated that a pulse corridor that allows a potential 25% variation in pulse severity is not sufficiently objective. Ford believed that the agency intended to change the corridor to test restraints at a higher velocity, *i.e.*, closer to 30 mph, and that NHTSA did not intend to specify a pulse with a higher average deceleration. Ford suggested a pulse corridor that the petitioner believed would increase the velocity change of the pulse without allowing a higher acceleration.

Response: The broadening of the FMVSS No. 213 pulse corridor does not necessarily increase the average acceleration of a particular pulse meeting the corridor. The agency does not consider average acceleration over the duration of a pulse as a single indicator of the severity of that pulse. We consider the severity of a crash pulse to depend on the entire acceleration-time profile, including onset rate, peak g, peak g time of occurrence, and pulse duration. The pulse formerly specified in the standard fits entirely within the trapezoidal corridor. Thus, for that pulse, the broadening of the corridor resulted in no increase in average acceleration.

It is true that, with a broadened corridor, there is more flexibility given for the different elements of the acceleration-time profile (onset rate, peak g, peak g time of occurrence, and pulse duration) to be individually increased or decreased to fine-tune the fitting of the pulse within the constraints of the corridor. That was one of the goals of the broadening of the corridor: to allow greater flexibility to test laboratories to reproduce the sled pulse, and achieve a V closer to 30 mph than previously achievable. Some elements of the acceleration-time profile could be increased within the new corridor and to that extent, pulses of increased average acceleration could fit the corridor. Nonetheless, regardless of the values of the individual components of the acceleration-time profile, the values must be such that the pulses produced fit within the constraints of the corridor. The corridor thus defines and limits the severity of the pulse.

Yet, Ford is concerned that the new corridor allows test facilities to use pulses that vary more in severity (based on average acceleration over the duration of the pulse) than before. Ford states that pulses that have a ΔV of 30 mph can potentially vary 25% in pulse severity, and that a corridor that allows a potential 25% variation in pulse severity is not sufficiently objective. The petitioner suggests two approaches that the agency could take to increase ''the velocity change of the pulse without allowing a higher acceleration.''

The most and least severe pulses that the petitioner uses to illustrate the 25% variation in average acceleration cannot be achieved by existing test sleds. That is, present day test equipment cannot produce a pulse that is so severe as the theoretical pulse produced by Ford for illustration, nor as benign. As such, the theoretical extreme severity difference that Ford identifies does not exist in the real world.

To the extent that some difference in severity exists, we do not agree that the test is not objective. FMVSS No. 213 (S6.1.1(b)(1)) specifies that the tests for testing add-on child restraints ''are at a velocity change of 48 km/h with the acceleration of the test platform entirely within the curve shown in Figure 2 (for child restraints manufactured before August 1, 2005) or in Figure 2A (for child restraints manufactured on or after August 1, 2005). * * *'' The standard clearly defines the trapezoidal-shaped corridor that delineates the upper and lower boundaries of the pulse. Anyone conducting the test is able to determine whether the pulse used fell within the corridor. Use of identical pulses will result in similar test results. The compliance of a child restraint will continue to be based on objective testing.

Objectivity in testing and evaluating child restraints was not only achieved by the final rule, it was also balanced with the need to increase flexibility and practicability in conducting the test. Fewer pulses would fit a narrower corridor, but fewer test laboratories would be able to conduct compliance tests if a narrower corridor were specified. The new pulse corridor adopted by the final rule enables more laboratories to participate in objective compliance testing of child restraints than before.

Ford believes that the new corridor allows a pulse that has an average deceleration about 10% higher than the current pulse, and that this outcome is contrary to the agency's intent not to increase the severity of the current pulse used to test child restraints. The petitioner states that the agency said in the preamble to the final rule that ''the pulse should not be made more severe at this time.'' 68 FR at 37640. The issue under consideration in the TREAD Act final rule was whether the already demanding FMVSS No. 213 24 g pulse should be made more severe than the pulses of today's light trucks, SUVs and small school buses. The agency decided against such an increase because ''[i]ncreasing the severity could necessitate the redesign of many child restraints and could increase costs of the restraints to manufacturers, without a proportionate safety benefit.'' *Id.* The agency recognized in the TREAD Act final rule that the new pulse corridor will improve the effectiveness of the standard's sled test by enabling NHTSA to test child restraints closer to 30 mph than under the former pulse. The agency acknowledged that child restraint tests run closer to 30 mph are more stringent than tests conducted under the former pulse, and that that was an intended outcome of the rule.

It is true that child restraints must meet the performance requirements of FMVSS No. 213 when tested to a pulse contained anywhere within the corridor. However, the increase in the width of the pulse corridor is not likely to affect the ability of child restraints to pass performance criteria. Agency tests have shown that child restraints are currently manufactured with a wide compliance margin when tested to the FMVSS No. 213 pulse. *See* 68 FR at 37634, Figures 1, 2 and 3. Thus, as a practical matter the new corridor is unlikely to necessitate redesign of the restraints.

Ford suggested two preferred pulse corridors that petitioner believed would allow most sled tests to achieve a full 30 mph ΔV, but would limit pulse severity to about the same average acceleration level specified by the former pulse corridor. The first widens the existing FMVSS No. 213 pulse corridor after 65 ms. The second pulse corridor uses the trapezoidal pulse of the final rule, but has a peak acceleration at 22 g, instead of 25 g (between 9 and 56 ms).

NHTSA believes that neither of the suggested corridors satisfies the goals of

the rulemaking. The first suggestion does not generally change the 2–3 g width of the pulse formerly specified in FMVSS No. 213 which many test laboratories found difficult or impossible to work with.[3] The second pulse also maintains a 3 g width between its upper and lower boundaries for most of the pulse and thus would create the same type of practical difficulties that test labs had in meeting the former FMVSS No. 213 pulse. In addition, the second suggested pulse is unacceptable because it does not fit the previous FMVSS No. 213 pulse. It has a peak acceleration that is lower than the FMVSS No. 213 pulse (at 14, 20, and 28 ms) and thus would reduce the severity of the existing FMVSS No. 213 crash pulse. Reducing the severity of the pulse is contrary to the agency's intent in amending the standard in this TREAD Act rulemaking.

For the reasons explained above, Ford's request for reconsideration of the sled pulse is denied.

Ford on Braking: A second issue raised by Ford related to testing built-in child restraint systems on a sled. (Built-in child restraints are tested either on a sled or by crash testing the specific vehicle in which the built-in restraint is installed.) Ford stated that the test pulse specification is not objectively stated for sled tests of built-in seats because the agency has not specified the period of time during which the velocity change should occur. The petitioner stated: We believe that NHTSA intended that the ΔV specified in S6.1.1.1(b)(1) is the velocity change prior to the sled acceleration dropping to zero, rather than the ΔV during the 90 ms maximum pulse duration or the ΔV during the 200 to 300 ms effective duration of the test.'' Ford stated that head injury criterion (HIC) and neck readings can be driven upwards during the rebound phase of a HYGE sled test in tests of built-in seats. Ford states that freestanding seat backs will bend forward during sled acceleration then rebound, pulling the dummy rearward, and may spring forward again after rebounding due to the braking of the sled. Ford maintains that the rebounding dummy in the built-in child restraint can hit the seat back as it moves forward because of the sled braking, and can drive the HIC reading higher. Thus, Ford believes that the resulting dummy readings can be highly dependent on sled braking after the initial acceleration pulse.

Response: NHTSA does not agree that there is a need to specify expressly the time during which the velocity change should occur to account for the braking characteristics of the sled. We believe that by specifying that there be a velocity change of 48 km/h and that the velocity change be achieved with the acceleration of the test platform entirely within the curve shown in the standard, the test pulse is objectively stated. Testing laboratories can alter the various components of the sled pulse, including braking characteristics, as long as the pulse has a velocity change of 48 km/h and the acceleration is entirely within the corridor. Further, the agency is not aware of instances where a specific braking profile between 90–300 ms influences dummy readings in FMVSS No. 213 sled tests. NHTSA maintains that if the acceleration pulse remains within the corridor, at ΔV = 30 mph, the specification of a braking profile is unnecessary because the effect of braking is minimal with respect to dummy readings—regardless of the type of dynamic test. For the aforementioned reasons, the petition for reconsideration is denied.

Denton Petition

Denton ATD (Denton) petitioned NHTSA to reconsider (correct) the specification of the mass of the clothing worn by the Hybrid III 3-year-old dummy incorporated into FMVSS No. 213 by the TREAD Act final rule, and the specification for the shoes of the Hybrid III 3- and 6-year-old dummies. The specifications are set forth by the final rule in S9.1(e) and (f) of FMVSS No. 213 for the Hybrid III 3- and Hybrid III 6-year-old dummies, respectively.

Clothing: The petitioner stated that both the agency's regulation (49 CFR Subpart P) specifying the Hybrid III 3-year-old dummy and the Procedure for Assembly, Disassembly and Inspection (PADI) manual, incorporated by reference into that regulation, specify that the combined weight of the dummy's shirt and pants be no more than .25 kg (.55 lb) (49 CFR 572.144(c)). However, Denton stated, S9.1(e) of FMVSS No. 213 erroneously specifies that the 3-year-old dummy's shirt and pants each have a mass of .090 kg. The petitioner also believed that the specification of the mass of the 6-year-old dummy's clothing is confusing (as specified in both S9.1(e) and (f)) and should be clarified.

The petition as to the clothing is granted. This document amends S9.1(e) to make it consistent with the dummy regulation and PADI. This final rule is also clarifying the clothing specifications for the Hybrid III 6-year-old dummy (correcting S9.1(e) to remove reference to that dummy and revising S9.1(f)). The agency does not believe that these corrections will affect the performance of the dummy or child restraint in any way.

Shoes: Denton stated that there is an inconsistency between the specifications in 49 CFR part 572 and FMVSS No. 213 regarding the size and weight of the shoes worn by the Hybrid III 3- and Hybrid III 6-year-old dummies.

The PADI for the 3-year-old dummy (which is incorporated by reference into part 572) specifies a size 8 shoe, and further specifies that each shoe must weigh .21 +/−0.05 kg (.47 +/−.10 lb). In contrast, FMVSS No. 213 specifies a size 7M shoe size, and a total mass of .453 kg for the shoes for this dummy.

Denton stated that the drawings and the PADI for the Hybrid III 6-year-old dummy (which are incorporated by reference into 49 CFR part 572, Subpart N) specify canvas oxford, size 13M shoes and that each shoe weighs .38 +/−.05 kg (.83 +/−.10 lb). The petitioner stated that in contrast, FMVSS No. 213 (S9.1(f)) specifies a size 12½M canvas oxford with a total mass of .453 kg (1.00 lb). Denton stated that it can not find shoes that meet the FMVSS No. 213 weight specification in the specified style. Denton suggested that the agency reconsider FMVSS No. 213's specification of shoe size and weight.

Denton's petition as to the shoes is also granted. The agency is amending S9.1(e) of the standard to specify that the shoes for the Hybrid III 3-year-old dummy are size 8 canvas oxford style sneakers weighing not more than 0.26 kg each. The agency is amending S9.1(f) to specify that the shoes for the Hybrid III 6-year-old dummy are children's size 13M canvas oxford style sneakers weighing not more than 0.43 kg each.

[3] The suggested pulse also does not allow a small deviance at time zero, which some sleds need to generate a pulse that fits within the corridor of the standard. See 67 FR at 21812–21813, NPRM for the TREAD Act discussing grant of petition for rulemaking from Transportation Research Center, Inc.

Ford believes that test labs are able to meet a narrow corridor because they can meet the corridor of FMVSS No. 208, which specifies a sled pulse that has a peak g variation of only 2.2 g. NHTSA notes that the 2.2 g spread between the upper and lower bounds of the FMVSS No. 208 corridor is only maintained for a relatively short period of time, between 55 and 70 ms, while the FMVSS No. 213 pulse specifies that the peak acceleration must be maintained from about 13 to 47 ms. That is, it is easier to control the pulse for a shorter period (as in the FMVSS No. 208 pulse) than for a longer period (as in the FMVSS No. 213 pulse). Further, the acceleration onset rate specified in FMVSS No. 208 is much broader (longer in duration and ''wider'') than that specified in FMVSS No. 213, which allows test labs much greater flexibility in developing an acceleration curve that fits entirely within the curve. Therefore, the practicability of test labs of meeting the FMVSS No. 208 pulse does not show practicability of meeting the FMVSS No. 213 pulse.

The agency does not believe that these changes will affect the performance measured under FMVSS No. 213.

Effective Date

The amendments on the dummies' clothing and shoes are effective in 30 days. An effective date less than 180 days after date of publication of this rule is in the public interest because these amendments correct and clarify the specifications for the clothing and shoes. Further, there is good cause for the effective date because FMVSS No. 213 specifies that the agency will use the Hybrid III dummies in the standard's compliance tests of child restraints manufactured on or after August 1, 2005.

Rulemaking Analyses and Notices

Executive Order 12866 (Federal Regulation) and DOT Regulatory Policies and Procedures

This rulemaking document was not reviewed under E.O. 12866, ''Regulatory Planning and Review.'' The agency has considered the impact of this rulemaking action under the Department of Transportation's regulatory policies and procedures, and has determined that it is not ''significant'' under them. This document amends FMVSS No. 213 to correct the specification for the clothing and shoes worn by the new 3- and 6-year old child test dummies. The correction does not affect the performance of the dummies or the performance of child restraints. There are no cost or benefit changes associated with this final rule.

Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 (Public Law 96–354), as amended, requires agencies to evaluate the potential effects of their proposed and final rules on small businesses, small organizations and small governmental jurisdictions. I hereby certify that this rule will not have a significant economic impact on a substantial number of small entities. This final rule simply corrects an inconsistency in the specification of clothing and shoes worn by the test dummies. It does not reduce or impose any new obligations or requirements.

Executive Order 13132 (Federalism)

NHTSA has analyzed this rule in accordance with the principles and criteria contained in E.O. 13132, and has determined that it does not have sufficient federalism implications to warrant consultation with State and local officials or the preparation of a federalism summary impact statement. The rule will not have any substantial effects on the States, or on the current Federal-State relationship, or on the current distribution of power and responsibilities among the various local officials.

National Environmental Policy Act

NHTSA has analyzed this rulemaking action for the purposes of the National Environmental Policy Act. The agency has determined that implementation of this action will not have any significant impact on the quality of the human environment.

Executive Order 12988 (Civil Justice Reform)

This rule will not have any retroactive effect. A petition for reconsideration or other administrative proceeding will not be a prerequisite to an action seeking judicial review of this rule. This rule will not preempt the states from adopting laws or regulations on the same subject, except that it will preempt a state regulation that is in actual conflict with the Federal regulation or makes compliance with the Federal regulation impossible or interferes with the implementation of the Federal statute.

List of Subjects in 49 CFR Part 571

Imports, Incorporation by reference, Motor vehicle safety, Reporting and recordkeeping requirements, Tires.

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

■ 1. The authority citation for part 571 continues to read as follows:

Authority: 49 U.S.C. 322, 30111, 30115, 30166 and 30177; delegation of authority at 49 CFR 1.50.

■ 2. S9.1(e) and (f) of § 571.213 are revised as set forth below.

§ 571.213 Standard No. 213, Child restraint systems.

* * * * *

S9.1 *Type of clothing.*

* * * * *

(e) *Hybrid III 3-year-old dummy (49 CFR Part 572, Subpart P).* When used in testing under this standard, the dummy specified in 49 CFR Part 572, Subpart P, is clothed as specified in that subpart, except that the shoes are children's size 8 canvas oxford style sneakers weighing not more than 0.26 kg each.

(f) *Hybrid III 6-year-old dummy (49 CFR Part 572, Subpart N) and Hybrid III 6-year-old weighted dummy (49 CFR Part 572, Subpart S).* When used in testing under this standard, the dummies specified in 49 CFR Part 572, Subpart N and Subpart S, are clothed as specified in those subparts, except that the shoes are children's size 13 M canvas oxford style sneakers weighing not more than 0.43 kg each.

* * * * *

Issued on March 22, 2005.

Jeffrey W. Runge,

Administrator.

[FR Doc. 05–5962 Filed 3–25–05; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 041126333–5040–02; I.D. 032205C]

Fisheries of the Economic Exclusive Zone Off Alaska; Deep-Water Species Fishery by Vessels Using Trawl Gear in the Gulf of Alaska

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

ACTION: Closure.

SUMMARY: NMFS is prohibiting directed fishing for species that comprise the deep-water species fishery by vessels using trawl gear in the Gulf of Alaska (GOA). This action is necessary because the first seasonal apportionment of the 2005 Pacific halibut bycatch allowance specified for the deep-water species fishery in the GOA has been reached.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), March 23, 2005, through 1200 hrs, A.l.t., April 1, 2005.

FOR FURTHER INFORMATION CONTACT: Josh Keaton, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the GOA exclusive economic zone according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The first seasonal apportionment of the 2005 Pacific halibut bycatch allowance specified for the deep-water species fishery in the GOA is 100 metric tons as established by the 2005 and 2006 harvest specifications for groundfish of the GOA (70 FR 8958, February 24, 2005), for the period 1200

hrs, A.l.t., January 20, 2005, through 1200 hrs, A.l.t., April 1, 2005.

In accordance with § 679.21(d)(7)(i), the Administrator, Alaska Region, NMFS, has determined that the first seasonal apportionment of the 2005 Pacific halibut bycatch allowance specified for the trawl deep-water species fishery in the GOA has been reached. Consequently, NMFS is prohibiting directed fishing for the deep-water species fishery by vessels using trawl gear in the GOA. The species and species groups that comprise the deep-water species fishery are all rockfish of the genera *Sebastes* and *Sebastolobus*, deep-water flatfish, rex sole, arrowtooth flounder, and sablefish.

After the effective date of this closure the maximum retainable amounts at § 679.20(e) and (f) apply at any time during a trip.

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the closure of the deep-water species fishery by vessels using trawl gear in the GOA.

The AA also finds good cause to waive the 30-day delay in the effective date of this action under 5 U.S.C. 553(d)(3). This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

This action is required by § 679.21 and is exempt from review under Executive Order 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: March 22, 2005.

Alan D. Risenhoover,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 05–6049 Filed 3–23–05; 2:33 pm]

BILLING CODE 3510–22–S

Proposed Rules

Federal Register
Vol. 70, No. 58
Monday, March 28, 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 HOMELAND SECURITY

Office of the Secretary

6 CFR Part 5

[DHS–2005–0016]

Privacy Act of 1974; Implementation of Exemptions; Correction

AGENCY: Office of the Secretary, DHS.

ACTION: Proposed rule; correction.

SUMMARY: The Department of Homeland Security (DHS) is correcting a notice of proposed rulemaking that was published in the **Federal Register** on March 22, 2005, at 70 FR 14427 which gives notice that DHS is concurrently establishing a new system of records pursuant to the Privacy Act of 1974 for the Bureau of Immigration and Customs Enforcement, Student and Exchange Visitor Program. In that proposed rulemaking, the Department proposes to exempt portions of this system of records from one or more provisions of the Privacy Act because of criminal, civil and administrative enforcement requirements. In the Heading of the proposed rulemaking, DHS inadvertently mislabeled the DHS docket number associated with the rulemaking. DHS would like to announce that the DHS docket number for submitting comments via to this notice is DHS–2005–0016. Directions for submitting comments using this method are outlined within 70 FR 14427.

DATES: This correction is issued as of March 28, 2005.

FOR FURTHER INFORMATION CONTACT: Jeff Ament, Department of Homeland Security Regulatory Coordinator, Department of Homeland Security, Washington, DC 20528, (202) 205–8088.

SUPPLEMENTARY INFORMATION:

Need for Correction

As published in the **Federal Register** on March 22, 2005 (70 FR 14427), the document contains an error that is in need of correction.

Correction of Publication

Accordingly, the publication on March 22, 2005 (70 FR 14477), is corrected as follows:

1. On page 14427, in the heading, third line, the new DHS docket number should read: ''DHS Docket Number DHS–2005–0016.''

Mary Kate Whalen,

Deputy Associate General Counsel for Regulations, Office of the General Counsel, U.S. Department of Homeland Security.

[FR Doc. 05–6052 Filed 3–23–05; 4:33 pm]

BILLING CODE 4410–10–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 983

[Docket No. FV05–983–1 PR]

Pistachios Grown in California; Establishment of Reporting Requirements; Notice of Request for New Information Collection

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This rule invites comments on the establishment of reporting requirements authorized under the California pistachio marketing order (order). The order regulates the handling of pistachios grown in California and is administered locally by the Administrative Committee for Pistachios (committee). These additional reporting requirements would enable the committee to collect information on: Pistachios failing to meet quality and aflatoxin requirements; failing pistachios that are reworked or disposed of in accordance with applicable requirements; handlers applying for exemptions; transfers of uninspected pistachios between regulated handlers; and inventories and shipments of pistachios. This document also announces the Agricultural Marketing Service's (AMS) intention to request approval from the Office of Management and Budget (OMB) of a new information collection.

DATES: Comments must be received by May 27, 2005. Pursuant to the Paperwork Reduction Act, comments on the information collection burden must be received by May 27, 2005.

ADDRESSES: Interested persons are invited to submit written comments concerning this proposal. Comments must be sent to the Docket Clerk, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue SW., STOP 0237, Washington, DC 20250–0237; Fax: (202) 720–8938, or E-mail: *moab.docketclerk@usda.gov,* or Internet: *http://www.regulations.gov.* All comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be made available for public inspection in the Office of the Docket Clerk during regular business hours, or can be viewed at: *http://www.ams.usda.gov/fv/moab.html.*

FOR FURTHER INFORMATION CONTACT: Rose Aguayo, California Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 2202 Monterey Street, Suite 102B, Fresno, California 93721; Telephone: (559) 487–5901, Fax: (559) 487–5906; or George Kelhart, Technical Advisor, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue SW., STOP 0237, Washington, DC 20250–0237; Telephone: (202) 720–2491, Fax: (202) 720–8938.

Small businesses may request information on complying with this regulation by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue SW., STOP 0237, Washington, DC 20250–0237; Telephone: (202) 720–2491, Fax: (202) 720–8938, or E-mail: *Jay.Guerber@usda.gov.*

SUPPLEMENTARY INFORMATION: This proposal is issued under Marketing Order No. 983 (7 CFR part 983), regulating the handling of pistachios grown in California, hereinafter referred to as the ''order.'' The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.''

The Department of Agriculture (USDA) is issuing this rule in conformance with Executive Order 12866.

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

will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with USDA a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. A handler is afforded the opportunity for a hearing on the petition. After the hearing USDA would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review USDA's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

This proposal invites comments on establishing reporting requirements authorized under the California pistachio order. The additional reporting requirements would enable the committee to collect information on: (1) Pistachios failing to meet quality and aflatoxin requirements; (2) failing pistachios that are reworked or disposed under the marketing order; (3) handlers applying for exemptions; (4) transfers of uninspected pistachios between regulated handlers; and (5) inventories and shipments of pistachios. In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), this notice also announces AMS's intention to request approval from OMB for a new information collection. The information collected would facilitate administration of the marketing order.

Sections 983.38, 983.39, and 983.40 of the pistachio order specify maximum aflatoxin requirements, minimum quality requirements, and failed lot rework and disposition procedures, respectively.

Sections 983.41 of the pistachio order provides exemptions for certain aflatoxin and quality testing requirements for handlers who handle less than 1,000,000 pounds of assessed weight pistachios per marketing year (September 1–August 31).

Section 983.47 of the pistachio order provides authority to require handlers to furnish such reports and information on such forms as are needed to enable USDA and the committee to perform their functions and enforce order provisions.

Section 983.70 of the pistachio order exempts handlers who handle 1,000 pounds or less of dried weight pistachios (dried to 5 percent moisture) from all aflatoxin and minimum quality requirements.

Under these authorities, the committee, at its November 3, 2004, meeting unanimously recommended establishing a new subpart ''Rules and Regulations,'' and a new section entitled ''§ 983.147—Reports'' to delineate and define six new forms, ACP–2 through ACP–7. The committee further clarified this recommendation at its December 15, 2004, meeting.

Detailed information on the burdens created by these new forms is discussed later in this document.

The recommended forms, ACP–2 through ACP–7, would be used by the committee to track pistachios that fail to meet minimum quality and maximum aflatoxin requirements (ACP–2); track lots which have been reworked or disposed of in accordance with marketing order requirements (ACP–3); identify handlers who handle 1,000 dried pounds or less of pistachios per production year (September 1–August 31) (ACP–4) and properly apply marketing order exemptions; identify handlers who handle less than 1,000,000 pounds of assessed weight pistachios per marketing year (September 1–August 31) (ACP–5) and properly apply marketing order exemptions; track uninspected pistachios that are transferred between regulated handlers (ACP–6); and track monthly shipments and handler inventories (ACP–7).

The majority of the forms recommended by the committee (ACP–2 through APC–6) are new reporting requirements, and do not duplicate information collected by any other Federal agency. One form, ACP–7 is similar to a report required by the California Pistachio Commission (commission), a program overseen by the State of California, under which California pistachio research and promotion activities are implemented. Because the commission is prohibited from sharing confidential handler information, the committee recommended the ACP–7 be implemented for committee use to provide information necessary to administer the order. Because shipment and inventory data is already compiled by handlers for the commission, handlers may attach the commission report to the committee form to meet this new reporting requirement. Thus, handlers would not be duplicating their efforts and both agencies would receive necessary data for respective program purposes. Further, the information collection does not duplicate that collected by any other Federal agency.

The committee estimates that this action would impact no more than 20 handlers of pistachios, and further estimates that, on average, a handler would expend no more than an average of 11.8 minutes in completing each form. The total estimated annual burden for all six forms is estimated to be 92.4 hours.

The committee believes that these forms are easy to prepare and file, and place as small a reporting burden as possible on handlers. These forms and their respective burdens were discussed at public meetings at which all affected entities were encouraged to comment on the effect of requiring these forms to be completed and filed by pistachio handlers. The Committee vote was unanimous, with 8 in favor and none opposed or abstaining.

Initial Regulatory Flexibility Analysis

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), AMS has considered the economic impact of this action on small entities. Accordingly, AMS has prepared this initial regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses would not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and the rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 20 handlers of California pistachios subject to regulation under the order and approximately 741 producers in the production area. Small agricultural producers are defined by the Small Business Administration (13 CFR 121.201) as those having annual receipts less than $750,000, and small agricultural service firms are defined as those whose annual receipts are less than $5,000,000. Eight of the 20 handlers subject to regulation have annual pistachio receipts of at least $5,000,000. In addition, 722 producers have annual receipts less than $750,000. Thus, the majority of handlers and producers of California pistachios may be classified as small entities. There are an estimated eight USDA approved testing laboratories that may participate in this program. At least half are handler in-house operations and already included in the estimated respondents. Other testing laboratories are

government agencies. One other existing laboratory is part of the Dried Fruit Association of California. We do not have specific information but believe that this association would be considered a small entity.

This proposal invites comments on establishing reporting requirements authorized under the California pistachio order. These additional reporting requirements would enable the committee to collect information on: (1) Pistachios failing to meet quality and aflatoxin requirements; (2) failing pistachios that are reworked or disposed of in marketing order requirements; (3) handlers applying for exemptions; (4) transfers of uninspected pistachios between regulated handlers; and (5) inventories and shipments of pistachios. In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), this notice also announces AMS's intention to request approval from OMB for this new information collection. The information collected would facilitate proper implementation of the marketing order.

Sections 983.38, 983.39, and 983.40 of the pistachio order provide maximum aflatoxin requirements, and minimum quality requirements, and failed lot rework and disposition procedures, respectively.

Sections 983.41 of the pistachio order provides exemptions for certain aflatoxin and quality testing requirements for handlers who handle less than 1,000,000 pounds of assessed weight pistachios per marketing year (September 1–August 31).

Section 983.47 of the pistachio order provides authority for the committee to require handlers to furnish such reports and information on such forms as are needed to enable the Secretary of Agriculture and the committee to perform their functions and enforce order provisions.

Section 983.70 of the pistachio order exempts handlers who handle 1,000 pounds or less of dried weight pistachios (dried to 5 percent moisture) from all aflatoxin and minimum quality requirements.

Under these authorities, the committee, at its November 3, 2004, meeting, unanimously recommended establishing a new subpart ''Rules and Regulations,'' and a new section entitled ''§ 983.147—Reports'' to delineate and define six new forms, ACP–2 through ACP–7. The committee further clarified this recommendation at its December 15, 2004, meeting.

The majority of the reports recommended by the committee are new reporting requirements (ACP–2 through APC–6). One form, ACP–7 is similar to a report required by the commission, a program overseen by the State of California, under which California pistachio research and promotion activities are implemented.

The committee debated the overall merits of the forms at its meetings, deliberating over the value of the information to be collected relative to the burden which each form would impose on the regulated handlers. In the end, the committee concluded that the information that would be collected is necessary to properly administer the marketing order. It further concluded that the burden was relatively small compared to the benefits that would be accrued by the committee and industry from the information obtained.

The committee discussed alternatives to establishing these reporting requirements including not adopting ACP–4, as it was believed that this information might be obtained by staff during compliance audits. Upon reviewing the auditing procedure, committee members determined that utilization of the ACP–4 would be a more feasible means of obtaining information on identifying exempt handlers. Thus, the committee unanimously recommended all six forms for implementation. It believes that the information to be provided on each of the recommended forms would be important to the administration of the order and would enhance committee operations.

Further, the committee's meetings were widely publicized throughout the pistachio industry and all interested persons were encouraged to attend the meetings and participate in the committee's deliberations. Like all committee meetings, the November 3 and December 15, 2004, meetings were public meetings and entities of all sizes were invited to express their views on these issues.

Finally, interested persons are invited to submit information on the regulatory and informational impacts of this action on small businesses.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at: *http://www.ams.usda.gov/fv/moab.html.* Any questions about the compliance guide should be sent to Jay Guerber at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies. In addition, USDA has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule. A detailed discussion of the six new forms follows.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), AMS announces its intention to request an approval of a new information collection for the marketing order regulating pistachios grown in California.

Title: Pistachios Grown in California; Marketing Order No. 983.

OMB Number: 0581–New.

Type of Request: New collection.

Abstract: These information collection requirements are essential to carry out the intent of the Act, to provide the respondents the type of service they request, and to administer the California pistachio marketing order program which has been operating since 2004.

On November 3, 2004, the Committee unanimously recommended the establishment of a new subpart—''Rules and Regulations,'' and a new section, ''§ 983.147—Reports.'' The Committee further clarified this recommendation at its December 15, 2004, meeting. Section 983.147 would require handlers and certain USDA approved testing laboratories to file up to six forms. These forms would enable the committee to obtain information on: Pistachios failing to meet quality and aflatoxin requirements; pistachios that are reworked and disposed of in marketing channels; transfers of uninspected pistachios between regulated handlers; shipments and inventories of pistachios and related information, and identify handlers eligible for marketing order exemptions. Approximately half of the handlers (8 of 20 estimated handlers and the Dried Fruit Association of California) have the capability to file reports electronically. There are an estimated eight testing laboratories. At least half are handler in-house operations which are included in the estimated respondents. Other testing laboratories are government agencies. OMB does not require government agencies to be reported as respondents for the purposes of the Paperwork Reduction Act. One other existing laboratory is part of the Dried Fruit Association of California, which is included as part of the estimate of respondents.

The information collected would be used only by authorized representatives of the USDA, including AMS, Fruit and Vegetable Program regional and headquarters staff, and authorized committee employees. Authorized committee employees are the primary

users of the information and AMS is the secondary user. Such information would be kept confidential in accordance with the Act and order.

Total Annual Estimated Burden

The total burden for the proposed information collection under the order is as follows:

Estimate of Total Burden per Response: Public reporting burden for this collection of information is estimated to average less than 11.8 minutes.

Estimated Number of Respondents: 20 (handlers and one laboratory).

Estimated Number of Responses per Respondent: 23.6 responses per handler per form.

Estimated Total Annual Burden on Respondents: 92.4 hours.

Estimated Annual Burden for Each Form

For each new form, the proposed request for approval of the new information collection under the order is as follows:

ACP–2 Failed Lot Notification Form

Handlers would use this form to notify the committee of the failure of a lot of pistachios to pass minimum size/quality requirements under the order. USDA certified aflatoxin laboratories would use this form to notify the committee of the failure of a lot of pistachios that exceeds the maximum aflatoxin requirements under the order.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 12 minutes per response.

Respondents: Persons who handle California pistachios and testing laboratory(s).

Estimated Number of Respondents: 20.

Estimated Number of Responses per Respondent: 5.

Estimated Total Annual Burden on Respondents: 20 hours.

ACP–3 Failed Lot Disposition and Rework Report Form

Handlers would use this form to notify the committee of the disposition or reworking of failed lots. This would enable the committee to verify that failed lots were disposed of in accordance with the marketing order.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 12 minutes per response.

Respondents: Persons who handle California pistachios.

Estimated Number of Respondents: 20.

Estimated Number of Responses per Respondent: 5.

Estimated Total Annual Burden on Respondents: 20 hours.

ACP–4 FMO Exempt Handler Notification Report Form

Handlers would use this form to notify the committee that they handled 1,000 pounds or less of dried pistachios during any marketing year (September 1 to August 31). Dried pistachios are those pistachios which have been dried to approximately 5 percent moisture.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 6 minutes per response.

Respondents: Persons who handle California pistachios.

Estimated Number of Respondents: 10.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 1 hour.

ACP–5 Minimal Testing Report Form

Handlers who handle less than 1,000,000 pounds of assessed weight pistachios in a production year (September 1–August 31) would use this form to apply for committee approval to operate under the order's minimal quantities provisions.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 6 minutes per response.

Respondents: Persons who handle less than 1,000,000 pounds of assessed weight California pistachios in the production year.

Estimated Number of Respondents: 10.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 1 hour.

ACP–6 Inter-Handler Transfer Report

Handlers would use this form to notify the committee that they had transferred uninspected pistachios within the production area to another handler within the production area.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 12 minutes per response.

Respondents: Persons who transfer or receive uninspected California pistachios within the production area.

Estimated Number of Respondents: 12.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 2.4 hours.

ACP–7 Monthly Report of Inventory/Shipments

Handlers would use this form to report their monthly inventory and domestic shipments of pistachios.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 12 minutes per response.

Respondents: Persons who handle California pistachios.

Estimated Number of Respondents: 20.

Estimated Number of Responses per Respondent: 12.

Estimated Total Annual Burden on Respondents: 48 hours.

Comments: Comments are invited on: (1) Whether this collection of information is necessary for the proper performance of the functions of the agency, including whether the information would have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments should reference OMB No. 0581–New and the Marketing Order for Pistachios Grown in California, and be sent to the USDA in care of the Docket Clerk at the previously-mentioned address. All comments timely received will be available for public inspection during regular business hours at the same address.

All responses to this notice will be summarized and included in the request for OMB approval. All comments received will become a matter of public record and will be available for public inspection during regular business hours at the same address or at *http://www.ams.usda.gov/fv/moab.html.* Once the Web site page is opened, click on ''pistachios'' and find the docket number of this rule. Any comments received regarding this rule will be found in the ''Comments'' link. If no comments have been received in response to a rule, there will be no ''Comments'' link available.

In summary, this proposal would establish reporting requirements authorized under the California pistachio order. These additional reporting requirements would enable the committee to collect information on:

(1) Pistachios failing to meet quality and aflatoxin requirements; (2) failing pistachios that are reworked or disposed of in accordance with marketing order requirements; (3) handlers applying for exemptions; (4) transfers of uninspected pistachios between regulated handlers; and (5) inventories and shipments of pistachios. Additionally, it would allow the Committee to obtain accurate information for preparation of the annual marketing policy statement, as required under the order. Any comments received will be considered prior to finalization of this rule.

Another form, ACP 1, was not included with this approval request because that form was part of a previous request, published in the **Federal Register** on December 10, 2004 (69 FR 71749). This form would be included in the order at § 983.253, at such time that it is approved.

List of Subjects in 7 CFR Part 983

Pistachios, Marketing agreements and orders, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 983 is proposed to be amended as follows:

PART 983—PISTACHIOS GROWN IN CALIFORNIA

1. The authority citation for 7 CFR part 983 continues to read as follows:

Authority: 7 U.S.C. 601–674.

2. In part 983, a new subpart titled ''Subpart—Rules and Regulations'' consisting of § 983.147 is added to read as follows:

Subpart—Rules and Regulations

§ 983.147 Reports.

(a) *ACP–2, failed lot notification.* Each handler shall notify the Administrative Committee for Pistachios (committee) of all lots which fail to meet the order's minimum quality requirements by completing sections A and B of this form. Handlers shall furnish this report to the committee no later than 10 days after test completion. Each USDA approved aflatoxin testing laboratory shall complete section C of this report and forward this report and the failing aflatoxin test results to the committee and to the handler within 10 days of the test failure.

(b) *ACP–3, failed lot disposition and rework report.* Each handler who reworks a failing lot of pistachios shall complete this report and shall forward it to the committee no later than 10 days after the rework is completed. If rework is not selected as a remedy, the handler shall submit the form to the committee office within 10 days of disposition of the lot.

(c) *ACP–4, Federal marketing order exempt handler notification.* Each handler who handles 1,000 pounds or less of dried weight pistachios in a production year shall complete and furnish this report to the committee no later than November 15 of each production year.

(d) *ACP–5, minimal testing form.* Each handler who handles less than 1,000,000 pounds of dried weight pistachios in a production year and who would like to request an exemption under the minimal quantities provisions (Section 983.41) of the order shall furnish this report to the committee office no later than August 1 of each production year.

(e) *ACP–6, inter-handler transfer.* Each handler who transfers uninspected pistachios to another handler within the production area shall complete the ACP–6 and sign Part A. The transferring handler shall forward the original ACP–6 and one copy to the handler who receives the uninspected pistachios. The transferring handler shall furnish one copy of ACP–6 to the committee within 30 days of the transfer. The handler receiving the uninspected pistachios (receiving handler) shall sign Part B of the original ACP–6 and shall file it with the committee within 30 days of the transfer.

(f) *ACP–7, monthly report of inventory/shipments.* Each handler of pistachios shall file this report with the committee by the 10th day of each month for the previous month's inventory and shipment information.

(g) *Exemptions.* Handlers, who handle 1,000 pounds or less of dried pistachios during any marketing year, are exempt from filing all forms with the exception of the ACP–4.

(h) *Records.* Each handler shall maintain all records of pistachios received, held, shipped, and disposed of for at least 3 years following each crop year to show compliance with the marketing order provisions.

Dated: March 23, 2005.

Kenneth C. Clayton,

Acting Administrator, Agricultural Marketing Service.

[FR Doc. 05–6082 Filed 3–23–05; 3:56 pm]

BILLING CODE 3410–02–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 73

[Docket No. FAA–2005–20616; Airspace Docket No. 05–ANM–04]

RIN 2120–AA66

Proposed Amendment to Restricted Area 2211 Blair Lakes; AK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to raise the ceiling of Restricted Area 2211 (R–2211), Blair Lakes, AK, from the current 18,000 feet above mean sea level (MSL) to Flight Level (FL) 310. The expanded airspace is required to fulfill United States Air Force (USAF) training requirements. The current restricted airspace at Blair Lakes is too small to allow aircrew training in high altitude weapons delivery tactics. Specifically, the training requirements call for practicing the release of weapons from higher altitudes than are currently available within the existing restricted airspace.

DATES: Comments must be received on or before May 12, 2005.

ADDRESSES: Send comments on this proposal to the Docket Management System, U.S. Department of Transportation, Room Plaza 401, 400 Seventh Street, SW., Washington, DC 20590–0001. You must identify FAA Docket No. FAA–2005–20616 and Airspace Docket No. 05–ANM–04, at the beginning of your comments. You may also submit comments through the Internet at *http://dms.dot.gov*.

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

SUPPLEMENTARY INFORMATION:

Comments Invited

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

environmental, and energy-related aspects of the proposal.

Communications should identify both docket numbers (FAA Docket No. FAA–2005–20616 and Airspace Docket No. 05–ANM–04) and be submitted in triplicate to the Docket Management System (*see* **ADDRESSES** section for address and phone number). You may also submit comments through the Internet at *http://dms.dot.gov*.

Commenters wishing the FAA to acknowledge receipt of their comments on this action must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to FAA Docket No. FAA–2005–20616 and Airspace Docket No. 05–ANM–04.'' The postcard will be date/time stamped and returned to the commenter.

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

Availability of NPRM's

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

You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office (*see* **ADDRESSES** section for address and phone number) between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division, Federal Aviation Administration, 1601 Lind Avenue, #14, SW., Renton, WA 98055.

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

Background

The existing R–2211, at Blair Lakes, AK, extends from the surface up to 18,000 feet MSL. The USAF has proposed raising the ceiling of the area because the existing restricted airspace is too small to permit essential aircrew training in the tactics used in recent real-world engagements. The current 18,000-foot MSL upper limit of the area is not sufficient to satisfy high altitude weapons release training requirements.

The Proposal

The FAA is proposing to amend Title 14 Code of Federal Regulations (14 CFR) part 73 (part 73) to modify R–2211 by raising the ceiling from 18,000 feet MSL to FL 310. The current restricted airspace at Blair Lakes is too small to allow aircrew training in high altitude weapons delivery tactics. The purpose of the proposed expansion of R–2211 is to accommodate high altitude, high angle weapons delivery training to fulfill USAF training requirements.

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

Environmental Review

This proposal will be subject to the appropriate environmental analysis in accordance with FAA Order 1050.1D, Policies and Procedures for Considering Environmental Impacts, prior to any FAA final regulatory action.

List of Subjects in 14 CFR Part 73

Airspace, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 73 as follows:

PART 73—SPECIAL USE AIRSPACE

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

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

§ 73.22 [Amended]

2. Section 73.22 is amended as follows:

* * * * *

R–2211 Blair Lakes, AK [Amended]

Boundaries. Beginning at lat. 64°29′58″ N., long. 147°44′09″ W.; to lat. 64°19′58″ N., long. 147°19′09″ W.; to lat. 64°13′28″ N., long. 147°32′08″ W.; to lat. 64°22′28″ N., long. 147°58′09″ W.; to the point of beginning.

Time of designation. 0800 to 1800, local Monday through Friday, other times by NOTAM.

Designated altitude. Surface to FL310.

Controlling agency. FAA, Fairbanks Approach Control.

Using agency. U.S. Air Force, 354th Fighter Wing, Eielson AFB, AK.

* * * * *

Issued in Washington, DC, March 22, 2005.

Edith V. Parish,

Acting Manager, Airspace and Rules.

[FR Doc. 05–5965 Filed 3–25–05; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

15 CFR Parts 734 and 772

[Docket No. 050316075–5075–01]

RIN 0694–AD29

Revision and Clarification of Deemed Export Related Regulatory Requirements

AGENCY: Bureau of Industry and Security, Commerce.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Bureau of Industry and Security (BIS) is reviewing the recommendations contained in the U.S. Department of Commerce Office of Inspector General Report entitled ''Deemed Export Controls May Not Stop the Transfer of Sensitive Technology to Foreign Nationals in the U.S.'' (Final Inspection Report No. IPE–16176–March 2004). Certain of these recommendations would require regulatory changes that would affect existing requirements and policies for deemed export licenses. BIS is seeking comments on how these revisions would affect industry, the academic community, and U.S. government agencies involved in research.

DATES: Comments must be received by May 27, 2005.

ADDRESSES: You may submit comments, identified by RIN 0694–AD29, by any of the following methods:

- Federal eRulemaking Portal: *http://www.regulations.gov.* Follow the instructions for submitting comments.
- E-mail: *scook@bis.doc.gov.* Include ''RIN 0694–AD29'' in the subject line of the message.
- Fax: (202) 482–3355.
- Mail or Hand Delivery/Courier: U.S. Department of Commerce, Bureau of Industry and Security, Regulatory Policy Division, 14th & Pennsylvania Avenue, NW., Room 2705, Washington, DC 20230, ATTN: RIN 0694–AD29.

FOR FURTHER INFORMATION CONTACT: Alex Lopes, Director, Deemed Exports and Electronics Division, Bureau of Industry and Security, telephone: (202) 482–4875, or e-mail: *alopes@bis.doc.gov.* Copies of the referenced OIG Report are available at *http://www.oig.doc.gov/oig/reports/2004/BIS-IPE–16176–03–2004.pdf.*

SUPPLEMENTARY INFORMATION:

Background

In its report, the Office of Inspector General (OIG) concluded that existing BIS policies under the Export Administration Regulations (EAR) could enable foreign nationals from countries and entities of concern to access otherwise controlled technology. Adopting the OIG's recommendations to address these concerns would entail regulatory or other administrative action that would clarify the definition of ''use'' technology subject to the EAR, base the requirement for a deemed export license on a foreign national's country of birth, and modify regulatory guidance on licensing of technology to foreign nationals working with government-sponsored research and research conducted in universities.

Definition of ''Use'' Technology

The OIG stated that confusion existed over the definition and implementation of controls associated with the ''use'' of equipment by foreign nationals in the United States. In § 772.1 of the EAR, the term ''use'' is defined as: ''Operation, installation (including on-site installation), maintenance (checking), repair, overhaul, and refurbishing.'' The OIG expressed concern about the presence of the word ''and'' in the definition being interpreted to mean that all of the activities enumerated in the definition must be present in order to constitute ''use.''

The OIG concluded that whereas, under the ''use'' definition, BIS grants approval for foreign entities to operate, install, maintain, repair, overhaul, and refurbish equipment exported from the United States in order to permit the end-user the full range of uses for an exported item, the same ''use'' definition did not seem to apply to deemed exports (*i.e.*, to foreign nationals ''using'' the equipment in the United States). The OIG concluded that it would be unlikely that one individual would have the responsibility or capability of accomplishing all of the enumerated tasks that together constitute ''use'' in most situations. In addition, the OIG also noted that two of the four multilateral control regimes defined the term ''use'' either with an ''or,'' or without any conjunction (*i.e.*, a bullet point list of the activities).

The OIG further concluded that this difference in interpretation is critical in determining how to implement and enforce the deemed export provisions in the EAR. The OIG reported that U.S. academic and federal research institutions generally use the fundamental research exemption under the EAR for most of the research they conduct. However, when equipment is used by foreign nationals at a U.S. university or federal research facility, the OIG concluded that it is most likely accompanied by some transmittal of use or other information or instruction constituting ''technology.'' According to the OIG, many of the academic and federal officials the OIG met with had not contemplated the transfer of technology associated with the ''use'' of equipment as a deemed export; others contended that the transfer of ''use'' technology related to equipment in furtherance of fundamental research is exempt under the regulations. The OIG suggested that BIS revise the definition of ''use'' in § 772.1 of the EAR to replace the word ''and'' with the word ''or,'' as follows:

''Use''. (All categories and General Technology Note)—Means all aspects of ''use,'' such as: operation, installation (including on-site installation) maintenance (checking), repair, overhaul, or refurbishing.

Use of Foreign National's Country of Birth as Criterion for Deemed Export License Requirement

Current BIS deemed export license requirements are based on a foreign national's most recent citizenship or permanent residency. The OIG expressed concern that this policy allows foreign nationals originally from countries of concern to obtain access to controlled dual-use technology without scrutiny if they maintain current citizenship or permanent resident status in a country to which the export of the technology would not require a license. For example, transfer of technology to an Iranian who has established permanent residency or citizenship in Canada would be treated, for export licensing purposes under the existing guidelines, as a deemed export to a Canadian foreign national. This policy is described in the deemed export guidance provided on the BIS Web site at: *http://www.bis.doc.gov/DeemedExports/DeemedExportsFAQs.html.*

The OIG recommended that BIS amend its policy to require U.S. organizations to apply for a deemed export license for employees or visitors who are foreign nationals and have access to dual-use controlled technology if they were born in a country where the technology transfer in question would require an export license, regardless of their most recent citizenship or permanent residency.

Clarification of Supplemental Questions and Answers on Government Sponsored Research and Fundamental Research

The OIG reviewed the questions and answers in Supplement No. 1 to part 734 of the EAR. OIG noted that whereas the questions and answers did not cover all scenarios, the intent was to help potential license applicants understand how BIS applies the EAR to specific facts. The OIG reported that it considered two of the answers provided may be inaccurate or unclear.

Answer to Question A(4)

Question A(4) from Supplement No. 1 to part 734, which falls under the ''publication of technology'' category, discusses whether ''prepublication clearance'' by a government sponsor (in this case the Department of Energy) would void the exemption in the EAR for material to be published and trigger the deemed export rule. *See* § 734.7. (Published Information and Software). The answer states, ''no * * * the transaction is not subject to the EAR.'' The OIG stated that, according to § 734.11 of the EAR, if research is funded by the U.S. government and national security controls are in place to protect any resulting information, the research is subject to the EAR.

In its comments on the OIG report, BIS concurred with the OIG that the answer to Question A(4) requires clarification. BIS stated that it proposed to modify in the answer to Question A(4) to state, by reference to Question A(2) in this Supplement, that, if the government sponsor reviewer imposed restrictions on publication of the research, then the technology would continue to be subject to the EAR.

Answer to Question D(1)

Question D(1), which falls under the ''research, correspondence, and informal scientific exchanges'' category, discusses whether a license would be required for a foreign graduate student to ''work'' in a laboratory. The answer provided in the supplement states, ''not if the research on which the foreign student is working qualifies as 'fundamental research' * * *'' However, because allowing scientists, engineers, or students to work in a laboratory may necessitate their ''use'' of equipment, the OIG stated that this answer may lead a potential license applicant to assume that ''use'' of equipment is covered under the fundamental research exemption.

In its comments on the OIG report, BIS agreed that the answer to question D(1) requires clarification. BIS proposes to revise the answer for D(1) to qualify the statement that no license is required, by stating that, whereas no license is required for the transfer of technology to conduct ''fundamental research,'' a license may be required if, in conducting fundamental research, the foreign graduate student needs access to technology to ''use'' equipment if the export of the equipment to the student would require a license under the EAR.

Request for Comments

The Department of Commerce is interested in evaluating the impact that the changes recommended by the OIG would have on U.S. industry, academic institutions, U.S. government agencies, and holders of export controlled technology.

To ensure public participation in the review process, BIS is soliciting comments for 60 days on this proposal. BIS is particularly interested in views on the impact the proposal will have on technology developers and manufacturers, academic institutions, and U.S. government research facilities. BIS is interested in receiving specific information regarding the impact of the regulations, *e.g.*, data on the number of foreign nationals in the United States who will face licensing requirements if the OIG's recommendations were adopted, and impact of compliance with the new licensing requirements—cost, resources, procedures. BIS is also interested in receiving any alternative suggestions regarding the concerns raised by the OIG.

Parties submitting comments are asked to be as specific as possible. BIS encourages interested persons who wish to comment to do so at the earliest possible date.

The period for submission of comments will close May 27, 2005, BIS will consider all comments received before the close of the comment period in developing a final rule. Comments received after the end of the comment period will be considered if possible, but their consideration cannot be assured. BIS will not accept public comments accompanied by a request that a part or all of the material be treated confidentially because of its business proprietary nature or for any other reason. BIS will return such comments and materials to the persons submitting the comments and will not consider them in the development of the final rule. All public comments on this proposed rule must be in writing (including fax or e-mail) and will be a matter of public record, available for public inspection and copying. The Office of Administration, Bureau of Industry and Security, U.S. Department of Commerce, displays these public comments on BIS's Freedom of Information Act (FOIA) Web site at *http://www.bis.doc.gov/foia.* This office does not maintain a separate public inspection facility. If you have technical difficulties accessing this Web site, please call BIS's Office of Administration at (202) 482–0637 for assistance.

List of Subjects

15 CFR Part 734

Administrative practice and procedure, Exports, Inventions and patents, Research, Science and technology.

15 CFR Part 772

Exports.

Dated: March 23, 2005.

Matthew S. Borman,

Deputy Assistant Secretary for Export Administration.

[FR Doc. 05–6057 Filed 3–25–05; 8:45 am]

BILLING CODE 3510–33–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 168

[USCG–2003–14734]

RIN 1625–AA65 (Formerly RIN 2115–AE10)

Escort Vessels for Certain Tankers—Crash Stop Criteria

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to make permanent the 1994 suspension of the crash stop requirements in our tanker escort rules.

DATES: Comments and related material must reach the Docket Management Facility on or before June 27, 2005.

ADDRESSES: You may submit comments identified by Coast Guard docket number USCG–2003–14734 to the Docket Management Facility at the U.S. Department of Transportation. To avoid duplication, please use only one of the following methods:

(1) Web Site: *http://dms.dot.gov*.

(2) Mail: Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590–0001.

(3) Fax: (202) 493–2251.

(4) 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. The telephone number is (202) 366–9329.

(5) Federal eRulemaking Portal: *http://www.regulations.gov*.

FOR FURTHER INFORMATION CONTACT: If you have questions on this proposed rule, call Lieutenant Sam Stevens, G–MSE–1, telephone (202) 267–0173, e-mail: *SStevens@comdt.uscg.mil*. If you have questions on viewing or submitting material to the docket, call Ms. Andrea M. Jenkins, Program Manager, Docket Operations, telephone (202) 366–0271.

SUPPLEMENTARY INFORMATION:

Public Participation and Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related materials. All comments received will be posted, without change, to *http://dms.dot.gov* and will include any personal information you have provided. We have an agreement with the Department of Transportation (DOT) to use the Docket Management Facility. Please see DOT's ''Privacy Act'' paragraph below.

Submitting comments: If you submit a comment, please include your name and address, identify the docket number for this rulemaking (USCG–2003–14734), indicate the specific section of this document to which each comment applies, and give the reason for each comment. You may submit your comments and material by electronic means, mail, fax, or delivery to the Docket Management Facility at the address under **ADDRESSES**; but please submit your comments and material by only one means. If you submit them by mail or delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and

electronic filing. If you submit them by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them.

Viewing comments and documents: To view comments, as well as documents mentioned in this preamble as being available in the docket, go to *http://dms.dot.gov* at any time and conduct a simple search using the docket number. You may also visit the Docket Management Facility in 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.

Privacy Act: Anyone can 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 the Department of Transportation's Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477), or you may visit *http://dms.dot.gov*.

Public Meeting

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

Background

This rulemaking addresses ''unfinished business'' from 1994. In 1994, we published the final rule entitled Escort Vessels for Certain Tankers under docket number CGD 91–202, which adopted 33 CFR part 168 (57 FR 30058, Aug. 19, 1994). The rule drew on a study to determine the capabilities of escort vessels to control disabled tankers. The study was published in two parts (59 FR 1411, Jan. 10, 1994; 60 FR 6345, Feb. 1, 1995). Preliminary data for the second study became available after publication of the final rule, but before the rule took effect. This preliminary data indicated that it might be dangerous to implement the final rule's crash stop provision, 33 CFR 168.50(b)(2). Therefore, on November 1, 1994 (59 FR 54519), we suspended the crash stop provision before it could take effect with the other provisions of part 168. No further action was taken with respect to the crash stop provision, and it remains suspended today.

As long as the crash stop provision's suspension remains in effect, we must continue to report the CGD 91–202 rulemaking on the Uniform Regulatory Agenda of the United States, the Federal Government's official list of ongoing regulatory projects. CGD 91–202 appears in the most recent edition of the Agenda at 69 FR 73240 (Dec. 13, 2004). Twice each year, the Coast Guard spends valuable administrative time maintaining its Uniform Regulatory Agenda reports, whether or not a reported project is active.

For the reasons given under ''Removal of Crash Stop Provision,'' the Coast Guard maintains the position it first adopted in 1994, that the crash stop provision should not be implemented. Therefore, it is the Coast Guard position that the crash stop provision's 1994 suspension should be made permanent, thereby allowing us to complete the CGD 91–202 rulemaking.

Since 1998, the Coast Guard has used the Department of Transportation's Docket Management System (DMS) to make its rulemaking documents widely available to the public. DMS assigns unique docket numbers to each rulemaking, and the format of those docket numbers is not compatible with the Coast Guard's pre-1998 conventions for numbering dockets. Therefore, if we are ever to complete CGD 91–202 in a way that makes our actions visible to the public through DMS, we must complete it under a new, DMS-compatible docket number. For that reason, we opened the current rulemaking under DMS docket number USCG–2003–14734. In essence, when we complete USCG–2003–14734, we will also complete CGD 91–202.

Removal of Crash Stop Provision

We received two public comments in response to our 1994 notice suspending 33 CFR 168.50(b)(2). We have placed both comments in the docket for USCG–2003–14734. One comment supported the suspension. The other forwarded a copy of a technical evaluation of 33 CFR 165.50(b), but did not address the crash stop criteria at all. In 1995, the final results of the study of escort vessel capabilities showed that the crash stop criteria were not an effective performance characteristic for disabled tankers. Subsequently, we noted a significant increase in tractor tug availability in the waters to which part 168 applies, which allows for more effective response and action when a tanker becomes disabled. Taken together, these factors persuade us that the crash stop provision of 33 CFR 168.50(b)(2) should be permanently removed from our regulations. The remainder of part 168 would not be affected by this removal.

Regulatory Evaluation

This proposed rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. The proposed rulemaking will allow us to finalize the status quo and close out CGD 91–202.

Small Entities

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

The application and impact of this proposed rulemaking is limited. First, the escort vessel regulations only apply to laden single hull tankers of 5,000 gross tons or more operating on Prince William Sound or Puget Sound. We estimate the number of these tankers is 18. This figure will diminish over time as these single hull tankers are phased out of service, as required by OPA 90. Second, small entities typically do not own or operate vessels of this size. These vessels are normally owned and operated by larger corporations, including subsidiaries of major oil companies. As the proposed rulemaking would finalize the status quo, we do not believe that we would be imposing any new burden on small entities.

Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities. If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment to the Docket Management Facility at the address under **ADDRESSES**. In your comment, explain why you think it qualifies and how and to what degree this rule would economically affect it.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121), we want to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please consult Lieutenant Sam Stevens, G–MSE–1, telephone (202) 267–0173, e-mail: *SStevens@comdt.uscg.mil.* The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

Collection of Information

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

Federalism

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

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 or more in any one year. This proposed rule would not result in Unfunded Mandates because it does not require regulatory actions that result in such expenditures.

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

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

Energy Effects

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

Technical Standards

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

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

Environment

We have analyzed this proposed rule under Commandant Instruction M16475.lD, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have made a preliminary determination that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. This proposed rule concerns regulations in aid of navigation and therefore we believe it should be categorically excluded, under Figure 2–1, paragraph (34)(i) of the Instruction. A preliminary ''Environmental Analysis Check List'' is available in the docket where indicated under the ''Public Participation and Request for Comments'' section of this preamble. Comments on this section will be considered before we make the final decision on whether this rule should be categorically excluded from further environmental review.

List of Subjects in 33 CFR Part 168

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

For the reasons discussed in the preamble, the Coast Guard proposes to remove 33 CFR 168.50(b)(2).

PART 168—ESCORT REQUIREMENTS FOR CERTAIN TANKERS

1. The authority citation for part 168 is revised to read as follows:

Authority: Section 4116(c), Pub. L. 101–380, 104 Stat. 520 (46 U.S.C. 3703 note); Department of Homeland Security Delegation No. 170.1, para. 2(82).

§ 168.50 [Amended]

2. In § 168.50, remove and reserve paragraph (b)(2).

Dated: January 18, 2005.

T. H. Gilmour,

Rear Admiral, U.S. Coast Guard, Assistant Commandant for Marine Safety, Security and Environmental Protection.

[FR Doc. 05–5970 Filed 3–25–05; 8:45 am]

BILLING CODE 4910–15–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[FRL–7889–7]

South Carolina: Final Authorization of State Hazardous Waste Management Program Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

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

DATES: Send your written comments by April 27, 2005.

ADDRESSES: Send written comments to Thornell Cheeks, South Carolina Authorization Coordinator, RCRA Programs Branch, Waste Management Division, U.S. Environmental Protection Agency, Atlanta Federal Center, 61 Forsyth Street, SW., Atlanta, GA 30303–3104; (404) 562–8479. You may also e-mail your comments to *Cheeks.Thornell@epa.gov* or submit your comments at *http://www.regulation.gov.* You can examine copies of the materials submitted by South Carolina during normal business hours at the following locations: EPA Region 4 Library, Atlanta Federal Center, Library, 61 Forsyth Street, SW., Atlanta, Georgia 30303; (404) 562–8190; or South Carolina Department of Health and Environmental Control, 2600 Bull Street, Columbia, South Carolina 29201, (803) 896–4174.

FOR FURTHER INFORMATION CONTACT: Thornell Cheeks, South Carolina Authorization Coordinator, RCRA Programs Branch, Waste Management Division, U.S. Environmental Protection Agency, 61 Forsyth Street, SW., Atlanta, GA 30303–3104; (404) 562–8479.

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

Dated: March 17, 2005.

A. Stanley Meiburg,

Deputy Regional Administrator, Region 4.

[FR Doc. 05–6041 Filed 3–25–05; 8:45 am]

BILLING CODE 6560–50–P

Notices

Federal Register
Vol. 70, No. 58
Monday, March 28, 2005

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

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

March 22, 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), *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.

Farm Service Agency

Title: Volunteer Program.

OMB Control Number: 0560–0232.

Summary of Collection: Section 1526 of the Food and Agriculture Act of 1981 (7 U.S.C. 2272) permits the Secretary of Agriculture to establish a program to use volunteers to perform a wide range of activities to carry out the programs of or supported by the Department of Agriculture. While serving as a Farm and Foreign Agriculture Service (FFAS) volunteer each individual is subject to the same responsibilities and guidelines for conduct to which Federal employees are expected to adhere. These programs will provide a valuable service to the agencies while allowing the participants to receive training, supervision and work experience.

Need and Use of the Information: Applicants accepted for the Volunteer Programs will complete the ''Service Agreement and Attendance Record''. The programs will be used by FFAS in Washington, DC, State, Local and Regional Offices. The Agency will use the recording information to respond to the Department of Agriculture and the Office of Personnel Management request for information on agency volunteers. If the information were not collected for each volunteer, the Farm Service Agency would be unable to document service performed without compensation by persons in the program.

Description of Respondents: Individuals or households; Federal Government.

Number of Respondents: 60.

Frequency of Responses: Reporting: Annually.

Total Burden Hours: 30.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. 05–6027 Filed 3–25–05; 8:45 am]

BILLING CODE 3410–05–M

DEPARTMENT OF AGRICULTURE

Agricultural Research Service

Notice of Intent To Seek Approval To Collect Information

AGENCY: USDA, Agricultural Research Service, National Agricultural Library.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13) and Office of Management and Budget (OMB) regulations at 5 CFR part 1320 (60 FR 44978, August 29, 1995), this notice announces the National Agricultural Library's intent to request approval for new information collection relating to the information needs of Library customers and potential customers, and customers' satisfaction with current Library services. This voluntary survey gives current and potential customers the opportunity to provide feedback that will assist Library staff in revising current services or creating new ones to meet customers' information needs more effectively.

DATES: Comments on this notice must be received by June 1, 2005 to be assured of consideration.

ADDRESSES: Address all comments concerning this notice to Mary Ann Leonard, Special Projects Coordinator, Information Research Services Branch, National Agricultural Library, 10301 Baltimore Avenue, Beltsville, MD, 20705–2351, telephone (301) 504–6500 or fax (301) 504–6409. Submit electronic comments to *leonard@nal.usda.gov.*

SUPPLEMENTARY INFORMATION:

Title: National Agricultural Library Information Needs Assessment.

OMB Number: PRA#.

Expiration Date: Three years from date of approval.

Type of Request: New data collection from customers and potential customers of the National Agricultural Library.

Abstract: Executive Order 12862 seeks to establish high quality customer service standards within all federal agencies that provide significant services directly to the public. The National Agricultural Library (NAL) is one such agency, mandated by the Farm Bill of 1990 to serve as the primary agricultural resource of the United States. In that role, NAL is called upon to provide agricultural information and

information products to a variety of customers, including the Federal Government, public and private organizations, and individuals, within the United States and internationally. Therefore, in compliance with Executive Order 12862, it seeks to issue a survey to identify the customers it already serves, as well as those it should be serving; to determine the kind and quality of services they want; and to assess their level of satisfaction with existing services. The results of this survey will then be used to evaluate institutional performance, reform management practices, and reallocate resources to services in line with customer needs and expectations. If the information is not collected, NAL will be hindered from advancing its mandate to provide accurate, timely and easily accessible agricultural information to its customers.

The entire information collection process will be conducted electronically. NAL will store its customer survey on a Web server. It will then invite customers and potential customers to take the survey via a broadly distributed email invitation. This invitation will include a link to the survey, where customers will answer the questions using pull-down menus, checkboxes, or radio buttons.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 15 minutes per respondent.

Respondents: Individuals or households; Business or other for-profit institutions; Not-for-profit institutions; Farms; Federal Government; State, local or tribal governments.

Estimated Number of Respondents: 5,000.

Estimated Total Annual Burden on Respondents: 1,250 hours.

Comments: Comments are invited on (a) whether the proposed collection of information is necessary for the proper performance for the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and the assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who respond, including the use of appropriate automated, electronic, mechanical, or other technology. Comments should be sent to the address in the preamble. All responses to this notice will be summarized and included in the request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record.

Dated: March 11, 2005.

Edward B. Knipling,

Administrator for Agricultural Research Service.

[FR Doc. 05–6026 Filed 3–25–05; 8:45 am]

BILLING CODE 3410–03–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

DOC has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: U.S. Census Bureau.

Title: 2005 National Census Test.

Form Number(s): Too numerous to list here.

Agency Approval Number: None.

Type of Request: New collection.

Burden: 70,000 hours.

Number of Respondents: 420,000.

Avg Hours Per Response: 10 minutes.

Needs and Uses: The U.S. Census Bureau requests authorization from the Office of Management and Budget (OMB) to conduct the 2005 National Census Test (NCT).

Census 2000 was an operational and data quality success. However, that success was achieved at great operational risk and great expense. In response to the lessons learned from Census 2000, and in striving to better meet our Nation's ever-expanding needs for social, demographic, and geographic information, the U.S. Department of Commerce and the Census Bureau have developed a multi-year effort to completely modernize and re-engineer the 2010 Census of Population and Housing.

In order to meet our constitutional and legislative mandates, we must implement a re-engineered 2010 Census that is cost-effective; improves coverage; and reduces operational risk. Achieving this strategic goal requires an iterative series of tests to provide an opportunity to evaluate new or improved question wording, methodology, technology, and questionnaire design. The 2005 NCT, which is part of the test cycle leading up to the 2010 Census, is one of a series of tests that has been planned to allow us to finalize content, methodology, and operational procedures in time to conduct a Dress Rehearsal in 2008.

The 2005 NCT is a mailout/mailback test designed to evaluate variations of questionnaire content and methodology. In conjunction with the results of cognitive tests and focus groups, the 2003 National Census Test, and the 2004 Census Test, results from the 2005 NCT and the 2006 Census Test will help us develop the optimal questionnaire and mailing strategy for the 2010 Census. Although the 2005 NCT does not include a nonresponse followup (field) component, it will include a telephone coverage followup component.

Affected Public: Individuals or households.

Frequency: One time.

Respondent's Obligation: Mandatory.

Legal Authority: Title 13, U.S.C., Sections 141 and 193.

OMB Desk Officer: Susan Schechter, (202) 395–5103.

Copies of the above information collection proposal can be obtained by calling or writing Diana Hynek, Departmental Paperwork Clearance Officer, (202) 482–0266, Department of Commerce, room 6625, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at *dhynek@doc.gov*).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to Susan Schechter, OMB Desk Officer either by fax (202–395–7245) or e-mail (*susan_schechter@omb.eop.gov*).

Dated: March 22, 2005.

Madeleine Clayton,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 05–5987 Filed 3–25–05; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

DOC has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: U.S. Census Bureau.

Title: Monthly Wholesale Trade Survey.

Form Number(s): SM–42(00).

Agency Approval Number: 0607–0190.

Type of Request: Extension of a currently approved collection.

Burden: 5,600 hours.

Number of Respondents: 4,000.

Avg Hours Per Response: 7 minutes.

Needs and Uses: The U.S. Census Bureau requests a three-year extension of the current OMB approval of the

Monthly Wholesale Trade Survey (MWTS). The MWTS canvasses firms primarily engaged in merchant wholesale trade, except manufacturing sales branches and offices, that are located in the United States. This survey provides the only continuous measures of monthly wholesale sales, end-of-month inventories, method of inventory valuation, and inventories/sales ratios. The sales and inventory estimates produced from the MWTS provide current trends of economic activity by kind of business for the United States. Also, the estimates compiled from this survey provide valuable information for economic policy decisions by the government and are widely used by private businesses, trade organizations, professional associations, and other business research and analysis organizations.

The estimates produced by the MWTS are critical to the accurate measurement of total economic activity of the United States. The estimates of sales made by wholesale locations represent only merchant wholesalers, except manufacturing sales branches and offices, who take title to goods bought for resale to other companies. Wholesalers normally sell to industrial distributors, retail operations, cooperatives, and other businesses. The sales estimates include sales made on credit as well as on a cash basis, but exclude receipts from sales taxes and interest charges from credit sales.

The estimates of merchandise inventories represent all merchandise owned and held in wholesale locations, warehouses, and offices, as well as goods owned by wholesalers but held by others for sale on consignment, in third-party warehouses, or in transit for distribution to wholesale establishments or their customers. The estimates of merchandise inventories exclude fixtures and supplies not for resale, as well as merchandise held on consignment which are owned by others. Inventories are an important component in the Bureau of Economic Analysis' (BEA) calculation of the investment portion of the Gross Domestic Product (GDP).

We publish wholesale sales and inventory estimates based on the North American Industry Classification System (NAICS) which has been widely adopted throughout both the public and private sectors.

The Census Bureau tabulates the collected data to provide, with measurable reliability, statistics on U.S. merchant wholesale, except manufacturing sales branches and offices, sales, end-of-month inventories, methods of inventory valuation, and inventories/sales ratios.

The BEA is the primary Federal user of data collected in the MWTS. The BEA uses this information to prepare the national income and product accounts (NIPA), input-output accounts (I–O), and gross domestic product (GDP) by industry.

The Bureau of Labor Statistics (BLS) uses the data as input to its Producer Price Indexes and in developing productivity measurements. Private businesses use the wholesale sales and inventory data in computing business activity indexes. Other government agencies and businesses use this information for market research, product development, and business planning to gauge the current trends of the economy.

Affected Public: Business or other for-profit.

Frequency: Monthly.

Respondent's Obligation: Voluntary.

Legal Authority: Title 13 U.S.C. Section 182.

OMB Desk Officer: Susan Schechter, (202) 395–5103.

Copies of the above information collection proposal can be obtained by calling or writing Diana Hynek, Departmental Paperwork Clearance Officer, (202) 482–0266, Department of Commerce, room 6625, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at *dhynek@doc.gov*).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to Susan Schechter, OMB Desk Officer either by fax (202–395–7245) or e-mail *susan_schechter@omb.eop.gov.*

Dated: March 22, 2005.

Madeleine Clayton,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 05–5988 Filed 3–25–05; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–553–809]

Forged Stainless Steel Flanges From India: Extension of Time Limit for Preliminary Results of Antidumping Duty New Shipper Review

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

EFFECTIVE DATE: March 28, 2005.

FOR FURTHER INFORMATION CONTACT: Fred Baker or Robert James, AD/CVD Operations, Office 7, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington DC 20230; telephone: (202) 482–2924 or (202) 482–0649, respectively.

Background

On August 31, 2004, the Department of Commerce (the Department) received a timely request from Hilton Forge to conduct a new shipper review of the antidumping duty order on certain forged stainless steel flanges from India, sold in, or exported to the United States. On October 6, 2004, the Department published a notice of initiation of this new shipper review, covering the period of February 1, 2004 through July 31, 2004 (69 FR 59897). The preliminary results are currently due no later than March 29, 2005.

Extension of Time Limits for Preliminary Results

Section 751(a)(2)(B)(iv) of the Tariff Act of 1930, as amended (the Tariff Act), requires the Department to complete the preliminary results of a new shipper review within 180 days after the date on which the new shipper review was initiated. However, if it is not practicable to complete the review within these time periods because the review is extraordinarily complicated, section 751(a)(2)(B)(iv) of the Tariff Act allows the Department to extend the time limit for the preliminary results to a maximum of 300 days after the date of initiation of a new shipper review. We are extending the deadline for the preliminary results of this review an additional 120 days, as a result of the complicated issues in this review. In order to accurately complete our analysis, we need to gather additional information from Hilton concerning its U.S. and home market selling activities. Additionally, we need to gather information concerning the role, if any, that related parties may have played in Hilton's manufacture and sale of flanges. This makes it impracticable to complete the preliminary results of this review within the originally anticipated time limit. Accordingly, the Department is extending the time limit for completion of the preliminary results of this new shipper review until no later than July 27, 2005, which is 300 days after the date of initiation. We intend to issue the final results no later than 90 days after publication of the preliminary results notice.

Dated: March 21, 2005.

Barbara E. Tillman,

Acting Deputy Assistant Secretary for Import Administration.

[FR Doc. E5–1368 Filed 3–25–05; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

(A–428–825)

Stainless Steel Sheet and Strip in Coils From Germany: Extension of Time Limit for Preliminary Results of Antidumping Duty Administrative Review

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

EFFECTIVE DATE: March 28, 2005.

FOR FURTHER INFORMATION CONTACT: Deborah Scott, Tyler Weinhold, or Robert James, AD/CVD Operations, Office 7, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington DC 20230; telephone: (202) 482–2657, (202) 482–1121, or (202) 482–0649, respectively.

Background

On July 30, 2004, the Department of Commerce (the Department) received timely requests to conduct an administrative review of the antidumping duty order on stainless steel sheet and strip in coils from Germany. On August 30, 2004, the Department published a notice of initiation of this administrative review, covering the period of July 1, 2003 through June 30, 2004. (69 FR 52857). The preliminary results are currently due no later than April 2, 2005.

Extension of Time Limits for Preliminary Results

Section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Act), requires the Department to complete the preliminary results of an administrative review within 245 days after the last day of the anniversary month of an order for which a review is requested. However, if it is not practicable to complete the review within these time periods because the review is extraordinarily complicated, section 751(a)(2)(B)(iv) of the Act allows the Department to extend the time limit for the preliminary results to a maximum of 365 days after the last day of the anniversary month of an order for which a review is requested.

The Department has determined it is not practicable to complete this review within the statutory time limit, because of the complicated issues in this review, including the reporting of home market downstream sales and the reporting of physical product characteristics. Analysis of these issues requires additional time and makes it impracticable to complete the preliminary results of this review within the originally anticipated time limit. Accordingly, the Department is extending the time limit for completion of the preliminary results of this administrative review until no later than August 1, 2005, which is the next business day after 365 days from the last day of the anniversary month. We intend to issue the final results no later than 120 days after publication of the preliminary results notice.

March 22, 2005.

Barbara E. Tillman,

Acting Deputy Assistant Secretary for Import Administration.

[FR Doc. E5–1367 Filed 3–25–05; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[Docket No. 050317077–5077–01; I.D. 032205A]

Environmental Literacy Grants

AGENCY: Office of Education and Sustainable Development (OESD), Office of the Undersecretary of Commerce for Oceans and Atmosphere (USEC), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce (DOC)

ACTION: Notice and request for proposals.

SUMMARY: This notice announces that OESD is soliciting 1- to 3–year proposals for environmental literacy projects. Funded projects will further NOAA's education goals articulated in the NOAA Education Plan *http://www.oesd.noaa.gov/NOAA_Ed_Plan.pdf*. Funding is available to encourage the development of partnerships and to support existing, or foster growth of new, environmental literacy projects. This program has two funding priorities for FY05: (1) Partnerships that promote systemic change in NOAA-related science education, and (2) Innovative presentation of NOAA science and earth observing data through educational data visualizations and other educational tools. Within priority two, NOAA has committed to funding the installation of up to four ''Science on a Sphere'' (SOS) data systems at informal education venues. These ''Science on a Sphere'' installations will be funded by way of one- to three-year cooperative agreements. It is anticipated that final recommendations for funding under this announcement will be made in mid Calendar Year 2005, and that projects funded under this announcement will have a start date no earlier than September 30, 2005.

DATES: The deadline for receipt of proposals is 5 p.m. EDT on May 12, 2005.

ADDRESSES: Applications should be submitted through the following website: (*http://www.grants.gov*). The full text of the funding opportunity announcement for this OESD program can be accessed via the same website. If an applicant does not have Internet access, hard copies of full proposals should be sent to Sarah Schoedinger, DOC/NOAA, Office of Education and Sustainable Development, 14th and Constitution Avenue NW, HCHB 6863, Washington, DC 20230. Application kits may be requested from Sarah Schoedinger at 202–482–2893 or Beth Day at 301–713–2431 x 148. This announcement will also be available at the NOAA Web site: *http://www.ofa.noaa.gov/%7Eamd/SOLINDEX.HTML* or by contacting the program officials identified in **FOR FURTHER INFORMATION CONTACT**.

FOR FURTHER INFORMATION CONTACT: Sarah Schoedinger at *sarah.schoedinger@noaa.gov*, telephone 202–482–2893, or Beth Day at *elizabeth.day@noaa.gov*, telephone 301–713–2431 x 148.

SUPPLEMENTARY INFORMATION: This notice announces that OESD is soliciting 1- to 3–year proposals for environmental literacy projects. Funded projects will further NOAA's education goals articulated in the NOAA Education Plan *http://www.oesd.noaa.gov/NOAA_Ed_Plan.pdf*. Funding is available to encourage the development of partnerships and to support existing, or foster growth of new, environmental literacy projects. This program has two funding priorities for FY05: (1) Partnerships that promote systemic change in NOAA-related science education, and (2) innovative presentation of NOAA science and earth observing data through educational data visualizations and other educational tools. Within priority two, NOAA has committed to funding the installation of up to four ''Science on a Sphere'' (SOS) data systems at informal education venues. These ''Science on a Sphere'' installations will be funded by way of

one- to three-year cooperative agreements. It is anticipated that final recommendations for funding under this announcement will be made in mid-calendar year 2005, and that projects funded under this announcement will have a start date no earlier than September 30, 2005. A detailed description for each program priority is in the full funding opportunity announcement that can be accessed via the Grants.gov website, the NOAA web site at *http://www.ofa.noaa.gov/%7Eamd/SOLINDEX.HTML*, or by contacting the program officials identified in **FOR FURTHER INFORMATION CONTACT**.

Electronic Access

The full text of the full funding opportunity announcement for this OESD program can be accessed via the Grants.gov FIND Web site. This announcement will also be available at the NOAA Web site: *http://www.ofa.noaa.gov/%7Eamd/SOLINDEX.HTML* or by contacting the program officials identified under **FOR FURTHER INFORMATION CONTACT**. This **Federal Register** notice is available through the NOAA home page at: *http://www.noaa.gov/*.

Statutory Authority: 15 U.S.C. 1540

CFDA: 11.469, Congressionally Identified Awards and Projects

Funding Availability

NOAA announces the availability of approximately $2,500,000 of Federal financial assistance in FY 2005 for Environmental Literacy projects. Approximately 5 to 10 awards in the form of grants or cooperative agreements with a regional to national focus will be made. Projects of 1 to 3 years in duration will be considered. The total budget for any single project shall not exceed $500,000 and must have a minimum annual budget of $100,000, except for ''Science on a Sphere'' installations, which can have total project budgets of no less than $10,000. Of the approximately $2,500,000 of Federal financial assistance available in FY 2005, no more than $280,000 is available for the four ''Science on a Sphere'' installations. Applications with project budgets of less than $100,000 or more than $500,000 will not be considered for review, except for ''Science on a Sphere'' installations, which can have total project budgets of no less than $10,000.

There is no guarantee that sufficient funds will be available to make awards for all qualified projects. Publication of this notice does not oblige NOAA to award any specific project or to obligate any available funds. If an applicant incurs any costs prior to receiving an award agreement signed by an authorized NOAA official, the applicant would do so solely at one's own risk of such costs not being included under the award.

Eligibility

Eligible applicants are institutions of higher education, other nonprofits, commercial organizations, and state, local and Indian tribal governments. Federal agencies or institutions are not eligible to receive Federal assistance under this announcement, but may be project partners.

Among those eligible applicants are K through 12 public and independent schools and school systems, and science centers and museums.

The Department of Commerce/National Oceanic and Atmospheric Administration (DOC/NOAA) is strongly committed to increasing the participation of Historically Black Colleges and Universities, Hispanic-serving institutions, Tribal colleges and universities, and institutions that work in underserved communities. Proposals are encouraged that involve any of the above institutions.

Cost Sharing Requirements

There are no cost-sharing requirements.

Evaluation and Selection Procedures

NOAA published its agency-wide solicitation entitled ''Omnibus Notice Announcing the Availability of Grant Funds for Fiscal Year 2005'' for projects for Fiscal Year 2005 in the **Federal Register** on June 30, 2004 (69 FR 39417). The evaluation criteria and selection procedures for projects contained in that omnibus notice are applicable to this solicitation. Copies of the notice are available on the Internet at: *http://www.ofa.noaa.gov%7Eamd/SOLINDEX.HTML*. Further details on evaluation and selection criteria can be found in the full funding opportunity announcement.

Intergovernmental Review

Applications under this program are not subject to Executive Order 12372, ''Intergovernmental Review of Federal programs.''

Limitation of Liability

In no event will NOAA or the Department of Commerce be responsible for proposal preparation costs if this program is cancelled because of other agency priorities. Publication of this announcement does not oblige NOAA to award any specific project or to obligate any available funds. Applicants are hereby given notice that funding for the Fiscal Year 2005 program is contingent upon the availability of Fiscal Year 2005 appropriations.

National Environmental Policy Act (NEPA)

NOAA must analyze the potential environmental impacts, as required by NEPA, for applicant projects or proposals which are seeking NOAA Federal assistance. Detailed information on NOAA compliance with NEPA can be found at the following Web site: *http://www.nepa.noaa.gov* including NOAA Administrative Order 216 6 for NEPA at *http://www.nepa.noaa.gov/NAO216l6lTOC.pdf*, and the Council on Environmental Quality implementation regulations at *http://ceq.eh.doe.gov/nepa/regs/ceq/toclceq.htm*. Consequently, as part of an applicant's package under the description of their program activities, applicants are required to provide detailed information on the activities to be conducted, locations, sites, species, and habitat to be affected, possible construction activities, and any environmental concerns that may exist (e.g., the use and disposal of hazardous or toxic chemicals, introduction of non-indigenous species, impacts to endangered and threatened species, aquaculture projects, and impacts to coral reef systems). In addition to providing specific information that will serve as the basis for any required impact analysis, applicants may also be requested to assist NOAA in drafting an environmental assessment, if NOAA determines an assessment is required. Applicants will also be required to cooperate with NOAA in identifying and implementing feasible measures to reduce or avoid any identified adverse environmental impacts of their proposal. The failure to do so shall be grounds for the denial of an application.

The Department of Commerce Pre-award Notification Requirements for Grants and Cooperative Agreements

The Department of Commerce Pre-Award Notification Requirements for Grants and Cooperative Agreements contained in the **Federal Register** notice of December 30, 2004 (69 FR 78389), are applicable to this solicitation.

Paperwork Reduction Act

This document contains collection-of-information requirements subject to the Paperwork Reduction Act (PRA). The use of Standard Forms 424, 424A, 424B, and SF LLL, and CD 346 has been approved by the Office of Management and Budget (OMB) under the respective

control numbers 0348–0043, 0348–0044, 0348–0040, 0348–0046, and 0605–0001.

Notwithstanding any other provision of law, no person is required to, nor shall a person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA unless that collection of information displays a currently valid OMB control number.

Executive Order 12866

This notice has been determined to be not significant for purposes of Executive Order 12866.

Executive Order 13132 (Federalism)

It has been determined that this notice does not contain policies with Federalism implications as that term is defined in Executive Order 13132.

Administrative Procedure Act/ Regulatory Flexibility Act

Prior notice and an opportunity for public comment are not required by the Administrative Procedure Act or any other law for rules concerning public property, loans, grants, benefits, and contracts (5 U.S.C. 553(a)(2)). Because notice and opportunity for comment are not required pursuant to 5 U.S.C. 553 or any other law, the analytical requirements for the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) are inapplicable. Therefore, a regulatory flexibility analysis has not been prepared.

Dated: March 22, 2005.

Helen Hurcombe,

Director, NOAA Aquisitions and Grants, U.S. Department of Commerce.

[FR Doc. 05–6054 Filed 3–25–05; 8:45 am]

BILLING CODE 3510–KA–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 021005A]

Endangered Species; File No. 1514

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

ACTION: Issuance of permit.

SUMMARY: Notice is hereby given that the NMFS Pacific Islands Regional Office (PIRO), 1601 Kapiolani Blvd., Ste. 1110, Honolulu, HI 96814, has been issued a permit to take green (*Chelonia mydas*), leatherback (*Dermochelys coriacea*), loggerhead (*Caretta caretta*), olive ridley (*Lepidochelys olivacea*), and hawksbill (*Eretmochelys imbricata*) sea turtles for purposes of scientific research.

ADDRESSES: The permit and related documents are available for review upon written request or by appointment in the following offices:

Permits, Conservation and Education Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301)713–2289; fax (301)427–2521; and

Pacific Islands Region, NMFS, 1601 Kapiolani Blvd., Rm 1110, Honolulu, HI 96814-4700; phone (808)973–2935; fax (808)973–2941.

FOR FURTHER INFORMATION CONTACT: Patrick Opay or Ruth Johnson, (301)713–2289.

SUPPLEMENTARY INFORMATION: On November 30, 2004, notice was published in the **Federal Register** (69 FR 69585) that a request for a scientific research permit to take green, leatherback, loggerhead, olive ridley, and hawksbill sea turtles had been submitted by the above-named organization. The requested permit has been issued under the authority of the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*) and the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR parts 222–226).

Researchers have been issued a 5-year permit to annually measure, photograph, tissue sample, flipper tag and release, or salvage (if dead) 7 green, 34 leatherback, 21 loggerhead, and 42 olive ridley sea turtles that have been captured in the Hawaii longline fishery. The hard-shelled species would also have a pop-up satellite tag (PSAT) attached to their shell. An additional 6 (combined total of all species) hawksbill, olive ridley, loggerhead, and green sea turtles captured in the American Samoa longline fishery would be measured, photographed, tissue sampled, flipper tagged, PSAT tagged and released, or salvaged (if dead). One leatherback captured in the American Samoa longline fishery would also be measured, photographed, tissue sampled, flipper tagged, and released, or salvaged (if dead). Coverage for the incidental capture of turtles in these fisheries would be provided under the incidental take statement of the February 23, 2004 Biological Opinion for the Western Pelagics Fishery Management Plan. The proposed research would provide data on the at sea distribution and movement patterns of sea turtles. It would also investigate the post-release behavior and mortality of hard-shelled turtles that have been hooked or entangled by longline gear.

Issuance of this permit, as required by the ESA, was based on a finding that such permit (1) was applied for in good faith, (2) will not operate to the disadvantage of such endangered or threatened species, and (3) is consistent with the purposes and policies set forth in section 2 of the ESA.

Dated: March 21, 2005.

Stephen L. Leathery,

Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 05–6050 Filed 3–25–05; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF ENERGY

Privacy Act of 1974; Notice of Amendment to an Existing System of Records

AGENCY: Department of Energy.

ACTION: Notice.

SUMMARY: As required by the Privacy Act of 1974, 5 U.S.C. 552a, and the Office of Management and Budget (OMB) Circular A–130, the Department of Energy (DOE) is publishing a notice of a proposed amendment to an existing system of records and the deletion of a system that will no longer be maintained. DOE has acquired a new financial system that requires new hardware and software. This notice proposes to combine DOE–18 ''Accounts Payable Financial System'' and DOE–19 ''Accounts Receivable Financial System'' into a single system of records, eliminate DOE–19 ''Accounts Receivable Financial System'' from the Department's inventory of systems of records, rename DOE–18 to ''Financial Accounting System,'' expand the categories of records maintained in the system, and establish a new routine use provision for DOE–18.

DATES: The proposed amendment to an existing system of records will become effective without further notice, on May 12, 2005, unless in advance of that date, DOE receives adverse comments and determines that this amendment should not become effective on that date.

ADDRESSES: Written comments should be directed to the following address: U.S. Department of Energy, Abel Lopez, Director, Freedom of Information Act and Privacy Act Group, ME–74, 1000 Independence Avenue, SW., Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT: Abel Lopez, Director, Freedom of Information Act and Privacy Act Group, ME–74, U.S. Department of Energy, 1000 Independence Avenue, SW.,

Washington, DC 20585, 202–586–5955; Wendy L. Miller, Director, Capital Accounting Operations Division, Office of Financial Management, ME–14.2, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585–1290, (301) 903–5858; and Isiah Smith, Deputy Assistant General Counsel for Administrative Litigation and Information Law, GC–77, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–8618.

SUPPLEMENTARY INFORMATION: DOE has acquired a new financial system, Integrated Management Navigation System (I–MANAGE) Standard Accounting and Reporting System (STARS), that requires new hardware and software. I–MANAGE STARS will provide DOE with a modern, comprehensive and responsive financial management system that will electronically integrate financial accounting, financial reporting, cost accounting, and performance measurement. I–MANAGE STARS will provide critical strategic support for the DOE mission as the solution for financial, operational, and reporting requirements to enhance accountability and improve decision-making. The system will maintain the financial information that is currently collected and maintained in two DOE systems of records, DOE–18 ''Accounts Payable Financial System'' and DOE–19 ''Accounts Receivable Financial System.''

This notice proposes to amend DOE–18 ''Accounts Payable Financial System'' by expanding the categories of records maintained in the system and consolidating the information maintained in DOE–19 ''Accounts Receivable Financial System'' into the amended DOE–18. This notice also proposes to change the name of DOE–18 ''Accounts Payable Financial System'' to DOE–18 ''Financial Accounting System,'' and establish a new routine use provision. Since the records maintained in DOE–19 will be incorporated into the amended DOE–18, DOE will delete DOE–19 ''Accounts Receivable Financial System'' from its inventory of systems of records.

The categories of records section is being amended to include employment information and date of birth and gender of the employee, contractor, and vendor.

In addition, this notice also proposes to add a new routine use to allow disclosure of information maintained in the system of records to the Department of the Treasury. These amendments are necessary to provide procedures for paying creditors who provide products and services to DOE.

DOE is submitting the report required by OMB Circular A–130 concurrently with the publication of this notice. The text of this notice contains the information required by the Privacy Act, 5 U.S.C. 552a(e)(4).

Issued in Washington, DC on March 22, 2005.

James T. Campbell,

Deputy Director, Office of Management, Budget and Evaluation/Deputy Chief Financial Officer.

DOE–18

SYSTEM NAME:

Financial Accounting System.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION(S):

U.S. Department of Energy, Headquarters, 19901 Germantown Rd., Germantown, MD, 20874

U.S. Department of Energy, Headquarters, 1000 Independence Avenue, SW., Washington, DC 20585

U.S. Department of Energy, National Nuclear Security Administration (NNSA) Service Center Albuquerque, P.O. Box 5400, Albuquerque, NM 87185–5400

U.S. Department of Energy, Atlanta Regional Support Office, 730 Peachtree, NE, Suite 876, Atlanta, GA 30308

U.S. Department of Energy, Bonneville Power Administration, P.O. Box 3621, Portland, OR 97208

U.S. Department of Energy, Boston Regional Support Office, One Congress Street, Room 1101, Boston, MA 021144–2021

U.S. Department of Energy, Carlsbad Field Office, P.O. Box 3090, Carlsbad, NM 88221

U.S. Department of Energy, Chicago Operations Office, 9800 South Cass Avenue, Argonne, IL 60439

U.S. Department of Energy, Golden Field Office, 1617 Cole Boulevard, Golden, CO 80401

U.S. Department of Energy, Idaho Operations Office, 850 Energy Drive, Idaho Falls, ID 83401

U.S. Department of Energy, National Energy Technology Laboratory (Morgantown), P.O. Box 880, Morgantown, WV 26507–0880

U.S. Department of Energy, National Energy Technology Laboratory (Pittsburgh), 626 Cochrans Mill Road, Pittsburgh, PA 15236–0940

U.S. Department of Energy, National Petroleum Technology Office, William Center Tower One, 1 West Third Street, Suite 1400, Tulsa, OK 74103

U.S. Department of Energy, Naval Petroleum and Oil Shale Reserves, 907 N. Poplar, Suite 150, Casper, WY 82601

U.S. Department of Energy, Naval Petroleum Reserves in California, 1601 New Stine Road, Suite 240, Bakersfield, CA 93309

U.S. Department of Energy, NNSA Service Center Nevada, P.O. Box 98518, Las Vegas, NV 89193–8518

U.S. Department of Energy, Oak Ridge Operations Office, P.O. Box 2001, Oak Ridge, TN 37831

U.S. Department of Energy, Office of Scientific & Technical Information, P.O. Box 62, Oak Ridge, TN 37831

U.S. Department of Energy, Ohio Field Office, P.O. Box 3020, Miamisburg, OH 45343

U.S. Department of Energy, Philadelphia Regional Support Office, 1880 John F. Kennedy Boulevard, Suite 501, Philadelphia, PA 19103–7483

U.S. Department of Energy, Pittsburgh Naval Reactors Office, P.O. Box 109, West Mifflin, PA 15122–0109

U.S. Department of Energy, Richland Operations Office, P.O. Box 550, Richland, WA 99352

U.S. Department of Energy, Rocky Flats Field Office, 10808 Highway 93, Unit A, Golden, CO 80403–8200

U.S. Department of Energy, Savannah River Operations Office, P.O. Aiken, SC 29801

U.S. Department of Energy, Seattle Regional Support Office, 800 Fifth Avenue, Suite 3950, Seattle, WA 98104

U.S. Department of Energy, Schenectady Naval Reactors Office, P.O. Box 1069, Schenectady, NY 12301

U.S. Department of Energy, Southeastern Power Administration, 1166 Athens Tech Road, Elberton, GA 30635–4578

U.S. Department of Energy, Southwestern Power Administration, Williams Tower One, One West Third Street, Tulsa, OK 74103U.S. Department of Energy, Strategic Petroleum Reserve Project Office, 900 Commerce Road East, New Orleans, LA 70123

U.S. Department of Energy, Western Area Power Administration, P.O. Box 3402, Golden, CO 80401

U.S. Department of Energy, Office of Repository Development, P.O. Box 364629, North Las Vegas, NV 89036–8629

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees, former employees, current and former contractor employees, vendors, and others who are either due money from or owe money to the Department of Energy (DOE).

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, address, telephone number, date of birth, employment date, gender, tax payer identification number; amount owed and services or goods received; amounts due; underpayments, overpayments, and/or other accounting information; invoice number; servicing bank name and address; account number; amount and status of claim; and history of claim, including collection actions taken.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 7101 *et seq.*; 50 U.S.C. 2401 *et seq.*; the GAO Policy and Procedures Manual; Statement of Federal Financial Accounting Standards published by the Government Accountability Office and the Office of Management and Budget; Debt Collection Improvement Act of 1996, 31 U.S.C. 3512; 5 U.S.C. 5701–09; Federal Property Management Regulations 101–107; Treasury Financial Manual; Executive Order 12009; and Executive Order 9397.

PURPOSE(S):

The records are maintained and used by the DOE to substantiate obligations and payments to individuals for goods and services received by the agency and to record and manage the Department's accounts payable and receivable.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. A record from this system may be disclosed as a routine use to the appropriate local, State or Federal agency when that record alone or in conjunction with other information, indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program thereto.

2. A record from this system may be disclosed as a routine use to a Federal agency to facilitate the requesting agency's decision concerning the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter. The Department must deem such disclosure to be compatible with the purpose for which the Department collected the information.

3. A record from this system may be disclosed as a routine use for the purpose of an investigation, settlement of claims, or the preparation and conduct of litigation to a (1) person representing the Department in the investigation, settlement or litigation, and to individuals assisting in such representation; (2) others involved in the investigation, settlement, and litigation, and their representatives and individuals assisting those representatives; and (3) witness, potential witness, or their representatives and assistants, and any other person who possesses information pertaining to the matter, when it is necessary to obtain information or testimony relevant to the matter.

4. A record from this system may be disclosed as a routine use to other Federal agencies, consumer reporting agencies for acquiring credit information, and collection agencies to aid in the collection of outstanding debts owed to the Federal Government.

5. A record from this system may be disclosed as a routine use to Defense Manpower Data Center, Department of Defense, the United States Postal Service, and other Federal, State, or local agencies to identify and locate, through computer matching, individuals indebted to DOE who are receiving Federal salaries or benefit payments. Information from the match will be used to collect the debts by voluntary repayment, by administrative offset, or by salary offset procedures.

6. A record from this system may be disclosed as a routine use to the Internal Revenue Service (1) to collect the debt by offset against the debtor's tax refunds under the Federal Tax Refund Offset Program, and (2) to obtain the mailing address of a taxpayer to collect a debt owed to the DOE. Subsequent disclosure by DOE to a consumer reporting agency is limited to the purpose of obtaining a commercial credit report on the particular taxpayer. The mailing address information will not be used for any other DOE purpose or disclosed by DOE to another Federal, State, or local agency that seeks to locate the same individual for its own debt collection purpose.

7. A record from this system may be disclosed as a routine use to the Department of the Treasury for the purpose of administrative offset and debt recovery under section 31001 (m)(1) of the Debt Collection Improvement Act of 1996 (Pub. L. 104–134).

8. A record from this system may be disclosed as a routine use to the Department of the Treasury for the purpose of paying creditors for services or goods provided to the Department.

9. A record from this system may be disclosed as a routine use to a ''consumer reporting agency'' as defined by the Fair Credit Reporting Act, 15 U.S.C. 1681a(f), or the Federal Claims Collections Act of 1966, 31 U.S.C. 3701(a)(3), in accordance with 31 U.S.C. 3711(f).

10. A record from this system may be disclosed as a routine use to DOE contractors in performance of their contracts and their officers and employees who have a need for the record in the performance of their duties. Those individuals provided information under this routine use are subject to the same limitations applicable to DOE officers and employees under the Privacy Act.

11. A record from this system of records may be disclosed as a routine use to a Member of Congress submitting a request involving the constituent when the constituent has requested assistance from the member concerning the subject matter of the record. The member of Congress must provide a copy of the constituent's request for assistance.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records may be stored as paper records, electronic media, and magnetic tapes.

RETRIEVABILITY:

Records may be retrieved by name, taxpayer identification number, voucher, invoice, or payment reports.

SAFEGUARDS:

Paper records are maintained in locked cabinets and desks. Electronic records are controlled through established DOE computer center procedures (personnel screening and physical security), and they are password protected. Access is limited to those whose official duties require access to the records.

RETENTION AND DISPOSAL:

Records retention and disposal authorities are contained in the National Archives and Records Administration (NARA) General Records Schedule and DOE record schedules that have been approved by NARA.

SYSTEM MANAGER(S) AND ADDRESS:

Headquarters: Director, Office of Management, Budget and Evaluation/ Chief Financial Officer, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585.

NOTIFICATION PROCEDURES:

In accordance with the DOE regulation implementing the Privacy Act, at Title 10, Code of Federal Regulations, Part 1008, a request by an individual to determine if a system of

records contains information about him/her should be directed to the Director, Headquarters Freedom of Information Act and Privacy Act Group, U.S. Department of Energy. The request should include the requester's complete name, time period for which records are sought, and the office location(s) where the requester believes the records are located.

RECORDS ACCESS PROCEDURES:

Same as Notification Procedures above. Records are generally kept at locations where the work is performed. In accordance with the DOE Privacy Act regulation, proper identification is required before a request is processed.

CONTESTING RECORD PROCEDURES:

Same as Notification Procedures above.

RECORD SOURCE CATEGORIES:

Subject individual, contracting officer, and accounting records.

SYSTEM EXEMPT FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 05–6036 Filed 3–28–05; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP05–163–001]

Paiute Pipeline Company; Notice of Compliance Filing

March 21, 2005.

Take notice that on March 15, 2005, Paiute Pipeline Company (Paiute) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1–A, Sub Thirteenth Revised Sheet No. 10, to become effective March 1, 2005.

Paiute states that the purpose of its filing is to comply with the Commission's Order issued on February 28, 2005 in Docket No. RP05–163–000.

Paiute states that copies of its filing have been served upon all of its customers and interested state regulatory commissions, as well as upon all parties to this proceeding.

Any person desiring to protest this filing must file in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). Protests to this filing will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Such protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing a protest must serve a copy of that document on all the parties to the proceeding.

The Commission encourages electronic submission of protests in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E5–1339 Filed 3–25–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP05–176–001]

Panhandle Eastern Pipe Line Company, LP; Notice of Compliance Filing

March 21, 2005.

Take notice that on March 16, 2005, Panhandle Eastern Pipe Line Company, LP (Panhandle) submitted a compliance filing pursuant to the Commission's Letter Order issued March 2, 2005 in Docket No. RP05–176–000.

Panhandle states that copies of the filing were served on parties on the official service list in the above-captioned proceeding.

Any person desiring to protest this filing must file in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). Protests to this filing will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Such protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing a protest must serve a copy of that document on all the parties to the proceeding.

The Commission encourages electronic submission of protests in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E5–1340 Filed 3–25–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. RP99–480–016 and RP04–254–001]

Texas Eastern Transmission, LP; Notice of Compliance Filing

March 21, 2005.

Take notice that on March 7, 2005, Texas Eastern Transmission, LP (Texas Eastern) submitted a compliance filing pursuant to Texas Eastern Transmission, LP, 110 FERC ¶ 61,171 (2005), issued on February 18, 2005 in Docket Nos. RP99–480–015 and RP04–254–000.

Texas Eastern states that copies of the filing were served on parties on the official service lists in the captioned proceedings.

Any person desiring to protest this filing must file in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). Protests to this filing will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Such protests must be filed on or before the date as indicated below. Anyone filing a protest must serve a copy of that document on all the parties to the proceeding.

The Commission encourages electronic submission of protests in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible online at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Protest Date: 5 p.m. eastern time on March 28, 2005.

Magalie R. Salas,

Secretary.

[FR Doc. E5–1337 Filed 3–25–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Western Area Power Administration

Desert Southwest Customer Service Region-Rate Order No. WAPA–121

AGENCY: Western Area Power Administration, DOE.

ACTION: Notice of order extending network integration transmission and ancillary services rates.

SUMMARY: This action is to extend the existing Rate Schedules PD–NTS1, INT–NTS1, DSW–SD1, DSW–RS1, DSW–FR1, DSW–EI1, DSW–SPR1, and DSW–SUR1 for the Desert Southwest Customer Service Region (DSW) network integration transmission services (NTS) for the Parker-Davis Project (P–DP) and the Pacific Northwest-Pacific Southwest Intertie Project (Intertie) and ancillary services for the Western Area Lower Colorado control area through March 31, 2006. The additional time is needed to accommodate the extension of the Multi-System Transmission Rate (MSTR) Public Process.

FOR FURTHER INFORMATION CONTACT: Mr. Jack Murray, Rates Team Lead, Desert Southwest Customer Service Region, Western Area Power Administration, P.O. Box 6457, Phoenix, AZ 85005–6457, (602) 605–2442, e-mail *jmurray@wapa.gov.*

SUPPLEMENTARY INFORMATION: Under the Department of Energy (DOE) Organization Act, the Secretary has the authority to confirm, approve and place into effect power and transmission rates for the Western Area Power Administration (Western). Existing rates are normally extended by the Deputy Secretary under Delegation Order Nos. 00–037.00, approved December 6, 2001, and 00–001.00A, approved September 17, 2002. As the nominee for Deputy Secretary has not yet been confirmed by the Senate, I have extended the rates through March 31, 2006.

Pursuant to applicable Delegation Orders and existing DOE procedures for public participation in power and transmission rate adjustments in 10 CFR part 903, Western's rate methodology for network integration transmission and ancillary services was submitted to the Federal Energy Regulatory Commission (Commission) for confirmation and approval on May 3, 1999, as supplemented on May 21, 1999. On January 20, 2000, in Docket No. EF99–5041–000, at 90 FERC 62,032, the Commission issued an order confirming, approving, and placing in effect on a final basis Western's rate schedules for transmission and ancillary services from Western's Desert Southwest Customer Service Region. Rate Order No. WAPA–84 was approved for a 5-year period, beginning April 1, 1999, and ending March 31, 2004. On March 22, 2004, the Deputy Secretary of Energy extended the rates until March 31, 2005, under Rate Order No. WAPA–112.

Western has entered into a public process proposing a MSTR for cost recovery purposes for the P–DP, the Intertie, and the Central Arizona Project. That process has been extended to evaluate comments received during the comment period. The rate order for network transmission and ancillary services must be able to accommodate the modifications in the MSTR. Western believes that the additional time afforded by extending the rate for network integration transmission and ancillary services will allow Western to design these rates to ensure cost recovery regardless of the transmission rate methodology which the public process yields.

Western's existing formulary network integration transmission and ancillary service schedules, which are recalculated annually, would sufficiently recover project expenses (including interest) and capital requirements through March 31, 2006.

Following review of Western's proposal within the DOE, I approve Rate Order No. WAPA–121, which extends the existing Network Integration Transmission and Ancillary Services Rates through March 31, 2006.

Dated: March 14, 2005.

Samuel W. Bodman,

Secretary.

Order Confirming and Approving an Extension of the Desert Southwest Customer Service Region Network Integration Transmission and Ancillary Services Rates

These service rate methodologies were established following section 302 of the Department of Energy (DOE) Organization Act, (42 U.S.C. 7152). This Act transferred to and vested in the Secretary of Energy (Secretary) the power marketing functions of the Secretary of the Department of the Interior and the Bureau of Reclamation under the Reclamation Act of 1902 (ch. 1093, 32 Stat. 388), as amended and supplemented by subsequent enactments, particularly section 9(c) of the Reclamation Project Act of 1939 (43 U.S.C. 485h(c)), and other Acts that specifically apply to the project system involved.

Under the Department of Energy Organization Act, the Secretary has the authority to confirm, approve and place into effect power and transmission rates for the Western Area Power Administration (Western).

Background

The existing rate, Rate Order No. WAPA–84, was approved for 5 years, beginning April 1, 1999, and ending March 31, 2004. On March 22, 2004, the Deputy Secretary of Energy extended the rates under 10 CFR 903.23(b) until March 31, 2005, under Rate Order No. WAPA–112.

Discussion

Western has entered into a public process proposing an MSTR for cost recovery purposes for the P–DP, the Intertie, and the Central Arizona Project. That process has been extended to evaluate comments received during the comment period. The rate order for network transmission and ancillary services must be able to accommodate the modifications in the MSTR. Western believes that the additional time afforded by extending the rate for network integration transmission and ancillary services will allow Western to develop these rates to facilitate cost recovery.

Therefore, time requirements make it necessary to extend the current rates. Upon its approval, Rate Order No. WAPA–112 will be extended under Rate Order No. WAPA–121.

Order

In view of the above, I hereby extend for a period effective from April 1, 2005, and ending March 31, 2006, the existing Ancillary Rate Schedules DSW–SD1, DSW–RS1, DSW–FR1, DSW–EI1, DSW–SPR1, DSW–SUR1, and the existing network integration transmission rate schedules PD–NTS1, and INT–NTS1.

Dated: March 14, 2005.

Samuel W. Bodman,

Secretary.

[FR Doc. 05–6035 Filed 3–25–05; 8:45 am]

BILLING CODE 6450–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7889–6]

Proposed Consent Decree, Clean Air Act Citizen Suit

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed consent decree; request for public comment.

SUMMARY: In accordance with section 113(g) of the Clean Air Act, as amended (''Act'' or ''CAA''), 42 U.S.C. 7413(g), notice is hereby given of a proposed consent decree, to address a lawsuit filed by Environmental Defense and American Lung Association (jointly referred to as the ''Plaintiffs''): *Environmental Defense and American Lung Association* v. *Johnson,* No. 1:05CV00493 (D.D.C.). On March 10, 2005, the Plaintiffs filed a complaint to compel EPA to make a determination as to whether each state has submitted state implementation plans (''SIPs'') required by section 110(a) of the CAA for the national ambient air quality standards for fine particles (''PM–2.5 NAAQS'') and for ozone (''8-hour ozone NAAQS'') (jointly referred to as the ''1997 NAAQS'').

DATES: Written comments on the proposed consent decree must be received by April 27, 2005.

ADDRESSES: Submit your comments, identified by docket ID number OGC–2005–0004, online at *http://www.epa.gov/edocket* (EPA's preferred method); by e-mail to *oei.docket@epa.gov;* mailed to EPA Docket Center, Environmental Protection Agency, Mailcode: 2822T, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; or by hand delivery or courier to EPA Docket Center, EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC, between 8:30 a.m. and 4:30 p.m., Monday through Friday, excluding legal holidays. Comments on a disk or CD–ROM should be formatted in Wordperfect or ASCII file, avoiding the use of special characters and any form of encryption, and may be mailed to the mailing address above.

FOR FURTHER INFORMATION CONTACT: Geoffrey L. Wilcox, Air and Radiation Law Office (2344A), Office of General Counsel, U.S. Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. Telephone: (202) 564–5601.

SUPPLEMENTARY INFORMATION:

I. Additional Information About the Proposed Consent Decree

The proposed consent decree establishes a deadline of March 15, 2005 for the signature of a notice of EPA's determination pursuant to CAA section 110(k)(1)(B) as to whether each state has submitted the SIP revisions required by CAA section 110(a)(2)(D)(i) for the implementation, maintenance, and enforcement of the 1997 NAAQS that meet the minimum criteria promulgated by EPA pursuant to CAA section 110(k)(1)(A).

The proposed consent decree establishes a deadline of December 15, 2007, with respect to SIPs for the 8-hour ozone NAAQS, and October 5, 2008, with respect to SIPs for the PM–2.5 NAAQS, for the signature of a notice of EPA's determination pursuant to CAA section 110(k)(1)(B) as to whether each state has submitted the remaining SIP revisions required by CAA section 110(a)(2) for the implementation, maintenance, and enforcement of the 1997 NAAQS that meet the minimum criteria promulgated by EPA pursuant to CAA section 110(k)(1)(A). The foregoing obligation excludes any determinations regarding state submissions required by section 110(a)(2)(C) to the extent that subsection refers to a permit program as required in Part D of Title I of the CAA and to section 110(a)(2)(I).

For a period of thirty (30) days following the date of publication of this notice, the Agency will receive written comments relating to the proposed consent decree from persons who were not named as parties or interveners to the litigation in question. EPA or the Department of Justice may withdraw or withhold consent to the proposed consent decree if the comments disclose facts or considerations that indicate that such consent is inappropriate, improper, inadequate, or inconsistent with the requirements of the Act. Unless EPA or the Department of Justice determines, based on any comment which may be submitted, that consent to the consent decree should be withdrawn, the terms of the decree will be affirmed.

II. Additional Information About Commenting on the Proposed Consent decree.

A. How Can I Get a Copy of the Consent Decree?

EPA has established an official public docket for this action under Docket ID No. OGC–2005–0004 which contains a copy of the consent decree. The official public docket is available for public viewing at the Office of Environmental Information (OEI) Docket in the EPA Docket Center, EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OEI Docket is (202) 566–1752.

An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at *http://www.epa.gov/edocket/* to submit or view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Once in the system, select ''search,'' then key in the appropriate docket identification number.

It is important to note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing in EPA's electronic public docket as EPA receives them and without change, unless the comment contains copyrighted material, CBI, or other information whose disclosure is restricted by statute. Information claimed as CBI and other information whose disclosure is restricted by statute is not included in the official public docket or in EPA's electronic public docket. EPA's policy is that copyrighted material, including copyrighted material contained in a public comment, will not be placed in EPA's electronic public docket but will be available only in printed, paper form in the official public docket. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the EPA Docket Center.

B. How and To Whom Do I Submit Comments?

You may submit comments as provided in the **ADDRESSES** section. Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be marked ''late.'' EPA is not required to consider these late comments.

If you submit an electronic comment, EPA recommends that you include your name, mailing address, and an e-mail address or other contact information in the body of your comment and with any disk or CD–ROM you submit. This ensures that you can be identified as the submitter of the comment and allows EPA to contact you in case EPA cannot read your comment due to technical difficulties or needs further information on the substance of your comment. Any identifying or contact information provided in the body of a comment will be included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

Your use of EPA's electronic public docket to submit comments to EPA electronically is EPA's preferred method for receiving comments. The electronic public docket system is an ''anonymous access'' system, which means EPA will not know your identity, e-mail address, or other contact information unless you provide it in the body of your comment. In contrast to EPA's electronic public docket, EPA's electronic mail (e-mail) system is not an ''anonymous access'' system. If you send an e-mail comment directly to the Docket without going through EPA's electronic public docket, your e-mail address is automatically captured and included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket.

Dated: March 18, 2005.

Richard B. Ossias,

Acting Associate General Counsel, Air and Radiation Law Office, Office of General Counsel.

[FR Doc. 05–6039 Filed 3–25–05; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7887–9]

Notice of Availability: Draft NPDES Permit for Concentrated Animal Feeding Operations for Puerto Rico

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability of draft permit.

SUMMARY: Today's notice makes available for public comment the draft *NPDES Permit for Concentrated Animal Feeding Operations for Puerto Rico* for public review and comment. This draft permit is being published to meet one of EPA's key action items in the *Concentrated Animal Feeding Operations Regulations*—to issue NPDES permits to reduce risk to water quality and human health from animal feeding operations by December 2006. Please note that this Draft Permit for CAFOs in Puerto Rico has been sent to Public Notice in both an English and a Spanish Newspaper in Puerto Rico for a period of 60 days.

The Concentrated Animal Feeding Operation (CAFO) General Permit is a single permit which covers all CAFOs that apply for coverage in the Commonwealth of Puerto Rico. Consequently, those CAFOs which are covered by the General Permit will have identical permit language and requirements. Unique facility-specific requirements will be similarly referenced in the permit. The facility-specific requirements are found in the Puerto Rico Environmental Quality Board's regulations for Animal Feeding Operations and detailed in an Agricultural Waste Management Plan (AWMP). The AWMP is a requirement for all CAFOs. For Puerto Rico the AWMP is synonymous with a Residuals Management System.

Only Animal Feeding Operations (AFOs) which meet the definition of a CAFO are eligible to apply for coverage under the General Permit. AFOs which do not meet the definition are not eligible to be covered under the General Permit. To determine if your operation is a CAFO, see 40 CFR 122.23 (4) and (6) as well as Part VII of the Definitions section of the General Permit. In addition, facilities can be designated as CAFOs on a case by case basis.

EPA believes that comments from a wide range of interested stakeholders is important to produce a final permit that will help EPA achieve the goal of reducing risk to water quality and human health from animal feeding operations. EPA is interested in receiving comments from reviewers of the draft *NPDES Permit for Concentrated Animal Feeding Operations for Puerto Rico,* and will carefully consider this input as it prepares a final permit.

DATES: Written comments should be submitted by April 30, 2005, to the address below.

ADDRESSES: Address all comments to Karen O'Brien, U.S. EPA Region 2, 290 Broadway, 24th Floor, New York, New York 10007. Submit electronic comments to *obrien.karen@epa.gov.*

FOR FURTHER INFORMATION CONTACT: Karen O'Brien, (212) 637–3717 or Jeff Gratz, (212) 637–3873.

SUPPLEMENTARY INFORMATION: Copies of the draft *NPDES Permit for Concentrated Animal Feeding Operations* for Puerto Rico may be obtained on the Internet at: *http://www.epa.gov/owm.* If you do not have Internet access, you may obtain a paper copy of the draft guidance by calling the EPA Region 2 at (212) 637–3717. The draft permit is also available in electronic format.

Dated: March 10, 2005.

Kevin Bricke,

Deputy Director, Division of Environmental Planning and Protection, Region II.

[FR Doc. 05–6038 Filed 3–25–05; 8:45 am]

BILLING CODE 6560–50–P

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Sunshine Act; Meetings

DATE AND TIME: Thursday, March 24, 2005, 1 p.m. Eastern Time.

PLACE: Clarence M. Mitchell, Jr. Conference Room on the Ninth Floor of the EEOC Office Building, 1801 ''L'' Street, NW., Washington, DC 20507.

STATUS: The meeting will be open to the public.

MATTERS TO BE CONSIDERED:

Open Season

1. Announcement of Notation Votes, and
2. Spring 2005 Regulatory Agenda

Note: In accordance with the Sunshine Act, this meeting will be open to public observation of the Commission's deliberations and voting. (In addition to publishing notices on EEOC Commission meetings in the **Federal Register**, the Commission also provides a recorded announcement a full week in advance on future Commission sessions.)

Please telephone (202) 663–7100 (voice) and (202) 663–4074 (TTY) at any time for information on these meetings.

Contact Person for More Information: Stephen Llewellyn, Acting Executive Officer on (202) 663–4070.

Dated: March 23, 2005.

Stephen Llewellyn,

Acting Executive Officer, Executive Secretariat.

[FR Doc. 05–6093 Filed 3–23–05; 4:12 pm]

BILLING CODE 6750–06–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Meeting of the Secretary's Advisory Committee on Human Research Protections

AGENCY: Office of the Secretary, Department of Health and Human Services.

ACTION: Notice.

SUMMARY: Pursuant to Section 10(a) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given that the Secretary's Advisory Committee on Human Research Protections (SACHRP) will hold its seventh meeting. The meeting will be open to the public.

DATES: The meeting will be held on Monday, April 18, 2005, from 8:30 a.m. to 5 p.m. and on Tuesday, April 19, 2005 from 8:30 a.m. until 4:30 p.m.

ADDRESSES: The Radisson Hotel Old Town Alexandria, 901 North Fairfax Street, Alexandria, Virginia 22314.

FOR FURTHER INFORMATION CONTACT: Bernard Schwetz, D.V.M., Ph.D., Director, Office for Human Research Protections (OHRP), or Catherine Slatinshek, Executive Director, Secretary's Advisory Committee on Human Research Protections; Department of Health and Human Services, 1101 Wootton Parkway, Suite 200; Rockville, MD 20852; (301) 496–7005; fax: (301) 496–0527; e-mail address: *sachrp@osophs.dhhs.gov.*

SUPPLEMENTARY INFORMATION: Under the authority of 42 U.S.C. 217a, Section 222 of the Public Health Service Act, as amended, SACHRP was established to provide expert advice and recommendations to the Secretary of Health and Human Services (HHS) and the Assistant Secretary for Health on issues and topics pertaining to or associated with the protection of human research subjects.

On April 18, 2005, SACHRP will receive and discuss preliminary reports from its two subcommittees, the Subpart A Subcommittee, which is evaluating the application of HHS regulations for the protection of human subjects at subpart A of 45 CFR part 46 in the current research environment, and the Subcommittee on Research involving Children, which is assessing the HHS regulations and policies for research involving children. The subcommittees were established by SACHRP at its October 4–5, 2004, meeting and at its inaugural meeting on July 22, 2003, respectively. In addition, the Committee will receive the final report from the Subpart C Subcommittee which addressed issues related to HHS regulations and policies for research involving prisoners.

On April 19, 2005, the Committee will receive presentations and participate in discussions on the following topics: investigator education; human research protection program accreditation standards for investigator education; the role of the institutional official in a human research protection program; and incentives and disincentives for IRB monitoring and audit programs.

Public attendance at the meeting is limited to space available. Individuals who plan to attend the meeting and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the designated contact persons. Members of the public will have the opportunity to provide comments on both days of the meeting. Public comment will be limited to five minutes per speaker. Any members of the public who wish to have printed material distributed to SACHRP members for this scheduled meeting should submit materials to the Executive Director, SACHRP, prior to the close of business on Wednesday, April 13, 2005. Information about SACHRP and the draft meeting agenda will be posted on the SACHRP Web site at *http://www.hhs.gov/ohrp/sachrp.*

Dated: March 22, 2005.

Bernard A. Schwetz,

Director, Office for Human Research Protections, Executive Secretary, Secretary's Advisory Committee on Human Research Protection.

[FR Doc. 05–6021 Filed 3–25–05; 8:45 am]

BILLING CODE 4150–36–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Healthcare Research and Quality

Meeting of the Citizens' Health Care Working Group

AGENCY: Agency for Healthcare Research and Quality (AHRQ).

ACTION: Notice of public meeting.

SUMMARY: In accordance with section 10(a) of the Federal Advisory Committee Act, this notice announces the first meeting of the Citizens' Health Care Working Group mandated by section 1014 of the Medicare Modernization Act.

DATES: The meeting will be held on Monday, April 11, 2005 from 8:30 a.m. to 5 p.m. and Tuesday, April 12, 2005 from 8:30 a.m. to 3:30 p.m.

ADDRESSES: The meeting will be held at the Agency for Healthcare Research and Quality, 540 Gaither Road, Rockville, Maryland 20850. The meeting is open to the public.

FOR FURTHER INFORMATION CONTACT: Larry T. Patton, AHRQ Liaison to the Citizens' Health Care Working Group, at (202) 260–7251 or *1patton@ahrq.gov.*

If sign language interpretation or other reasonable accommodation for a disability is needed, please contact Mr. Donald L. Inniss, Director, Office of Equal Employment Opportunity Program, Program Support Center, on (301) 443–1144 no later than April 1, 2005. Agenda, roster, and minutes are available from Larry T. Patton, AHRQ Liaison to the Citizens' Health Care Working group, at (202) 260–7251 or *1patton@ahrq.gov.*

SUPPLEMENTARY INFORMATION: Section 1014 of Pub. L. 108–173, the Medicare Modernization Act (42 U.S.C. 299 *note*) directs the Secretary of the Department of Health and Human Services (DHHS), acting through the Agency for Healthcare Research and Quality, to establish a Citizens' Health Care Working Group (Working Group). The statute charges the Working Group to: (1) Identify options for changing our health care system so that every American has the ability to obtain quality, affordable health care coverage; (2) provide for a nationwide public debate about improving the health care system; and (3) submit their recommendations to the President and the Congress.

The Citizens' Health Care Working Group is composed of 15 members: the Secretary of DHHS is designated as a member by the statute and the Comptroller General of the U.S. Government Accountability Office (GAO) is directed to appoint the remaining 14 members. The Comptroller General announced the 14 appointments on February 28, 2005. A list of the Working group members is available on the GAO Web site (*http://www.gao.gov.*).

Agenda

On April 11 and April 12, 2005, the meeting will begin at 8:30 a.m., with the call to order by the Working group

Chair. This first meeting of the Working group will address organizational issues; a review of its statutory charge, review of applicable Federal regulations governing its work, the development of additional policies to govern its operations, and the establishment of the format, location, and schedule for their initial meetings. The official agenda will be available on AHRA's Web site at *http://www.ahrq.gov* no later than April 1, 2005.

Dated: March 24, 2005.

Carolyn M. Clancy,

Director.

[FR Doc. 05–6176 Filed 3–24–05; 1:58 pm]

BILLING CODE 4160–90–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–05BS]

Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call 404–371–5983 or send comments to Seleda Perryman, CDC Assistant Reports Clearance Officer, 1600 Clifton Road, MS–D74, Atlanta, GA 30333 or send an e-mail to *omb@cdc.gov.*

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Written comments should be received within 60 days of this notice.

Proposed Project: Human Behavior in Fire Study—New—National Center for Injury Prevention and Control (NCIPC), Centers for Disease Control and Prevention (CDC).

Background and Brief Description: This project will characterize the behaviors of individuals who were involved in a residential fire, and determine which behaviors are associated with injuries sustained in the fire incident. Behaviors related to fire escape planning and practice, smoke alarm installation and maintenance, physical and visual access to escape routes, etc., will be studied. In the United States each year, there are approximately 400,000 residential fires, with 14,000 non-fatal and 3,000 fatal civilian injuries. In line with Healthy People 2010 objectives, NCIPC works to reduce and eliminate non-fatal and fatal injuries from residential fires. In order to develop effective fire-related injury prevention programs, a better understanding of human behavior in fires is needed.

The design of this study will be a matched-pair, case-control study. Cases will be defined as individuals who were injured in a residential fire and controls will be individuals who were involved in a residential fire, but were not injured. Fire incidents involving a fatality will be excluded from this study. Local fire departments throughout the United States will submit fire incident reports to study personnel, who will select incidents based on geographical location. Further screening for eligibility will be done using a brief telephone interview. For those selected, interviewers will conduct in-depth, computer-assisted face-to-face interviews with participants. The sequence of events surrounding the fire and the behaviors of interviewees will be ascertained using the Behavioral Sequence Interview Technique. In addition, information on the nature of injuries sustained; characteristics of the fire and home structure; other occupants present; previous fire experiences; safety training; and demographics on the persons interviewed will be collected. The only cost to the respondents is the time involved to complete the screening and/or face-to-face interviews.

Estimate of Annualized Burden Table:

Respondents	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden (in hours)
Adults—Screened	1,250	1	15/60	313
Adults—Cases and Controls	1,000	1	1	1,000
Total				1,313

Dated: March 21, 2005.

Betsey Dunaway,

Acting Reports Clearance Officer, Centers for Disease Control and Prevention.

[FR Doc. 05–6031 Filed 3–25–05; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–05BQ]

Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call 404–371–5983 or send comments to Seleda Perryman, CDC Assistant Reports Clearance Officer, 1600 Clifton Road, MS–D74, Atlanta, GA 30333 or send an e-mail to *omb@cdc.gov.*

Comments are invited on: (a) Whether the proposed collection of information

is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Written comments should be received within 60 days of this notice.

Proposed Project

Understanding the Community Context of the Diabetes Education in Tribal Schools Project—New—National Center for Chronic Disease Prevention and Health Promotion/Division of Diabetes Translation (NCCDPHP/DDT), Centers for Disease Control and Prevention (CDC).

Background and Brief Description: This study is part of a larger evaluation of the multi-year Diabetes Education in Tribal Schools (DETS) project to develop and pilot test a science based diabetes prevention curriculum for Native American school children. As part of the overall evaluation (before the curriculum is pilot tested), it will be important to understand the community context and identify implementation issues. Through a series of qualitative interviews with key informants, the study will obtain information about: (1) The community's experience with diabetes; (2) community readiness to adopt the DETS curriculum; (3) the connection between the DETS project and the community; and (4) the best fit between the curriculum and community schools.

The participants for this study will include key informants in five categories: Community leaders, DETS Advisory Board members, DETS Curriculum Subcommittee members, community teachers, and community parents. Potential participants will be identified by DETS Subcommittee members and invited to participate in this research activity. These individuals will be invited to participate because they are already involved in the project and are familiar with the curriculum.

A maximum of 18 individuals from each category will be interviewed for a total of 90 participants. All participants will be adults, both male and female, over the age of 18. It is expected that approximately 75% of participants will be Native American and 25% will be non-Native American. There is no cost to respondents other than their time.

Estimate of Annualized Burden Table:

Respondent	Number of respondents	Number of responses per respondent	Avg. burden per response (in hours)	Total burden hours
Community Leaders/Elders	18	1	45/60	13.5
Parents	18	1	45/60	13.5
Teachers	18	1	45/60	13.5
DETS Curriculum Subcommittee Members	18	1	45/60	13.5
DETS Advisory Board Members	18	1	45/60	13.5
Totals:	90			67.5

Dated: March 21, 2005.

Betsey Dunaway,

Acting Reports Clearance Officer, Centers for Disease Control and Prevention.

[FR Doc. 05–6032 Filed 3–25–05; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Privacy Act of 1974, as Amended; Computer Matching Program

AGENCY: Office of Child Support Enforcement (OCSE), ACF, DHHS.

ACTION: Notice of a computer matching program.

SUMMARY: In compliance with the Privacy Act of 1974, as amended by Pub. L. 100–503, the Computer Matching and Privacy Protection Act of 1988, we are publishing a notice of a computer matching program that OCSE will conduct on behalf of itself and the District of Columbia Department of Human Services, Income Maintenance Administration (IMA) for verification of continued eligibility for Public Assistance. The match will utilize National Directory of New Hire (NDNH) records and IMA records. The purpose of the computer matching program is to exchange personal data for purposes of identifying individuals who are employed and also are receiving payments pursuant to the Temporary Assistance for Needy Families (TANF) benefit program administered by IMA.

DATES: OCSE will file a report of the subject OCSE matching program with the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives, and the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB). The matching program will be effective as indicated below.

ADDRESSES: Interested parties may comment on this notice by writing to the Director, Office of Federal Systems, Office of Child Support Enforcement, Aerospace Building, 370 L'Enfant Promenade, SW., Washington, DC 20047. All comments received will be available for public inspection at this address.

FOR FURTHER INFORMATION CONTACT: Director, Office of Federal Systems, Office of Child Support Enforcement, Aerospace Building, 370 L'Enfant Promenade, SW., Washington, DC 20047. Telephone Number (202) 401–9271.

SUPPLEMENTARY INFORMATION: Pub. L. 100–503, the Computer Matching and Privacy Protection Act of 1988, amended the Privacy Act (5 U.S.C. 552a) by adding certain protections for individuals applying for and receiving Federal benefits. The law regulates the use of computer matching by Federal agencies when records in a system of records are matched with other Federal, state and local government records.

The amendments require Federal agencies involved in computer matching programs to:

1. Negotiate written agreements with source agencies;

2. Provide notification to applicants and beneficiaries that their records are subject to matching;

3. Verify match findings before reducing, suspending, or terminating an individual's benefits or payments;

4. Furnish detailed reports to Congress and OMB; and

5. Establish a Data Integrity Board that must approve matching agreements.

This Computer Match meets the requirements of Pub. L. 100–503.

Dated: March 22, 2005.

David H. Siegel,

Acting Commissioner, Office of Child Support Enforcement.

Notice of Computer Matching Program

A. Participating Agencies

OCSE and IMA.

B. Purpose of the Match

To exchange personal data for purposes of identifying individuals who are employed and also are receiving payments pursuant to TANF benefit programs being administered by the IMA and to verify continuing eligibility for TANF benefits.

OCSE will match public assistance records, obtained from IMA, to the NDNH. After matching has been conducted, OCSE will provide matched data to IMA which will use this information to verify the continued eligibility of individuals to receive public assistance benefits and, if ineligible, to take such action, as may be authorized by law and regulation. Under the matching program, IMA will obtain data provided by OCSE.

C. Authority for Conducting the Match

The authority for conducting the matching program is contained in section 453(j)(3) of the Social Security Act (42 U.S.C. 653(j)(3)).

D. Records To Be Matched

The system of records maintained by the ACF under the Privacy Act of 1974, as amended, 5 U.S.C. 552a, from which records will be disclosed for the purpose of this computer match, is the Location and Collection System of Records, DHHS/OCSE No. 09–90–0074, last published in the **Federal Register** at 69 FR 31392 on June 3, 2004. The match is a routine use under this system of records.

OCSE, as the source agency, will collect from IMA electronic files containing the names and other personal identifying data of eligible public assistance beneficiaries. Upon receipt of the electronic files of IMA beneficiaries, OCSE will perform a computer match against the NDNH. The NDNH database consists of Quarterly Wage, New Hire, and Unemployment Insurance information. The matches will be furnished by OCSE to IMA.

1. The electronic files provided by IMA will contain data elements of the client's name and SSN.

2. OCSE will match the SSN on the IMA file by computer against the NDNH database. Matching records, based on SSNs, will produce data elements of the individual's name; SSN; employer, and current work or home address, etc.

E. Inclusive Dates of the Matching Program

The effective date of the matching agreement and date when matching may actually begin shall be at the expiration of the 40-day review period for OMB and Congress, or 30 days after publication of the matching notice in the **Federal Register**, whichever date is later. By agreement between DHHS and IMA, the matching program will be in effect for 18 months from the effective date, with an option to renew for 12 additional months, unless one of the parties to the agreement advises the other by written request to terminate or modify the agreement.

[FR Doc. 05–6056 Filed 3–25–05; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 2005N–0100]

Agency Information Collection Activities; Proposed Collection; Comment Request; Current Good Manufacturing Practice Regulations for Finished Pharmaceuticals

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act of 1995 (the PRA), Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on the information collection provisions of FDA's current good manufacturing practice (CGMP) regulations for finished pharmaceuticals.

DATES: Submit written or electronic comments on the collection of information by May 27, 2005.

ADDRESSES: Submit electronic comments on the collection of information to: *http://www.fda.gov/dockets/ecomments*. Submit written comments on the collection of information to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. All comments should be identified with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Karen Nelson, Office of Management Programs (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1482.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

CGMP Regulations for Finished Pharmaceuticals—21 CFR Parts 210 and 211 (OMB Control Number 0910–0139)—Extension

Under section 501(a)(2)(B) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 351(a)(2)(B)), a drug is adulterated if the methods used in, or the facilities or controls used for, its manufacture, processing, packing, or holding do not conform to, or are not operated or administered in conformity with, CGMPs to ensure that such drug meets the requirements of the act as to safety, and has the identity and strength, and meets the quality and purity characteristics, which it purports or is represented to possess.

FDA has the authority under section 701(a) of the act (21 U.S.C. 371(a)) to issue regulations for the efficient enforcement of the act regarding CGMP procedures for manufacturing, processing, and holding drugs and drug products. The CGMP regulations help ensure that drug products meet the statutory requirements for safety and have their purported or represented identity, strength, quality, and purity characteristics. The information collection requirements in the CGMP regulations provide FDA with the necessary information to perform its duty to protect public health and safety. CGMP requirements establish accountability in the manufacturing and processing of drug products, provide for meaningful FDA inspections, and enable manufacturers to improve the quality of drug products over time. The CGMP recordkeeping requirements also serve preventive and remedial purposes, and provide crucial information if it is necessary to recall a drug product.

The general requirements for recordkeeping under part 211 (21 CFR part 211) are set forth in § 211.180. Any production, control, or distribution record associated with a batch and required to be maintained in compliance with part 211 must be retained for at least 1 year after the expiration date of the batch and, for certain over-the-counter (OTC) drugs, 3 years after distribution of the batch (§ 211.180(a)). Records for all components, drug product containers, closures, and labeling are required to be maintained for at least 1 year after the expiration date and 3 years for certain OTC products (§ 211.180(b)).

All part 211 records must be readily available for authorized inspections during the retention period (§ 211.180(c)), and such records may be retained either as original records or as true copies (§ 211.180(d)). In addition, 21 CFR 11.2(a) provides that ''for records required to be maintained but not submitted to the agency, persons may use electronic records in lieu of paper records or electronic signatures in lieu of traditional signatures, in whole or in part, provided that the requirements of this part are met.'' To the extent this electronic option is used, the burden of maintaining paper records should be substantially reduced, as should any review of such records.

In order to facilitate improvements and corrective actions, records must be maintained so that data can be used for evaluating, at least annually, the quality standards of each drug product to determine the need for changes in drug product specifications or manufacturing or control procedures (§ 211.180(e)). Written procedures for these evaluations are to be established and include provisions for a review of a representative number of batches and, where applicable, records associated with the batch; provisions for a review of complaints, recalls, returned or salvaged drug products; and investigations conducted under § 211.192 for each drug product.

The specific recordkeeping requirements provided in table 1 of this document are as follows:

- Section 211.34—Consultants advising on the manufacture, processing, packing, or holding of drug products must have sufficient education, training, and experience to advise on the subject for which they are retained. Records must be maintained stating the name, address, and qualifications of any consultants and the type of service they provide.
- Section 211.67(c)—Records must be kept of maintenance, cleaning, sanitizing, and inspection as specified in §§ 211.180 and 211.182.
- Section 211.68—Appropriate controls must be exercised over computer or related systems to assure that changes in master production and control records or other records are instituted only by authorized personnel.
- Section 211.68(a)—Records must be maintained of calibration checks, inspections, and computer or related system programs for automatic, mechanical, and electronic equipment.
- Section 211.68(b)—All appropriate controls must be exercised over all computers or related systems and control data systems to assure that changes in master production and controls records or other records are instituted only by authorized persons.
- Section 211.72—Filters for liquid filtration used in the manufacture, processing, or packing of injectable drug products intended for human use must not release fibers into such products.
- Section 211.80(d)—Each container or grouping of containers for components or drug product containers or closures must be identified with a distinctive code for each lot in each shipment received. This code must be used in recording the disposition of each lot. Each lot must be appropriately identified as to its status.
- Section 211.100(b)—Written production and process control procedures must be followed in the execution of the various production and process control functions and must be documented at the time of performance. Any deviation from the written procedures must be recorded and justified.
- Section 211.105(b)—Major equipment must be identified by a distinctive identification number or code that must be recorded in the batch production record to show the specific equipment used in the manufacture of each batch of a drug product. In cases where only one of a particular type of equipment exists in a manufacturing facility, the name of the equipment may be used in lieu of a distinctive identification number or code.
- Section 211.122(c)—Records must be maintained for each shipment received of each different labeling and packaging material indicating receipt, examination, or testing.
- Section 211.130(e)—Inspection of packaging and labeling facilities must be made immediately before use to assure that all drug products have been removed from previous operations. Inspection must also be made to assure that packaging and labeling materials not suitable for subsequent operations have been removed. Results of inspection must be documented in the batch production records.
- Section 211.132(c)—Certain retail packages of OTC drug products must bear a statement that is prominently placed so consumers are alerted to the specific tamper-evident feature of the package. The labeling statement is required to be so placed that it will be unaffected if the tamper-resistant feature of the package is breached or missing. If the tamper-evident feature chosen is one that uses an identifying characteristic, that characteristic is required to be referred to in the labeling statement.
- Section 211.132(d)—A request for an exemption from packaging and labeling requirements by a manufacturer or packer is required to be submitted in the form of a citizen petition under 21 CFR 10.30.
- Section 211.137—Requirements regarding product expiration dating and compliance with 21 CFR 201.17 are set forth.
- Section 211.160(a)—The establishment of any specifications, standards, sampling plans, test procedures, or other laboratory control

mechanisms, including any change in such specifications, standards, sampling plans, test procedures, or other laboratory control mechanism, must be drafted by the appropriate organizational unit and reviewed and approved by the quality control unit. These requirements must be followed and documented at the time of performance. Any deviation from the written specifications, standards, sampling plans, test procedures, or other laboratory control mechanisms must be recorded and justified.

- Section 211.165(e)—The accuracy, sensitivity, specificity, and reproducibility of test methods employed by a firm must be established and documented. Such validation and documentation may be accomplished in accordance with § 211.194(a)(2).
- Section 211.166(c)—Homeopathic drug product requirements are set forth.
- Section 211.173—Animals used in testing components, in-process materials, or drug products for compliance with established specifications must be maintained and controlled in a manner that assures their suitability for their intended use. They must be identified, and adequate records must be maintained showing the history of their use.
- Section 211.180(e)—Written records required by part 211 must be maintained so that data can be used for evaluating, at least annually, the quality standards of each drug product to determine the need for changes in drug product specifications or manufacturing or control procedures. Written procedures must be established and followed for such evaluations and must include provisions for a representative number of batches, whether approved or unapproved or rejected, and a review of complaints, recalls, returned or salvaged drug products, and investigations conducted under § 211.192 for each drug product.
- Section 211.180(f)—Procedures must be established to assure that the responsible officials of the firm, if they are not personally involved in or immediately aware of such actions, are notified in writing of any investigations conducted under § 211.198, § 211.204, or § 211.208, any recalls, reports of inspectional observations issued, or any regulatory actions relating to good manufacturing practices brought by FDA.
- Section 211.182—Specifies requirements for equipment cleaning records and the use log.
- Section 211.184—Specifies requirements for component, drug product container, closure, and labeling records.
- Section 211. 186—Specifies master production and control records requirements.
- Section 211.188—Specifies batch production and control records requirement.
- Section 211.192—Specifies the information that must be maintained on the investigation of discrepancies found in the review of all drug product production and control records by the quality control staff.
- Section 211.194—Explains and describes laboratory records that must be retained.
- Section 211.196—Specifies the information that must be included in records on the distribution of the drug.
- Section 211.198—Specifies and describes the handling of all complaint files received by the applicant.
- Section 211.204—Specifies that records be maintained of returned and salvaged drug products and describes the procedures involved.

Written procedures, referred to here as standard operating procedures (SOPs), are required for many part 211 records. The current SOP requirements were initially provided in a final rule published in the **Federal Register** of September 29, 1978 (43 FR 45014), and are now an integral and familiar part of the drug manufacturing process. The major information collection impact of SOPs results from their creation. Thereafter, SOPs need to be periodically updated. A combined estimate for routine maintenance of SOPs is provided in table 1 of this document. The 25 SOP provisions under part 211 in the combined maintenance estimate include:

- Section 211.22(d)—Responsibilities and procedures of the quality control unit;
- Section 211.56(b)—Sanitation procedures;
- Section 211.56(c)—Use of suitable rodenticides, insecticides, fungicides, fumigating agents, and cleaning and sanitizing agents;
- Section 211.67(b)—Cleaning and maintenance of equipment;
- Section 211.68(a)—Proper performance of automatic, mechanical, and electronic equipment;
- Section 211.80(a)—Receipt, identification, storage, handling, sampling, testing, and approval or rejection of components and drug product containers or closures;
- Section 211.94(d)—Standards or specifications, methods of testing, and methods of cleaning, sterilizing, and processing to remove pyrogenic properties for drug product containers and closures;
- Section 211.100(a)—Production and process control;
- Section 211.110(a)—Sampling and testing of in-process materials and drug products;
- Section 211.113(a)—Prevention of objectionable microorganisms in drug products not required to be sterile;
- Section 211.113(b)—Prevention of microbiological contamination of drug products purporting to be sterile, including validation of any sterilization process;
- Section 211.115(a)—System for reprocessing batches that do not conform to standards or specifications, to insure that reprocessed batches conform with all established standards, specifications, and characteristics;
- Section 211.122(a)—Receipt, identification, storage, handling, sampling, examination, and/or testing of labeling and packaging materials;
- Section 211.125(f)—Control procedures for the issuance of labeling;
- Section 211.130—Packaging and label operations, prevention of mixup and cross contamination, identification and handling of filed drug product containers that are set aside and held in unlabeled condition, and identification of the drug product with a lot or control number that permits determination of the history of the manufacture and control of the batch;
- Section 211.142—Warehousing;
- Section 211.150—Distribution of drug products;
- Section 211.160—Laboratory controls;
- Section 211.165(c)—Testing and release for distribution;
- Section 211.166(a)—Stability testing;
- Section 211.167—Special testing requirements;
- Section 211.180(f)—Notification of responsible officials of investigations, recalls, reports of inspectional observations, and any regulatory actions relating to good manufacturing practice;
- Section 211.198(a)—Written and oral complaint procedures, including quality control unit review of any complaint involving specifications failures, and serious and unexpected adverse drug experiences;
- Section 211.204—Holding, testing, and reprocessing of returned drug products; and
- Section 211.208—Drug product salvaging.

Although most of the CGMP provisions covered in this document were created many years ago, there will be some existing firms expanding into new manufacturing areas and startup firms that will need to create SOPs. As provided in table 1 of this document,

FDA is assuming that approximately 100 firms will have to create up to 25 SOPs for a total of 2,500 records, and the agency estimates that it will take 20 hours per recordkeeper to create 25 new SOPs, for a total of 50,000 hours.

The burden estimates for the recordkeeping requirements in table 1 of this document are based on the following factors: (1) FDA's institutional experience regarding creation and review of such procedures and similar recordkeeping requirements, and (2) data provided to FDA to prepare an economic analysis of the potential economic impact of the May 3, 1996, proposed rule entitled ''Current Good Manufacturing Practice: Proposed Amendment of Certain Requirements for Finished Pharmaceuticals'' (61 FR 20104). Annual SOP maintenance is estimated to involve 1 hour annually per SOP, totaling 25 hours annually per recordkeeper.

The May 3, 1996, proposed rule revising part 211 CGMP requirements would require additional SOPs. Cost estimates for those additional SOPs were included in the proposed rule, but are not included here. Any comments on those estimates will be evaluated in any final rule based on that proposal.

FDA estimates the burden of this collection of information as follows:

TABLE 1.—ESTIMATED ANNUAL RECORDKEEPING BURDEN[1]

21 CFR Section	No. of Recordkeepers	Annual Frequency per Recordkeeping	Total Annual Records	Hours per Recordkeeper	Total Hours
SOP Maintenance (See list of 25 SOPs in the **SUPPLEMENTARY INFORMATION** section of this document)	4,184	1	4,184	25	104,600
New startup SOPs	100	25	2,500	20	50,000
211.34	4,184	.25	1,046	.5	523
211.67(c)	4,184	50	209,200	.25	52,300
211.68	4,184	2	8,368	1	8,368
211.68(a)	4,184	10	41,840	.5	20,920
211.68(b)	4,184	5	20,920	.25	5,230
211.72	4,184	.25	1,046	1	1,046
211.80(d)	4,184	.25	1,046	.1	105
211.100(b)	4,184	3	12,552	2	25,104
211.105(b)	4,184	.25	1,046	.25	262
211.122(c)	4,184	50	209,200	.25	52,300
211.130(e)	4,184	50	209,200	.25	52,300
211.132(c)	1,698	20	33,960	.5	16,980
211.132(d)	1,698	.2	340	.5	170
211.137	4,184	5	20,920	.5	10,460
211.160(a)	4,184	2	8,368	1	8,368
211.165(e)	4,184	1	4,184	1	4,184
211.166(c)	4,184	2	8,368	.5	4,184
211.173	1,077	1	1,077	.25	269
211.180(e)	4,184	.2	837	.25	209
211.180(f)	4,184	.2	837	1	837
211.182	4,184	2	8,368	.25	2,092
211.184	4,184	3	12,552	.5	6,276
211.186	4,184	10	41,840	2	83,680
211.188	4,184	25	104,600	2	209,200
211.192	4,184	2	8,368	1	8,368

TABLE 1.—ESTIMATED ANNUAL RECORDKEEPING BURDEN[1]—Continued

21 CFR Section	No. of Recordkeepers	Annual Frequency per Recordkeeping	Total Annual Records	Hours per Recordkeeper	Total Hours
211.194	4,184	25	104,600	.5	52,300
211.196	4,184	25	104,600	.25	26,150
211.198	4,184	5	20,920	1	20,920
211.204	4,184	10	41,840	.5	20,920
Total					848,625

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Dated: March 21, 2005.

Jeffrey Shuren,

Assistant Commisssioner for Policy.

[FR Doc. 05–5976 Filed 3–25–05; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 2004P–0285]

Determination That ACIPHEX (Rabeprazole Sodium) Delayed-Release Tablets, 10 Milligrams, Were Not Withdrawn From Sale for Reasons of Safety or Effectiveness

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined that ACIPHEX (rabeprazole sodium) delayed-release tablets, 10 milligrams (mg), were not withdrawn from sale for reasons of safety or effectiveness. This determination will allow FDA to approve abbreviated new drug applications (ANDAs) for rabeprazole sodium delayed-release tablets, 10 mg.

FOR FURTHER INFORMATION CONTACT: Elizabeth Sadove, Center for Drug Evaluation and Research (HFD–7), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–2041.

SUPPLEMENTARY INFORMATION: In 1984, Congress enacted the Drug Price Competition and Patent Term Restoration Act of 1984 (Public Law 98–417) (the 1984 amendments), which authorized the approval of duplicate versions of drug products approved under an ANDA procedure. ANDA sponsors must, with certain exceptions, show that the drug for which they are seeking approval contains the same active ingredient in the same strength and dosage form as the ''listed drug,'' which is typically a version of the drug that was previously approved. Sponsors of ANDAs do not have to repeat the extensive clinical testing otherwise necessary to gain approval of a new drug application (NDA). The only clinical data required in an ANDA are data to show that the drug that is the subject of the ANDA is bioequivalent to the listed drug.

The 1984 amendments include what is now section 505(j)(7) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(j)(7)), which requires FDA to publish a list of all approved drugs. FDA publishes this list as part of the ''Approved Drug Products With Therapeutic Equivalence Evaluations,'' which is generally known as the ''Orange Book.'' Under FDA regulations, drugs are withdrawn from the list if the agency withdraws or suspends approval of the drug's NDA or ANDA for reasons of safety or effectiveness, or if FDA determines that the listed drug was withdrawn from sale for reasons of safety or effectiveness (§ 314.162 (21 CFR 314.162)).

Under § 314.161(a)(1) (21 CFR 314.161(a)(1)), the agency must determine whether a listed drug was withdrawn from sale for reasons of safety or effectiveness before an ANDA that refers to that listed drug may be approved. FDA may not approve an ANDA that does not refer to a listed drug.

ACIPHEX delayed-release tablets are the subject of approved NDA 20–973 held by Eisai, Inc. (Eisai). ACIPHEX (rabeprazole sodium) delayed-release tablets are a proton pump inhibitor indicated for the healing of erosive or ulcerative gastroesophageal reflux disease (GERD), maintenance of healing of erosive GERD, healing of duodenal ulcers, and treatment of pathological hypersecretory conditions, including Zollinger-Ellison Syndrome. Lachman Consultant Services, Inc., submitted a citizen petition dated July 6, 2004 (Docket No. 2004P–0285/CP1), under 21 CFR 10.30, requesting that the agency determine whether ACIPHEX delayed-release tablets, 10 mg, were withdrawn from sale for reasons of safety or effectiveness.

The agency has determined that Eisai's ACIPHEX delayed-release tablets, 10 mg, were not withdrawn from sale for reasons of safety or effectiveness. ACIPHEX delayed-release tablets, 10 mg, were approved on May 29, 2002, and Eisai has never commercially marketed the 10-mg dose. In previous instances (see the **Federal Register** of December 30, 2002 (67 FR 79640 at 79641) (addressing a relisting request for Diazepam Autoinjector)), FDA has concluded that, for purposes of §§ 314.161 and 314.162, never marketing an approved drug product is equivalent to withdrawing the drug from sale. There is no indication that Eisai's decision not to market ACIPHEX delayed-release tablets, 10 mg, commercially is a function of safety or effectiveness concerns, and the petitioner has identified no data or other information suggesting that ACIPHEX delayed-release tablets, 10 mg, pose a safety risk. FDA's independent evaluation of relevant information has uncovered nothing that would indicate that this product was withdrawn for reasons of safety or effectiveness.

After considering the citizen petition and reviewing agency records, FDA determines that for the reasons outlined previously, ACIPHEX delayed-release tablets, 10 mg, were not withdrawn from sale for reasons of safety or effectiveness. Accordingly, the agency will continue to list ACIPHEX (rabeprazole sodium) delayed-release tablets, 10 mg, in the ''Discontinued Drug Product List'' section of the Orange Book. The ''Discontinued Drug Product List'' delineates, among other items, drug products that have been discontinued from marketing for reasons other than safety or effectiveness. ANDAs that refer to ACIPHEX delayed-

release tablets, 10 mg, may be approved by the agency.

Dated: March 17, 2005.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. 05–5975 Filed 3–25–05; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 2005N–0098]

Food and Drug Administration/Drug Information Association Cross Labeling; Public Meeting; Combination Products and Mutually Conforming Labeling

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of public meeting; request for comments.

SUMMARY: The Food and Drug Administration (FDA), in cooperation with the Drug Information Association (DIA), is announcing a public meeting to solicit views and provide an interactive forum for discussion of stakeholders' perspectives about, and experiences with, the legal and public health issues that arise when sponsors seek to develop or market a product of one type (device, drug, or biological product) that would be labeled for use with an already approved product of a different type, and the approved product's labeling would not be changed. The input received at the meeting and comments made to the docket after the meeting will be considered in developing draft guidance on this topic.

DATES: The public meeting will be held on May 10, 2005, from 8:30 a.m. to 5 p.m. Attendees must register to attend. Submit written or electronic requests to speak at the public meeting by April 26, 2005. Submit written or electronic comments by July 8, 2005.

ADDRESSES: The public meeting will be held at the Bethesda North Marriott Hotel & Conference Center, 5701 Marinelli Rd., North Bethesda, MD. A copy of the meeting's program and registration information is available on the Internet at*http://www.diahome.org/Content/Events/05028.pdf*, by contacting the Drug Information Association, P.O. Box 827192, Philadelphia, PA 19182–7192, or 215–442–6100.

Submit written comments to the Division of Dockets Management (HFA–305, Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments to *http://www.fda.gov/dockets/ecomments*.

FOR FURTHER INFORMATION CONTACT:

For information about the public meeting contact: Suzanne O'Shea, Office of Combination Products, Food and Drug Administration (HFG–3), suite 200, 15800 Crabbs Branch Way, Rockville, MD 20855, 301–427–1934, FAX: 301–427–1935, e-mail: *combination@fda.gov*.

To register to speak at the public meeting contact: Amanda Carmody, Drug Information Association, P.O. Box 827192, Philadelphia, PA 19182–7192, e-mail: *Amanda.carmody@diahome.org*, or 215–442–6176.

SUPPLEMENTARY INFORMATION:

I. Background

An increasing number of combined uses for drugs and devices, drugs and biological products, or devices and biological products are being developed where the two products are independently approved, manufactured, and distributed. In some cases, when one product is already approved for a particular indication, route of administration or dose, another sponsor may develop a separate product to be used with the approved product for an indication, route of administration or dose different from the one specified in the current labeling of the approved product. Frequently, the sponsors of the two products work together to develop safety and effectiveness data and to bring the two products to market with mutually conforming labeling, i.e., labeling for each product that provides directions for using that product with the other sponsor's product. In such cases, the two products are considered a combination product under § 3.2(e)(3) (21 CFR 3.2(e)(3)), which states that a combination product includes:

> A drug, device, or biological product packaged separately that according to its investigational plan or proposed labeling is intended for use only with an approved individually specified drug, device, or biological product where both are required to achieve the intended use, indication, or effect and where upon approval of the proposed product the labeling of the approved product would need to be changed, e.g., to reflect a change in intended use, dosage form, strength, route of administration, or significant changed in dose* * *.

In order for the two products to have mutually conforming labeling of the type contemplated by § 3.2(e)(3), the sponsor of the approved product ordinarily must submit a supplement to its marketing application[1] to amend the currently approved labeling to include directions for using the two products together. When sponsors work together to develop mutually conforming labeling, they usually have an ongoing relationship that enables them to resolve scientific or legal issues that may arise as a result of the two products being the responsibility of two independent sponsors. For this reason, FDA encourages sponsors to work together as much as possible when bringing to market independently developed, manufactured, and distributed products that are intended to be used together.

On occasion, however, the two sponsors do not work together, and the sponsor of a new product unilaterally develops a product intended to be used with an already approved or cleared product. The sponsor of the new product is frequently willing to develop data demonstrating the safe and effective use of both products used together. When the new product is intended to be used with the approved product in a way that is significantly different from ways described in the current labeling of the approved product (e.g., for a different indication, route of administration or dose), refusal by the sponsor of the approved product to submit a supplement[2] may preclude mutually conforming labeling. In some cases, when the two sponsors do not work together, requiring that the two products have mutually conforming labeling could prevent the development of new products. FDA is concerned that valuable products may not be developed, manufactured, or distributed because of sponsor concerns about mutually conforming labeling.

Therefore, FDA is considering whether the agency should review and approve or clear drug-device, biologic-device, or drug-biologic products, where:

- One sponsor's new product is intended for use with another sponsor's approved or cleared product;
- The approved or cleared product would be used in a way that is significantly different from the use described in its current labeling, e.g., a different indication, route of administration, or dose;
- Data are available to demonstrate the safe and effective use of the two products together;
- There is no cooperation, ongoing relationship, or right of reference between the sponsors of the two products; and
- The sponsor of the new product asks FDA to review the new product for use with the approved product under

[1] In some cases, a new 510(k) might be required.

[2] Or in some cases, a new 510(k).

one drug, device, or biological product marketing application, depending on the regulatory identity of the new product.

In this situation, the sponsor of the approved product would not submit a supplement to its marketing application, or in some cases a new 510(k), to permit the inclusion of directions for using the approved product together with the new product. If the new product were to be approved or cleared, the labeling of the new product would provide directions for using the two products together, but the labeling of the approved product would not mention the new product or the use of the two products together. In other words, the two products would not be cross labeled and would not have mutually conforming labeling.

II. Hypothetical Situation

The following hypothetical is a concrete example of the type of situation that may be of most interest at the public meeting:

Company A[3] is currently marketing an approved drug product for intramuscular injection. Company B develops a device to deliver Company A's approved drug product for a different indication, to be delivered by a different method. No change in formulation to the drug product is needed.

Company B approached Company A to see if Company A would submit a supplemental new drug application to include the new indication and route of administration in the drug product labeling, but Company A refused. Company A also refused to provide a right of reference to data in its application.

Because Company B has been unable to obtain the cooperation of Company A, Company B approaches FDA and asks whether FDA would consider approving a device application stating that the device is intended to be used with drug product A delivered by the new route of administration for the new indication. Company B is willing to conduct all necessary studies to demonstrate that drug product A is safe and effective when delivered by the new route of administration by device B for the new indication.

The end user would obtain the device from Company B and the drug product from Company A. The drug product labeling would make no mention of device B, the new indication, or that the drug product can be delivered by the new route of administration.

III. Proposed Issues

The core issue is whether FDA should consider reviewing and possibly approving or clearing a new product (such as product B in the hypothetical) labeled for use in conjunction with an approved product (such as product A in the hypothetical) when there is no supplement for the combined use to the marketing application for the approved product,[4] and the labeling of the approved product would not mention the new product, or the use of the two products together. FDA has identified the following issues as being relevant to the core issue. Persons wishing to speak at the public meeting may address the following issues or other relevant issues.

A. Public Health Issues

1. What are the product development implications of mutually conforming labeling? Are products not developed because of a perception that mutually conforming labeling will be, or might be, required?

2. How important is it that drug and device labeling be consistent with respect to intended use, dose, dosage form, strength and route of administration for the safe and effective use of the drug and device together?

3. Should the decision whether mutually conforming labeling is needed for the safe and effective use of the products together be made on a case by case basis? If so, what factors should FDA consider in determining whether mutually conforming labeling is necessary?

4. To what degree should labeling conform? Does the labeling of the two products need to be identical? Consistent? Not contradictory? Is conformity more important for some parts of the labeling than others?

5. Under what circumstances can adequate instructions for use be conveyed in one product's label? For example, should FDA policy take into account the possibility that the labeling for a re-usable device might be lost over time?

6. How should FDA policy take into account the possibility that the product for which no supplemental marketing application was submitted (i.e., the approved product) might be reformulated or redesigned? Is it possible for Company B to sufficiently monitor product A to ensure that Company B is aware of formulation changes? Is it possible to identify in advance the characteristics of product A that should be monitored?

7. If mutually conforming labeling is not always required, what process should FDA follow in order to determine when it is required and when it is not required? When is the best time in the review process to make this determination?

8. Other public health issues; how can they be resolved?

B. Legal Issues

1. Why do manufacturers of the two products sometimes not cooperate in bringing the new product to market? Are there any steps FDA can take to increase the likelihood of cooperation between the two manufacturers?

2. How can FDA ensure that its approval of Company B's product does not improperly rely upon Company A's proprietary information?

3. How might approval of Company B's product affect the legal adequacy of the labeling for Company A's product?

4. What effect, if any, should the exclusivity of Company A's product have on whether FDA approves Company B's product without mutually conforming labeling? Should the existence of generic versions of Company A's product affect whether FDA approves Company B's product?

5. Would any other regulatory tools, such as conditions of approval on Product B, be useful in ensuring the appropriate degree of FDA oversight of the products used together?

6. Do the legal issues that arise in the absence of mutually conforming labeling exist independently of § 3.2(e)(3), or can some of these issues be addressed by revisions or clarifications to this part of the definition of a combination product?

7. Other legal issues; how can they be resolved?

IV. Goals of the Public Meeting

The purpose of this public meeting is to provide an interactive forum for discussion of FDA and industry perspectives about, and experiences with, the legal and public health issues that arise when sponsors seek to develop or market a product of one type (device, drug, or biological product) that would be labeled for use with an approved product of a different type and the approved product's labeling would not be changed.

The public meeting will be divided into two sections. Public health issues will be discussed in one session; legal issues will be discussed in the other session. Each session will begin with

[3] Companies A and B could be drug, device, or biological product companies. The two products that will be used together could be a drug and a device, a drug and a biological product, or a biological product and a device. For the sake of convenience only, this hypothetical refers to Company A as the manufacturer of an already approved drug, and Company B as the sponsor of a device to be used with drug product A.

[4] Or in some cases, a new 510(k).

formal presentations from members of industry and FDA. Following the formal presentations, time will be allotted to hear from members of the public who have pre-registered as speakers. After the pre-registered speakers, there will be a moderated discussion open to all members of the audience.

FDA is considering issuing draft guidance on this issue and believes it is important to receive input from all interested parties through a public meeting.

V. Speakers

Members of the public who would like to make a short statement (approximately 5 minutes) should register with DIA (see **ADDRESSES**) by April 26, 2005. Requests to speak should include the speaker's name and affiliation, and should identify the appropriate panel (public health or legal issues). DIA will notify persons who register by April 26, 2005, of the approximate time of their turn to speak. Speakers will be scheduled in the order DIA receives the requests.

If you need special accommodations due to a disability, please contact, at least 7 days in advance: Amanda Carmody, Drug Information Association, at *Amanda.carmody@diahome.org* or 215–442–6176.

VI. Request for Comments and Transcripts

Regardless of attendance at the meeting, interested persons may submit to the Division of Dockets Management (see **ADDRESSES**) written or electronic comments on the topics presented in this document. The agency welcomes comments before and after the meeting. Two paper copies of mailed comments are to be submitted, except that individuals may submit one paper copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments are available for public examination in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday. Comments and a transcript of the public meeting will be made available on the Office of Combination Products Web site at *www.fda.gov/oc/combination*.

Dated: March 21, 2005.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. 05–5978 Filed 3–25–05; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 2005D–0103]

Draft Guidance for Industry on Using a Centralized Institutional Review Boards Process in Multicenter Clinical Trials; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a draft guidance for industry entitled ''Using a Centralized IRB Process in Multicenter Clinical Trials.'' The draft guidance is intended to assist sponsors, institutions, institutional review boards (IRBs), and clinical investigators involved in multicenter clinical research in meeting the requirements of FDA's regulations by facilitating the use of a centralized IRB review process.

DATES: Submit written or electronic comments on the draft guidance by May 27, 2005. General comments on agency guidance documents are welcome at any time.

ADDRESSES: Submit written requests for single copies of the guidance to the Division of Drug Information (HFD–240), Center for Drug Evaluation and Research, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857; or the Office of Communication, Training and Manufacturers Assistance (HFM–40), Center for Biologics Evaluation and Research, Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852–1448. Send one self-addressed adhesive label to assist that office in processing your requests.

Submit written comments on the draft guidance to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments to *http://www.fda.gov/dockets/ecomments*. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance document.

FOR FURTHER INFORMATION CONTACT:

Nancy Stanisic, Center for Drug Evaluation and Research (HFD–1), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1660; or

Steve Ripley, Center for Biologics Evaluation and Research (HFM–17), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852–1448, 301–827–6210, 301–827–7975; or

Dave Lepay, Good Clinical Practice Program, Office of Science and Health Coordination (HF–34), Office of the Commissioner, 5600 Fishers Lane, Rockville, MD 20857, 301–827–3340.

SUPPLEMENTARY INFORMATION: FDA is announcing the availability of a draft guidance for industry entitled ''Using a Centralized IRB Review Process in Multicenter Clinical Trials.'' The draft guidance is intended to assist sponsors, institutions, IRBs, and clinical investigators involved in multicenter clinical research in meeting the requirements of 21 CFR part 56 by facilitating the use of a centralized IRB review process. The draft guidance: (1) Describes the roles of the participants in a centralized IRB review process; (2) offers guidance on how a centralized IRB review process might address local aspects of IRB review; (3) makes recommendations about documenting agreements between a central IRB and the IRBs at institutions involved in the centralized IRB review process concerning their respective responsibilities; and (4) makes recommendations concerning written procedures for implementing a centralized review process. Finally, the draft guidance discusses using a central IRB at clinical trial sites not already affiliated with an IRB.

This draft guidance applies to clinical investigations conducted under 21 CFR part 312 (investigational new drug application or IND regulations).

This level 1 draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft guidance represents the agency's current thinking on this topic. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statutes and regulations.

II. Comments

Interested persons may submit to the Division of Dockets Management (see **ADDRESSES**) written or electronic comments on the draft guidance. Two copies of any mailed comments are to be submitted, except that individuals may submit one paper copy. Comments are to be identified with the docket number found in brackets in the heading of this document. The draft guidance and received comments are available for public examination in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

III. Electronic Access

Persons with access to the Internet may obtain the draft guidance at *http://www.fda.gov/cder/guidance/index.htm*, *http://www.fda.gov/cber/guidelines.htm*, or *http://www.fda.gov/ohrms/dockets/default.htm*.

Dated: March 17, 2005.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. 05–5977 Filed 3–25–05; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Summaries of Medical and Clinical Pharmacology Reviews of Pediatric Studies; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of summaries of medical and clinical pharmacology reviews of pediatric studies submitted in supplements for PARAPLATIN (carboplatin), TRUSOPT (dorzolamide), CAMPTOSAR (irinotecan), PREVACID (lansoprazole), TAMIFLU (oseltamivir), VIOXX (rofecoxib), FERRLECIT (sodium ferric gluconate), IMITREX (sumatriptan), DETROL and DETROL LA (tolterodine). These summaries are being made available consistent with the Best Pharmaceuticals for Children Act (the BPCA). For all pediatric supplements submitted under the BPCA, the BPCA requires FDA to make available to the public a summary of the medical and clinical pharmacology reviews of the pediatric studies conducted for the supplement.

In addition, the agency is also announcing the availability of summaries of medical and clinical pharmacology reviews of pediatric studies for the following antidepressants: CELAXA (citalopram), REMERON (mirtazapine), SERZONE (nefazodone), PAXIL (paroxetine), and ZOLOFT (sertraline). Studies for these drugs were submitted before the BPCA was implemented. Therefore, they are not subject to its requirements. However, due to the public's interest in these pediatric studies, FDA asked the sponsors to consent to the public disclosure of a summary of the medical and clinical pharmacology reviews for these studies. Based on sponsors' consent, FDA is making the summaries publicly available.

ADDRESSES: Submit written requests for single copies of the summaries to the Division of Drug Information (HFD–240), Center for Drug Evaluation and Research, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857. Please specify by product name which summary or summaries you are requesting. Send one self-addressed adhesive label to assist that office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the summaries.

FOR FURTHER INFORMATION CONTACT: Grace Carmouze, Center for Drug Evaluation and Research (HFD–960), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–7337, e-mail: *carmouzeg@cder.fda.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of summaries of medical and clinical pharmacology reviews of pediatric studies. As discussed in greater detail in the following paragraphs, section 9 of the BPCA (Public Law 107–109) requires the disclosure of certain summaries of pediatric study reviews. In addition, based on the sponsors' consent, FDA is making available summaries of medical and clinical pharmacology reviews for pediatric studies of antidepressants submitted in response to a written request.

The summaries of medical and clinical pharmacology reviews of pediatric studies conducted for PARAPLATIN (carboplatin), TRUSOPT (dorzolamide), CAMPTOSAR (irinotecan), PREVACID (lansoprazole), TAMIFLU (oseltamivir), VIOXX (rofecoxib), FERRLECIT (sodium ferric gluconate), IMITREX (sumatriptan), DETROL and DETROL LA (tolterodine) are being made available consistent with section 9 of the BPCA. Enacted on January 4, 2002, the BPCA reauthorizes, with certain important changes, the pediatric exclusivity program described in section 505A of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 355a). Section 505A of the act permits certain applications to obtain 6 months of marketing exclusivity if, in accordance with the requirements of the statute, the sponsor submits requested information relating to the use of the drug in the pediatric population.

One of the provisions the BPCA added to the pediatric exclusivity program pertains to the dissemination of pediatric information. Specifically, for all pediatric supplements submitted under the BPCA, the BPCA requires FDA to make available to the public a summary of the medical and clinical pharmacology reviews of pediatric studies conducted for the supplement (21 U.S.C. 355a(m)(1)). The summaries are to be made available not later than 180 days after the report on the pediatric study is submitted to FDA (21 U.S.C. 355a(m)(1)). Consistent with this provision of the BPCA, FDA has posted on the Internet (*http://www.fda.gov/cder/pediatric/index.htm*) summaries of medical and clinical pharmacology reviews of pediatric studies submitted in supplements for PARAPLATIN (carboplatin), TRUSOPT (dorzolamide), CAMPTOSAR (irinotecan), PREVACID (lansoprazole), TAMIFLU (oseltamivir), VIOXX (rofecoxib), FERRLECIT (sodium ferric gluconate), IMITREX (sumatriptan), DETROL and DETROL LA (tolterodine). Copies are also available by mail (see **ADDRESSES**).

In addition, the agency is also announcing the availability of summaries of medical and clinical pharmacology reviews of pediatric studies for the following antidepressants: CELAXA (citalopram), REMERON (mirtazapine), SERZONE (nefazodone), PAXIL (paroxetine), and ZOLOFT (sertraline). Section 9 of the BPCA does not require the disclosure of these summaries. However, due to the public's interest in these studies, FDA asked the sponsors to consent to the public disclosure of the summaries of the medical and clinical pharmacology reviews. Based on the sponsors' consent, FDA is making the reviews publicly available on the Internet (*http://www.fda.gov/cder/pediatric/index.htm*) and by mail (see **ADDRESSES**).

II. Electronic Access

Persons with access to the Internet may obtain the document at *http://www.fda.gov/cder/pediatric/index.htm*.

Dated: March 18, 2005.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. 05–5974 Filed 3–25–05; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Submission for OMB Review; Comment Request

Periodically, the Health Resources and Services Administration (HRSA) publishes abstracts of information collection requests under review by the

Office of Management and Budget (OMB), in compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). To request a copy of the clearance requests submitted to OMB for review, call the HRSA Reports Clearance Office on (301)–443–1129.

The following request has been submitted to the Office of Management and Budget for review under the Paperwork Reduction Act of 1995:

Proposed Project: Free Clinic—FTCA Deeming Application (OMB No. 0915–0293, Extension)

Congress legislated FTCA medical malpractice protection for free clinic volunteer health professionals through Section 194 of the Health Insurance Portability and Accountability Act (HIPAA), amending Section 224 of the Public Health Service Act. Individuals eligible to participate in this program are health care practitioners volunteering at free clinics who meet specific eligibility requirements. If an individual meets all the requirements of this program they can be ''deemed'' to be a Federal employee. This deemed status is specifically to provide immunity from medical malpractice lawsuits as a result of the performance of medical, surgical, dental, or related activities within the scope of the volunteer's work at the free clinic.

The sponsoring free clinic entity must submit an application to the Health Resources and Services Administration (HRSA). This application will require information about the sponsoring free clinic's credentialing system, risk management practices, and quality assurance system in order to ensure the Government is not exposed to undue liability resulting from the medical malpractice coverage of non-qualified health care professionals. Attached to the application will be a listing of specific health care providers for whom the sponsoring free clinic is requesting deemed status.

Estimates of annualized reporting burden are as follows:

Type of form	Number of respondents	Responses per respondent	Total responses	Hours per response	Total burden hours
FTCA Deeming Application	150	1	150	16	2,400
Total	150		150		2,400

Written comments and recommendations concerning the proposed information collection should be sent within 30 days of this notice to: John Kraemer, Health Resources and Services Administration, Human Resources and Housing Branch, Office of Management and Budget, New Executive Office Building, Room 10235, Washington, DC 20503.

Dated: March 21, 2005.

Tina M. Cheatham,

Director, Division of Policy Review and Coordination.

[FR Doc. 05–5972 Filed 3–25–05; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HOMELAND SECURITY

Office of the Secretary

[DHS–2005–0015]

Privacy Act of 1974; System of Records; Correction

AGENCY: Office of the Secretary, DHS.

ACTION: Notice; correction.

SUMMARY: The Department of Homeland Security (DHS) is correcting a notice that was published in the **Federal Register** on March 22, 2005, at 70 FR 14477 which gives notice that the Bureau of Immigration and Customs Enforcement (ICE) proposes to add a new system of records to the Department's inventory of record systems. The system of records is the Student and Exchange Visitor Information System. In the Heading of the notice, DHS inadvertently mislabeled the DHS docket number associated with the notice. DHS would like to announce that the DHS docket number for submitting comments to this notice is DHS–2005–0015. Directions for submitting comments using this method are outlined within 70 FR 14477.

DATES: This correction is effective March 28, 2005.

FOR FURTHER INFORMATION CONTACT: Jeff Ament, Department of Homeland Security Regulatory Coordinator, Department of Homeland Security, Washington, DC 20528, (202) 205–8088.

SUPPLEMENTARY INFORMATION:

Need for Correction

As published in the **Federal Register** on March 22, 2005 (70 FR 14477), the notice contains an error that is in need of correction.

Correction of Publication

Accordingly, the publication on March 22, 2005 (70 FR 14477), is corrected as follows:

1. On page 14477, in the heading, third line, the new DHS docket number should read: ''DHS Docket Number DHS–2005–0015''

Mary Kate Whalen,

Deputy Associate General Counsel for Regulations, Office of the General Counsel, U.S. Department of Homeland Security.

[FR Doc. 05–6051 Filed 3–23–05; 4:33 pm]

BILLING CODE 4410–10–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4975–N–07]

Notice of Proposed Information Collection: Comment Request

AGENCY: Office of the Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* May 27, 2005.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Wayne Eddins, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, SW., L'Enfant Plaza Building, Room 8001, Washington, DC 20410 or *Wayne_Eddins@hud.gov.*

FOR FURTHER INFORMATION CONTACT: Beverly J. Miller, Director, Office of Asset Management, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410, telephone (202) 708–3730 (this is not a toll free number) for copies of the

proposed forms and other available information.

SUPPLEMENTARY INFORMATION: The Department is submitting the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

This Notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: Management Review of Multifamily Housing Projects.

OMB Control Number, if applicable: 2502–0178.

Description of the need for the information and proposed use: HUD staff, mortgagees, and Contract Administrators gather and record information during on-site reviews of project operations. The information gathered is used to evaluate the quality of management, determine causes of problems, and devise corrective actions to safeguard the Department's financial interests and ensure that tenants are provided with decent, safe, and sanitary housing. This information collection consolidates the information collection approved under OMB Control Number 2502–0259, Management Review Report for Unsubsidized Multifamily Housing Programs, which expires August 31, 2006.

Agency form numbers, if applicable: HUD–9834.

Estimation of the total numbers of hours needed to prepare the information, collection including number of respondents, frequency of response, and hours of response: The estimated total number of burden hours needed to prepare the information collection is 330,360; the number of respondents is 33,036 generating approximately 33,036 annual responses, the frequency of response is annually; and the estimated time to gather and prepare the necessary documents is 10 hours per submission.

Status of the proposed information collection: Currently approved.

Authority: The Paperwork Reduction Act of 1995, 44 U.S.C., Chapter 35, as amended.

Dated: March 22, 2005.

Frank L. Davis,

General Deputy Assistant Secretary for Housing-Deputy Federal Housing Commissioner.

[FR Doc. 05–6062 Filed 3–25–05; 8:45 am]

BILLING CODE 4210–72–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4971–N–16]

Notice of Submission of Proposed Information Collection to OMB; Mortgagor's Certificate of Actual Cost

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.

This is a request for continued OMB approval to collect the subject information. The Mortgagor's Certificate of Actual Cost is submitted by the mortgagor to certify actual costs of development in order to make an informed determination of mortgage insurance acceptability and to prevent windfall profits. Its use provides a base for evaluating housing programs, labor costs, and physical improvements in connection with the construction of multifamily housing.

DATES: *Comments Due Date:* April 27, 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 (2502–0112) 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: Mortgagor's Certificate of Actual Cost.

Approval Number: 2502–0112

Form Numbers: HUD–92330

Description of the Need for the Information and its Proposed Use: The Mortgagor's Certificate of Actual Cost is submitted by the mortgagor to certify actual costs of development in order to make an informed determination of mortgage insurance acceptability and to prevent windfall profits. Its use provides a base for evaluation housing programs, labor costs, and physical improvements in connection with the construction of multifamily housing.

	Number of respondents	Annual responses	×	Hours per response	=	Burden hours
Reporting Burden	500	1		8		4,000

Total Estimated Burden Hours: 4,000.

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: March 21, 2005.

Wayne Eddins,

Departmental Paperwork Reduction Act Officer, Office of the Chief Information Officer.

[FR Doc. E5–1333 Filed 3–25–05; 8:45 am]

BILLING CODE 4210–27–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4971-N–17]

Notice of Submission of Proposed Information Collection to OMB; Emergency Comment Request; Grant Application for Public Housing Graduation Incentive Bonus

AGENCY: Office of Chief Information Officer, HUD.

ACTION: Notice of proposed information collection.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for emergency review and approval, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

This is a request for a new information collection that will be used to select awardees for the Graduation Incentive Bonus program grants that will be part of the 2005 Notice of Funding Availability.

Congress has authorized this Graduation Incentive Bonus funding as a set aside from the 2005 Public Housing Operating Fund allocation. Funds can be used for any and all operating expenses approved under section 9 of the United States Housing Act of 1937 and 24 CFR part 990.

DATES: *Comments Due Date:* April 27, 2005.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments must be received within seven (30) days from the date of this notice. Comments should refer to the proposal by name and should be sent to: HUD Desk Officer, Office of Management and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Wayne Eddins, Paperwork Reduction Act Compliance Officer, AYO, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; e-mail *Wayne_Eddins@HUD.gov;* telephone (202) 708–2374. This is not a toll-free number. Copies of documentation submitted to OMB may be obtained from Mr. Eddins.

SUPPLEMENTARY INFORMATION: This Notice informs the public that the U.S. Department of Housing and Urban Development (HUD) has submitted to OMB, for emergency processing, a proposed information collection requirement as 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: Public Housing Graduation Incentive Bonus.

Description Of Information Collection: This is a new information collection for selecting applicants for the Public Housing Graduation Incentive Bonus program grants, which will be part of the 2005 Notice of Funding Availability (NOFA).

Congress has authorized this Graduation Incentive Bonus funding as a set aside from the 2005 Public Housing Operating Fund allocation. Funds can be used for any and all operating expenses approved under section 9 of the United States Housing Act of 1937 and 24 CFR part 990.

OMB Control Number: To be assigned.

Agency Form Numbers: Standard grant application form SF 424.

Members of Affected Public: Public Housing Authorities (PHAs).

Estimation of the Total Numbers of Hours Needed to Prepare the Information Collection Including Number of Respondents, Frequency of Responses, and Hours of Response: An estimation of the total number of hours needed to prepare the information collection is 0.75 hours per applicant. The estimated number of respondents is 277. The frequency of response is once per annum. The total public burden is estimated to be 208 hours.

Status: Proposed new collection.

Authority: The Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: March 22, 2005.

Wayne Eddins,

Departmental Paperwork Reduction Act Officer, Office of the Chief Information Officer.

[FR Doc. E5–1372 Filed 3–25–05; 8:45 am]

BILLING CODE 4210–72–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Intent To Prepare a Comprehensive Conservation Plan and Environmental Assessment for the Long Island National Wildlife Refuge Complex

AGENCY: U.S. Fish and Wildlife Service, Department of the Interior.

ACTION: Notice of intent.

SUMMARY: This notice advises the public that the U.S. Fish and Wildlife Service (Service) intends to prepare a Comprehensive Conservation Plan (CCP) and Environmental Assessment (EA) pursuant to the National Environmental Policy Act and its implementing regulations, for the Long Island National Wildlife Refuge (NWR) Complex refuges located in the State of New York. The Long Island NWR Complex is a diverse group of eight refuges totaling over 6,200 acres, and contains most of the habitat types found on Long Island which are important to migratory birds and other wildlife. These refuges include Amagansett, Conscience Point, Lido Beach, Morton, Oyster Bay, Seatuck, Target Rock, and Wertheim NWRs. The refuges are in Suffolk and Nassau Counties, New York. This notice also advises the public that the Service is withdrawing a previous notice, published on May 30, 2000, stating that an Environmental Impact Statement (EIS) would be developed for the refuge complex. Comments already received under the previous notice will be considered during preparation of the subject CCP/EA.

The Service is furnishing this notice in compliance with the National Wildlife Refuge System Administration Act of 1966, as amended (16 U.S.C. 668dd *et seq.*): (1) To advise other agencies and the public of our intentions, and (2) to obtain suggestions and information on the scope of issues

to include in the environmental documents.

DATES: Please provide any comments on the subject CCP/EA by April 15, 2005. The Service will notify the public of subsequent meetings on development of the proposed CCP/EA via **Federal Register** notice and other means, including special mailings, newspaper articles, and Web site announcements. Inquire at the address below for future dates of planning activity.

ADDRESSES: Comments and requests for more information may be addressed to Refuge Manager, Long Island National Wildlife Refuge Complex, P.O. Box 21, Shirley, New York 11976, 631–286–0485.

SUPPLEMENTARY INFORMATION: By Federal law, all lands within the National Wildlife Refuge System are to be managed in accordance with an approved CCP. The CCP guides management decisions and identifies refuge goals, long-range objectives, and strategies for achieving refuge purposes. Public input into this planning process is essential. The CCP will provide other agencies and the public with a clear understanding of the desired conditions for the refuges and how the Service will implement management strategies. Public input into this planning process is essential.

The Service began soliciting information from the public in 2000 via open houses, meetings, and written comments. Special mailings, newspaper articles, and Web site announcements helped to inform the public in the general area near each refuge of the time and place of opportunities for input to the CCP.

The refuge complex has recently completed two EAs independent of the CCP process; one EA specifically addressed the issue of deer hunting at Wertheim NWR, and another EA addressed development of a headquarters and visitor center at Wertheim NWR. The Service has determined that, at this time, an EA is a more appropriate document than an EIS to accompany the CCP.

The need to prepare an EIS is a matter of professional judgment requiring consideration of all issues in question. If the EA determines that the CCP will constitute a major Federal action significantly affecting the quality of the human environment, an EIS will then be prepared. The primary purpose of an EIS is to ensure that a full and fair discussion of all significant environmental impacts occurs and to inform decision makers and the public of the reasonable alternatives that would avoid or minimize adverse impacts or enhance the quality of the human environment.

Review of this project will be conducted in accordance with the requirements of the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 *et seq.*), NEPA Regulations (40 CFR 1500–1508), other appropriate Federal laws and regulations, and Service policies and procedures for compliance with those regulations. Concurrent with the CCP process, the Service will conduct a wilderness review and incorporate a summary of the review into the CCP, as well as include compatibility determinations for all applicable refuge uses. We estimate that the Draft CCP/EA will be available in the summer 2005.

Dated: March 3, 2005.

Richard O. Bennett,

Deputy Regional Director, U.S. Fish and Wildlife Service, Hadley, Massachusetts.

[FR Doc. 05–6033 Filed 3–25–05; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–920–09–1320–EL, WYW162491]

Coal Lease Exploration License, WY

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of invitation for coal exploration license.

SUMMARY: Pursuant to section 2(b) of the Mineral Leasing Act of 1920, as amended by Section 4 of the Federal Coal Leasing Amendments Act of 1976, 90 Stat. 1083, 30 U.S.C. 201(b), and to the regulations adopted as 43 CFR 3410, all interested parties are hereby invited to participate with Powder River Coal Company on a pro rata cost sharing basis in its program for the exploration of coal deposits owned by the United States of America in the following-described lands in Campbell County, WY:

T. 41 N., R. 69 W., 6th P.M., Wyoming
Sec. 5: Lots 8, 9, and 16;
T. 42 N., R. 69 W., 6th P.M., Wyoming
Sec. 18: Lot 13 (S½);
Sec. 19: Lots 6 (S½), 7, 9, 11 (NW¼), 12, 15;
Sec. 29: Lots 4 (W½), 5, 12, 13, 14 (SW¼);
Sec. 30: Lots 5 through 7;
Sec. 32: Lots 3 (W½), 4, 5 (N½).

Containing 693.9025 acres, more or less.

All of the coal in the above-described land consists of unleased Federal coal within the Powder River Basin Known Coal Leasing Area and the Powder River Basin Known Recoverable Coal Resources Area. The purpose of the exploration program is to delineate the cropline for the Wyodak-Anderson coal seam and to obtain coal structure and quality data.

ADDRESSES: Copies of the exploration plan are available for review during normal business hours in the following offices (serialized under number WYW162491): Bureau of Land Management, Wyoming State Office, 5353 Yellowstone Road, P.O. Box 1828, Cheyenne, WY 82003; and Bureau of Land Management, Casper Field Office, 2987 Prospector Drive, Casper, WY 82604.

SUPPLEMENTARY INFORMATION: The proposed exploration program is fully described and will be conducted pursuant to an exploration plan to be approved by the Bureau of Land Management. This notice of invitation will be published in The News-Record of Gillette, WY, once each week for two consecutive weeks beginning the week of March 28, 2005, and in the **Federal Register**. Any party electing to participate in this exploration program must send written notice to both the Bureau of Land Management and Powder River Coal Company no later than thirty days after publication of this invitation in the **Federal Register**. The written notice should be sent to the following addresses: Powder River Coal Company, Attn: Karen Lohkamp, Caller Box 3034, Gillette, WY 82717–3034, and the Bureau of Land Management, Wyoming State Office, Branch of Solid Minerals, Attn: Julie Weaver, P.O. Box 1828, Cheyenne, WY 82003.

The foregoing is published in the **Federal Register** pursuant to 43 CFR 3410.2–1(c)(1).

Dated: February 1, 2005.

Phillip C. Perlewitz,

Acting Deputy State Director, Minerals and Lands.

[FR Doc. 05–5455 Filed 3–25–05; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[MT–962–05–1420–BJ]

Montana: Filing of Plats of Amended Protraction Diagrams

AGENCY: Bureau of Land Management, Montana State Office, Interior.

ACTION: Notice of filing of plats of amended protraction diagrams.

SUMMARY: The Bureau of Land Management (BLM) will file the plats of the amended protraction diagrams of the lands described below in the BLM

Montana State Office, Billings, Montana, (30) days from the date of publication in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Steven G. Schey, Acting Chief, Branch of Cadastral Survey, Bureau of Land Management, 5001 Southgate Drive, P.O. Box 36800, Billings, Montana, 59107–6800, telephone (406) 896–5009.

SUPPLEMENTARY INFORMATION: The amended protraction diagrams were prepared at the request of the U.S. Forest Service and are necessary to accommodate Revision of Primary Base Quadrangle Maps for the Geometronics Service Center.

The lands for the prepared amended protraction diagrams are:

Principal Meridian, Montana

Tps. 3, 4, 5, 6, 7, 8, and 9 S., Rs. 13, 14, 15, 16, 18, 19, and 20 E.

The plat, representing the Amended Protraction Diagram 6 Index of unsurveyed Townships 3, 4, and 5 South, Ranges 13, 14, 15, and 16 East, Principal Meridian, Montana, was accepted September 15, 2004.

The plat, representing Amended Protraction Diagram 6 of unsurveyed Township 3 South, Range 13 East, Principal Meridian, Montana, was accepted September 15, 2004.

The plat, representing Amended Protraction Diagram 6 of unsurveyed Township 3 South, Range 14 East, Principal Meridian, Montana, was accepted September 15, 2004.

The plat, representing Amended Protraction Diagram 6 of unsurveyed Township 3 South, Range 15 East, Principal Meridian, Montana, was accepted September 15, 2004.

The plat, representing Amended Protraction Diagram 6 of unsurveyed Township 4 South, Range 13 East, Principal Meridian, Montana, was accepted September 15, 2004.

The plat, representing Amended Protraction Diagram 6 of unsurveyed Township 4 South, Range 14 East, Principal Meridian, Montana, was accepted September 15, 2004.

The plat, representing Amended Protraction Diagram 6 of unsurveyed Township 5 South, Range 13 East, Principal Meridian, Montana, was accepted September 15, 2004.

The plat, representing Amended Protraction Diagram 6 of unsurveyed Township 5 South, Range 14 East, Principal Meridian, Montana, was accepted September 15, 2004.

The plat, representing Amended Protraction Diagram 6 of unsurveyed Township 5 South, Range 15 East, Principal Meridian, Montana, was accepted September 15, 2004.

The plat, representing Amended Protraction Diagram 6 of unsurveyed Township 5 South, Range 16 East, Principal Meridian, Montana, was accepted September 15, 2004.

The plat, representing the Amended Protraction Diagram 7 Index of unsurveyed Townships 6, 7, 8, and 9 South, Ranges 13, 14, 15, and 16 East, Principal Meridian, Montana, was accepted September 16, 2004.

The plat, representing Amended Protraction Diagram 7 of unsurveyed Township 6 South, Range 13 East, Principal Meridian, Montana, was accepted September 16, 2004.

The plat, representing Amended Protraction Diagram 7 of unsurveyed Township 6 South, Range 14 East, Principal Meridian, Montana, was accepted September 16, 2004.

The plat, representing Amended Protraction Diagram 7 of unsurveyed Township 6 South, Range 15 East, Principal Meridian, Montana, was accepted September 16, 2004.

The plat, representing Amended Protraction Diagram 7 of unsurveyed Township 6 South, Range 16 East, Principal Meridian, Montana, was accepted September 16, 2004.

The plat, representing Amended Protraction Diagram 7 of unsurveyed Township 7 South, Range 13 East, Principal Meridian, Montana, was accepted September 16, 2004.

The plat, representing Amended Protraction Diagram 7 of unsurveyed Township 7 South, Range 14 East, Principal Meridian, Montana, was accepted September 16, 2004.

The plat, representing Amended Protraction Diagram 7 of unsurveyed Township 7 South, Range 15 East, Principal Meridian, Montana, was accepted September 16, 2004.

The plat, representing Amended Protraction Diagram 7 of unsurveyed Township 7 South, Range 16 East, Principal Meridian, Montana, was accepted September 16, 2004.

The plat, representing Amended Protraction Diagram 7 of unsurveyed Township 8 South, Range 13 East, Principal Meridian, Montana, was accepted September 16, 2004.

The plat, representing Amended Protraction Diagram 7 of unsurveyed Township 8 South, Range 14 East, Principal Meridian, Montana, was accepted September 16, 2004.

The plat, representing Amended Protraction Diagram 7 of unsurveyed Township 8 South, Range 15 East, Principal Meridian, Montana, was accepted September 16, 2004.

The plat, representing Amended Protraction Diagram 7 of unsurveyed Township 8 South, Range 16 East, Principal Meridian, Montana, was accepted September 16, 2004.

The plat, representing Amended Protraction Diagram 7 of unsurveyed Township 9 South, Range 13 East, Principal Meridian, Montana, was accepted September 16, 2004.

The plat, representing Amended Protraction Diagram 7 of unsurveyed Township 9 South, Range 14 East, Principal Meridian, Montana, was accepted September 16, 2004.

The plat, representing Amended Protraction Diagram 7 of unsurveyed Township 9 South, Range 16 East, Principal Meridian, Montana, was accepted September 16, 2004.

The plat, representing the Amended Protraction Diagram 8 Index of unsurveyed Townships 7, 8, and 9 South, Ranges 17, 18, 19, and 20 East, Principal Meridian, Montana, was accepted September 16, 2004.

The plat, representing Amended Protraction Diagram 8 of unsurveyed Township 7 South, Range 17 East, Principal Meridian, Montana, was accepted September 16, 2004.

The plat, representing Amended Protraction Diagram 8 of unsurveyed Township 7 South, Range 18 East, Principal Meridian, Montana, was accepted September 16, 2004.

The plat, representing Amended Protraction Diagram 8 of unsurveyed Township 8 South, Range 17 East, Principal Meridian, Montana, was accepted September 16, 2004.

The plat, representing Amended Protraction Diagram 8 of unsurveyed Township 8 South, Range 18 East, Principal Meridian, Montana, was accepted September 16, 2004.

The plat, representing Amended Protraction Diagram 8 of unsurveyed Township 9 South, Range 17 East, Principal Meridian, Montana, was accepted September 16, 2004.

The plat, representing Amended Protraction Diagram 8 of unsurveyed Township 9 South, Range 18 East, Principal Meridian, Montana, was accepted September 16, 2004.

The plat, representing Amended Protraction Diagram 8 of unsurveyed Township 9 South, Range 19 East, Principal Meridian, Montana, was accepted September 16, 2004.

The plat, representing Amended Protraction Diagram 8 of unsurveyed Township 9 South, Range 20 East, Principal Meridian, Montana, was accepted September 16, 2004.

We will place copies of the plats of the amended protraction diagrams we described in the open files. They will be available to the public as a matter of information.

If BLM receives a protest against these amended protraction diagrams, as shown on these plats, prior to the date of the official filings, we will stay the filings pending our consideration of the protest.

We will not officially file these plats of the amended protraction diagrams until the day after we have accepted or dismissed all protests and they have become final, including decisions or appeals.

Dated: March 21, 2005.

Steven G. Schey,

Acting Chief, Branch of Cadastral Survey, Division of Resources.

[FR Doc. 05–6034 Filed 3–25–05; 8:45 am]

BILLING CODE 4310–$$–P

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Notice of Availability of the Proposed Notice of Sale for Outer Continental Shelf (OCS) Oil and Gas Lease Sale 196 in the Western Gulf of Mexico (GOM)

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Notice of availability of the proposed Notice of Sale for proposed Sale 196.

SUMMARY: The MMS announces the availability of the proposed Notice of Sale for proposed Sale 196 in the Central GOM OCS. This Notice is published pursuant to 30 CFR 256.29(c) as a matter of information to the public. With regard to oil and gas leasing on the OCS, the Secretary of the Interior, pursuant to section 19 of the OCS Lands Act, provides the affected States the opportunity to review the proposed Notice. The proposed Notice sets forth the proposed terms and conditions of the sale, including minimum bids, royalty rates, and rentals.

DATES: Comments on the size, timing, or location of proposed Sale 196 are due from the affected States within 60 days following their receipt of the proposed Notice. The final Notice of Sale will be published in the **Federal Register** at least 30 days prior to the date of bid opening. Bid opening is currently scheduled for August 17, 2005.

SUPPLEMENTARY INFORMATION: The proposed Notice of Sale for Sale 196 and a ''Proposed Sale Notice Package'' containing information essential to potential bidders may be obtained from the Public Information Unit, Gulf of Mexico Region, Minerals Management Service, 1201 Elmwood Park Boulevard, New Orleans, Louisiana 70123–2394. Telephone: (504) 736–2519.

Dated: March 18, 2005.

R. M. ''Johnnie'' Burton,

Director, Minerals Management Service.

[FR Doc. 05–6048 Filed 3–25–05; 8:45 am]

BILLING CODE 4310–MR–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Under the Clean Water Act

In accordance with Departmental policy, 28 CFR § 50.7, notice is hereby given that on March 2, 2005 a proposed Consent Decree in *United States and the State of Nebraska* v. *City of McCook, Nebraska,* Case No. 8:05CV93 was lodged with the United States District Court for the District of Nebraska.

In this action the United States sought civil penalties and injunctive relief arising from the City of McCook's failure to comply with Clean Water Act (CWA), the Safe Drinking Water Act (SDWA), and its National Pollution Discharge Elimination System permit issued under the CWA. Under the Consent Decree, the City will comply with the SDWA and its maximum contaminant levels (MCLs) for nitrates, uranium, and for arsenic when that MCL comes into effect in 2006 in its drinking water supply. It will agree to pay a civil penalty of $136,000, of which $131,000 will go to EPA and $5000 to the State. ($5000 is the maximum penalty the State can impose by statute). The City also agrees to comply with the CWA and the terms of its NPDES Permit and perform injunctive relief including, among other things, continuous monitoring and to pay a total civil penalty to EPA and the State of $89,000.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611, and should refer to *United States and the State of Nebraska* v. *City of McCook, Nebraska,* D.J. Ref. 90–5–1–1–08273.

The Consent Decree may be examined at the Office of the United States Attorney, District of Nebraska at 1620 Dodge Street, Suite 1400, Omaha, NE 68102 and at U.S. EPA Region 7, 901 N. 5th Street, Kansas City, Kansas 66101. During the comment period, the consent decree may be examined on the following Department of Justice Web site, *http://www.usdoj.gov/enrd/open.html.* A copy of the Consent Decree may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611, or by faxing or e-mailing a request to Tonia Fleetwood (*tonia.fleetwood@usdoj.gov*), fax no. (202) 514–0097, phone confirmation number (202) 514–1547. In requesting a copy from the Consent Decree Library, please enclose a check in the amount of $11.00 (25 cents per page reproduction cost) payable to the U.S. Treasury.

Catherine R. McCabe,

Deputy Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 05–5979 Filed 3–25–05; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Bureau of Alcohol, Tobacco, Firearms and Explosives

Agency Information Collection Activities: Proposed Collection; Comments Requested; Clarification

ACTION: 30-day notice of information collection under review: Investigator integrity questionnaire.

The Department of Justice published a 30-Day Notice of Information Collection Under Review on February 22, 2005, on page 8635; the comment date expires on March 24, 2005. A second notice was published in the **Federal Register** on March 1, 2005, on page 9979, in error. That notice is withdrawn. The correct comment expiration date for the 30-day notice is March 24, 2005.

Dated: March 23, 2005.

Brenda E. Dyer,

Department Clearance Officer, Department of Justice.

[FR Doc. 05–6099 Filed 3–24–05; 10:28 am]

BILLING CODE 4410–FY–P

DEPARTMENT OF JUSTICE

Office of Justice Programs

Agency Information Collection Activities: Proposed Collection; Comments Requested

ACTION: 30–Day Notice of Information Collection Under Review: National Judicial Reporting Program (NJRP).

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 243, page 76012 on December 20, 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 April 27, 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, D.C. 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:* National Judicial Reporting Programs (NJRP).

(3) *Agency form number, if any, and the applicable component of the Department sponsoring the collection:* Form Number: NJRP–1. Bureau of Justice Statistics, Office of Justice Programs, Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* State Court Authorities. The National Judicial Reporting Program (NJRP) is the only collection effort that provides an ability to maintain important statistics on felons convicted and sentenced in state courts. The NJRP enables the Bureau of Justice Statistics, Federal, State, and local correctional administrators, as well as, legislators, researchers, and planners to track changes in the numbers and types of offenses and sentences felons convicted in state courts receive. The NJRP also tracks changes in the demographics, conviction type, number of charges, sentence length, and time between arrest, conviction and sentencing of felons convicted in state courts.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond/reply:* This survey will collect data for approximately 450,772 felons, from 300 responding jurisdictions, at two-year intervals. The annual burden on the respondents is based on the number of hours involved in either providing an automated data file or printout from an existing data base, or manually transferring the information from court records to the NJRP–1 form. The public reporting burden for this collection of information is estimated to average 8.013 hours per respondent.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The burden hours have been estimated based on the following calculations: 300 Respondents × 8.013 Hours = 2,404. Therefore, the total estimated burden hours associated with this collection are 2,404.

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: March 22, 2005.

Brenda E. Dyer,

Department Clearance Officer, Department of Justice.

[FR Doc. 05–6019 Filed 3–25–05; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF JUSTICE

Office of Justice Programs

Agency Information Collection Activities: Proposed Collection; Comments Requested

ACTION: 30-day notice of information collection under review: categorical assistance progress report.

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 70, Number 1, page 123 on January 3, 2005, allowing for a 60 day comment period.

The purpose of this notice is to allow for an additional 30 days for public comment until April 27, 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:* Categorical Assistance Progress Report.

(3) *Agency form number, if any, and the applicable component of the Department sponsoring the collection:*

Form Number: OJP FORM 4587/1. Office of Justice Programs.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* State, local or tribal government. *Other:* Federal government, individuals or households, not-for-profit institutions. The Uniform Administrative Requirements for Grants and Cooperative Agreements—28 CFR part 66, and OMB Circular A–100—authorizes the Department of Justice to collect information from grantees to report on project activities and accomplishments. Grantees that are recipients of a discretionary grant, as well as some formula grants, are required by OJP to report project activities and accomplishments by submitting Categorical Assistance Progress Reports. These reports are expected to include details regarding the stage of project development and data regarding accomplishments to date.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond/reply:* It is estimated that 10, 366 respondents will take approximately two hours to complete each semi-annual submission of the Categorical Assistance Progress Report for a total of four hours annually per grantee.

(6) *An estimate of the total public burden (in hours) associated with the collection:* There are an estimated 44,164 total annual burden hours associated with this collection.

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: March 22, 2005.

Brenda E. Dyer,

Department Clearance Officer, Department of Justice.

[FR Doc. 05–6020 Filed 3–25–05; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–53,129]

Bayer Pharmaceuticals Corporation Pharmaceutical Division, West Haven, CT; Including Employees of Bayer Pharmaceuticals Corporation, Pharmaceutical Division, West Haven, CT, Located in the Following States: TA–W–53,129QQ Delaware, TA–W–53,129RR Iowa, TA–W–53,129SS Maine, TA–W–53,129TT Nebraska, TA–W–53,129UU Vermont, TA–W–53,129VV District Of Columbia

Amended Notice of Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Notice of Certification Regarding Eligibility to Apply for Worker Adjustment Assistance on October 24, 2003, applicable to workers of Bayer Pharmaceuticals Corporation, Pharmaceutical Division, West Haven, Connecticut. The notice was published in the **Federal Register** on November 28, 2003 (68 FR 66878). The certification was amended on February 1, 2005 to include workers of the West Haven, Connecticut facility of the subject firm located in many states throughout the United States. The notice was published in the **Federal Register** on February 22, 2005 (70 FR 8636–8637).

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. New information shows that workers were separated involving employees of the West Haven, Connecticut facility of Bayer Pharmaceuticals Corporation, Pharmaceutical Division located in the above mentioned states. These employees provided sales support services for the production of pharmaceutical products at the West Haven, Connecticut location of the subject firm.

Based on these findings, the Department is amending this certification to include employees of the West Haven, Connecticut facility of Bayer Pharmaceuticals Corporation, Pharmaceutical Division, located in the above mentioned states.

The intent of the Department's certification is to include all workers of Bayer Pharmaceuticals Corporation, Pharmaceutical Division, West Haven, Connecticut, who were adversely affected by increased imports.

The amended notice applicable to TA–W–53,129 is hereby issued as follows:

''All workers of Bayer Pharmaceuticals Corporation, Pharmaceutical Division, West Haven, Connecticut (TA–W–53,129), including employees of Bayer Pharmaceuticals Corporation, Pharmaceutical Division, West Haven, Connecticut, located in the following states: Delaware (TA–W–53,129QQ), Iowa (TA–W–53,129RR), Maine (TA–W–53,129SS), Nebraska (TA–W–53,129TT), Vermont (TA–W–53,129UU) and District of Columbia (TA–W–53,129VV), who became totally or partially separated from employment on or after October 1, 2002, through October 24, 2005, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.''

Signed at Washington, DC this 14th day of March 2005.

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E5–1355 Filed 3–25–05; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 (''the Act'') and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Division of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Division of Trade Adjustment Assistance, at the address shown below, not later than April 7, 2005.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Division of Trade Adjustment Assistance, at the address

shown below, not later than April 7, 2005.

The petitions filed in this case are available for inspection at the Office of the Director, Division of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, Room C–5311, 200 Constitution Avenue, NW., Washington, DC 20210.

Signed at Washington, DC this 11th day of March 2005.

Timothy Sullivan,

Director, Division of Trade Adjustment Assistance.

APPENDIX

[Petitions instituted between 02/14/2005 and 02/25/2005]

TA–W	Subject firm (petitioners)	Location	Date of institution	Date of petition
56,566	Black and Decker (Comp)	Jackson, TN	02/14/2005	02/11/2005
56,567	Kellwood Company—KMRO (Comp)	Rutherford, TN	02/14/2005	02/10/2005
56,568	Cleyn and Tinker International, Inc. (Comp)	Malone, NY	02/14/2005	02/07/2005
56,569	Wickers Sportswear, Inc. (Comp)	Selmer, TN	02/14/2005	02/07/2005
56,570	Penn Mould Industries, Inc. (USWA)	Washington, PA	02/14/2005	02/10/2005
56,571	Graham Packaging Plastic Products, Inc. (State).	La Mirada, CA	02/14/2005	02/10/2005
56,572	Hickory Finishing, Inc. (Comp)	Hickory, NC	02/14/2005	02/12/2005
56,573	Charleston Hosiery, Inc. (Comp)	Biscoe, NC	02/14/2005	02/14/2005
56,574	Skillsoft (NPW)	Nashua, NH	02/14/2005	01/31/2005
56,575	Elger Industries, Inc. (Wkrs)	Verona, MS	02/14/2005	02/04/2005
56,576	Danaher Tool Group (Comp)	Springfield, MA	02/15/2005	02/14/2005
56,577	Becton Dickinson and Company (Comp)	Seneca, SC	02/15/2005	02/15/2005
56,578	GE Security (State)	Arden Hills, MN	02/15/2005	02/14/2005
56,579	Bulklift (UNITE)	Carpentersville, IL	02/15/2005	02/01/2005
56,580	Milliken & Company (Comp)	Blacksburg, SC	02/15/2005	02/11/2005
56,581	General Aluminum Manufacturing Company (GMP).	Cedarburg, WI	02/16/2005	02/15/2005
56,582	TI Automotive (Comp)	Normal, IL	02/16/2005	02/15/2005
56,583	Agilent Technologies (State)	Loveland, CO	02/16/2005	02/14/2005
56,584	Valeo Electrical Systems, Inc. (IUECWA)	Rochester, NY	02/16/2005	01/24/2005
56,585	Latronics, Inc. (USWA)	Latrobe, PA	02/16/2005	02/10/2005
56,586	Lawson-Hemphill Sales, Inc. (Comp)	Spartanburg, SC	02/16/2005	01/24/2005
56,587	Jeanerette Sugar Co., Inc. (State)	Jeanerette, LA	02/16/2005	02/15/2005
56,588	Guy Brown (State)	Chatsworth, CA	02/16/2005	01/31/2005
56,589	Nokia (State)	Fort Worth, TX	02/17/2005	02/16/2005
56,590	Maple Mountain Associates (State)	Milford, NH	02/17/2005	02/16/2005
56,591	Sun Micro Systems, Inc. (State)	Burlington, MA	02/17/2005	02/17/2005
56,592	North East Graphics (Wkrs)	Waymart, PA	02/17/2005	02/08/2005
56,593	Geneva Manufacturing Corp. (Wkrs)	Geneva, IN	02/17/2005	02/07/2005
56,594	DuPont Photomasks, Inc. (Comp)	Kokomo, IN	02/17/2005	02/16/2005
56,595	Gardall Safe Corp. (USWA)	Syracuse, NY	02/17/2005	02/07/2005
56,596	Duro Textiles, LLC (Comp)	Fall River, MA	02/17/2005	01/31/2005
56,597	Fairey Finishing (UNITE)	Durham, NC	02/18/2005	02/07/2005
56,598	Electrolux Home Products (Comp)	Greenville, MI	02/18/2005	02/14/2005
56,599	Dorby Frocks, Ltd. (Wkrs)	New York, NY	02/18/2005	01/26/2005
56,600	Tango Pacific (State)	Portland, OR	02/18/2005	02/17/2005
56,601	Fort Howard Steel (IBB)	Green Bay, WI	02/18/2005	02/16/2005
56,602	Jetter Knitting, Inc. (Comp)	Fort Payne, AL	02/18/2005	02/16/2005
56,603	ATK—Ordnance Systems (UAW)	Janesville, WI	02/18/2005	02/17/2005
56,604	Toshiba America Consumer Products, LLC (IBEW).	Lebanon, TN	02/18/2005	02/17/2005
56,605	Pennsylvania Veneer Corp. (Comp)	Clearfield, PA	02/18/2005	02/14/2005
56,606	Solo Cup Company (IBEW)	Springfield, MO	02/18/2005	02/15/2005
56,607	Superior Uniform Group, Inc. (Comp)	Lexington, MS	02/18/2005	02/16/2005
56,608	Eaton Corporation (Comp)	Three Rivers, MI	02/22/2005	02/18/2005
56,609	Celanese Acetate, LLC (Comp)	Rock Hill, SC	02/22/2005	02/18/2005
56,610	Silgan Containers (Wkrs)	Oconomowoc, WI	02/22/2005	02/18/2005
56,611	Global Accessories, Inc. (Comp)	Phoenix, AZ	02/22/2005	02/17/2005
56,612	A.O. Smith Electrical Products Company (Comp).	McMinnville, TN	02/22/2005	02/08/2005
56,613	Valtex, LLC (Comp)	Scottsboro, AL	02/22/2005	02/18/2005
56,614	White Knight Engineered Products, Inc. (Comp).	Childersburg, AL	02/22/2005	02/07/2005
56,615	Detroit Stoker Company (State)	Monroe, MI	02/22/2005	02/14/2005
56,616	R.J. Reynolds Tobacco Company (Comp)	Richmond, VA	02/22/2005	02/17/2005
56,617	Synalloy Corporation (State)	Spartanburg, SC	02/22/2005	02/18/2005
56,618	Staubli Corporation (Comp)	Duncan, SC	02/22/2005	02/17/2005
56,619	Springs Industries (Comp)	Griffin, GA	02/22/2005	02/18/2005
56,620	Springs Industries (Comp)	Hartwell, GA	02/22/2005	02/18/2005
56,621	Triumph Engineered Solutions, Inc. (IAMAW)	Brookfield, WI	02/23/2005	02/18/2005
56,622	Inland (Wkrs)	Raleigh, NC	02/23/2005	02/16/2005
56,623	Sussex Zinc Plating, Inc. (State)	Sussex, WI	02/23/2005	02/21/2005

APPENDIX—Continued

[Petitions instituted between 02/14/2005 and 02/25/2005]

TA–W	Subject firm (petitioners)	Location	Date of institution	Date of petition
56,624	General Motors Corp. (Comp)	Pontiac, MI	02/23/2005	02/15/2005
56,625	Longwear Hosiery Mill, Inc. (Comp)	Hillebran, NC	02/23/2005	02/21/2005
56,626	Tee Jays Manufacturing Co., Inc. (Comp)	Florence, AL	02/23/2005	02/21/2005
56,627	Codet Newport Corp. (Wkrs)	Colebrook, NH	02/23/2005	02/18/2005
56,628	Vishay Dale Electronics, Inc. (State)	Norfolk, NE	02/24/2005	02/22/2005
56,629	Datex—Ohmeda, Inc. (Comp)	Louisville, CO	02/24/2005	02/21/2005
56,630	Sherwood Harsco Gas Service (USWA)	Washington, PA	02/24/2005	02/22/2005
56,631	Collins and Aikman (USWA)	Canton, OH	02/25/2005	02/22/2005
56,632	Celestica (Comp)	Mt. Pleasant, IA	02/25/2005	02/22/2005
56,633	Syracuse China (Wkrs)	Syracuse, NY	02/25/2005	02/08/2005
56,634	Kopin Corporation (Comp)	Taunton, MA	02/25/2005	02/16/2005
56,635	Green Acre Creation, Inc. (Comp)	Long Island City, NY	02/25/2005	02/08/2005
56,636	M.J. Soffee Co. (Comp)	Bladenboro, NC	02/25/2005	02/09/2005
56,637	Oneida Ltd. (Comp)	Sherrill, NY	02/25/2005	02/21/2005
56,638	Valspar (Wkrs)	Galax, VA	02/25/2005	02/17/2005
56,639	Prism Technology and Assemblies, LLC (Comp).	Meadville, PA	02/25/2005	02/10/2005
56,640	ATS (Automation Tooling Systems) (State)	McAllen, TX	02/25/2005	02/23/2005
56,641	Stant Manufacturing, Inc. (UAW)	Connersville, IN	02/25/2005	02/01/2005
56,642	Turtle Fur Company (Comp)	Morrisville, VT	02/25/2005	02/16/2005
56,643	America Online, Inc. (Wkrs)	Oklahoma City, OK	02/25/2005	02/16/2005
56,644	Truth Hardware (GMP)	West Hazleton, PA	02/25/2005	02/22/2005
56,645	Zodiac American Pools (Wkrs)	Midway, GA	02/25/2005	02/02/2005
56,646	Wheatland Tube Company (USWA)	Warren, OH	02/25/2005	02/04/2005
56,647	Stillwater Forest Products (Comp)	Kalispell, MT	02/25/2005	02/23/2005

[FR Doc. E5–1359 Filed 3–25–05; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–53,753]

Citation Corporation, Camden, TN; Notice of Negative Determination on Reconsideration on Remand

The United States Court of International Trade (USCIT) granted the Secretary of Labor's motion for a voluntary remand in *Former Employees of Citation Corporation* v. *Elaine Chao, U.S. Secretary of Labor,* Court No. 04–00198, on February 7, 2005. The Department of Labor (Department) requested the remand to clarify the basis for its denial of the Trade Adjustment Assistance (TAA) petition dated December 9, 2003, filed by the Tennessee AFL–CIO on behalf of workers of the subject firm.

The Department terminated the investigation of TA–W–53,753 because no new information or change in circumstance was evident which would have resulted in the reversal of a previous negative determination applicable to the same worker group (TA–W–51,871, denied on June 16, 2003). The Notice of Termination was issued on December 11, 2003 and published in the **Federal Register** on January 7, 2004 (69 FR 940).

By letter dated February 5, 2004, the union representative requested administrative review of the Department's action regarding the subject worker group.

By letter dated March 17, 2004, the Department dismissed the request for reconsideration. The Dismissal of Application for Reconsideration was issued on March 30, 2004 and published in the **Federal Register** on April 6, 2004 (69 FR 18107).

On May 12, 2004, the Plaintiff applied to the USCIT for judicial review, asserting that the Department's determination regarding petitioners TA–W–51,871 and TA–W–53,753 were in error.

Petitioners have sixty days from the date the Department's determination is published in the **Federal Register** to file for judicial review. The determination regarding TA–W–51,871 was published in the **Federal Register** on July 3, 2003 (68 FR 39976). The period to seek judicial review of TA–W–51,871 expired on September 1, 2003. Because the Plaintiff did not file an appeal with the USCIT until May 12, 2004, the determination regarding TA–W–51,871 is final and not subject to judicial review. Therefore, the issue before the USCIT is whether the Department's decision to terminate the investigation for TA–W–53,753 was in error.

A careful review of the documents reveals that both the worker group and the circumstance of the workers' separations in TA–W–53,753 and TA–W–51,871 are the same. Both petitions were filed on behalf of the same worker group, 226 employees of Citation Corporation in Camden, Tennessee and the same circumstance, the closing of the plant on December 12, 2002.

Since the same worker group and circumstance causing the workers' separation had been investigated and a final decision denying certification had been issued in TA–W–51,871, the termination of the investigation of TA–W–53,753 was proper in order to preserve administrative resources. Petitioners had an opportunity to timely seek judicial review of TA–W–51,871 and failed to do so. It would be inappropriate for petitioners to evade the consequences of their failure timely seek judicial review by merely filing an identical petition.

Conclusion

After reconsideration on remand, I affirm the original notice of negative determination of eligibility to apply for adjustment assistance for workers and former workers of Citation Corporation, Camden, Tennessee.

Signed at Washington, DC, this 9th day of March 2005.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E5–1345 Filed 3–25–05; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–56,449]

Fisher Scientific Company, A Division of Fisher Scientific International, Inc., Laboratory Equipment Division, Indiana, PA; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, as amended, an investigation was initiated on February 1, 2005, in response to a petition filed by a company official on behalf of workers at Fisher Scientific Company, a division of Fisher Scientific International, Inc., Laboratory Equipment Division, Indiana, Pennsylvania.

The petitioner has requested that the petition be withdrawn. Consequently, the investigation has been terminated.

Signed in Washington, DC, this 8th day of March, 2005.

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E5–1349 Filed 3–25–05; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 (''the Act'') and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Division of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Division of Trade Adjustment Assistance, at the address shown below, not later than April 7, 2005.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Division of Trade Adjustment Assistance, at the address shown below, not later than April 7, 2005.

The petitions filed in this case are available for inspection at the Office of the Director, Division of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, Room C–5311, 200 Constitution Avenue, NW., Washington, DC 20210.

Signed at Washington, DC, this 15th day of March, 2005.

Timothy Sullivan,

Director, Division of Trade Adjustment Assistance.

APPENDIX

[Petitions instituted between 02/28/2005 and 03/04/2005]

TA–W	Subject firm (petitioners)	Location	Date of institution	Date of petition
56,648	Hamilton Sundstrand (Comp)	Grand Junction, CO	02/28/2005	02/22/2005
56,649	Seneca Foods Corp. (Wkrs)	Dayton, WA	02/28/2005	02/22/2005
56,650	Barnes Supply Co., Inc. (Comp)	Collinsville, VA	02/28/2005	02/24/2005
56,651	Profile Metal Forming (Comp)	Tullahoma, TN	02/28/2005	02/24/2005
56,652	Vishay Sprague (Comp)	Sanford, ME	02/28/2005	02/25/2005
56,653	Mercury Marine—Brunswick (Wkrs)	Fond du Lac, WI	02/28/2005	02/25/2005
56,654	ECC Corporation (Wkrs)	Jefferson, MA	02/28/2005	02/17/2005
56,655	BASF Corporation Agricultural Products (Comp).	Beaumont, TX	02/28/2005	02/02/2005
56,656	ICS Cutting Tools (Comp)	Casco, WI	03/01/2005	02/14/2005
56,657	Vernay Laboratories, Inc. (IUECWA)	Yellow Springs, OH	03/01/2005	02/14/2005
56,658	Pacific Coast Feather Co. (Wkrs)	Henderson, NC	03/01/2005	02/21/2005
56,659	Healthco International, LLC (Comp)	Dixville Notch, NH	03/01/2005	02/28/2005
56,660	GE Security (Comp)	Gladewater, TX	03/02/2005	02/28/2005
56,661	Johnston Textiles, Inc. (Wkrs)	Valley, AL	03/02/2005	03/01/2005
56,662	Olsonite Corporation (Comp)	Newnan, GA	03/02/2005	02/17/2005
56,663	Sohnen Enterprises, Inc. (State)	Santa Fe Spring, CA	03/02/2005	02/18/2005
56,664	Osram Sylvania (Comp)	Bangor, ME	03/02/2005	02/17/2005
56,665	Casual Lamps (State)	Gardena, CA	03/02/2005	02/25/2005
56,666	Aim Nationalease (Comp)	Old Fort, NC	03/02/2005	02/14/2005
56,667	Industrial Distribution Group (Comp)	West Jefferson, NC	03/03/2005	03/03/2005
56,668	Agrium U.S., Inc. (Comp)	Kenai, AK	03/03/2005	03/02/2005
56,669	Positive Systems, Inc. (Comp)	Whitefish, MT	03/03/2005	03/02/2005
56,670	Carolina Mills, Inc. (NC)	Maiden, NC	03/03/2005	02/14/2005
56,671	TSI Logistics (Wkrs)	Stockbridge, GA	03/03/2005	03/02/2005
56,672	Golden Northwest Aluminum (USWA)	Goldendale, WA	03/03/2005	03/01/2005
56,673	Keystone Weaving Mills, Inc. (Comp)	York, PA	03/03/2005	03/01/2005
56,674	CTS Wireless Componets (Wkrs)	Albuquerque, NM	03/03/2005	02/28/2005
56,675	Continental Tire North America (Wkrs)	Akron, OH	03/03/2005	02/02/2005
56,676	Regent Meg Co. (Wkrs)	San Francisco, CA	03/03/2005	03/01/2005
56,677	Wyeth Pharmaceutical (Wkrs)	Westchester, PA	03/03/2005	03/02/2005
56,678	Honeywell International, Inc. (Comp)	Lynn Haven, FL	03/03/2005	02/28/2005

APPENDIX—Continued

[Petitions instituted between 02/28/2005 and 03/04/2005]

TA–W	Subject firm (petitioners)	Location	Date of institution	Date of petition
56,679	Beverly Enterprise (Wkrs)	Fort Smith, AR	03/03/2005	03/02/2005
56,680	Industrial Metal Products (State)	Lansing, MI	03/04/2005	02/24/2005
56,681	Lobdell-Emery/Oxford Automotive (Wkrs)	Greencastle, IN	03/04/2005	03/03/2005
56,682	American Express (Wkrs)	Phoenix, AZ	03/04/2005	03/03/2005
56,683	Intel (Wkrs)	Hillsboro, OR	03/04/2005	03/03/2005
56,684	Roaring and Cumberland Mfg., Inc. (Comp)	Sparta, TN	03/04/2005	03/01/2005
56,685	Global Textile Robotics, LLC (Wkrs)	Greenville, SC	03/04/2005	03/01/2005
56,686	McDade Apparel, LLC (Wkrs)	Warrenton, NC	03/04/2005	03/03/2005
56,687	KL-Arrow, Inc. (Comp)	Asheboro, NC	03/04/2005	03/02/2005
56,688	Lands' End (Wkrs)	Dodgeville, WI	03/04/2005	03/03/2005

[FR Doc. E5–1363 Filed 3–25–05; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–53,997]

Hollister, Inc., Kirksville Manufacturing, Kirksville, MO; Notice of Determination of Alternative Trade Adjustment Assistance on Remand

The U.S. Court of International Trade (USCIT) granted the Secretary of Labor's motion for a voluntary remand for further investigation in *Former Employees of Hollister, Inc.* v. *Elaine Chao, U.S. Secretary of Labor*, No. 04–00262, on February 1, 2005.

The workers of Hollister, Inc., Kirksville Manufacturing, Kirksville, Missouri (''Hollister'') were certified as eligible to apply for Trade Adjustment Assistance (TAA) on February 11, 2004. The Notice of determination was published in the **Federal Register** on March 12, 2004 (69 FR 11890).

By letter dated March 19, 2004, the United Automotive Workers, Local 710, requested that Alternative Trade Adjustment Assistance (ATAA) be included in the TAA petition. The request was dismissed because the application for ATAA was not filed with the TAA petition, as required by the Secretary's interpretation of Section 246 of the Trade Act, Training and Employment Guidance Letter No. 2–03 (August 6, 2003). 69 FR 60904, October 13, 2004.

On June 28, 2004, the Plaintiff appealed to the USCIT, asserting that the workers were not provided the assistance and opportunity to request ATAA because the requirements for applying for ATAA were ambiguous.

On October 29, 2004, the Department issued Training and Employment Guidance Letter No. 2–03, Change 2, ''Requests for Certification under the Alternative Trade Adjustment Assistance (ATAA) Program for Certain Worker Groups Covered by Certified TAA Petitions'' (TEGL 2–03, Change 2). 70 FR 8829–02, February 23, 2005. The Department's new TEGL concerning the filing of requests for group ATAA certification provides that worker groups whose petitions were still in process at the time of implementation of the ATAA program on August 6, 2003 and certified worker groups who filed petitions which did not include an option to apply for ATAA may request group ATAA certification after the filing of a TAA petition.

The Department construes the Plaintiff's letters as timely requests for group ATAA certification under TEGL 2–03, Change 2. Accordingly, the Department has conducted an investigation to determine the workers' eligibility to apply for ATAA certification.

The group eligibility certification criteria for the ATAA program under Section 246 the Trade Act of 1974 (19 U.S.C. 2813), as amended, established that the Department must determine whether a significant number of workers in the workers' firm are 50 years of age or older, whether the workers in the workers' firm possess skills that are not easily transferable, and whether the competitive conditions within the workers' industry are adverse.

The remand investigation revealed that at least five percent of the workforce at the subject firm is at least fifty years of age, the workers possess skills that are not easily transferable, and competitive conditions within the industry are adverse.

Conclusion

After careful review of the facts, I conclude that the requirements of Section 246 of the Trade Act of 1974, as amended, have been met for workers at the subject firm. In accordance with the provisions of the Act, I make the following certification:

All workers at Hollister, Inc., Kirksville Manufacturing, Kirksville, Missouri, who became totally or partially separated from employment on or after January 7, 2003 through February 11, 2006, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974, and are also eligible to apply for alternative trade adjustment assistance under Section 246 of the Trade Act of 1974.

Signed at Washington, DC, this 10th day of March, 2005.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E5–1346 Filed 3–25–05; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–56,497]

Johnson Controls, Inc., Wamsutta Plant, Anderson, SC; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on February 4, 2005 in response to a petition filed by a company official on behalf of workers at Johnson Controls, Inc., Wamsutta Plant, Anderson, South Carolina. Johnson Controls is an on site leased worker company for Springs Industries Wamsutta Plant, Anderson, South Carolina.

The petitioning group of workers is covered by an active certification, (TA–W–56,295A) which expires on February 16, 2007. Consequently, further investigation in this case would serve no purpose; therefore the investigation under this petition has been terminated.

Signed in Washington, DC, this 8th day of March, 2005.

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E5–1350 Filed 3–25–05; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 (''the Act'') and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Division of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Division of Trade Adjustment Assistance, at the address shown below, not later than April 7, 2005.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Division of Trade Adjustment Assistance, at the address shown below, not later than April 7, 2005.

The petitions filed in this case are available for inspection at the Office of the Director, Division of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, Room C–5311, 200 Constitution Avenue, NW., Washington, DC 20210.

Signed at Washington, DC, this 18th day of March 2005.

Timothy Sullivan,

Director, Division of Trade Adjustment Assistance.

APPENDIX

[Petitions Instituted Between 03/07/2005 and 03/11/2005]

TA–W	Subject firm (petitioners)	Location	Date of institution	Date of petition
56,689	Jones Apparel Group (Wkrs)	Rural Hall, NC	03/07/2005	03/04/2005
56,690	Qualex, Inc. (Wkrs)	Durham, NC	03/07/2005	02/28/2005
56,691	Worldtex, Inc. (Comp)	Hickory, NC	03/07/2005	02/28/2005
56,692	Wiremold/Legrand (Comp)	Philadelphia, PA	03/07/2005	03/04/2005
56,693	United Plywood Industries (Comp)	Mockville, NC	03/07/2005	02/25/2005
56,694	Colortronic, Inc. (State)	Runnemede, NJ	03/07/2005	03/04/2005
56,695	Tyco Electronics-Tyco Printed CircuitGrp	Stafford, CT	03/07/2005	03/04/2005
56,696	Hewlett-Packard Company	Corvallis, OR	03/08/2005	03/07/2005
56,697	B Machine Products, Inc. (Comp)	Parkersburg, WV	03/08/2005	02/24/2005
56,698	Domtar Inc. (PACE)	Baileyville, ME	03/08/2005	03/04/2005
56,699	Bartech Technical Services (Wkrs)	Warren, OH	03/08/2005	02/09/2005
56,700	CIBC World Markets (Wkrs)	Atlanta, GA	03/08/2005	02/28/2005
56,701	Twigs and Ivy Boutique (Wkrs)	Potosi, MO	03/08/2005	02/10/2005
56,702	Fairbanks Morse Engine (USWA)	Beloit, WI	03/08/2005	03/07/2005
56,703	Top Flight, Inc. (Comp)	Chattanooga, TN	03/08/2005	03/04/2005
56,704	Lockheed Martin Aeronautics (Wkrs)	Fort Worth, TX	03/08/2005	03/07/2005
56,705	Marlatex Corporation (Comp)	Belmont, NC	03/08/2005	03/07/2005
56,706	Plus Mark (Wkrs)	Franklin, TN	03/08/2005	02/25/2005
56,707	Kopin Corporation (Comp)	Taunton, MA	03/10/2005	03/08/2005
56,708	AVX Corporation (Comp)	Raleigh, NC	03/10/2005	03/08/2005
56,709	American Identity (Comp)	Marcus, IA	03/10/2005	03/08/2005
56,710	Laidlaw (State)	Dundalk, MD	03/10/2005	03/08/2005
56,711	Jacobs Chuck Manufacturing (Wkrs)	Clemson, SC	03/10/2005	02/24/2005
56,712	Dallco Industries, Inc. (Comp)	York, PA	03/10/2005	02/21/2005
56,713	Seagate (State)	Bloomington, MN	03/10/2005	03/08/2005
56,714	Briess Malt and Ingredients (UAW)	Waterloo, WI	03/10/2005	03/09/2005
56,715	International Paper (Wkrs)	Eighty Four, PA	03/10/2005	02/17/2005
56,716	Northern Steel Castings (Wkrs)	Kenosha, WI	03/10/2005	03/07/2005
56,717	Victor Insulators (Wkrs)	Victor, NY	03/10/2005	02/23/2005
56,718	I.H. Apparel Group, LLC (Wkrs)	New York, NY	03/10/2005	02/23/2005
56,719	Donegal Industries (UNITE)	Mount Joy, PA	03/10/2005	02/22/2005
56,720	Automatic Welding (Wkrs)	Ashland, OH	03/10/2005	02/17/2005
56,721	New Campaign, Inc. (Wkrs)	Norfolk, VA	03/10/2005	02/28/2005
56,722	Allied Mold and Die Company (Wkrs)	Fontana, CA	03/10/2005	02/22/2005
56,723	Brookwood Furniture (Comp)	Bruce, MS	03/10/2005	03/08/2005
56,724	American Pad and Paper, LLC (Comp)	Westfield, MA	03/10/2005	03/08/2005
56,725	Bridgeport Metal Goods, Inc. (Comp)	Hinsdale, NH	03/10/2005	03/08/2005
56,726	Bob Timberlake, Inc. (Comp)	Lexington, NC	03/10/2005	03/09/2005
56,727	Stinson Seafood (Comp)	Bath, ME	03/10/2005	03/04/2005
56,728	Alcon Packaging (Comp)	Bethlehem, PA	03/10/2005	03/09/2005
56,729	Agilent Technologies (State)	Ft. Collins, CO	03/10/2005	02/23/2005
56,730	Heritage Sportswear, LLC (Comp)	Marion, SC	03/10/2005	03/08/2005
56,731	Creo Americas, Inc. (State)	Woodland Hills, CA	03/10/2005	03/09/2005
56,732	Eaton (Comp)	Everett, WA	03/10/2005	03/09/2005

APPENDIX—Continued

[Petitions Instituted Between 03/07/2005 and 03/11/2005]

TA–W	Subject firm (petitioners)	Location	Date of institution	Date of petition
56,733	Cadiac Care, Inc. (State)	Cottonwood, AZ	03/10/2005	02/17/2005
56,734	Penn Fishing Tackle Mfg. Co. (Comp)	Hegins, PA	03/10/2005	03/07/2005
56,735	Beltone Electronic Corporation (State)	Chicago, IL	03/10/2005	02/21/2005
56,736	Ardmore Blouses, Inc. (Wkrs)	Pen Argyl, PA	03/10/2005	02/24/2005
56,737	Karibe, Inc. (Comp)	West Pittston, PA	03/10/2005	03/09/2005
56,738	Radisys Corporation (Comp)	Hillsboro, OR	03/11/2005	03/10/2005
56,739	Flexaust Appliance, Inc. (Comp)	El Paso, TX	03/11/2005	02/10/2005
56,740	Mohawk Valley Textile Printing (Wkrs)	Schenectady, NY	03/11/2005	02/28/2005
56,741	Maxtor Corporation (Comp)	Milpitas, CA	03/11/2005	03/08/2005
56,742	Salvavida USA, Inc. (Comp)	Folly Beach, SC	03/11/2005	02/28/2005
56,743	Ranstad (State)	Gardena, CA	03/11/2005	03/01/2005
56,744	ACS (Wkrs)	Florence, SC	03/11/2005	03/09/2005
56,745	Trane—Industrial Sheet Metal (Comp)	Rockingham, NC	03/11/2005	03/01/2005
56,746	Tama Manufacturing Co., Inc. (Comp)	Allentown, PA	03/11/2005	03/08/2005
56,747	Compx (Wkrs)	Mauldin, SC	03/11/2005	03/09/2005
56,748	Amdocs, Inc. (Wkrs)	Anaheim, CA	03/11/2005	02/18/2005
56,749	Hansen International, Inc. (Wkrs)	Lexington, SC	03/11/2005	03/10/2005
56,750	Finishing Touch Hosiery (Comp)	Fyffe, AL	03/11/2005	03/08/2005
56,751	Hitach Global Storage Technologies, Inc.	San Jose, CA	03/11/2005	03/10/2005
56,752	Team Manufacturing, Inc. (State)	Rancho Dominque, CA	03/11/2005	03/09/2005

[FR Doc. E5–1364 Filed 3–25–05; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–55,175]

Levi Strauss and Company, Knoxville, TN; Notice of Revised Determination on Remand

The United States Court of International Trade (USCIT) granted the Department's motion for voluntary remand for further investigation in *Former Employees of Levi Strauss and Company* v. *U.S. Secretary of Labor* (Court No. 04–00580).

The Department's denial of the initial petition for Trade Adjustment Assistance (TAA) and Alternative Trade Adjustment Assistance (ATAA) was issued on July 27, 2004. The Notice of negative determination was published in the **Federal Register** on August 10, 2004 (69 FR 48530). The denial was based on the finding that the subject worker group did not produce an article within the meaning of Section 222(a)(2) of the Act and did not support production of an article by Levi Straus and Company, Knoxville, Tennessee or an appropriate subdivision of Levi Straus and Company.

By letter dated August 27, 2004, the petitioner requested administrative reconsideration, contending that the workers supported a qualifying production facility: Levi Straus, Powell, Tennessee. Because the Department's questions to the subject company whether the subject workers supported any domestic production facility was responded in the negative, the Department affirmed the initial determination. On September 17, 2004, the Department denied the petitioner's request for reconsideration because no production occurred at Levi Strauss and Company, Powell, Tennessee during the twelve-month period prior to the petition date (April 15, 2004). The Department's Notice was published in the **Federal Register** on October 8, 2004 (69 FR 60430).

By letter dated November 10, 2004, the petitioner filed an appeal with the USCIT, alleging that the subject worker group supported a TAA-certified facility during the twelve-month period prior to the petition date of April 15, 2004: Levi Strauss and Company, San Antonio, Texas (TA–W–41,377E).

In order to investigate the petitioner's new allegation, the Department filed a motion for voluntary remand. In an Order issued on January 20, 2005, the USCIT granted the Department's motion.

The Department conducted a remand investigation in order to determine whether the subject worker group met the criteria set forth in the Trade Act of 1974 for TAA certification as primarily-affected workers. Section 222(a) of the Trade Act (19 U.S.C. 2272(a)) provides:

A group of workers (including workers in any agricultural firm or subdivision of an agricultural firm) shall be certified by the Secretary as eligible to apply for adjustment assistance under this part pursuant to a petition filed under section 2271 of this title if the Secretary determines that—

(1) A significant number or proportion of the workers in such workers' firm, or an appropriate subdivision of the firm, have become totally or partially separated, or are threatened to become totally or partially separated; and

(2)(A)(i) The sales or production, or both, of such firm or subdivision have decreased absolutely;

(ii) Imports of articles like or directly competitive with articles produced by such firm or subdivision have increased; and

(iii) The increase in imports described in clause (ii) contributed importantly to such workers' separation or threat of separation and to the decline in the sales or production of such firm or subdivision; or

(B)(i) There has been a shift in production by such workers' firm or subdivision to a foreign country of articles like or directly competitive with articles which are produced by such firm or subdivision; and

(ii)(I) The country to which the workers' firm has shifted production of the articles is a party to a free trade agreement with the United States;

(II) The country to which the workers' firm has shifted production of the articles is a beneficiary country under the Andean Trade Preference Act, African Growth and Opportunity Act, or the Caribbean Basin Economic Recovery Act; or

(III) There has been or is likely to be an increase in imports of articles that are like or directly competitive with articles which are or were produced by such firm or subdivision.

During the remand investigation, the Department raised additional questions and obtained detailed supplemental responses from the company. In particular, the new information provided by two managers who worked at the subject facility and confirmed by the director of human resources located in Weston, Florida who is familiar with

the Knoxville, Tennessee operations, revealed that the subject worker group was engaged in activities which supported domestic subject company production, including the San Antonio, Texas facility.

The Department also investigated whether Levi Strauss, San Antonio, Texas was TAA-certifiable during the relevant period. The investigation revealed that the San Antonio, Texas facility closed in January 2004 and that increased company imports during the relevant period contributed importantly to the plant's closure and the worker group's separations.

The Department has determined that all criteria regarding ATAA for the subject worker group have been met. A significant number or proportion of the worker group are age fifty years or over, the workers possess skills that are not easily transferable and competitive conditions within the garment industry are adverse.

Conclusion

After careful review of the facts generated during the remand investigation, I determine that increased imports of articles like or directly competitive with those produced at the subject firm contributed importantly to the total or partial separation of workers at the subject facility. In accordance with the provisions of the Act, I make the following certification:

All workers of Levi Strauss and Company, Knoxville, Tennessee, who became totally or partially separated from employment on or after April 15, 2003, through two years from the issuance of this revised determination, are eligible to apply for Trade Adjustment Assistance under section 223 of the Trade Act of 1974, and are also eligible to apply for Alternative Trade Adjustment Assistance under Section 246 of the Trade Act of 1974.

Signed at Washington, DC, this 21st day of March, 2005.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E5–1347 Filed 3–25–05; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–56,339]

Mastercraft Fabrics, LLC, Joan Fabrics Corporation, Eagle Mountain Finishing Cramerton, NC; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on January 28, 2005, applicable to workers of Mastercraft fabrics LLC, Eagle Mountain Finishing, Cramerton, North Carolina. The notice was published in the **Federal Register** on March 9, 2005 (70 FR 11705).

At the request of the company, the Department reviewed the certification for workers of the subject firm. The workers are engaged in the production of finished fabric.

New information shows that Joan Fabrics Corporation is the parent firm of Mastercraft Fabrics LLC, Eagle Mountain Finishing.

Workers separated from employment at the subject firm had their wages reported under a separate unemployment insurance (UI) tax account for Joan Fabrics Corporation.

Accordingly, the Department is amending the certification to properly reflect this matter.

The intent of the Department's certification is to include all workers of Mastercraft Fabrics LLC, Eagle Mountain Finishing, Cramerton, North Carolina who were adversely affected by a shift in production of finished fabric to Mexico.

The amended notice applicable to TA–W–56,339 is hereby issued as follows:

''All workers of Mastercraft Fabrics LLC, Joan Fabrics Corporation, Eagle Mountain Finishing, Cramerton, North Carolina, who became totally or partially separated from employment on or after January 12, 2004, through January 28, 2007, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.''

Signed at Washington, DC this 14th day of March 2005.

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E5–1357 Filed 3–25–05; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–56,589]

Nokia, Fort Worth, TX; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, as amended, an investigation was initiated on February 17, 2005 in response to a petition filed by a state agency representative on behalf of workers at Nokia, Ft. Worth, Texas.

The petitioner has requested that the petition be withdrawn. Consequently, the investigation has been terminated.

Signed at Washington, DC this 7th day of March, 2005.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E5–1360 Filed 3–25–05; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–56,418A]

Pfaltzgraff Company, Pfaltzgraff Distribution Center Including On-Site Leased Workers From Manpower, Inc. and Adecco York, PA; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance and Negative Determination Regarding Eligibility to Apply for Alternative Trade Adjustment Assistance on February 22, 2005, applicable to workers of Pfaltzgraff Company, Pfaltzgraff Distribution Center, including on-site leased workers from Manpower, Inc. and Adecco, York, Pennsylvania. The notice was published in the **Federal Register** on March 9, 2005 (70 FR 11704).

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. The workers provide packing and shipping services in direct support of the production of ceramic dinnerware produced at the Thomasville, Pennsylvania (TA–W–56,418) location of the subject firm.

New findings show that there was a previous certification,TA–W–41,917, issued on September 30, 2002, for workers of Pfaltzgraff Company, York, Pennsylvania who were engaged in employment related to the production of ceramic dinnerware. That certification expired September 30, 2004. To avoid an overlap in worker group coverage, the certification is being amended to change the impact date from January 27, 2004 to October 1, 2004, for workers of the subject firm.

The amended notice applicable to TA–W–56,418 is hereby issued as follows:

''All workers of Pfaltzgraff Company, Pfaltzgraff Distribution Center, including on-site leased workers from Manpower, Inc., and Adecco, York Pennsylvania (TA–W–56,418A), who became totally or partially separated from employment on or after October 1, 2004, through February 22, 2007, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974, and are also eligible to apply for alternative trade adjustment assistance under Section 246 of the Trade Act of 1974.''

Signed at Washington, DC this 15th day of March 2005.

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E5–1358 Filed 3–25–05; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–56,557]

Phoenix Millwork, A Division of Baker McMillen Co., Beaumont, TX; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, as amended, an investigation was initiated on February 11, 2005, in response to a petition filed by a state agency representative on behalf of workers at Phoenix Millwork, a division of Baker McMillen Co., Beaumont, Texas.

The petitioner has requested that the petition be withdrawn. Consequently, the investigation has been terminated.

Signed in Washington, DC, this 8th day of March, 2005.

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E5–1351 Filed 3–25–05; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–56,649]

Seneca Foods Corp., Dayton, WA; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, as amended, an investigation was initiated on February 28, 2005, in response to a worker petition filed on behalf of workers at Seneca Foods Corp., Dayton, Washington.

The petitioner has requested that the petition be withdrawn. Consequently, the investigation has been terminated.

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

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E5–1353 Filed 3–25–05; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–56,274]

Shane-Hunter, Inc., San Francisco, CA; Notice of Affirmative Determination Regarding Application for Reconsideration

By letter dated March 3, 2005, petitioners requested administrative reconsideration of the Department's Notice of Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance, applicable to workers of the subject firm. The Department's determination was signed on February 2, 2005 and published in the **Federal Register** on March 9, 2005 (70 FR 11703).

The petitioner asserts that the subject firm shifted garment production abroad and is increasing reliance upon imports.

The Department has carefully reviewed the petitioner's request for reconsideration and has determined that the Department will conduct further investigation based on new information provided by the petitioner and the company official.

Conclusion

After careful review of the application, I conclude that the claim is of sufficient weight to justify reconsideration of the Department of Labor's prior decision. The application is, therefore, granted.

Signed at Washington, DC, this 15th day of March 2005.

Elliott S. Kushner,

Certifying Officer, Division ofTrade Adjustment Assistance.

[FR Doc. E5–1356 Filed 3–25–05; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–56,641]

Stant Manufacturing, Inc., Connersville, IN; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, as amended, an investigation was initiated on February 25, 2005 in response to a petition filed by the United Automobile, Aerospace & Agricultural Implement Workers of America International Union, Local 1904, on behalf of workers at Stant Manufacturing, Inc., Connersville, Indiana.

The petition is a copy of the petition instituted on February 8, 2005 (TA–W–56,532). On February 28, 2005, the Department issued a certification of eligibility for workers of Stant Manufacturing, Inc., Connorsville, Indiana, to apply for trade adjustment assistance and alternative trade adjustment assistance.

Further investigation in this case would serve no purpose. Consequently, the investigation under this petition has been terminated.

Signed at Washington, DC, this 2nd day of March 2005.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E5–1362 Filed 3–25–05; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–56,623]

Sussex Zinc Plating, Inc., Sussex, WI; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on February 23, 2005 in response to a petition filed by a company official on behalf of workers at Sussex Zinc Plating, Inc., Sussex, Wisconsin.

The petition regarding the investigation has been deemed invalid. In order to establish a valid worker group, there must be at least three full-time workers employed at some point during the period under investigation. Workers of the group subject to this investigation did not meet the threshold or employment.

Consequently, the investigation has been terminated.

Signed in Washington, DC, this 4th day of March 2005.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E5–1361 Filed 3–25–05; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–56,582]

TI Automotive, LLC, Normal, IL; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, as amended, an investigation was initiated on February 16, 2005, in response to a petition filed by a company official on behalf of workers at TI Automotive, LLC, Normal, Illinois.

The petitioner has requested that the petition be withdrawn. Consequently, the investigation has been terminated.

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

Elliott S. Kushner

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E5–1352 Filed 3–25–05; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–56,392]

Weyerhaeuser, Sweet Home, OR; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, as amended, an investigation was initiated on January 25, 2005, in response to a worker petition filed by a company official on behalf of workers at Weyerhaeuser, Sweet Home, Oregon.

The petitioner has requested that the petition be withdrawn. Consequently, the investigation has been terminated.

Signed in Washington, DC, this 11th day of March, 2005.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E5–1348 Filed 3–25–05; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–56,692]

Wiremold/Legrand, Brooks Electronics, Philadelphia, PA; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, as amended, an investigation was initiated on March 7, 2005, in response to a worker petition filed by a company official on behalf of workers at Wiremold/Legrand, Brooks Electronics, Philadelphia, Pennsylvania.

The petitioner has requested that the petition be withdrawn. Consequently, further investigation would serve no purpose and the investigation has been terminated.

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

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E5–1354 Filed 3–25–05; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

Workforce Investment Act—Grants for Workforce Investment Boards

Announcement Type: New: Notice of solicitation for grant applications.

Funding Opportunity Number: SGA/DFA PY 04–04.

Catalog of Federal Domestic Assistance (CFDA) Number: 17.257.

Key Dates: Deadline for Application Receipt: May 4, 2005.

SUMMARY: The U.S. Department of Labor (USDOL), Employment and Training Administration (ETA), announces the availability up to $5 million for grants to eligible Workforce Investment Boards (WIBs) that have demonstrated successfully the ability to form working partnerships with grassroots faith-based and community organizations (FBCOs). Grassroots FBCOs may include faith-based and community organizations, minority-led or immigrant-led non-profit or community development organizations and/or other small non-profit organizations.

This grant will build upon successful ETA grants from program years (PY) 2001 to 2004 that focused on the use of intermediaries and WIBs to build partnerships between FBCOs and local One-Stop systems. The WIB will develop and implement an 18-month project to encourage the formation of long-term contractual and non-contractual partnerships with FBCOs that meet an unmet community need related to hard-to-serve populations (*e.g.*, ex-offenders, limited-English, welfare-to work, etc.).

This investment supports and complements the President's High-Growth Job Training Initiative. The foundation of this initiative is the creation of partnerships to work collaboratively in the development of solutions to the human resource challenges facing our growth industries, while developing maximum access for American workers to gain the competencies they need to obtain good jobs. These partnerships include the public workforce system, business and industry, education and training providers and economic development principals. ETA is investing in demonstration projects in twelve high growth/high demand sectors that include advanced manufacturing, automotive services, biotechnology, construction, energy, financial services, geospatial technology, healthcare, hospitality, information technology (IT) & IT business-related services, retail, and transportation. This solicitation is designed to extend the partnership invitation to FBCOs through the direct involvement of our nation's Workforce Investment Boards.

This grant also complements ETA's ongoing sectoral employment research and evaluations—*i.e.*, identifying workforce needs and opportunities within a local or regional industry or cross-industry occupational group while retaining a focus on economic performance and competitiveness. FBCOs can discharge a significant community role in assisting Boards by bringing new entrants to the job market that can be trained and equipped to meet emerging and evolving industry needs. Each applicant Board will identify up to three businesses or industry sectors to collaborate with the Board and FBCOs within the local One-Stop system to provide jobs for qualified employees from the identified geographic areas.

DATES: The closing date for receipt of applications under this announcement is May 4, 2005. Applications must be received at the address below no later than 5 p.m. (eastern time). Application and submission information is explained in detail in section IV of this SGA.

Authorities: These grants are made under the following authorities:

- The Workforce Investment Act of 1998 (WIA or the Act) (Pub. L. 105–220, 29 U.S.C. 2801 *et seq.*)

- The WIA Final Rule, 20 CFR parts 652, 660–671 (65 FR 49294) (August 11, 2000);
- Executive Order 13198; ''Rallying the Armies of Compassion''
- Training and Employment Guidance Letter 17–01 (''Incorporating and Utilizing Grassroots, Community-Based Organizations Including Faith-Based Organizations in Workforce Investment Activities and Programs'')
- Executive Order 13279; ''Equal Protection of the Laws for Faith-Based and Community Organizations.''

SUPPLEMENTARY INFORMATION:

I. Funding Opportunity Description

1. Overview of ETA and CFBCI Initiatives

DOL CFBCI works to remove administrative and regulatory barriers that would prevent FBCOs from competing equally for federal dollars. In addition, CFBCI develops innovative programs to foster partnerships between DOL-funded programs and FBCOs. CFBCI educates organizations about local opportunities to collaborate with the workforce development system and about opportunities to participate in national grant programs. CFBCI also works with local government officials and administrators to integrate FBCOs into the strategic planning and service delivery processes of local Workforce Investment Boards.

Since 2001, CFBCI has worked with ETA to provide $29.6 million in grants to assist states, intermediary organizations, workforce investment boards, and grassroots groups in creating partnerships between FBCOs and the One-Stop Career Center System. In addition to grants, CFBCI has undertaken technical assistance activities that are designed to help FBCOs access and partner with the $15 billion state and local workforce development system. Begun in Memphis, Tennessee, and Milwaukee, Wisconsin, the Touching Lives and Communities Pilot Program provided in-depth technical assistance to local alliances of FBCOs, elected officials and workforce development boards to remove barriers and foster partnerships at the local level. The report on this effort, *Experiences from the Field: Fostering Workforce Development Partnerships with Faith-Based and Community Organizations,* serves as the basis for a nation-wide effort to encourage partnerships between FBCOs and Workforce Investment Boards called the Touching Lives and Communities Technical Assistance Program (TLC–TAP). Additionally, CFBCI produced *Bridging the Gap: Meeting the Challenges of Universal Access Through Faith-Based and Community Partnerships,* which highlights strategies by 2002 state and intermediary grantees to help job seekers access services through grassroots FBCO's. CFBCI also has created *Empowering New Partnerships: Faith-Based and Community Initiatives in the Workforce System,* which provides an overview of basic strategies for engaging grassroots organizations in the workforce system.

Through TLC–TAP, CFBCI and ETA are creating a peer-to-peer learning network, publishing tool kits and other resource materials, and hosting national conference calls on topics related to the initiative. For more resources, please visit the CFBCI Web site, *http://www.dol.gov/cfbci* as well as the TLC–TAP Web site, *http://www.dol-tlc.org.*

2. Project Objectives

The grantee(s) will implement, in partnership with USDOL, a project that will:

- Serve a targeted area(s)/census tract(s) that has a high poverty rate. The grantee may focus on a specific population within that area (*e.g.* ex-offenders, youth, people with disabilities, people who are victims of violent and domestic crime, people with limited English proficiency, homeless veterans, etc.);
- Serve targeted industries and employers by helping them find employees in the targeted area(s) or increase wages and job responsibilities for employees from the targeted area(s);
- Build relationships among the One-Stop Career Center staff, WIB, businesses, and grassroots FBCOs within the targeted area and community at large in order to increase referrals and the effectiveness of referrals among organizations;
- Help targeted individuals prepare for, sustain or advance in employment by funding grassroots FBCOs in the targeted area(s) and increasing their collaboration with the One-Stop Career Center system;
- Build the performance and administrative capabilities of FBCOs to deliver programs, administer funding, collect performance data, and identify potential One-Stop Career Center contracting opportunities; and
- Measurably increase the performance of One-Stop Career Centers with the targeted population through developing sustainable relationships with FBCOs.

In order to accomplish this, WIBs must obtain commitments from up to three businesses/business associations, use statistical data to identify a specific area(s)/census tract(s) to serve, demonstrate that area's need, conduct outreach and create/maintain a resource directory of grassroots FBCOs in targeted area (this may involve increasing existing resource directory), and subaward 70 percent of the funding to grassroots, non-profit FBCOs.

Through this grant investment of $5 million, the Department intends to help approximately 2,000 people obtain or advance in employment.

II. Award Information

1. Funding Availability and Period of Performance

ETA has identified $5 million from the FY 2005 appropriation for One Stop/America's Labor Market Information System. ETA expects to award approximately 10 to 20 grants based on the rating of applications and other factors, which may include urban/rural and geographical balance. The grant amount for each WIB is expected to range between $300,000 and $500,000. The period of performance will be 18 months from the date of execution by the Department.

2. Anticipated Announcement and Award Dates

Announcement of this award is expected to occur by July 1, 2005.

III. Eligibility Information

1. Eligible Applicants

Workforce Investment Boards (WIB) from all geographic areas are eligible to apply for these funds including:

- The state Workforce Investment Board (in states that contain only one WIB);
- A local Workforce Investment Board; or
- Consortia of local (including rural) Workforce Investment Boards.

2. Cost Sharing or Matching

This solicitation does not require grantees to share costs or provide matching funds.

3. Other Eligibility Requirements

Veterans Priority: In addition, this program is subject to the provisions of the ''Jobs for Veterans Act'', Pub. L. 107–288, which provides priority of services to veterans and in some cases their spouses in all Department of Labor funded job training programs. Please note that, to obtain priority of service, a veteran or spouse must meet the program's eligibility requirements. The directive providing policy guidance on veterans' priority is available at *http://www.doleta.gov/programs/VETs/.*

IV. Application and Submission Information

1. Address To Request Application Package

This SGA contains all of the information and forms needed to apply for grant funding.

2. Content and Form of Application Submission

Applicants must submit an original signed application and three hard copies. The proposal consists of two (2) separate and distinct parts, Part I and II. Both parts must be included in a complete application. Applications that fail to adhere to the instructions in this section will be considered non-responsive and will not be considered.

Part I of the proposal is the Financial Proposal and must include the following two items:

- The Standard Form (SF) 424, ''Application for Federal Assistance'' (Appendix A) (available at *http://www.whitehouse.gov/omb/grants/sf424.pdf.*) Upon confirmation of an award, the individual signing the SF–424 on behalf of the applicant shall represent the responsible entity. All applications for Federal grant and funding opportunities are required to have a Dun and Bradstreet (DUNS) number. See OMB Notice of Final Policy Issuance, 68 FR 38402 (June 27, 2003). Applicants must supply their DUNS number in item #5 of the SF–424 (Rev. 9–2003). The DUNS number is easy to obtain and there is no charge. To obtain a DUNS number, access *http://www.dunandbradstreet.com* or call 1–866–705–5711.
- The Budget Information Form SF 424A (Appendix B) (available at *http://www.whitehouse.gov/omb/grants/sf424a.pdf.*) In addition to preparing the Budget Information form, the applicant must provide a concise narrative explanation to support the request.

Part II of the application is the Technical Proposal, which demonstrates the applicant's capabilities to plan and implement a demonstration project in accordance with the provisions of this solicitation. The Technical Proposal is limited to ten (10) double-spaced single-sided, 8.5 inch x 11 inch pages with 12 point text font and one-inch margins.

The only attachments permitted will be the following.

- Commitments from the identified businesses or business associations.
- A letter of endorsement from the state workforce agency and from an elected official who has appointment authority for the WIB.
- A timeline for the tasks and activities beginning July 1, 2005.

The attachments will not count against the allowable maximum page totals. No cost data or reference to prices should be included in the Technical Proposal.

3. Submission Dates and Times

The closing date for receipt of applications under this announcement is May 4, 2005. Applications must be received at the address below no later than 5 p.m. (eastern time). Applications sent by e-mail, telegram, or facsimile (fax) will not be accepted. Applications that do not meet the conditions set forth in this notice will not be honored. No exceptions to the mailing and delivery requirements set forth in this notice will be granted.

Mailed applications must be addressed to the U.S. Department of Labor, Employment and Training Administration, Division of Federal Assistance, Attention: Eric Luetkenhaus, Reference SGA/DFA PY04–04, 200 Constitution Avenue, NW., Room N–4438, Washington, DC 20210. Applicants are advised that mail delivery in the Washington area may be delayed due to mail decontamination procedures. Hand delivered proposals will be received at the above address. All overnight mail will be considered to be hand-delivered and must be received at the designated place by the specified closing date.

Applicants may apply online at *http://www.grants.gov*. Any application received after the deadline will not be accepted. For applicants submitting electronic applications via Grants.gov, it is strongly recommended that you immediately initiate and complete the ''Get Started'' steps to register with Grants.gov at *http://www.grants.gov/GetStarted*. These steps will probably take multiple days to complete which should be factored into your plans for electronic application submission in order to avoid facing unexpected delays that could result in the rejection of your application.

Late Applications: Any application received after the exact date and time specified for receipt at the office designated in this notice will not be considered, unless it is received before awards are made and it (a) was sent by U.S. Postal Service registered or certified mail not later than the fifth calendar day before the date specified for receipt of applications (*e.g.*, an application required to be received by the 20th of the month must be post marked by the 15th of that month) or (b) was sent by U.S. Postal Service Express Mail or Online to addressee not later than 5 p.m. at the place of mailing or electronic submission one working day prior to the date specified for receipt of applications. It is highly recommended that online submissions be completed one working day prior to the date specified for receipt of applications to ensure that the applicant still has the option to submit by U.S. Postal Service Express Mail in the event of any electronic submission problems. ''Post marked'' means a printed, stamped or otherwise placed impression (exclusive of a postage meter machine impression) that is readily identifiable, without further action, as having been supplied or affixed on the date of mailing by an employee of the U.S. Postal Service. Therefore, applicants should request the postal clerk to place a legible hand cancellation ''bull's eye'' postmark on both the receipt and the package. Failure to adhere to the above instructions will be a basis for a determination of nonresponsiveness.

4. Funding Restrictions

The WIB must award at least 70 percent of the funding through subawards to eligible grassroots FBCOs. For purposes of this announcement, eligible grassroots FBCOs must be non-profits, which:

- Have social services as a major part of their mission;
- Are headquartered in the local community to which they provide these services;
- (a) have a social services budget of $350,000 or less, or (b) have six or fewer full-time equivalent employees.

With its remaining 30 percent of grant funds, the WIB may choose also to contract with a non-profit intermediary organization or hire staff members from the targeted community who will be able to help the WIB conduct outreach to grassroots organizations and provide technical assistance to the subawardees.

Neutral, non-religious criteria that neither favor nor disfavor religion will be employed in the selection of grant recipients and must be employed by grantees in the selection of sub-recipients.

Additionally, the government is prohibited from providing direct financial assistance for inherently religious activity*. Therefore, as a general rule, subawards may not be used for religious instruction, worship, prayer, proselytizing or other inherently religious activities and participation in such activities must be voluntary. (If, however, an organization receives financial assistance as a result of the choice of a beneficiary, such as through a voucher, the organization may

integrate religion throughout its program.)

*In this context, the term financial assistance that is provided directly by a government entity or an intermediate organization, as opposed to financial assistance that an organization receives as the result of the genuine and independent private choice of a beneficiary. In other contexts, the term 'direct' financial assistance may be used to refer to financial assistance that an organization receives directly from the Federal government (also known as ''discretionary'' assistance), as opposed to assistance that it receives from a State or Local government (also known as ''indirect'' or ''block'' grant assistance). The term ''direct'' has the former meaning throughout this SGA.

Administrative Costs. The primary use of the grant funds should be used to support the actual project. Therefore, applicants receiving grant funds under this solicitation may not use more than 10 percent of the amount of the grant for administrative costs associated with the project. Administrative costs are defined at 20 CFR 667.220.

5. Other Submission Requirements

Withdrawal of Applications. Applications may be withdrawn by written notice or telegram (including mailgram) received at any time before an award is made. Applications may be withdrawn in person by the applicant or by an authorized representative thereof, if the representative's identify is made known and the representative signs a receipt for the proposal.

V. Application Review Information

1. Rating Criteria

This section identifies what should be included in the technical proposal narrative and describes the criteria that will be used to evaluate the proposals.

A. Technical Approach (Description of the Proposed Plan and Activities of WIB and Its Subawardees)—50 Points

This section of the narrative provides the applicant's strategy for creating new sustainable, financial and non-financial relationships with grassroots FBCOs and other partners that help individuals in targeted area(s) transition to industries/ careers that are in demand locally and can offer strong career opportunities. This section of the narrative must describe the specific needs of the population in the targeted area(s) that the WIB and grassroots FBCO partnerships will address. This population may include: low-income working individuals, individuals transitioning from public assistance, individuals with disabilities, victims of crime, ex-offenders, individuals with Limited English Proficiency, homeless veterans and other hard-to-serve populations.

The WIB must award at least 70 percent of total funds through subawards to grassroots FBCOs that can help the WIB meet the unmet community need. The WIB may work with non-profit intermediary organizations and/or hire staff that has strong relationships with grassroots FBCOs from the remaining 30 percent of its grant funds. The proposal's narrative must demonstrate the following.

- Define target area(s) (census tract(s)) and explain why this area needs the services provided through the grant.
- Describe strategy for conducting outreach to FBCOs and documenting existing FBCO programs, key organizations, and services in the identified area(s) that help hard-to-serve individuals prepare for and sustain employment. Include plans for creating a resource directory and/or maintaining non-financial partnerships non-subawardee FBCOs. If applicable, include how your WIB will work with intermediary organizations that have existing networks of grassroots FBCOs and/or how the WIB will hire staff familiar with that neighborhood.
- Identify up to three businesses or business sectors to collaborate with the WIB, One-Stop Career Center System, FBCOs, and other partners; provide jobs with long-term career opportunities; and hire qualified employees from the identified disadvantaged area(s). The proposal must include letters of commitment from those businesses as attachments. Businesses may include corporations or small-medium sized businesses, which are independently owned and operated and not dominant in their field of operation.
- Describe the methodology to be used for competitively selecting grassroots FBCO subawardees within the first two quarters of the grant period. Include plans for how the WIB will train those eligible organizations to apply for a subaward and ensure that those organizations understand the Establishment clause and other guidelines for using federal dollars and implementing programs.
- Describe the resources and services the WIB will solicit from the subawardees to help individuals prepare for, enter, and advance in employment. Resources and services can include satellite One-Stop locations in the FBCO facility, life skills, mentoring, adult literacy, employability skill training, on-the-job training, incumbent worker training, and customized training. Description may include if applicable how the FBCO will be used for training individuals for the specified businesses/occupations.
- Describe how responsibilities for grant program will be structured including responsibilities of WIB staff, One-Stop Career Center staff and new hires from the intermediary organization or representatives from the targeted community. Include a description of who will be responsible for providing technical assistance to the subawardees and who will be responsible for maintaining relationships with the subawardees.
- Submit a timeline for the tasks and activities beginning July 1, 2005.

Scoring of this criterion will be based on the following.

- The applicant has clearly defined an area(s) and demonstrated the need of targeted populations/ in targeted area. (5 Points)
- The businesses engaged through this grant will provide career ladders for individuals to be served and the letters of commitment are attached. (5 Points)
- The applicant has demonstrated that the WIB/One-Stop Career Center will create effective partnerships with FBCOs in targeted areas. The applicant has demonstrated that it will effectively conduct outreach, build relationships, collect performance data, and provide technical assistance to both funded and non-funded grassroots organizations, including faith-based organizations, congregations, minority or immigrant-led community development organizations, and other non-profits. To receive any of the points for this part of the criterion, an applicant must demonstrate that 70 percent of its grant award will be used for subawards to grassroots FBCOs. (25 Points)
- The methodology for subawards is achievable within the first two quarters of the grant. (5 Points)
- The timeline and narrative demonstrate that the service delivery strategy (services being subawarded) and relationships between the FBCOs and the Workforce system is an appropriate and achievable way to transition people from the targeted area(s) into employment. (10 Points)

B. Past Performance—10 Points

This section of the narrative must describe how the WIB has demonstrated successfully in the past and the ability to form working partnerships with FBCOs and other partners. The narrative must include the following.

- Describe any current relationships, formal (through MOUs) and informal, with FBCOs. Describe interactions with FBCOs both in terms of financial (training and placement) and non-financial (shared spaces and referrals).

• Describe relevant history of the WIB in working with small organizations. Include past experience in developing technical assistance and developing other organizations' capabilities for social service delivery, competing for grants, managing grants, and conducting information campaigns.

• Identify any current barriers that exist that have prevented financial partnerships and non-financial partnership between grassroots FBCOs in targeted area and the One-Stop system or the Workforce Investment Board. Please describe what actions will be taken to address or remove those barriers in order to allow for sustainable partnerships. In the program plan, describe the strategy for including FBCOs in leadership and strategic planning roles in the WIB during and after the life of the grant.

• Describe the recent history of the WIB in working with specific businesses or business sectors to provide employment opportunities for qualified individuals.

Scoring of this criterion will be based on the following.

• The Department will evaluate the narrative based upon the WIB's ability to identify and plan to address barriers to partnership as well as the record of achievement/commitment in bridging any gaps with non-traditional grassroots partners independent of grant money. (10 Points)

C. Sustainability—10 Points

The narrative must describe how the WIB will address issues of sustainability past the life of the DOL grant.

• Describe how the project will be integrated with other WIB initiatives and how the WIB will demonstrate plans for sustainability after the DOL funding ends. Description can include commitments of other resources either within the WIB (*e.g.*, through training dollars, WIB staff committed to the project, in-kind support, outreach plans, surplus computer hardware and software, etc.) or through an outside source (*e.g.*, private partners, foundation, etc).

• Describe efforts, if any, to encourage the leveraging of state funds to support the project.

• Describe, if any, WIB plans to supplement this grant funding with funds from other grant allocations.

Scoring of this criterion will be based on the following.

• Based on the level of current commitments to FBCOs or FBCO-related projects. (4 Points)

• The ability for the applicant to demonstrate that the project has the potential to have a long-term impact on the targeted community and seems to be grounded in a long-term commitment by the WIB to build relationships with FBCOs. (6 Points)

D. Evaluation and Technical Assistance—30 Points

The narrative must define specifically how the WIB will determine the grant's success based on USDOL guidelines. The narrative must include how the WIB plans to contribute proportionately to the broad goals of the grant investment of helping 2,000 individuals obtain or advance employment (approximately 200 individuals per WIB). The narrative must include the following.

• Define the measurable outcomes and other goals for both the WIB and its subawardees in executing the proposed tasks and activities. In addition to any goals the WIB defines, the WIB must include goals for how many individuals will be served; how many will enter employment; be retained over a six month period; and have an increase in wages through this grant investment. WIB is free to develop additional goals as appropriate to the project.

• Describe the methodology for how the WIB will train the subawardees to track and report outputs, outcomes and demographics for those assisted under the subawards and what responsibilities for tracking will be shared by the One-Stop Career Centers.

• Define how the WIB will provide technical assistance and demonstrate how it will determine its overall success in improving the posture of the subawardees in increasing their performance and administrative capabilities to remain active in local workforce development and compete for future funding opportunities.

Scoring of this criterion will be based on the following.

• The number of individuals the WIB plans to serve is appropriate and achievable within the grant period and represents an effective use of this financial investment. The narrative describes how the WIB's efforts will contribute to the overall goal of helping 2,000 individuals obtain or advance in employment through this investment. The number the WIB is transitioning/helping advance into employment should be proportional to the amount of money requested. (10 Points)

• The WIB's ability to demonstrate that its technical assistance will ensure that the subawardees have an increased performance, administrative capacity and ability to compete for additional funding opportunities. (8 Points).

• The methodology for working with the subawardees to ensure program success, and effectively track and report outputs, outcomes and demographics is achievable and measurable. (12 Points)

2. Review and Selection Process

A technical review panel will make a careful evaluation of applications against the rating criteria. The review panel recommendations are advisory. The ETA Grant Officer will fully consider the panel recommendations and take into account geographic balance to ensure the most advantageous award of these funds to accomplish the system-building purposes outlined in this SGA. The grant officer may consider any information that comes to his or her attention. The grant officer reserves the right to award without negotiations. Should a grant be awarded without negotiations, the award will be based on the applicant's signature which constitutes a binding offer.

VI. Award Administration Information

1. Award Notices

All award notifications will be posted on the USDOL–ETA homepage at *http://www.doleta.gov*

2. Administrative and National Policy Requirements

All grantees, including faith-based organizations will be subject to all applicable Federal laws (including provisions in appropriations law), regulations, and the applicable Office of Management and Budget (OMB) Circulars. The applicants selected under the SGA will be subject to the following administrative standards and provisions, if applicable.

a. Workforce Investment Boards—20 Code of Federal Regulations (CFR) Part 667.220 (Administrative Costs).

b. Non-Profit Organizations—Office of Management and Budget (OMB) Circulars A–122 (Cost Principles) and 29 CFR Part 95 (Administrative Requirements).

c. Educational Institutions—OMB Circulars A–21 (Cost Principles) and 29 CFR Part 95 (Administrative Requirements).

d. State and Local Governments—OMB Circulars A–87 (Cost Principles) and 29 CFR Part 97 (Administrative Requirements).

e. Profit Making Commercial Firms—Federal Acquisition Regulation (FAR)—48 CFR Part 31 (Cost Principles), and 29 CFR Part 95 (Administrative Requirements).

f. All entities must comply with 29 CFR Parts 93 and 98, and, where applicable, 29 CFR Parts 96 and 99.

g. In accordance with Section 18 of the Lobbying Disclosure Act of 1995,

Pub. L. 104–65 (2 U.S.C. 1611) non-profit entities incorporated under Internal Revenue Code section 501(c)(4) that engage in lobbying activities will not be eligible for the receipt of Federal funds and grants.

Note: Except as specifically provided in this Notice, USDOL–ETA's acceptance of a proposal and an award of Federal funds to sponsor any program(s) does not provide a waiver of any grant requirements and/or procedures. For example, the OMB Circulars require that an entity's procurement procedures must ensure that all procurement transactions are conducted, as much as practical, to provide open and free competition. If a proposal identifies a specific entity to provide services, the USDOL–ETA's award does not provide the justification or basis to sole-source the procurement, *i.e.*, avoid competition, unless the activity is regarded as the primary work of an official partner to the application.

3. Reporting Requirements

The grantee is required to provide the reports and documents listed below:

Quarterly Financial Reports. A Quarterly Financial Status Report (SF–269) is required until such time as all funds have been expended or the period of availability has expired. Quarterly reports are due 30 days after the end of each calendar year quarter. Grantee must use ETA's On-line Electronic Reporting System.

Progress Reports. The grantee must submit a quarterly financial and narrative progress report to the Federal Project Officer within 30 days following each quarter. Copies are to be submitted electronically providing a detailed account of activities undertaken during that quarter. Reports must include the following information for the WIB and their subawardees.

- The number of participants served per quarter (new and active), noting the specific services the grantee is providing in this project.
- The number of One-Stop Career Center clients referred to the subawardee.
- Number of subawardee participants referred to the One-Stop.
- The total number of volunteer hours committed to the grant program.
- Number of participants placed in post-secondary education or advanced training.
- Number of participants placed in a job.
- Average hourly wages at the time of job placement.
- Of the participants placed in a job since the beginning of the grant, how many were continuously employed for 6 months.
- Of the participants placed in a job since the beginning of the grant, how many were re-employed in the last 6 months.
- List other goals submitted with the grant application or additional goals developed for the program.
- List demographic Information.

VII. Agency Contacts

Any questions regarding this SGA should be *faxed* to Eric Luetkenhaus, Grant Officer, Division of Federal Assistance, fax number (202) 693–2705. (This is not a toll-free number.) You must specifically address your fax to the attention of Eric Luetkenhaus and should include SGA/DFA PY–04–04, a contact name, fax and phone number.

FOR FURTHER INFORMATION CONTACT: Eric Luetkenhaus, Grant Officer, Division of Federal Assistance, on (202) 693–3109. (This is not a toll-free number.) This announcement is also being made available on the USDOL–ETA Web site at *http://www.doleta.gov/sga/sga.cfm* and *http://www.grants.gov.*

VIII. Other Information

The Department of Labor maintains a number of Web-based resources that may be of assistance to applicants. The Web page for the Department's Center for Faith-Based & Community Initiatives (*http://www.dol.gov/cfbci*) is a valuable source of background on this initiative. Training and Employment Notice (T.E.N.) 15–03 (*wdr.doleta.gov/directives/attach/TEN15–03.html*) includes information about promising practices for engaging faith-based and community organizations in the workforce system based on successful grantees from PY 2002. America's Service Locator (*http://www.servicelocator.org*) provides a directory of our nation's One-Stop Career Centers. The DOL Employment and Training Administration has a Web page (*http://www.doleta.gov/regions*), which contains contact information for the State and local Workforce Investment boards. Applicants are encouraged to review ''Understanding the Department of Labor Solicitation for Grant Applications and How to Write an Effective Proposal'' (*www/dol.gov/cfbci/sgabrochure.htm*). For a basic understanding of the grants process and basic responsibilities of receiving Federal grant support, please see ''Guidance for Faith-Based and Community Organizations on Partnering with the Federal Government'' (*http://www.fbci.gov*).

Signed at Washington, DC, this 22nd day of March, 2005.

Eric D. Luetkenhaus,

Grant Officer, Employment and Training Administration.

Appendix A: SF–424 Application for Federal Assistance

Appendix B: SF–424A Budget Information Form

Appendix C: OMB Survey N. 1890–0014: Survey on Ensuring Equal Opportunity for Applicants

APPLICATION FOR FEDERAL ASSISTANCE

Version 7/03

1. TYPE OF SUBMISSION: Application: ☐ **Construction** ☐ **Non-Construction**; Pre-application: ☐ **Construction** ☐ **Non-Construction**		**2. DATE SUBMITTED**	Applicant Identifier
		3. DATE RECEIVED BY STATE	State Application Identifier
		4. DATE RECEIVED BY FEDERAL AGENCY	Federal Identifier

5. APPLICANT INFORMATION

Legal Name:		**Organizational Unit:**	
		Department:	
Organizational DUNS:		Division:	
Address:		**Name and telephone number of person to be contacted on matters involving this application (give area code)**	
Street:		Prefix:	First Name:
City:		Middle Name	
County:		Last Name	
State:	Zip Code	Suffix:	
Country:		Email:	
6. EMPLOYER IDENTIFICATION NUMBER *(EIN)*: ☐☐-☐☐☐☐☐☐☐		Phone Number (give area code)	Fax Number (give area code)

8. TYPE OF APPLICATION: ☐ **New** ☐ **Continuation** ☐ **Revision** If Revision, enter appropriate letter(s) in box(es) (See back of form for description of letters.) ☐ ☐ Other (specify)	**7. TYPE OF APPLICANT:** (See back of form for Application Types) Other (specify) **9. NAME OF FEDERAL AGENCY:**
10. CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER: ☐☐-☐☐☐ TITLE (Name of Program):	**11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT:**
12. AREAS AFFECTED BY PROJECT *(Cities, Counties, States, etc.)*:	

13. PROPOSED PROJECT		**14. CONGRESSIONAL DISTRICTS OF:**	
Start Date:	Ending Date:	a. Applicant	b. Project

15. ESTIMATED FUNDING:		**16. IS APPLICATION SUBJECT TO REVIEW BY STATE EXECUTIVE ORDER 12372 PROCESS?**
a. Federal	$ .00	a. Yes. ☐ THIS PREAPPLICATION/APPLICATION WAS MADE AVAILABLE TO THE STATE EXECUTIVE ORDER 12372 PROCESS FOR REVIEW ON DATE:
b. Applicant	$ .00	
c. State	$ .00	
d. Local	$ .00	b. No. ☐ PROGRAM IS NOT COVERED BY E. O. 12372
e. Other	$ .00	☐ OR PROGRAM HAS NOT BEEN SELECTED BY STATE FOR REVIEW
f. Program Income	$ .00	**17. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT?**
g. TOTAL	$ .00	☐ Yes If "Yes" attach an explanation. ☐ No

18. TO THE BEST OF MY KNOWLEDGE AND BELIEF, ALL DATA IN THIS APPLICATION/PREAPPLICATION ARE TRUE AND CORRECT. THE DOCUMENT HAS BEEN DULY AUTHORIZED BY THE GOVERNING BODY OF THE APPLICANT AND THE APPLICANT WILL COMPLY WITH THE ATTACHED ASSURANCES IF THE ASSISTANCE IS AWARDED.

a. Authorized Representative		
Prefix	First Name	Middle Name
Last Name		Suffix
b. Title		c. Telephone Number (give area code)
d. Signature of Authorized Representative		e. Date Signed

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Standard Form 424 (Rev.9-2003)
Prescribed by OMB Circular A-102

INSTRUCTIONS FOR THE SF-424

Public reporting burden for this collection of information is estimated to average 45 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0043), Washington, DC 20503.

PLEASE DO NOT RETURN YOUR COMPLETED FORM TO THE OFFICE OF MANAGEMENT AND BUDGET. SEND IT TO THE ADDRESS PROVIDED BY THE SPONSORING AGENCY.

This is a standard form used by applicants as a required face sheet for pre-applications and applications submitted for Federal assistance. It will be used by Federal agencies to obtain applicant certification that States which have established a review and comment procedure in response to Executive Order 12372 and have selected the program to be included in their process, have been given an opportunity to review the applicant's submission.

Item:	Entry:	Item:	Entry:
1.	Select Type of Submission.	11.	Enter a brief descriptive title of the project. If more than one program is involved, you should append an explanation on a separate sheet. If appropriate (e.g., construction or real property projects), attach a map showing project location. For preapplications, use a separate sheet to provide a summary description of this project.
2.	Date application submitted to Federal agency (or State if applicable) and applicant's control number (if applicable).	12.	List only the largest political entities affected (e.g., State, counties, cities).
3.	State use only (if applicable).	13	Enter the proposed start date and end date of the project.
4.	Enter Date Received by Federal Agency Federal identifier number: If this application is a continuation or revision to an existing award, enter the present Federal Identifier number. If for a new project, leave blank.	14.	List the applicant's Congressional District and any District(s) affected by the program or project
5.	Enter legal name of applicant, name of primary organizational unit (including division, if applicable), which will undertake the assistance activity, enter the organization's DUNS number (received from Dun and Bradstreet), enter the complete address of the applicant (including country), and name, telephone number, e-mail and fax of the person to contact on matters related to this application.	15	Amount requested or to be contributed during the first funding/budget period by each contributor. Value of in kind contributions should be included on appropriate lines as applicable. If the action will result in a dollar change to an existing award, indicate only the amount of the change. For decreases, enclose the amounts in parentheses. If both basic and supplemental amounts are included, show breakdown on an attached sheet. For multiple program funding, use totals and show breakdown using same categories as item 15.
6.	Enter Employer Identification Number (EIN) as assigned by the Internal Revenue Service.	16.	Applicants should contact the State Single Point of Contact (SPOC) for Federal Executive Order 12372 to determine whether the application is subject to the State intergovernmental review process.
7.	Select the appropriate letter in the space provided. A. State B. County C. Municipal D. Township E. Interstate F. Intermunicipal G. Special District H. Independent School District I. State Controlled Institution of Higher Learning J. Private University K. Indian Tribe L. Individual M. Profit Organization N. Other (Specify) O. Not for Profit Organization	17.	This question applies to the applicant organization, not the person who signs as the authorized representative. Categories of debt include delinquent audit disallowances, loans and taxes.
8.	Select the type from the following list: • "New" means a new assistance award. • "Continuation" means an extension for an additional funding/budget period for a project with a projected completion date. • "Revision" means any change in the Federal Government's financial obligation or contingent liability from an existing obligation. If a revision enter the appropriate letter: A. Increase Award B. Decrease Award C. Increase Duration D. Decrease Duration	18	To be signed by the authorized representative of the applicant. A copy of the governing body's authorization for you to sign this application as official representative must be on file in the applicant's office. (Certain Federal agencies may require that this authorization be submitted as part of the application.)
9.	Name of Federal agency from which assistance is being requested with this application.		
10.	Use the Catalog of Federal Domestic Assistance number and title of the program under which assistance is requested.		

BUDGET INFORMATION - Non-Construction Programs

OMB Approval No. 0348-0044

SECTION A - BUDGET SUMMARY

Grant Program Function or Activity (a)	Catalog of Federal Domestic Assistance Number (b)	Estimated Unobligated Funds		New or Revised Budget		
		Federal (c)	Non-Federal (d)	Federal (e)	Non-Federal (f)	Total (g)
1.		$	$	$	$	$ 0.00
2.						0.00
3.						0.00
4.						0.00
5. Totals		$ 0.00	$ 0.00	$ 0.00	$ 0.00	$ 0.00

SECTION B - BUDGET CATEGORIES

6. Object Class Categories	GRANT PROGRAM, FUNCTION OR ACTIVITY				Total
	(1)	(2)	(3)	(4)	(5)
a. Personnel	$	$	$	$	$ 0.00
b. Fringe Benefits					0.00
c. Travel					0.00
d. Equipment					0.00
e. Supplies					0.00
f. Contractual					0.00
g. Construction					0.00
h. Other					0.00
i. Total Direct Charges *(sum of 6a-6h)*	0.00	0.00	0.00	0.00	0.00
j. Indirect Charges					0.00
k. TOTALS *(sum of 6i and 6j)*	$ 0.00	$ 0.00	$ 0.00	$ 0.00	$ 0.00
7. Program Income	$	$	$	$	$ 0.00

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Standard Form 424A (Rev. 7-97)
Prescribed by OMB Circular A-102

SECTION C - NON-FEDERAL RESOURCES

(a) Grant Program	(b) Applicant	(c) State	(d) Other Sources	(e) TOTALS
8.	$	$	$	$ 0.00
9.				0.00
10.				0.00
11.				0.00
12. TOTAL *(sum of lines 8-11)*	$ 0.00	$ 0.00	$ 0.00	$ 0.00

SECTION D - FORECASTED CASH NEEDS

	Total for 1st Year	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter
13. Federal	$ 0.00	$	$	$	$
14. Non-Federal	0.00				
15. TOTAL *(sum of lines 13 and 14)*	$ 0.00	$ 0.00	$ 0.00	$ 0.00	$ 0.00

SECTION E - BUDGET ESTIMATES OF FEDERAL FUNDS NEEDED FOR BALANCE OF THE PROJECT

(a) Grant Program	FUTURE FUNDING PERIODS (Years)			
	(b) First	(c) Second	(d) Third	(e) Fourth
16.	$	$	$	$
17.				
18.				
19.				
20. TOTAL *(sum of lines 16-19)*	$ 0.00	$ 0.00	$ 0.00	$ 0.00

SECTION F - OTHER BUDGET INFORMATION

21. Direct Charges:	22. Indirect Charges:

23. Remarks:

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INSTRUCTIONS FOR THE SF-424A

Public reporting burden for this collection of information is estimated to average 180 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0044), Washington, DC 20503.

PLEASE DO NOT RETURN YOUR COMPLETED FORM TO THE OFFICE OF MANAGEMENT AND BUDGET. SEND IT TO THE ADDRESS PROVIDED BY THE SPONSORING AGENCY.

General Instructions

This form is designed so that application can be made for funds from one or more grant programs. In preparing the budget, adhere to any existing Federal grantor agency guidelines which prescribe how and whether budgeted amounts should be separately shown for different functions or activities within the program. For some programs, grantor agencies may require budgets to be separately shown by function or activity. For other programs, grantor agencies may require a breakdown by function or activity. Sections A, B, C, and D should include budget estimates for the whole project except when applying for assistance which requires Federal authorization in annual or other funding period increments. In the latter case, Sections A, B, C, and D should provide the budget for the first budget period (usually a year) and Section E should present the need for Federal assistance in the subsequent budget periods. All applications should contain a breakdown by the object class categories shown in Lines a-k of Section B.

Section A. Budget Summary Lines 1-4 Columns (a) and (b)

For applications pertaining to a *single* Federal grant program (Federal Domestic Assistance Catalog number) and *not requiring* a functional or activity breakdown, enter on Line 1 under Column (a) the Catalog program title and the Catalog number in Column (b).

For applications pertaining to a *single* program *requiring* budget amounts by multiple functions or activities, enter the name of each activity or function on each line in Column (a), and enter the Catalog number in Column (b). For applications pertaining to multiple programs where none of the programs require a breakdown by function or activity, enter the Catalog program title on each line in *Column* (a) and the respective Catalog number on each line in Column (b).

For applications pertaining to *multiple* programs where one or more programs *require* a breakdown by function or activity, prepare a separate sheet for each program requiring the breakdown. Additional sheets should be used when one form does not provide adequate space for all breakdown of data required. However, when more than one sheet is used, the first page should provide the summary totals by programs.

Lines 1-4, Columns (c) through (g)

For new applications, leave Column (c) and (d) blank. For each line entry in Columns (a) and (b), enter in Columns (e), (f), and (g) the appropriate amounts of funds needed to support the project for the first funding period (usually a year).

For continuing grant program applications, submit these forms before the end of each funding period as required by the grantor agency. Enter in Columns (c) and (d) the estimated amounts of funds which will remain unobligated at the end of the grant funding period only if the Federal grantor agency instructions provide for this. Otherwise, leave these columns blank. Enter in columns (e) and (f) the amounts of funds needed for the upcoming period. The amount(s) in Column (g) should be the sum of amounts in Columns (e) and (f).

For supplemental grants and changes to existing grants, do not use Columns (c) and (d). Enter in Column (e) the amount of the increase or decrease of Federal funds and enter in Column (f) the amount of the increase or decrease of non-Federal funds. In Column (g) enter the new total budgeted amount (Federal and non-Federal) which includes the total previous authorized budgeted amounts plus or minus, as appropriate, the amounts shown in Columns (e) and (f). The amount(s) in Column (g) should not equal the sum of amounts in Columns (e) and (f).

Line 5 - Show the totals for all columns used.

Section B Budget Categories

In the column headings (1) through (4), enter the titles of the same programs, functions, and activities shown on Lines 1-4, Column (a), Section A. When additional sheets are prepared for Section A, provide similar column headings on each sheet. For each program, function or activity, fill in the total requirements for funds (both Federal and non-Federal) by object class categories.

Line 6a-i - Show the totals of Lines 6a to 6h in each column.

Line 6j - Show the amount of indirect cost.

Line 6k - Enter the total of amounts on Lines 6i and 6j. For all applications for new grants and continuation grants the total amount in column (5), Line 6k, should be the same as the total amount shown in Section A, Column (g), Line 5. For supplemental grants and changes to grants, the total amount of the increase or decrease as shown in Columns (1)-(4), Line 6k should be the same as the sum of the amounts in Section A, Columns (e) and (f) on Line 5.

Line 7 - Enter the estimated amount of income, if any, expected to be generated from this project. Do not add or subtract this amount from the total project amount, Show under the program

INSTRUCTIONS FOR THE SF-424A (continued)

narrative statement the nature and source of income. The estimated amount of program income may be considered by the Federal grantor agency in determining the total amount of the grant.

Section C. Non-Federal Resources

Lines 8-11 Enter amounts of non-Federal resources that will be used on the grant. If in-kind contributions are included, provide a brief explanation on a separate sheet.

Column (a) - Enter the program titles identical to Column (a), Section A. A breakdown by function or activity is not necessary.

Column (b) - Enter the contribution to be made by the applicant.

Column (c) - Enter the amount of the State's cash and in-kind contribution if the applicant is not a State or State agency. Applicants which are a State or State agencies should leave this column blank.

Column (d) - Enter the amount of cash and in-kind contributions to be made from all other sources.

Column (e) - Enter totals of Columns (b), (c), and (d).

Line 12 - Enter the total for each of Columns (b)-(e). The amount in Column (e) should be equal to the amount on Line 5, Column (f), Section A.

Section D. Forecasted Cash Needs

Line 13 - Enter the amount of cash needed by quarter from the grantor agency during the first year.

Line 14 - Enter the amount of cash from all other sources needed by quarter during the first year.

Line 15 - Enter the totals of amounts on Lines 13 and 14.

Section E. Budget Estimates of Federal Funds Needed for Balance of the Project

Lines 16-19 - Enter in Column (a) the same grant program titles shown in Column (a), Section A. A breakdown by function or activity is not necessary. For new applications and continuation grant applications, enter in the proper columns amounts of Federal funds which will be needed to complete the program or project over the succeeding funding periods (usually in years). This section need not be completed for revisions (amendments, changes, or supplements) to funds for the current year of existing grants.

If more than four lines are needed to list the program titles, submit additional schedules as necessary.

Line 20 - Enter the total for each of the Columns (b)-(e). When additional schedules are prepared for this Section, annotate accordingly and show the overall totals on this line.

Section F. Other Budget Information

Line 21 - Use this space to explain amounts for individual direct object class cost categories that may appear to be out of the ordinary or to explain the details as required by the Federal grantor agency.

Line 22 - Enter the type of indirect rate (provisional, predetermined, final or fixed) that will be in effect during the funding period, the estimated amount of the base to which the rate is applied, and the total indirect expense.

Line 23 - Provide any other explanations or comments deemed necessary.

SURVEY ON ENSURING EQUAL OPPORTUNITY FOR APPLICANTS

OMB No. 1890-0014 Exp. 1/31/2006

Purpose: The Federal government is committed to ensuring that all qualified applicants, small or large, non-religious or faith-based, have an equal opportunity to compete for Federal funding. In order for us to better understand the population of applicants for Federal funds, we are asking nonprofit private organizations (not including private universities) to fill out this survey.

Upon receipt, the survey will be separated from the application. Information provided on the survey will not be considered in any way in making funding decisions and will not be included in the Federal grants database. While your help in this data collection process is greatly appreciated, completion of this survey is voluntary.

Instructions for Submitting the Survey: If you are applying using a hard copy application, please place the completed survey in an envelope labeled "Applicant Survey." Seal the envelope and include it along with your application package. If you are applying electronically, please submit this survey along with your application.

Applicant's (Organization) Name: _____

Applicant's DUNS Number: _____

Grant Name: _____ **CFDA Number:** _____

1. Does the applicant have 501(c)(3) status?

   ☐ Yes ☐ No

2. How many full-time equivalent employees does the applicant have? *(Check only one box).*

   ☐ 3 or Fewer ☐ 15-50
   ☐ 4-5 ☐ 51-100
   ☐ 6-14 ☐ over 100

3. What is the size of the applicant's annual budget? *(Check only one box.)*

   ☐ Less Than $150,000
   ☐ $150,000 - $299,999
   ☐ $300,000 - $499,999
   ☐ $500,000 - $999,999
   ☐ $1,000,000 - $4,999,999
   ☐ $5,000,000 or more

4. Is the applicant a faith-based/religious organization?

   ☐ Yes ☐ No

5. Is the applicant a non-religious community-based organization?

   ☐ Yes ☐ No

6. Is the applicant an intermediary that will manage the grant on behalf of other organizations?

   ☐ Yes ☐ No

7. Has the applicant ever received a government grant or contract (Federal, State, or local)?

   ☐ Yes ☐ No

8. Is the applicant a local affiliate of a national organization?

   ☐ Yes ☐ No

Survey Instructions on Ensuring Equal Opportunity for Applicants

Provide the applicant's (organization) name and DUNS number and the grant name and CFDA number.

1. 501(c)(3) status is a legal designation provided on application to the Internal Revenue Service by eligible organizations. Some grant programs may require nonprofit applicants to have 501(c)(3) status. Other grant programs do not.

2. For example, two part-time employees who each work half-time equal one full-time equivalent employee. If the applicant is a local affiliate of a national organization, the responses to survey questions 2 and 3 should reflect the staff and budget size of the local affiliate.

3. Annual budget means the amount of money your organization spends each year on all of its activities.

4. Self-identify.

5. An organization is considered a community-based organization if its headquarters/service location shares the same zip code as the clients you serve.

6. An "intermediary" is an organization that enables a group of small organizations to receive and manage government funds by administering the grant on their behalf.

7. Self-explanatory.

8. Self-explanatory.

Paperwork Burden Statement

According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless such collection displays a valid OMB control number. The valid OMB control number for this information collection is 1890-0014. The time required to complete this information collection is estimated to average five (5) minutes per response, including the time to review instructions, search existing data resources, gather the data needed, and complete and review the information collection. **If you have any comments concerning the accuracy of the time estimate(s) or suggestions for improving this form, please write to:** U.S. Department of Education, Washington, D.C. 2202-4651.

If you have comments or concerns regarding the status of your individual submission of this form, write directly to: Joyce I. Mays, Application Control Center, U.S. Department of Education, 7th and D Streets, SW, ROB-3, Room 3671, Washington, D.C. 20202-4725

OMB No. 1890-0014 Exp. 1/31/2006

[FR Doc. 05–6022 Filed 3–25–05; 8:45 am]
BILLING CODE 4510–30–P

MARINE MAMMAL COMMISSION

Committee Management; Notice of Public Meeting; Advisory Committee on Acoustic Impacts on Marine Mammals

AGENCY: Marine Mammal Commission.

ACTION: Notice of advisory committee meeting.

SUMMARY: The Marine Mammal Commission (Commission) will hold the fifth meeting of its Advisory Committee on Acoustic Impacts on Marine Mammals (Committee) 19 to 21 April, 2005 in Silver Spring, Maryland.

DATES: The Committee will meet Tuesday, April 19, 2005, from 9 a.m. to 6 p.m.; Wednesday, April 20, from 8:30 a.m. to 5:15 p.m.; and Thursday, April 21, from 8:30 a.m. to 5 p.m. This meeting is open to the public. These times and the agenda topics described below are subject to change. Please refer to the Commission's Web site (www.mmc.gov) for the most up-to-date meeting information. The Committee's sixth public meeting is tentatively scheduled for 19–21 July 2005 in the Washington, DC metropolitan area. Further information on that meeting will be published in the **Federal Register** and posted on the Commission's Web site.

ADDRESSES: The 19–21 April meeting will be held at the Hilton Washington DC/Silver Spring Hotel, 8727 Colesville Road, Silver Spring, Maryland 20910, phone 301–589–5200, fax 301–588–1841, *http://www.silverspring.hilton.com.*

FOR FURTHER INFORMATION CONTACT: Erin Vos, Sound Project Manager, Marine Mammal Commission, 4340 East-West Hwy., Rm. 905, Bethesda, MD 20814, e-mail: *evos@mmc.gov,* tel.: 301–504–0087, fax: 301–504–0099; or visit the Commission's Web site at *http://www.mmc.gov.*

SUPPLEMENTARY INFORMATION: This meeting is to be held pursuant to the directive in the Omnibus Appropriations Act of 2003 (Pub. L. 108–7) that the Commission convene a conference or series of conferences to ''share findings, survey acoustic 'threats' to marine mammals, and develop means of reducing those threats while maintaining the oceans as a global highway of international commerce.'' The meeting agenda includes presentations and discussions related to (1) The final draft report of the Subcommittee on Synthesis of Current Knowledge and the development of research recommendations; (2) a draft report from the Subcommittee on Management and Mitigation; (3) draft reports and recommendations from working groups on animal welfare ethics and research ethics issues; (4) criteria for developing research priorities; (5) the development of a report chapter on international efforts to reduce the impacts of anthropogenic sound on marine mammals; (6) the development of the structure and content of the Advisory Committee's final report, including recommendations; and (7) the process for endorsement of the final report. The agenda also includes two public comment sessions. Guidelines for making public comments, background documents, and the meeting agenda, including the specific times of public comment periods, will be posted on the Commission's Web site prior to the meeting. Written comments may be submitted at the meeting.

Dated: March 23, 2004.

David Cottingham,

Executive Director.

[FR Doc. 05–6053 Filed 3–25–05; 8:45 am]

BILLING CODE 6820–31–M

NUCLEAR REGULATORY COMMISSION

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: U.S. Nuclear Regulatory Commission (NRC).

ACTION: Notice of pending NRC action to submit an information collection request to OMB and solicitation of public comment.

SUMMARY: The NRC is preparing a submittal to OMB for review of continued approval of information collections under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

Information pertaining to the requirement to be submitted:

1. *The title of the information collection:* 10 CFR part 100, ''Reactor Site Criteria.''

2. *Current OMB approval number:* 3150–0093.

3. *How often the collection is required:* As necessary in order for NRC to assess the adequacy of proposed seismic design bases and the design bases for other geological hazards for nuclear power and test reactors constructed and licensed in accordance with 10 CFR parts 50 and 52 and the Atomic Energy Act of 1954, as amended.

4. *Who is required or asked to report:* Applicants and licensees for nuclear power and test reactors.

5. *The number of annual respondents:* .33 (1 respondent every 3 years).

6. *The number of hours needed annually to complete the requirement or request:* 8,711.

7. *Abstract:* 10 CFR part 100, ''Reactor Site Criteria,'' establishes approval requirements for proposed sites for the purpose of constructing and operating stationary power and testing reactors pursuant to the provisions of 10 CFR parts 50 or 52. These reactors are required to be sited, designed, constructed, and maintained to withstand geologic hazards, such as faulting, seismic hazards, and the maximum credible earthquake, to protect the health and safety of the public and the environment. Non-seismic siting criteria must also be evaluated. Non-seismic siting criteria include such factors as population density, the proximity of man-related hazards, and site atmospheric dispersion characteristics. NRC uses the information required by 10 CFR part 100 to evaluate whether natural phenomena and potential man-made hazards will be appropriately accounted for in the design of nuclear power and test reactors.

Submit, by May 27, 2005, comments that address the following questions:

1. Is the proposed collection of information necessary for the NRC to properly perform its functions? Does the information have practical utility?

2. Is the burden estimate accurate?

3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?

4. How can the burden of the information collection be minimized, including the use of automated collection techniques or other forms of information technology?

A copy of the draft supporting statement may be viewed free of charge at the NRC Public Document Room, One White Flint North, 11555 Rockville Pike, Room O–1 F21, Rockville, MD 20852. OMB clearance requests are available at the NRC worldwide Web site: *http://www.nrc.gov/public-involve/doc-comment/omb/index.html.* The document will be available on the NRC home page site for 60 days after the signature date of this notice.

Comments and questions about the information collection requirements may be directed to the NRC Clearance Officer, Brenda Jo. Shelton (T–5 F53), U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, by telephone at 301–415–7233, or by Internet electronic mail to *infocollects@nrc.gov.*

Dated in Rockville, Maryland, this 22nd day of March, 2005.

For the Nuclear Regulatory Commission.

Brenda Jo. Shelton,

NRC Clearance Officer, Office of Information Services.

[FR Doc. E5–1344 Filed 3–25–05; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549.

Extension: Rule 482, SEC File No. 270–508, OMB Control No. 3235–0565.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) the Securities and Exchange Commission (the ''Commission'') is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget (''OMB'') for extension and approval.

Like most issuers of securities, when an investment company [1] (''fund'') offers its shares to the public, its promotional efforts become subject to the advertising restrictions of the Securities Act of 1933, as amended (the ''Securities Act''). In recognition of the particular problems faced by funds that continually offer securities and wish to advertise their securities, the Commission has previously adopted advertising safe harbor rules. The most important of these is rule 482 under the Securities Act, which, under certain circumstances, permits funds to advertise investment performance data, as well as other information. Rule 482 advertisements are deemed to be ''prospectuses'' under section 10(b) of the Securities Act.[2]

Rule 482 contains certain requirements regarding the disclosure that funds are required to provide in qualifying advertisements. These requirements are intended to encourage the provision to investors of information that is balanced and informative, particularly in the area of investment performance. For example, a fund is required to include disclosure advising investors to consider the fund's investment objectives, risks, charges and expenses, and other information described in the fund's prospectus or accompanying profile (if applicable), and highlighting the availability of the fund's prospectus. In addition, rule 482 advertisements that include performance data of open-end funds or insurance company separate accounts offering variable annuity contracts are required to include certain standardized performance information, information about any sales loads or other nonrecurring fees, and a legend warning that past performance does not guarantee future results. Such funds including performance information in rule 482 advertisements are also required to make available to investors month-end performance figures via Web site disclosure or by a toll-free telephone number, and to disclose the availability of the month-end performance data in the advertisement. The rule also sets forth requirements regarding the prominence of certain disclosures, requirements regarding advertisements that make tax representations, requirements regarding advertisements used prior to the effectiveness of the fund's registration statement, requirements regarding the timeliness of performance data, and certain required disclosures by money market funds.

Rule 482 advertisements must be filed with the Commission or, in the alternative, with NASD Regulation, Inc. (''NASDR'').[3] This information collection differs from many other federal information collections that are primarily for the use and benefit of the collecting agency.

As discussed above, rule 482 contains requirements that are intended to encourage the provision to investors of information that is balanced and informative, particularly in the area of investment performance. The Commission is concerned that in the absence of such provisions fund investors may be misled by deceptive rule 482 performance advertisements and may rely on less-than-adequate information when determining in which funds they should invest their money. As a result, the Commission believes it is beneficial for funds to provide investors with balanced information in fund advertisements in order to allow investors to make better-informed decisions.

The Commission estimates that 56,936 responses are filed annually pursuant to rule 482 by 4,384 investment companies offering 37,500 portfolios. Respondents consist of all the investment companies that take advantage of the safe harbor offered by the rule for their advertisements. The burden associated with rule 482 is presently estimated to be 5.16 hours per response. The hourly burden is therefore approximately 293,790 hours (56,936 responses times 5.16 hours per response).

The estimate of average burden hours is made solely for the purposes of the Paperwork Reduction Act, and is not derived from a comprehensive or even a representative survey or study of the costs of Commission rules and forms.

Cost burden is the cost of services purchased to comply with rule 482, such as for the services of computer programmers, outside counsel, financial printers, and advertising agencies. The Commission attributes no cost burden to rule 482.

Written comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Please direct your written comments to R. Corey Booth, Director/Chief Information Officer, Office of Information Technology, Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549.

Dated: March 22, 2005.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. E5–1366 Filed 3–25–05; 8:45 am]

BILLING CODE 8010–01–P

[1] ''Investment company'' refers to both investment companies registered under the Investment Company Act of 1940, as amended, and business development companies.

[2] 15 U.S.C. 77j(b).

[3] *See* Rule 24b–3 under the Investment Company Act [17 CFR 270.24b–3], which provides that any sales material, including rule 482 advertisements, shall be deemed filed with the Commission for purposes of Section 24(b) of the Investment Company Act upon filing with the NASDR.

SECURITIES AND EXCHANGE COMMISSION

[Release Nos. 33–8560; 34–51417, File No. 265–23]

Advisory Committee on Smaller Public Companies

AGENCY: Securities and Exchange Commission.

ACTION: Notice of first meeting of SEC Advisory Committee on Smaller Public Companies.

SUMMARY: The Securities and Exchange Commission Advisory Committee on Smaller Public Companies will hold its first meeting on Tuesday, April 12, 2005, in the William O. Douglas Room of the Commission's headquarters, 450 Fifth Street, NW., Washington, DC, beginning at 9:30 a.m. The meeting will be open to the public and webcast on the Commission's Web site at *http://www.sec.gov*. The public is invited to submit written statements to the Committee.

DATES: Written statements should be received on or before April 8, 2005.

ADDRESSES: Written statements may be submitted by any of the following methods:

Electronic Statements

- Use the Commission's Internet submission form (*http://www.sec.gov/info/smbus/acspc.shtml*; or
- Send an e-mail message to *rule-comments@sec.gov*. Please include File Number 265–23 on the subject line; or

Paper Statements

- Send paper statements in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609.

All submissions should refer to File No. 265–23. This file number should be included on the subject line if e-mail is used. To help us process and review your statement more efficiently, please use only one method. The Commission will post all statements on the Commission's Web site (*http://www.sec.gov./info/smbus/acspc.shtml*). Statements are also available for public inspection and copying in the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, DC 20549. All statements received will be posted without change; we do not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly.

FOR FURTHER INFORMATION CONTACT: Kevin M. O'Neill, Special Counsel, at (202) 942–2908, Office of Small Business Policy, Division of Corporation Finance, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0310.

SUPPLEMENTARY INFORMATION: In accordance with Section 10(a) of the Federal Advisory Committee Act, 5 U.S.C.-App. 1, § 10(a), and the regulations thereunder, Gerald J. Laporte, Designated Federal Officer of the Committee, has ordered publication of this notice that the Advisory Committee will hold its first meeting on April 12, 2005, in the William O. Douglas Room at the Commission's headquarters, 450 Fifth Street, NW., Washington, DC, beginning at 9:30 a.m. The purpose of this meeting is to discuss general organizational matters, a Committee Agenda and a timetable for the Committee's work. The agenda for the meeting includes consideration of publishing a release in the **Federal Register** soliciting public comment on the Committee Agenda, which sets forth the proposed topics for consideration by the Committee over its entire term. Members of the public are not expected to be permitted to speak or orally address the Committee at this meeting, but are expected to be able to do so at some future meetings in accordance with guidelines to be adopted and published.

Dated: March 23, 2005.

Jonathan G. Katz,

Secretary.

[FR Doc. 05–6100 Filed 3–23–05; 4:59 pm]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–51407; File No. SR–CBOE–2005–16]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Chicago Board Options Exchange, Incorporated To Extend a Pilot Program Relating to Margin Requirements for Certain Complex Options Spreads

March 22, 2005.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on February 7, 2005, the Chicago Board Options Exchange, Incorporated (''CBOE'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared primarily by the CBOE. Pursuant to Section 19(b)(3)(A)(iii) of the Act[3] and Rule 19b–4(f)(6) thereunder,[4] CBOE has designated this proposal as non-controversial, which renders the proposed rule change effective immediately upon filing. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

CBOE proposes to extend, until February 7, 2006, a pilot program permitting an interpretation to CBOE Rule 12.3, *Margin Requirements,* relating to margin requirements for certain complex option spreads. The text of the proposed rule change is available at the Office of the Secretary, CBOE and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, CBOE included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. CBOE has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.[5]

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

On August 8, 2003, the Commission approved on a one-year pilot basis (''Pilot'') a CBOE Regulatory Circular setting forth an interpretation of CBOE's current margin requirements for certain complex option spreads.[6] CBOE subsequently submitted two additional filings relating to the Pilot—one to extend the Pilot for an additional six months,[7] which was effective upon

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(iii).

[4] 17 CFR 240.19b–4(f)(6).

[5] The Commission has modified parts of these statements.

[6] *See* Securities Exchange Act Release No. 48306 (August 8, 2003), 68 FR 48974 (approving SR–CBOE–2003–24). Regulatory Circular RG03–66 was issued by CBOE following the Commission's approval of SR–CBOE–2003–24.

[7] *See* SR–CBOE–2004–56.

filing with the Commission,[8] and another proposing permanent implementation of the margin requirements covered by the Pilot.[9] In this filing, CBOE has requested an additional extension of the Pilot, until February 7, 2006, or until such time as the Commission has approved CBOE's request for permanent implementation of the margin requirements on certain complex option spreads, whichever occurs sooner.

CBOE is proposing an extension of the Pilot so that it may continue in effect while the Commission considers CBOE's proposal for permanent implementation. As such, CBOE proposes to reissue the Regulatory Circular with the new Pilot expiration date. CBOE has received no negative comments concerning Regulatory Circulars RG03–66 or RG04–90 since they were issued, nor is CBOE aware of any negative consequences resulting from the application of the margin requirements permitted by the Regulatory Circulars.

2. Statutory Basis

CBOE represented that the proposed Regulatory Circular clarifies that CBOE's current margin rules extend to complex option spreads, thereby allowing investors to more efficiently implement these strategies. As such, CBOE believes that the proposed Regulatory Circular interpretation of CBOE Rule 12.3 is consistent with and furthers the objectives of Section 6(b)(5) of the Act, in that it is designed to perfect the mechanisms of a free and open market and to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

CBOE does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

CBOE neither solicited nor received written comments with respect to the proposed rule change.

[8] *See* Securities Exchange Act Release No. 50164 (August 6, 2004), 69 FR 50405 (August 16, 2004) (approving SR–CBOE–2004–56). Regulatory Circular RG03–66 was reissued as Regulatory Circular RG04–90.

[9] *See* SR–CBOE–2004–53.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing proposed rule change has become effective upon filing on February 7, 2005, pursuant to Section 19(b)(3)(A)[10] of the Act and Rule 19b–4(f)(6)[11] thereunder because the proposal: (1) Does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; and (3) does not become operative for 30 days from the date of filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest; provided that the self-regulatory organization has given the Commission written notice of its intent to file the proposed rule change at least five business days prior to the filing date of the proposed rule change.[12]

A proposed rule change filed under Rule 19b–4(f)(6) normally does not become operative prior to 30 days after the date of filing. However, pursuant to Rule 19b–4(f)(6)(iii),[13] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. CBOE has requested that the Commission waive the 30-day operative waiting period to permit CBOE to continue the Pilot without interruption while the Commission determines whether to approve permanent implementation of the subject margin requirements.

The Commission, consistent with the protection of investors and the public interest, has waived the 30-day requirement that the proposed rule change not become operative for 30 days after the date it was filed.[14] The Commission believes that granting immediate effectiveness to the proposed rule change is appropriate because it will allow the Pilot to continue without interruption after it would otherwise have expired on February 7, 2005. At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in the furtherance of the purposes of the Act.[15]

[10] 15 U.S.C. 78s(b)(3)(A).

[11] 17 CFR 240.19b–4(f)(6).

[12] As required under Rule 19b–4(f)(6)(iii), the CBOE provided the Commission with written notice of its intent to file the proposed rule change at least five business days prior to the filing date.

[13] 17 CFR 240.19b–4(f)(6)(iii).

[14] For the purposes only of accelerating the operative date of this proposal, the Commission has considered the proposed rules impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–CBOE–2005–16 on the subject line.

Paper Comments

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609.

All submissions should refer to File Number SR–CBOE–2005–16. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal office of the CBOE. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CBOE–2005–16 and should be submitted on or before April 18, 2005.

[15] 15 U.S.C. 78s(b)(3)(C).

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[16]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. E5–1365 Filed 3–25–05; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–51390; File No. SR–OCC–2005–02]

Self-Regulatory Organizations; The Options Clearing Corporation; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to the Establishment of a Money-Only Settlement Service

March 17, 2005.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on March 2, 2005, The Options Clearing Corporation (''OCC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which items have been prepared primarily by OCC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change establishes a money-only settlement service for OCC clearing members.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, OCC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. OCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.[2]

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

Clearing members have asked OCC to provide a facility that effects transfers of daily money differences and claims between clearing members.[3] These money differences may result from such things as, among other things, transfers of accounts and commission billing for trade execution. Clearing members presently settle these differences through invoices and checks sent through the U.S. mail or by messenger deliveries. However, clearing members have advised OCC that items sent by either of these means are frequently lost, misdelivered, or delayed and ultimately are written off as uncollectible.

In response to these requests, OCC has determined to add a money-only settlement service that would be available for clearing member use through OCC's ENCORE system. This service, which will only be available for money differences arising from transactions cleared by OCC, will be governed by proposed new Rule 504.[4] Clearing members desiring to settle an open money item with another clearing member will initiate an instruction on any business day through the ENCORE system. OCC will specify a time by which instructions will have to be approved. If the clearing member receiving the instruction does not approve it by the deadline, the instruction will be deemed null and void and will be deleted from the system. If the instruction is approved,[5] OCC, as agent, would draft a paying clearing member's designated bank account at a time to be specified by OCC. OCC will similarly specify a time by which OCC, as agent, will pay to the collecting clearing member the amount specified in the instruction. Initially, OCC intends to effect money-only settlement on the business day after an instruction is approved. In the future, however, OCC may effect money-only settlement on the same business day that an instruction is approved. OCC will notify its clearing members before implementing a change with respect to settlement times.

OCC will withhold money-only settlement amounts owed to any clearing member if the clearing member has any unsatisfied payment obligation to OCC. Any amounts withheld will be used to reduce the unpaid obligation.

In drafting a paying clearing member's bank account or in making payment to a collecting clearing member in connection with money-only settlement transactions, OCC may combine multiple transactions for which the clearing member is obligated to make payment or is entitled to receive payments. However, OCC will neither net money-only settlement amounts payable by a clearing member with any amounts payable to the clearing member by OCC with respect to any account maintained by the clearing member with OCC nor will OCC net money-only settlement amounts payable to a clearing member with amounts payable by the clearing member to OCC. Money-only settlement amounts will appear as a separate line item on a settlement report made available to clearing members on each business day.[6]

The money differences to be processed through the money-only settlement system are between clearing members, and OCC will accordingly only act as agent for each clearing member in facilitating their settlement. OCC will not guarantee money-only settlements and will not be obligated to make a money-only settlement payment unless it has collected the amount of the payment from the paying clearing member. If a clearing member is suspended by OCC pursuant to Chapter XI of the Rules, any pending instructions of such clearing member will be deemed null and void to the extent that the suspended clearing member is a paying clearing member.[7] OCC does not believe that the money-only settlement service will adversely affect its capacity to settle transactions in cleared securities because its cash settlement system has more than sufficient capacity to handle the anticipated daily volume of money-only settlements.

OCC believes that the proposed rule change is consistent with Section 17A of the Act because money-only settlement service will provide a more efficient means for clearing members to settle money differences relating to transactions or positions in cleared contracts, thereby improving the likelihood that these amounts will be collected by clearing members. The proposed rule change is not inconsistent with the existing rules of OCC,

[16] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] The Commission has modified parts of these statements.

[3] In making their request, clearing members advised OCC that other securities clearing agencies, including The Depository Trust Company (''DTC'') and National Securities Clearing Corporation (''NSCC''), offer a comparable service to their participants. See DTC Rule 9(A), Transactions in Securities and Money Payments and NSCC Rule 41, Funds Only Settlement Service.

[4] Proposed Rule 504 is based on Rule 503 pursuant to which OCC, as agent, effects premium settlements between banks or depositories and clearing members with respect to their escrow depository receipt activity under Rule 613.

[5] Approval of an instruction by a clearing member will be detailed in an audit trail created and maintained by OCC.

[6] This report is made available to Clearing Members via OCC's on-line report inquiry service.

[7] OCC's determination not to guarantee money-only settlement items is consistent with NSCC Rule 41, Section 10.

including any other rules proposed to be amended.

(B) Self-Regulatory Organization's Statement on Burden on Competition

OCC does not believe that the proposed rule change would impose any burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were not and are not intended to be solicited with respect to the proposed rule change, and none have been received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act [8] and Rule 19b–4(f)(6) [9] thereunder because it effects a change that (i) does not significantly affect the protection of investors or the public interest, (ii) does not impose any significant burden on competition, and (iii) by its terms, does not become operative for 30 days after the filing. At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate the rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic comments

- Use the Commission's Internet comment form *(http://www.sec.gov/rules/sro.shtml)* or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–OCC–2005–02 on the subject line.

Paper comments

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609.

All submissions should refer to File Number SR–OCC–2005–02. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal office of OCC and on OCC's Web site at *http://www.optionsclearing.com*. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–OCC–2005–02 and should be submitted on or before April 18, 2005.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[10]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. E5–1336 Filed 3–25–05; 8:45 am]

BILLING CODE 8010–01–P

[8] 15 U.S.C. 78s(b)(3)(A)(iii).

[9] 17 CFR 240.19b–4(f)(6).

[10] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–51398; File No. SR–PCX–2005–10]

Self-Regulatory Organizations; Pacific Exchange, Inc.; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change and Amendment No. 1 Thereto Requiring Electronic Filing of Form U4 and Form U5 by OTP Holders and OTP Firms Through the CRD

March 18, 2005.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] notice is hereby given that on January 31, 2005, the Pacific Exchange, Inc. (''PCX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. On February 28, 2005, the Exchange filed Amendment No. 1 to the proposal. The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons and is approving the proposed rule change, as amended, on an accelerated basis.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The PCX proposes to amend PCX Rules 2.4, 2.17 and 2.23 to support the implementation of an electronic registration process. The text of the proposed rule change is available on the PCX's Web site *http://www.pacificex.com,* at the PCX's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item III below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The current PCX procedures require Option Trading Permit (''OTP'') applicants to submit the Uniform Application for Securities Industry Registration or Transfer (''Form U4'') to the Exchange when they are requesting approval to become an OTP Holder or OTP Firm and the Uniform Termination Notice for Securities Industry Registration (''Form U5'') when they wish to terminate an OTP.[3] These forms

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] In Amendment No. 1 the Exchange stated that these requirements are contained in the current PCX Rules. The word ''Rules'' is replaced by the word ''procedures'' pursuant to the telephone conversation between Steven Matlin, Senior

are currently submitted to the Exchange's Shareholder and Registration Services (''SRS'') department.

The Exchange is now proposing to require all current OTP Holders and OTP Firms and new applicants to use the National Association of Securities Dealers, Inc. (''NASD'') Central Registration Depository (''CRD'') as the mechanism for submitting required Forms U4 and U5 filings to the Exchange. As a result of this change, all persons that currently submit paper Forms U4 and U5 filings to the Exchange would be required to submit these forms electronically through Web CRD. The CRD is a Web based system that provides broker-dealers and their associated persons with ''one stop filing'' with the Commission, NASD, and other self-regulatory organizations and regulators. The CRD is operated by NASD and is used by participating regulators in connection with registering and licensing broker-dealers and their associated persons.

As a result of moving from a manual application process to a fully electronic application process, the Exchange is proposing to reduce the time period, in which OTP Holders must file amendments to their applications, from fifteen business days to ten business days. The Exchange feels that the switch from a manual application process to a fully electronic application justifies such a reduction in time and therefore will not place any additional burden on the applicant. The Exchange has also proposed certain technical changes to the rule text that are necessary to adopt the rules associated with an electronic filing process.

The Exchange is also proposing to require any OTP Holder that terminates its OTP to electronically file within ten business days of such termination Form U5 with the CRD. In addition, any amendments to the Form U5 must be filed within ten business days of the occurrence causing the amendment. This proposed rule is necessary to fully automate the registration/termination process.

The Exchange anticipates that during the period between April 18, 2005, and May 13, 2005, OTP Holders and OTP Firms will submit an updated Form U4 to Web CRD for all individuals who are employees of OTP Holders and OTP Firms who have not previously submitted a Form U4 to Web CRD.[4] The proposed rule change would require any person seeking to become an OTP Holder or OTP Firm or any individual who requires registration pursuant to PCX Rule 2.23 to electronically file a Form U4 with Web CRD. The Exchange believes that automating the review of registration applications and termination notices by transmitting all Forms U4 and U5 filings to Web CRD will enable the Exchange to perform more efficiently its regulatory responsibilities with respect to OTP Holders and OTP Firms and, thereby, will ultimately enhance investor protection.

2. Statutory Basis

The Exchange believes that the proposed rule change, as amended, is consistent with Section 6(b) of the Act[5] in general, and furthers the objectives of Section 6(b)(5) of the Act[6] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to, and perfect the mechanism of, a free and open market and a national market system.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change, as amended, will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments on the proposed rule change were neither solicited nor received.

III. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change, as amended, is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–PCX–2005–10 on the subject line.

Paper Comments

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609.

All submissions should refer to File Number SR–PCX–2005–10. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the principal office of the PCX. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–PCX–2005–10 and should be submitted on or before April 18, 2005.

IV. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change

The Commission finds that the proposed rule change, as amended, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[7] In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,[8] which requires, among other things, that the Exchange's rules promote just and equitable principles of trade and facilitate transactions in securities, and, in

Counsel, PCX, and Kathy England, Assistant Director, Elizabeth Badawy, Accountant, and Natasha Cowen, Attorney, Division of Market Regulation, Commission, on March 15, 2005.

[4] A number of individuals that are employees of OTP Holders and OTP Firms already have submitted Form U4 to Web CRD if they work for dual PCX/NASD member firms and their job responsibilities require registration with NASD.

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(5).

[7] In approving this proposal, the Commission has considered its impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[8] 15 U.S.C. 78f(b)(5).

general, protect investors and the public interest.

The Exchange has requested that the Commission approve the proposed rule change, as amended, on an accelerated basis. The Commission finds good cause, pursuant to Section 19(b)(2) of the Act,[9] for approving the proposed rule change, as amended, prior to the thirtieth day after the date of publication of notice in the **Federal Register**. The Commission has previously approved a substantially similar proposed rule change submitted by the American Stock Exchange LLC to provide for the processing of the Forms U4 and U5 through Web CRD[10] and does not believe that the proposed rule change raises novel regulatory issues. The proposed rule change, as amended, promotes uniformity of registration in the industry. Accordingly, the Commission finds that there is good cause, consistent with Section 6(b)(5) of the Act,[11] to approve the proposed rule change, as amended, on an accelerated basis.

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change, as amended, (SR–PCX–2005–10) is hereby approved on an accelerated basis.[12]

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[13]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. E5–1334 Filed 3–25–05; 8:45 am]

BILLING CODE 8010–01–P

[9] 15 U.S.C. 78s(b)(2).

[10] *See* Securities Exchange Act Release No. 48067 (June 19, 2003), 68 FR 39601 (July 2, 2003) (SR–Amex–2003–48).

[11] 15 U.S.C. 78s(b)(5).

[12] 15 U.S.C. 78s(b)(2).

[13] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–51399; File No. SR–PCX–2005–11]

Self-Regulatory Organizations; Pacific Exchange, Inc.; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change and Amendments No. 1 and 2 Thereto Requiring Electronic Filing of Form U4 and Form U5 by ETP Holders Through the CRD

March 18, 2005

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on January 31, 2005, the Pacific Exchange, Inc. (''PCX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. On February 28, 2005, the Exchange filed Amendment No. 1, and on March 16, 2005, the Exchange filed Amendment No. 2 to the proposal. The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons and is approving the proposed rule change, as amended, on an accelerated basis.

Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The PCX, through its wholly owned subsidiary PCX Equities, Inc. (''PCXE'') proposes to amend PCXE Rules 2.3, 2.16 and 2.21 to support the implementation of an electronic registration process. The text of the proposed rule change is available on the PCX's Web site *http://www.pacificex.com,* at the PCX's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item III below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The current PCX procedures require Equities Trading Permit (''ETP'') applicants to submit the Uniform Application for Securities Industry Registration or Transfer (''Form U4'') to the Exchange when they are requesting approval to become an ETP Holder and the Uniform Termination Notice for Securities Industry Registration (''Form U5'') when they wish to withdraw from the Exchange. These forms are currently submitted to the Exchange's Shareholder and Registration Services (''SRS'') department.

The Exchange is now proposing to require all current ETP Holders and new applicants to use the National Association of Securities Dealers, Inc. (''NASD'') Central Registration Depository (''CRD'') as the mechanism for submitting required Forms U4 and U5 filings to the Exchange. As a result of this change, all ETP Holders that currently submit paper Forms U4 and U5 filings to the Exchange would be required to submit these forms electronically through Web CRD. The CRD is a Web based system that provides broker-dealers and their associated persons with ''one stop filing'' with the Commission, NASD, and other self-regulatory organizations and regulators. The CRD is operated by NASD and is used by participating regulators in connection with registering and licensing broker-dealers and their associated persons.

As a result of moving from a manual application process to a fully electronic application process, the Exchange is proposing to reduce the time period, in which ETP Holders must file amendments to their applications, from fifteen business days to ten business days. The Exchange feels that the switch from a manual application process to a fully electronic application justifies such a reduction in time and therefore will not place any additional burden on the applicant. The Exchange has also proposed certain technical changes to the rule text that are necessary to adopt the rules associated with an electronic filing process.

The Exchange is also proposing to require ETP Holders to electronically file within ten (10) business days of such termination Form U5 with the CRD when any person associated with an ETP Holder terminates his association with such ETP Holder. In addition, any amendments to the Form U5 must be filed within ten business days of the occurrence causing the amendment. This proposed rule is necessary to fully automate the registration/termination process.

The Exchange anticipates that during the period between April 18, 2005, and May 13, 2005, ETP Holders will submit an updated Form U4 to Web CRD for all individuals who are employees of ETP Holders who have not previously submitted a Form U4 to Web CRD.[3] The proposed rule change would require any

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] A number of individuals that are employees of ETP Holders already have submitted Form U4 to Web CRD if they work for dual PCXE/NASD member firms and their job responsibilities require registration with NASD.

person seeking to become an ETP Holder or any individual employed by an ETP Holder to electronically file a Form U4 with Web CRD. The Exchange believes that automating the review of registration applications and termination notices by transmitting all Forms U4 and U5 filings to Web CRD will enable the Exchange to perform more efficiently its regulatory responsibilities with respect to ETP Holders and, thereby, will ultimately enhance investor protection.

2. Statutory Basis

The Exchange believes that the proposed rule change, as amended, is consistent with Section 6(b) of the Act[4] in general, and furthers the objectives of Section 6(b)(5) of the Act[5] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to, and perfect the mechanism of, a free and open market and a national market system.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change, as amended, will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments on the proposed rule change were neither solicited nor received.

III. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form *(http://www.sec.gov/rules/sro.shtml);* or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–PCX–2005–11 on the subject line.

Paper Comments

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609.

All submissions should refer to File Number SR–PCX–2005–11. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the principal office of the PCX. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–PCX–2005–11 and should be submitted on or before April 18, 2005.

IV. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change

The Commission finds that the proposed rule change, as amended, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[6] In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,[7] which requires, among other things, that the Exchange's rules promote just and equitable principles of trade and facilitate transactions in securities, and, in general, protect investors and the public interest.

The Exchange has requested that the Commission approve the proposed rule change, as amended, on an accelerated basis. The Commission finds good cause, pursuant to Section 19(b)(2) of the Act,[8] for approving the proposed rule change, as amended, prior to the thirtieth day after the date of publication of notice in the **Federal Register**. The Commission has previously approved a substantially similar proposed rule change submitted by the American Stock Exchange LLC to provide for the processing of the Forms U4 and U5 through Web CRD[9] and does not believe that the proposed rule change raises novel regulatory issues. The proposed rule change, as amended, promotes uniformity of registration in the industry. Accordingly, the Commission finds that there is good cause, consistent with Section 6(b)(5) of the Act,[10] to approve the proposed rule change, as amended, on an accelerated basis.

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change, as amended, (SR–PCX–2005–11) is hereby approved on an accelerated basis.[11]

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[12]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. E5–1335 Filed 3–25–05; 8:45 am]

BILLING CODE 8010–01–P

[4] 15 U.S.C. 78F(B).

[5] 15 U.S.C. 78F(B)(5).

[6] In approving this proposal, the Commission has considered its impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[7] 15 U.S.C. 78f(b)(5).

[8] 15 U.S.C. 78s(b)(2).

[9] *See* Securities Exchange Act Release No. 48067 (June 19, 2003), 68 FR 39601 (July 2, 2003) (SR–Amex–2003–48).

[10] 15 U.S.C. 78s(b)(5).

[11] 15 U.S.C. 78s(b)(2).

[12] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF STATE

[Public Notice 5019]

Defense Trade Advisory Group; Notice of Open Meeting

AGENCY: Department of State.

ACTION: Notice.

The Defense Trade Advisory Group (DTAG) will meet in open session from 9 a.m. to 12 noon on Tuesday, May 3, 2005, in Room 1912 at the U.S. Department of State, Harry S. Truman Building, 2201 C Street NW., Washington, DC. Entry and registration will begin at 8:15. Please use the building entrance located at 23rd Street, NW., Washington, DC between C & D Streets. The membership of this advisory committee consists of private sector defense trade specialists, appointed by the Assistant Secretary of

State for Political-Military Affairs, who advise the Department on policies, regulations, and technical issues affecting defense trade. The purpose of the meeting will be to review progress of the working groups and to discuss current defense trade issues and topics for further study.

Although public seating will be limited due to the size of the conference room, members of the public may attend this open session as seating capacity allows, and will be permitted to participate in the discussion in accordance with the Chairman's instructions. Members of the public may, if they wish, submit a brief statement to the committee in writing.

As access to the Department of State facilities is controlled, persons wishing to attend the meeting must notify the DTAG Executive Secretariat by COB Monday, April 25, 2005. If notified after this date, the DTAG Secretariat cannot guarantee that State's Bureau of Diplomatic Security can complete the necessary processing required to attend the May 3rd plenary.

Each non-member observer or DTAG member needing building access that wishes to attend this plenary session should provide his/her name, company or organizational affiliation, phone number, date of birth, social security number, and citizenship to the DTAG Secretariat, contact person Mary Sweeney via e-mail at *SweeneyMF@state.gov*. DTAG members planning to attend the plenary session should notify the DTAG Secretariat, contact person Mary Sweeney via e-mail at *SweeneyMF@state.gov*. A list will be made up for Diplomatic Security and the Reception Desk at the C Street Entrance. Attendees must present a driver's license with photo, a passport, a U.S. Government ID, or other valid photo ID for entry.

FOR FURTHER INFORMATION CONTACT: Mary F. Sweeney, DTAG Secretariat, U.S. Department of State, Office of Defense Trade Controls Management (PM/DTCM), Room 1200, SA–1, Washington, DC 20522–0112, (202) 663–2865, FAX (202) 663–261–8199.

Dated: March 22, 2005.

Michael T. Dixon,

Executive Secretary, Defense Trade Advisory Group, Department of State.

[FR Doc. 05–6055 Filed 3–25–05; 8:45 am]

BILLING CODE 4710–25–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Application (05–07–C–00–EUG) To Impose and Use the Revenue From a Passenger Facility Charge (PFC) at Eugene Airport, Mahlon Sweet Field, Submitted by the City of Eugene, Eugene Airport, Mahlon Sweet Field, Eugene, OR

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use PFC revenue at Eugene Airport, Mahlon Sweet Field under the provisions of 49 U.S.C. 40117 and part 158 of the Federal Aviation Regulations (14 part CFR 158).

DATES: Comments must be received on or before April 27, 2005.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: J. Wade Bryant, Manager; Seattle Airports District Office, SEA–ADO; Federal Aviation Administration; 1601 Lind Avenue, SW., Suite 250; Renton, WA 98055–4056.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Robert P. Noble, Airport Manager, at the following address: 28855 Lockheed Drive, Eugene, OR 97402.

Air Carriers and foreign air carriers may submit copies of written comments previously provided to Eugene Airport, Mahlon Sweet Field, under § 158.23 of part 158.

FOR FURTHER INFORMATION CONTACT: Ms. Suzanne Lee-Pang, 425–227–2654, 1601 Lind Avenue SW., Suite 250, Renton, Washington 98055–4056. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application 05–07–C–00–EUG to impose and use PFC revenue at Eugene Airport, Mahlon Sweet Field, under the provisions of 49 U.S.C. 40117 and part 158 of the Federal Aviation Regulations (14 CFR part 158).

On March 21, 2005, the FAA determined that the application to impose and use the revenue from a PFC submitted by City of Eugene, Eugene Airport—Mahlon Sweet Field, Eugene, Oregon, was substantially complete within the requirements of section 158.25 of part 158. The FAA will approve or disapprove the application, in whole or in part, no later than June 28, 2005.

The following is a brief overview of the application.

Level of the proposed PFC: $4.50.

Proposed charge effective date: September 1, 2007.

Proposed charge expiration date: August 1, 2011.

Total requested for use approval: $4,337,364.

Brief description of proposed project: Terminal Bond Retirement—Revenue Bond Backed; Terminal Bond Retirement—Airport Reserve Backed.

Class or classes of air carrier which the public agency has requested not be required to collect PFC's: Operations by Air Taxi/Commercial Operators utilizing aircraft having a maximum seating capacity of less than twenty passengers when enplaning revenue passengers in a limited, irregular/non-scheduled, or special service manner. Also exempted are operations by Air Taxi/Commercial Operators, without regard to seating capacity, for revenue passengers transported for student instruction, non-stop sightseeing flights that begin and end at Eugene Airport and are conducted within a 25 mile radius of the same airport, fire fighting charters, ferry or training flights, air ambulance/medivac flights, and aerial photography or survey flights.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT** and at the FAA Regional Airports Office located at: Federal Aviation Administration, Northwest Mountain Region, Airports Division, ANM–600, 1601 Lind Avenue SW., Suite 315, Renton, WA 98055–4056.

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Eugene Airport—Mahlon Sweet Field Airport.

Issued in Renton, Washington on March 21, 2005.

David A. Field,

Manager, Planning, Programming and Capacity Branch, Northwest Mountain Region.

[FR Doc. 05–5964 Filed 3–25–05; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Application (#05–04–C–00–COD) To Impose and Use the Revenue From a Passenger Facility Charge (PFC) at Yellowstone Regional Airport, Submitted By the Joint Powers Board, Yellowstone Regional Airport, Cody, WY

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use PFC revenue at Yellowstone Regional Airport under the provisions of 49 U.S.C. 40117 and part 158 of the Federal Aviation Regulations (14 CFR part 158).

DATES: Comments must be received on or before April 27, 2005.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Craig A. Sparks, Manager; Denver Airports District Office, DEN–ADO; Federal Aviation Administration; 26805 E. 68th Avenue, Suite 224; Denver, CO 80249–6361.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Michael L. Becker, Airport Manager, at the following address: Yellowstone Regional Airport, 3001 Duggleby Drive, Cody, WY 82414.

Air carriers and foreign air carriers may submit copies of written comments previously provided to Yellowstone Regional Airport, under section 158.23 of part 158.

FOR FURTHER INFORMATION CONTACT: Mr. Chris Schaffer, (303) 342–1258; Denver Airports District Office, DEN–ADO; Federal Aviation Administration; 26805 68th Avenue, Suite 224; Denver, CO 80249–6361. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application (#05–04–C–00–COD) to impose and use PFC revenue at Yellowstone Regional Airport, under the provisions of 49 U.S.C. 40117 and part 158 of the Federal Aviation Regulations (14 CFR part 158).

On March 21, 2005, the FAA determined that the application to impose and use the revenue from a PFC submitted by the Joint Powers Board, Yellowstone Regional Airport, Cody, Wyoming, was substantially complete within the requirements of § 158.25 of part 158. The FAA will approve or disapprove the application, in whole or in part, no later than June 22, 2005.

The following is a brief overview of the application.

Level of the proposed PFC: $4.50.

Proposed charge effective date: July 1, 2005.

Proposed charge expiration date: September 1, 2006.

Total requested for use approval: $220,000.00.

Brief description of proposed projects: Terminal area study (Phase I), environmental assessment of midfield terminal, passenger facility charge consulting services.

Class or classes of air carriers which the public agency has requested not be required to collect PFC's: Non-scheduled on-demand air carriers filing FAA Form 1800–31.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT** and at the FAA Regional Airports Office located at: Federal Aviation Administration, Northwest Mountain Region, Airports Division, ANM–600, 1601 Lind Avenue SW., Suite 315, Renton, WA 98055–4056.

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Yellowstone Regional Airport.

Issued in Renton, Washington on March 21, 2005.

David A. Field,

Manager, Planning, Programming and Capacity Branch, Northwest Mountain Region.

[FR Doc. 05–5963 Filed 3–25–05; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

March 22, 2005.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 11000, 1750 Pennsylvania Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before April 27, 2005 to be assured of consideration.

Financial Crimes Enforcement Network (FinCEN)

OMB Number: 1506–0009.

Form Number: TD F 90–22.1.

Type of Review: Extension.

Title: Financial Record-keeping and Reporting and Report of Foreign Bank and Financial Accounts.

Description: The Bank Secrecy Act authorizes Treasury to require financial institutions and individuals to keep records and file reports that the Treasury determines have a high degree of usefulness in criminal, tax, or regulatory matters, or to protect against international terrorism.

Respondents: Business or other for-profit, Individuals or households, Not-for-profit Institutions.

Estimated Number of Respondents/Recordkeepers: 13,000,000.

Estimated Burden Hours Per Respondent/Recordkeeper: Varies.

Frequency of Response: On Occasion.

Estimated Total Reporting/Recordkeeping Burden: 10,942,392 hours.

Clearance Officer: Steve Rudzinski, Financial Crimes Enforcement Network, 2070 Chain Bridge Road, Suite 200, Vienna, VA 22182, (703) 905–3845.

OMB Reviewer: Joseph F. Lackey, Jr., Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503, (202) 395–7316.

Christopher L. Davis,

Treasury PRA Assistant.

[FR Doc. 05–6047 Filed 3–25–05; 8:45 am]

BILLING CODE 4810–02–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Forms 1042, 1042–S, and 1042–T

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 1042, Annual Withholding Tax Return for U.S. Source Income of Foreign Persons, Form 1042–S, Foreign Person's U.S. Source Income Subject to Withholding, and Form 1042–T, Annual Summary and Transmittal of Forms 1042–S.

DATES: Written comments should be received on or before May 27, 2005 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn Kirkland, 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 Allan Hopkins, at (202) 622–6665, or at Internal Revenue Service, room 6516, 1111 Constitution Avenue NW., Washington, DC 20224, or through the Internet at *Allan.M.Hopkins@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Form 1042, Annual Withholding Tax Return for U.S. Source Income of Foreign Persons, Form 1042–S, Foreign Person's U.S. Source Income Subject to Withholding, and Form 1042–T, Annual Summary and Transmittal of Forms 1042–T.

OMB Number: 1545–0096.

Form Numbers: 1042, 1042–S, and 1042–T.

Abstract: Form 1042 is used by withholding agents to report tax withheld at source on payment of certain income paid to nonresident alien individuals, foreign partnerships, or foreign corporations. The IRS uses this information to verify that the correct amount of tax has been withheld and paid to the United States. Form 1042–S is used to report certain income and tax withheld information to nonresident alien payees and beneficial owners. Form 1042–T is used by withholding agents to transmit Forms 1042–S to the IRS.

Current Actions: There are no changes being made to these forms at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for profit organizations and individuals or households.

Estimated Number of Respondents: 22,000.

Estimated Time Per Respondent: 48 hours, 2 minutes.

Estimated Total Annual Burden Hours: 1,056,940.

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: March 21, 2005.

Glenn Kirkland,

IRS Reports Clearance Officer.

[FR Doc. E5–1369 Filed 3–25–05; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[CO–49–88]

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, CO–49–88 (TD 8546), Limitations on Corporate Net Operating Loss (§ 1.382–6).

DATES: Written comments should be received on or before May 27, 2005, to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn Kirkland, 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: Limitations on Corporate Net Operating Loss.

OMB Number: 1545–1381.

Regulation Project Number: CO–49–88.

Abstract: This regulation provides rules for the allocation of a loss corporation's taxable income or net operating loss between the periods before and after ownership change under section 382 of the Internal Revenue Code, including an election to make the allocation based on a closing of the books as of the change date.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 2,000.

Estimated Time Per Respondent: 0.1 hours.

Estimated Total Annual Burden Hours: 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: March 18, 2005.

Glenn Kirkland,

IRS Reports Clearance Officer.

[FR Doc. E5–1370 Filed 3–25–05; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[Regulation Section 601.201]

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 regulation, 26 CFR 601.201, Instructions for Requesting Rulings and Determination Letters.

DATES: Written comments should be received on or before May 27, 2005 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn Kirkland, Internal Revenue Service, room 6516, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection should be directed to Allan Hopkins, at (202) 622–6665, or at Internal Revenue Service, room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224, or through the internet, at *Allan.M.Hopkins@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Instructions for Requesting Rulings and Determination Letters.

OMB Number: 1545–0819.

Regulation Project Number: 26 CFR 601.201.

Abstract: The IRS issues rulings letters and determination letters to taxpayers interpreting and applying the tax laws to a specific set of facts. The procedural regulations set forth the instructions for requesting ruling and determination letters.

Current Actions: There is no change to the collection of information in this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: All taxpayers.

Estimated Number of Respondents: 271,914.

Estimated Time Per Respondent: The estimated annual burden per respondent various from 15 minutes to 1 hour, depending on individual circumstances, with an estimated of 55 minutes.

Estimated Total Annual Burden Hours: 248,496.

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: March 21, 2005.

Glenn Kirkland,

IRS Reports Clearance Officer.

[FR Doc. E5–1371 Filed 3–25–05; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Revenue Procedure 2002–16

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 Revenue Procedure 2002–16, Optional Election to Make Monthly Section 706 Allocations.

DATES: Written comments should be received on or before May 27, 2005, to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn Kirkland, Internal Revenue Service, room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the regulations should be directed to Larnice Mack at Internal Revenue Service, room 6512, 1111 Constitution Avenue, NW., Washington, DC 20224, or at (202) 622–3179, or through the Internet at *Larnice.Mack@irs.gov*.

SUPPLEMENTARY INFORMATION:

Title: Optional Election to Make Monthly Section 706 Allocations.

OMB Number: 1545–1768.

Revenue Procedure Number: Revenue Procedure 2002–16.

Abstract: Revenue Procedure 2002–16 allows certain partnerships with money market fund partners to make an optional election to close the partnership's books on a monthly basis with respect to the money market fund partners.

Current Actions: There are no changes being made to the revenue procedure at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents/Recordkeepers: 1,000.

Estimated Time Per Respondent/Recordkeeper: 12 hours.

Estimated Total Annual Reporting/Recordkeeping Hours: 12,000.

The following paragraph applies to all the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request For Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: March 16, 2005.

Glenn Kirkland,

IRS Reports Clearance Officer.

[FR Doc. E5–1374 Filed 3–25–05; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[REG–209484–87]

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, REG–209484–87 (TD 8814), Federal Insurance Contributions Act (FICA) Taxation of Amounts Under Employee Benefit Plans (§ 31.3121(v)(2)-1).

DATES: Written comments should be received on or before May 27, 2005, to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn Kirkland, 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: Federal Insurance Contributions Act (FICA) Taxation of Amounts Under Employee Benefits Plan.

OMB Number: 1545–1643.

Regulation Project Number: REG–209484–87.

Abstract: This regulation provides guidance as to when amounts deferred under or paid from a nonqualified deferred compensation plan are taken into account as wages for purposes of the employment taxes imposed by the Federal Insurance Compensation Act (FICA).

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of currently approved collection.

Affected Public: Business or other for-profit organizations and not-for-profit institutions.

Estimated Number of Respondents: 2,500.

Estimated Time Per Respondent: 5 hours.

Estimated Total Annual Burden Hours: 12,500.

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: March 18, 2005.

Glenn Kirkland,

IRS Reports Clearance Officer.

[FR Doc. E5–1375 Filed 3–25–05; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 3115

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 3115, Application for Change in Accounting Method.

DATES: Written comments should be received on or before May 27, 2005, to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn Kirkland, 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 Allan Hopkins, at (202) 622–6665, or at Internal Revenue Service, room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224, or through the Internet, at *Allan.M.Hopkins@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Application for Change in Accounting Method.

OMB Number: 1545–0152.

Form Number: 3115.

Abstract: Form 3115 is used by taxpayers who wish to change their method of computing their taxable income. The form is used by the IRS to determine if electing taxpayers have met the requirements and are able to change to the method requested.

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: Business or other for-profit organizations, individuals, not-for-profit organizations, and farms.

Estimated Number of Respondents: 25,000.

Estimated Time Per Respondent: 53 hrs., 33 min.

Estimated Total Annual Burden Hours: 1,388,850.

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: March 18, 2005.

Glenn Kirkland,

IRS Reports Clearance Officer.

[FR Doc. E5–1376 Filed 3–25–05; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

[Docket No. 05–08]

Office of Thrift Supervision

[No. 2005–14]

FEDERAL RESERVE SYSTEM

[Docket No. OP–1227]

FEDERAL DEPOSIT INSURANCE CORPORATION

Interagency Proposal on the Classification of Commercial Credit Exposures

AGENCIES: Office of the Comptroller of the Currency, Treasury, (OCC); Board of Governors of the Federal Reserve System (Board); Federal Deposit Insurance Corporation (FDIC); and Office of Thrift Supervision, Treasury, (OTS).

ACTION: Joint notice and request for comment.

SUMMARY: The OCC, Board, FDIC, and OTS (the agencies) request comment on their proposal to revise the classification system for commercial credit exposures.

The proposal will replace the current commercial loan classification system categories ''special mention,'' ''substandard,'' and ''doubtful'' with a two-dimensional based framework. The proposed framework would be used by institutions and supervisors for the uniform classification of commercial and industrial loans; leases; receivables; mortgages; and other extensions of credit made for business purposes by federally insured depository institutions and their subsidiaries (institutions), based on an assessment of borrower creditworthiness and estimated loss severity. The proposed framework would not modify the interagency classification of retail credit as stated in the ''Uniform Retail Credit Classification and Account Management Policy Statement,'' issued in February 2000. However, by creating a new treatment for commercial loan exposures, the proposed framework would modify Part I of the ''Revised Uniform Agreement on the Classification of Assets and Appraisal of Securities Held by Banks and Thrifts' issued in June 2004.

This proposal is intended to enhance the methodology used to systematically assess the level of credit risk posed by individual commercial extensions of credit and the level of an institution's aggregate commercial credit risk.

DATES: Comments must be received by June 30, 2005.

ADDRESSES: Interested parties are invited to submit written comments to any or all of the agencies. All comments will be shared among the agencies.

Comments should be directed to:

OCC: You should include OCC and Docket Number 05–08 in your comment. You may submit comments by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *OCC Web Site: http://www.occ.treas.gov.* Click on ''Contact the OCC,'' scroll down and click on ''Comments on Proposed Regulations.''
- *E-mail address: regs.comments@occ.treas.gov.*
- *Fax:* (202) 874–4448.
- *Mail:* Office of the Comptroller of the Currency, 250 E Street, SW., Mail Stop 1–5, Washington, DC 20219.
- *Hand Delivery/Courier:* 250 E Street, SW., Attn: Public Information Room, Mail Stop 1–5, Washington, DC 20219.

Instructions: All submissions received must include the agency name (OCC) and docket number or Regulatory Information Number (RIN) for this notice of proposed rulemaking. In general, OCC will enter all comments received into the docket without change, including any business or personal information that you provide. You may review comments and other related materials by any of the following methods:

- *Viewing Comments Personally:* You may personally inspect and photocopy comments at the OCC's Public Information Room, 250 E Street, SW., Washington, DC. You can make an appointment to inspect comments by calling (202) 874–5043.
- *Viewing Comments Electronically:* You may request e-mail or CD–ROM

copies of comments that the OCC has received by contacting the OCC's Public Information Room at *regs.comments@occ.treas.gov.*

• *Docket:* You may also request available background documents and project summaries using the methods described above.

Board: You may submit comments, identified by Docket Number OP–1227, by any of the following methods:

• *Agency Web Site: http://www.federalreserve.gov.* Follow the instructions for submitting comments on the *http://www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm.*

• *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

• *E-mail: regs.comments@federalreserve.gov.* Include docket number in the subject line of the message.

• *FAX:* 202–452–3819 or 202–452–3102.

• *Mail:* Jennifer J. Johnson, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, NW., Washington, DC 20551.

All public comments are available from the Board's Web site at *http://www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm* as submitted, except as necessary for technical reasons. Accordingly, your comments will not be edited to remove any identifying or contact information. Public comments may also be viewed electronically or in paper in Room MP–500 of the Board's Martin Building (20th and C Streets, N.W.) between 9 a.m. and 5 p.m. on weekdays.

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

• *Agency Web Site: http://www.fdic.gov/regulations/laws/federal/propose.html.* Follow instructions for submitting comments on the Agency Web site.

• *E-mail: Comments@FDIC.gov.*

• *Mail:* Robert E. Feldman, Executive Secretary, Attention: Comments, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, DC 20429.

• *Hand Delivery/Courier:* Guard station at the rear of the 550 17th Street Building (located on F Street) on business days between 7 a.m. and 5 p.m.

Instructions: All comments received will be posted without change to *http://www.fdic.gov/regulations/laws/federal/propose.html* including any personal information provided.

OTS: You may submit comments, identified by No. 2005–14, by any of the following methods:

• *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

• *E-mail: regs.comments@ots.treas.gov.* Please include No. 2005–14 in the subject line of the message, and include your name and telephone number in the message.

• *Fax:* (202) 906–6518.

• *Mail:* Regulation Comments, Chief Counsel's Office, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, Attention: No. 2005–14.

• *Hand Delivery/Courier:* Guard's Desk, East Lobby Entrance, 1700 G Street, NW., from 9 a.m. to 4 p.m. on business days, Attention: Regulation Comments, Chief Counsel's Office, Attention: No. 2005–14.

Instructions: All submissions received must include the agency name and document number or Regulatory Information Number (RIN) for this notice. All comments received will be posted without change to *http://www.ots.treas.gov/pagehtml.cfm?catNumber=67&an=1,* including any personal information provided.

Docket: For access to the docket to read background documents or comments received, go to *http://www.ots.treas.gov/pagehtml.cfm?catNumber=67&an=1.* In addition, you may inspect comments at the Public Reading Room, 1700 G Street, NW., by appointment. To make an appointment for access, call (202) 906–5922, send an e-mail to *public.info@ots.treas.gov,* or send a facsimile transmission to (202) 906–7755. (Prior notice identifying the materials you will be requesting will assist us in serving you.) We schedule appointments on business days between 10 a.m. and 4 p.m. In most cases, appointments will be available the next business day following the date we receive a request.

FOR FURTHER INFORMATION CONTACT:

OCC: Daniel Bailey, National Bank Examiner, Credit Risk Division, (202) 874–5170, Office of the Comptroller of the Currency, 250 E Street, SW., Washington, DC 20219.

Board: Robert Walker, Senior Supervisory Financial Analyst, Credit Risk, (202) 452–3429, Division of Banking Supervision and Regulation, Board of Governors of the Federal Reserve System. For the hearing impaired only, Telecommunication Device for the Deaf (TDD), (202) 263–4869, Board of Governors of the Federal Reserve System, 20th and C Streets NW., Washington, DC 20551.

FDIC: Kenyon Kilber, Senior Examination Specialist, (202) 898–8935, Division of Supervision and Consumer Protection, Federal Deposit Insurance Corporation, 550 17th Street. NW., Washington, DC 20429.

OTS: William J. Magrini, Senior Project Manager, (202) 906–5744, Supervision Policy, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

SUPPLEMENTARY INFORMATION:

Background Information

The Uniform Agreement on the Classification of Assets and Appraisal of Securities Held by Banks (current classification system [1]) was originally issued in 1938. The current classification system was revised in 1949, again in 1979,[2] and most recently in 2004. Separately in 1993, the agencies adopted a common definition of the special mention rating. The current classification system is used by both regulators and institutions to measure the level of credit risk in commercial loan portfolios, benchmark credit risk across institutions, assess the adequacy of an institution's capital and allowance for loan and lease losses (ALLL), and evaluate an institution's ability to accurately identify and evaluate the level of credit risk posed by commercial exposures.

The current classification system focuses primarily on borrower weaknesses and the possibility of loss without specifying how factors that mitigate the loss, such as collateral and guarantees, should be considered in the

[1] The supervisory categories currently used by the agencies are:

Special Mention: A ''special mention'' asset has potential weaknesses that deserve management's close attention. If left uncorrected, these potential weaknesses may result in deterioration of the repayment prospects for the asset or in the institution's credit position at some future date. Special mention assets are not adversely classified and do not expose an institution to sufficient risk to warrant adverse classification.

Substandard: A ''substandard'' asset is inadequately protected by the current sound worth and paying capacity of the obligor or by the collateral pledged, if any. Assets so classified must have a well-defined weakness, or weaknesses that jeopardize the liquidation of the debt. They are characterized by the distinct possibility that the institution will sustain some loss if the deficiencies are not corrected.

Doubtful: An asset classified ''doubtful'' has all the weaknesses inherent in one classified substandard with the added characteristic that the weaknesses make collection or liquidation in full, on the basis of currently known facts, conditions, and values, highly questionable and improbable.

Loss: An asset classified ''loss'' is considered uncollectible, and of such little value that its continuance on the books is not warranted. This classification does not mean that the asset has absolutely no recovery or salvage value, but rather it is not practical or desirable to defer writing off this basically worthless asset event though partial recovery may be affected in the future.

[2] The Federal Home Loan Bank Board, the predecessor of the OTS, adopted the Uniform Agreement in 1987.

rating assignment. This has led to differing applications of the current classification system by institutions and the agencies.

Under the current classification system, rating differences between an institution and its supervisor commonly arise when, despite a borrower's well-defined credit weaknesses, risk mitigants such as collateral and the facility's structure reduce the institution's risk of incurring a loss. The current classification system does not adequately address how, when rating an asset, to reconcile the risk of the borrower's default with the estimated loss severity of the particular facility. As a result, the system dictates that transactions with significantly different levels of expected loss receive the same rating. This limits the effectiveness of the current classification system in measuring an institution's credit risk exposure.

To address these limitations, the agencies are proposing a two-dimensional rating framework (proposed framework) that considers a borrower's capacity to meet its debt obligations separately from the facility characteristics that influence loss severity. By differentiating between these two factors, a more precise measure of an institution's level of credit risk is achieved.

The proposal includes three borrower rating categories, ''marginal,'' ''weak'' and ''default.'' Facility ratings would be required only for those borrowers rated default (i.e. borrowers with a facility placed on nonaccrual or fully or partially charged off). Typically, this is a very small proportion of all commercial exposures. For borrowers not rated default, institutions would have the option of assigning the facility ratings as discussed in the proposed framework.

The agencies believe that this flexibility will allow institutions with both one-dimensional and two-dimensional internal risk rating systems to adopt the proposed framework. Under the current classification system, institutions with two-dimensional internal credit rating systems have encountered problems translating their internal ratings into the supervisory categories.

The agencies also propose to adopt common definitions for the ''criticized'' and ''classified'' asset quality benchmarks.

In this proposed framework, the agencies have sought to minimize complexity and supervisory burden. The agencies believe that the proposed framework attains these goals and that institutions of all sizes will be able to apply the approach.

The proposed framework aligns the determination of a facility's accrual status, partial charge-off and ALL treatment with the rating assignment process. The current framework does not provide a link between these important determinations and a facility's assignment to a supervisory category. The proposed framework leverages off many determinations and estimates management must already make to comply with generally accepted accounting principles (GAAP). As a result, financial institutions should benefit from a more efficient assessment process and improved clarity.

This proposed framework, if adopted, would apply to all regulated financial institutions and their operating subsidiaries supervised by the agencies. Institutions will be provided transition time to become familiar with the proposal and to implement the framework for their commercial loan portfolios. In addition, the agencies will need to review the existing classification guidance for specialized lending activities, such as commercial real estate lending, to reflect the proposed rating framework. The text of the proposed framework statement follows below.

Uniform Agreement on the Classification of Commercial Credit Exposures

This agreement applies to the assessment of all commercial credit exposures both on and off an institution's balance sheet. An institution's management is encouraged to differentiate borrowers and facilities beyond the requirements of this framework by developing its own risk rating system. Institutions may incorporate this framework into their internal risk rating systems or, alternatively, they may map their internal rating system into the supervisory framework. Note that this framework does not apply to commercial credit exposures in the form of securities.

The framework is built upon two distinct ratings:

- Borrower[3] rating—rates the borrower's capacity to meet financial obligations.
- Facility rating—rates a facility's estimated loss severity.

When combined, these two ratings determine whether the exposure will be a ''criticized'' or ''classified'' asset, as those asset quality benchmarks are defined.

Borrower Ratings

Marginal

A ''marginal'' borrower exhibits material negative financial trends due to company-specific or systemic conditions. If these potential weaknesses are not mitigated, they threaten the borrower's capacity to meet its debt obligations. Marginal borrowers still demonstrate sufficient financial flexibility to react to and positively address the root cause of the adverse financial trends without significant deviations from their current business strategy. Their potential weaknesses deserve institution management's close attention and warrant enhanced monitoring.

A marginal borrower exhibits potential weaknesses, which may, if not checked or corrected, negatively affect the borrower's financial capacity and threaten its ability to fulfill its debt obligations.

The existence of adverse economic or market conditions that are likely to affect the borrower's future financial capacity may support a ''marginal'' borrower rating. An adverse trend in the borrower's operations or balance sheet, which has not reached a point where default is likely, may warrant a ''marginal'' borrower rating. The rating should also be used for borrowers that have made significant progress in resolving their financial weaknesses but still exhibit characteristics inconsistent with a ''pass'' rating.

Weak

A ''weak'' borrower does not possess the current sound worth and payment capacity of a creditworthy borrower. Borrowers rated weak exhibit well-defined credit weaknesses that jeopardize their continued performance. The weaknesses are of a severity that the distinct possibility of the borrower defaulting exists.

Borrowers included in this category are those with weaknesses that are beyond the requirements of routine lender oversight. These weaknesses affect the ability of the borrower to fulfill its obligations. Weak borrowers exhibit adverse trends in their operations or balance sheets of a severity that makes it questionable that they will be able to fulfill their obligations, thus making default likely. Illustrative adverse conditions that may warrant a borrower rating of ''weak'' include an insufficient level of cash flow compared to debt service needs; a highly leveraged balance sheet; a loss of

[3] Borrower means any obligor or counterparty in a credit exposure, both on and off the balance sheet.

access to the capital markets; adverse industry and/or economic conditions that the borrower is poorly positioned to withstand; or a substantial deterioration in the borrower's operating margins. A ''weak'' rating is inappropriate for any borrower that meets the conditions described in the definition of a ''default'' rating.

Default

A borrower is rated ''default'' when one or more of the institution's material[4] credit exposures to the borrower satisfies one of the following conditions:

(1) the supervisory reporting definition of non-accrual,[5] or

(2) the institution has made a full or partial charge-off or write-down for credit-related reasons or determined that an exposure is impaired for credit-related reasons.

Borrowers rated ''default'' may be upgraded if they have met their contractual debt service requirements for six consecutive months and their financial condition supports management's assessment that they will recover their recorded book value(s) in full.

Facility Ratings

Facilities to borrowers with a rating of default must be further differentiated based upon their estimated loss severity. The framework contains additional applications of facility ratings; however, institutions may choose not to utilize them. An institution can estimate how severe losses may be for either individual loans or pooled loans (provided the pooled transactions have similar risk characteristics), mirroring the institution's allowance for loan and lease losses (ALLL) methodologies. Institutions may use their ALLL impairment analysis as a basis for their loss severity estimates.

The four facility ratings are:

Loss severity category	Loss severity estimate
Remote Risk of Loss.	0%.
Low	<=5% of recorded investment[6].
Moderate	>5% and <=30% of recorded investment.
High	>30% of recorded investment.

[6] Recorded investment means the exposure amount reported on the financial institution's balance sheet per the Call Report or Thrift Financial Report instructions.

Remote Risk of Loss

Management has the option to expand the use of the ''remote risk of loss'' facility rating to borrowers rated ''marginal'' and ''weak.'' Facilities or portions of facilities that represent a remote risk of loss include those secured by cash, marketable securities, commodities, or livestock. In the event of the borrower's contractual default, management must be capable of liquidating the collateral and applying the funds against the facility's balance. The balance reflected in this category should be adequately margined to reflect fluctuations in the collateral's market price.

Loans for the purpose of financing production expenses associated with agricultural crops may be rated ''remote risk of loss'' if management can demonstrate that the loan will be self-liquidating at the end of the production cycle. That is, based upon current estimates of yields and market prices for the crops securing the loan, the borrower should be expected to yield sufficient cash from the sale to repay the loan in full.

Facilities guaranteed by the U.S. government or a government-sponsored entity (GSE) that have a high investment grade external rating might be included in this category. If the guaranty is conditional, the ''remote risk of loss'' rating should be used only when the institution can satisfy the conditions and qualify for payment under the terms of the guaranty.

Asset-based lending facilities may be rated ''remote risk of loss'' only if certain criteria are met, as described below (see ''Treatment of Asset-Based Lending Activities.'')

Low Loss Severity

The ''low loss severity'' rating applies to exposures to borrowers rated default. Loss severity is estimated to be 5 percent or less of the institution's recorded investment. Asset-based lending facilities to Weak borrowers may be rated ''low loss severity'' only if certain criteria are met, as described below (see ''Treatment of Asset-Based Lending Activities.'')

Moderate Loss Severity

The ''moderate loss severity'' rating only applies to exposures to borrowers rated default. Loss severity is estimated to be greater than 5 percent and at most 30 percent of the institution's recorded investment. Recovery in full is not likely.

High Loss Severity

The ''high loss severity'' rating only applies to exposures to borrowers rated default. Loss severity is estimated to be greater than 30 percent of the institution's recorded investment. Recovery in full is not likely.

Loss

Assets rated ''loss'' are considered uncollectible and of such little value that their continuance on the institution's balance sheet is not warranted. This rating does not mean that the asset has absolutely no recovery or salvage value (it may indeed have some fractional future value), but rather that it is not practical or desirable to defer writing off this basically worthless asset.

Portions of facilities rated ''low loss severity'' and ''moderate loss severity'' must be rated loss when they satisfy this definition. Entire facilities or portions thereof rated ''high loss severity'' must be rated loss if they satisfy the definition. Balances rated loss are charged off and netted from the facility's balance and the institution's loss severity estimate must be updated to reflect the uncertainty in collecting the remaining recorded investment.

A loss rating for an exposure does not imply that the institution has no prospects to recover the amount charged off. However, institutions should not maintain an asset or a portion thereof on their balance sheet if realizing its value would require long-term litigation or other lengthy recovery efforts. A facility should be partially rated ''loss'' if there is a remote prospect of collecting a portion of the facility's balance. When the collectibility of the loan becomes highly questionable, it should be charged off or written down to a balance equal to a conservative estimate of its net realizable value under a realistic workout strategy. When access to the collateral is impeded, regardless of the collateral's value, the institution's management should carefully consider whether the facility should remain a bankable asset. Furthermore, institutions need to recognize losses in the period in which the asset is identified as uncollectible.

[4] The materiality of credit exposures is measured relative to the institution's overall exposure to the borrower. Charge-offs and write-downs on material credit exposures include credit-related write-downs on securities of distressed borrowers for other than temporary impairment, as well as material write-downs on exposures to distressed borrowers that are sold or transferred to held-for-sale, the trading account, or other reporting categories.

[5] An asset should be reported as being in nonaccrual status if (1) it is being maintained on a cash basis because of deterioration in the financial condition of the borrower, (2) payment in full of principal and interest is not expected, or (3) principal or interest has been in default for a period of 90 days or more unless the asset is both well secured and in the process of collection.

Treatment of Asset-Based Lending Facilities

Institutions with asset-based lending (ABL) activities can utilize the following facility ratings for qualifying exposures; however, this treatment is not required. Some ABL facilities, including some debtor-in-possession (DIP) loans, may be included in the ''remote risk of loss'' category if they are well-secured by highly liquid collateral and the institution exercises strong controls over the collateral and the facility. ABL facilities secured by accounts receivable or other collateral that readily generates sufficient cash to repay the loan may be included in this category. In addition, the institution must have dominion over the cash generated from the conversion of collateral, prudent advance rates, strong monitoring controls, such as frequent borrowing base audits, and the expertise to liquidate sufficient collateral to repay the loan. Facilities that do not possess these characteristics are excluded from the category.

ABL facilities and the lending institution must meet certain characteristics for the exposure to be rated ''remote risk of loss.''

- Convertibility
  - —Institution is able to liquidate the collateral within 90 days of the borrower's contractual default.
  - —Collateral is readily convertible to cash.
- Coverage
  - —Loan is substantially over-collateralized such that full recovery of the exposure is expected.
  - —Collateral has been valued within 60 days.
- Control
  - —Collateral is under the institution's control.
  - —Active lender management and credit administration can mitigate all loss through disbursement practices and collateral controls.

For ABL facilities whose borrower is rated weak, management may assign the ''low loss severity'' rating if the conditions set forth below are satisfied:

- Convertibility
  - —Institution is able to liquidate collateral within 180 days of the borrower's contractual default.
  - —Substantial amount of the collateral is self-liquidating or marketable.
- Coverage
  - —Loss severity is estimated to be 5 percent or less.
  - —Collateral has been valued within 60 days.
- Control
  - —Collateral is under the institution's control.
  - —Active lender management and credit administration can minimize loss through disbursement practices and collateral controls.

The institution's ABL controls and capabilities are the same as those described in the ''remote risk of loss'' description above. This category simply lengthens the period it would likely take the institution to liquidate the collateral from 90 days to 180 days and increases the loss severity estimate from full recovery of the exposure to 5 percent or less.

Commercial Credit Risk Benchmarks:

Criticized Assets = All loans to borrowers rated marginal, excluding those facilities, or portions thereof, rated ''remote risk of loss''

plus

ABL transactions to borrowers rated weak, if they satisfy the ''low loss severity'' definition.

Classified Assets = All loans to borrowers rated default, excluding those facilities, or portions thereof, rated ''remote risk of loss''

plus

All loans to borrowers rated weak, excluding those facilities, or portions thereof, rated ''remote risk of loss'' and ABL transactions rated ''low loss severity.''

When calculating a financial institution's criticized and classified assets, the institution's recorded investment plus any undrawn commitment that is reported on the institution's Call Report or Thrift Financial Report is included in the total, excluding any balances rated ''remote risk of loss.'' In the cases of lines of credit with borrowing bases or any other contractual restrictions that prevent the borrower from drawing on the entire committed amount, only the amount outstanding and available under the facility is included—not the full amount of the commitment. However, the lower amount should be used only if it is management's intent and practice to exert the institution's contractual rights to limit its exposure.

Framework Principles

The borrower ratings should be utilized for both improving and deteriorating borrowers. Management should refresh ratings with adequate frequency to avoid significant jumps across their internal rating scale.

When a facility is unconditionally guaranteed, the guarantor's rating can be substituted for that of the borrower to determine whether a facility should be criticized or classified. If the guarantor does not perform its obligations under the guarantee, the guarantor is rated default and the facility is included in the institution's classified assets.

Loss severity estimates must relate to the institution's recorded investment, net of prior charge-offs, borrower payments, application of collateral proceeds, or any other funds attributable to the facility.

Each loss severity estimate for borrowers rated default must reflect the institution's estimate of the asset's net realizable value or its estimate of projected future cash flows and the uncertainty of their timing and amount. For this purpose, financial institutions may use their impairment analysis for determining the adequacy of their ALLL. Facilities may be analyzed individually or in a pool with similar facilities.

The ''default'' borrower rating in no way implies that the borrower has triggered an event of default as specified in the loan agreement(s). The rating indicates only that management has placed one or more of the borrower's facilities on non-accrual or recognized a full or partial charge-off. Legal determinations and collection strategies are the responsibility of management. If a borrower is rated default, it does not imply that the lender must take any particular action to collect from the borrower.

When management recognizes a partial charge-off, the loss severity estimate and facility rating should be updated. For example, after a facility is partly charged off, its loss severity may improve and warrant a better rating.

Estimating loss severity for many exposures to defaulted borrowers is difficult. If borrowers have filed for bankruptcy protection, there is normally significant uncertainty regarding their intent and ability to reorganize, to sell assets, to sell divisions, or, if it comes to that, to liquidate the firm. In addition, there is considerable uncertainty regarding the timing and amount of cash flows that these various strategies will produce for creditors. As a result, the loss severity estimates for facilities to borrowers rated default should be conservative and based upon the most probable outcome given current circumstances and the institution's loss experience on similar assets. The financial institution should be able to credibly support recovery rates on facilities in excess of the underlying collateral's net realizable value. Supervisors will focus on estimates where institution management has estimated recovery rates in excess of a loan's collateral value. Market prices for a borrower's similar exposures are one indication of a claim's intrinsic value. However, distressed debt prices may not

be a realistic indication of value if trading volume is low compared to the magnitude of the institution's exposure.

Split facility ratings should be used only when part of the facility meets the criteria for the ''remote risk of loss'' category. When a portion of a facility is rated ''remote risk of loss,'' management's loss severity estimate should only reflect the risk associated with the remaining portion of the facility.

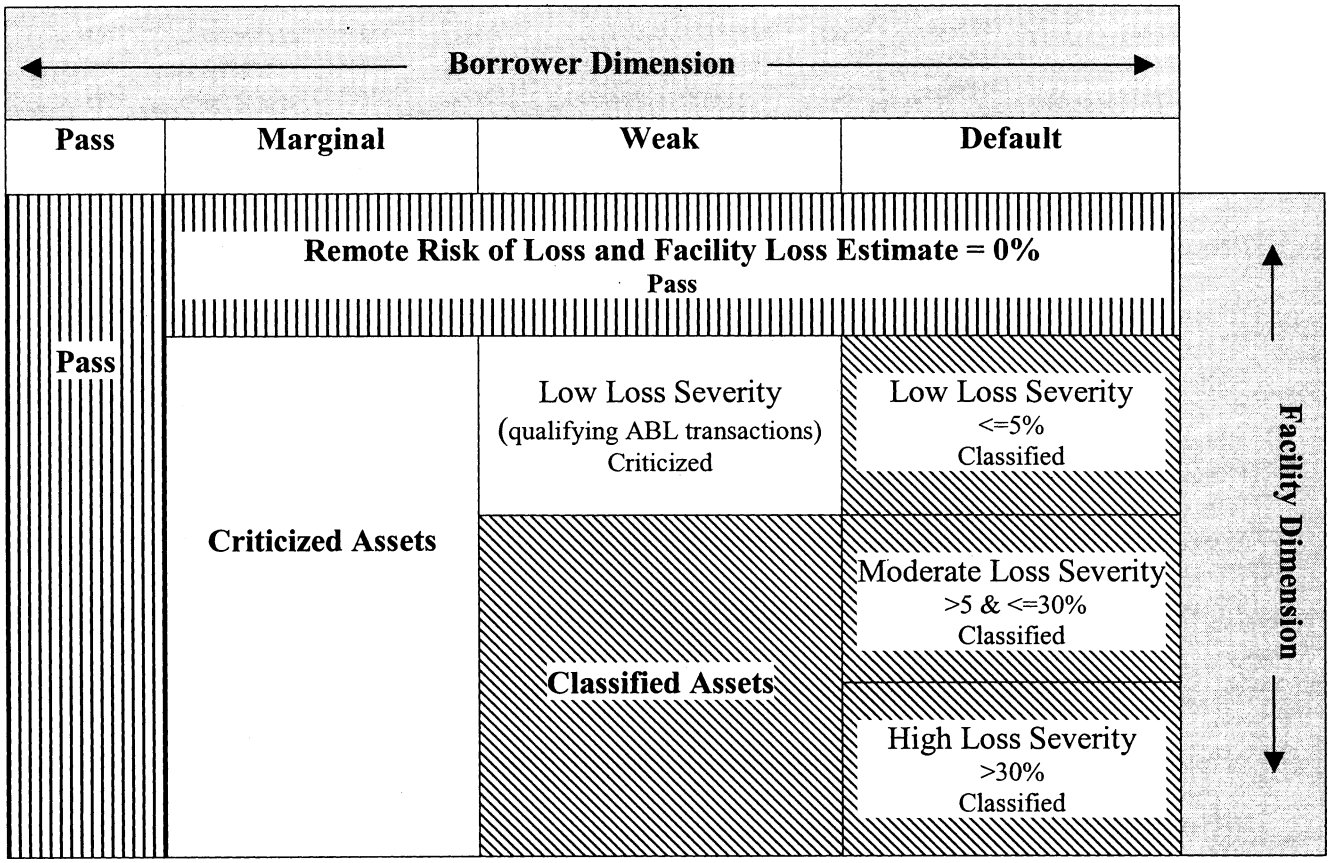
To eliminate the need for split facility ratings and further simplify the framework, institutions have the option to disregard the ''remote risk of loss'' category for loans partially secured by collateral that qualify for the treatment. In that case, the institution would reflect the loss characteristics of the loan in its entirety when estimating the loan's loss severity and slot the loan in one of the three remaining facility ratings.

Because individually rating every borrower would be labor-intensive and costly, institutions may use an alternative rating approach for borrowers with an aggregate exposure below a specified threshold. Examiners will evaluate the appropriateness of the alternative rating approach and aggregate exposure threshold by considering factors such as the size of the institution, the risk profile of the subject exposures, and management's portfolio management capabilities.

The following chart summarizes the structure of the proposed framework:

BILLING CODE 4810–33–P; 6210–01–P; 6714–01–P; 6720–01–P

Chart 1—Framework Overview



Appendix A. Application of Framework

The following examples highlight how certain loan facilities should be rated under the ''Uniform Agreement on the Assessment of Commercial Credit Risk.''

Example 1. Marginal Borrower Rating

Credit Facility: $100 line of credit for working capital, $50 outstanding

Source of Repayment:

Primary: Cash flow from conversion of assets

Secondary: Security interest in all corporate assets

Collateral: Accounts receivable with a net book value of $70 from large hospitals, nursing care facilities, and other health care providers. Receivables turn slowly, 120–150 days, but with a low level of uncollectible accounts. No customer concentrations exceed 5 percent of sales. Modest inventory levels consist of products to fill specific orders.

Situation: The borrower is a distributor of health care products. Consolidation of health care providers in the firm's market area has had a negative effect on its revenues, profitability, and cash flow. The borrower's balance sheet exhibits moderate leverage and liquidity. The firm is currently operating at break-even. The firm has developed a new relationship with a hospital chain that operates in adjacent markets to the firm's traditional trade area. The new client is expected to increase sales by 10 percent in the coming fiscal year. If this expectation materializes, the borrower should return to profitability. Line utilization has increased over the last fiscal year; however, the remaining availability should provide sufficient liquidity during this slow period.

Borrower Rating: The borrower has shown material negative financial trends; however, it appears that there is sufficient financial flexibility to positively address the cause of the concerns without significant deviation from its original business plan. Accordingly, the borrower is rated marginal.

The loan is included in criticized assets.

Example 2. Weak Borrower Rating

Credit Facility: $100 line of credit for working capital purposes, $100 outstanding. Borrowing base equal to 70 percent of eligible accounts receivable.

Sources of Repayment:

Primary: Cash flow from conversion of assets

Secondary: Security interest in all unencumbered corporate assets

Situation: The borrower is a regional truck transportation firm. A sustained increase in fuel prices over the last six months led to operating losses. The borrower has been unable to increase prices to offset the higher fuel prices.

The borrower's interest payments have been running 15 to 30 days late over the last several months. Net cash flow from operations is breakeven, but sufficient to meet lease payments on its truck fleet. The borrower leases all of its trucks from the manufacturer's leasing company. The line was recently fully drawn to pay registration fees and insurance premiums for the fleet. The borrower is moderately leveraged and has minimal levels of liquid assets. Borrower continues to maintain its customer base and generate new business, but pricing pressures are forcing it to run unprofitably.

The most recent borrowing base certificate indicates the borrower is in compliance with the advance rate.

Borrower and Facility rating: The borrower's unprofitable operations and lack of liquidity constitute well-defined credit weaknesses. As a result, the borrower is rated weak.

The loan is included in classified assets.

Example 3. Remote Risk of Loss Facility Rating

Credit Facilities: $100 line of credit to fund seasonal fluctuations in cash flow

$100 mortgage for the acquisition of farmland

Sources of Repayment:

Primary: Cash flow from operations

Secondary: Security interest in collateral

Collateral: The line of credit is secured by livestock and crops with a market value of $110. The mortgage is secured by a lien on acreage valued at $75. A U.S. government agency guarantee was obtained on the mortgage loan. The guarantee covers 75% of any principal deficiency the institution suffers on the mortgage.

Situation: Borrower's financial information reflects the negative effect of low commodity prices and a reduction in the value of the livestock. The borrower does not have adequate sources of liquidity to remain operating. Both loans have been placed on nonaccrual since they are delinquent in excess of 90 days. Institution management has completed a recent inspection of the livestock and crops securing their loan. The borrower has placed its operations up for sale, including all of the collateral securing both loans. The farmland is under contract with a purchase price of $75. Management expects to realize after selling expenses $100 from the sale of livestock and crops and $70 from the sale of the farmland. As a result, management expects to collect approximately $20 (75% of $30) under the government guarantee. Management estimates that the mortgage has impairment of $10 based on the fair value of the collateral and the guarantee.

Borrower and Facility rating: The borrower is rated default because the loans are on nonaccrual.

Because the line of credit is adequately collateralized by marketable collateral, the facility is rated ''remote risk of loss.'' The portion of the mortgage supported by the sale of the property and proceeds from the government guarantee, $90, is also considered ''remote risk of loss.'' The remaining $10 balance is rated loss due to the collateral shortfall and the unlikely prospects of collecting additional amounts.

The line of credit and the portion of the mortgage supported by the government guarantee are included in pass assets.

Example 4. Rating Assignments for Multiple Loans to a Single Borrower

Credit Facilities: $100 mortgage for permanent financing of an office building located at One Main Street.

$100 mortgage for permanent financing of an office building located at One Central Avenue.

Sources of Repayment:

Primary: Rental income

Secondary:Sale of real estate

Collateral: Each loan is secured by a perfected first mortgage on the financed property. The values of the Main Street and Central Avenue properties are $85 and $110, respectively.

Situation: The borrower is a real estate holding company for the two commercial office buildings. The Main Street building is not performing well and is generating insufficient cash flow to maintain the building, renovate vacant space for new tenants, and service the debt. The borrower is more than 90 days delinquent on the building's mortgage. Because the building's rents have declined and its vacancy rate has increased, the fair market value of the troubled property has declined to $85 from $120 at the time of loan origination. Market conditions do not favor better performance of the Main Street property in the short run. As a result, management has placed the loan on nonaccrual.

The Central Avenue property is performing adequately, but is not generating sufficient excess cash flow to meet the debt service requirements of the first loan. The property is currently estimated to be worth $110. Since the loan's primary source of repayment remains adequate to service the debt, the credit remains on accrual basis.

According to institution management's estimates, foreclosing on the troubled Main Street building and selling it would realize $75, net of brokerage fees and other selling expenses. However, the institution is exploring other workout strategies exclusive of foreclosure. These strategies may mitigate the amount of loss to the institution. To be conservative, the institution bases its loss severity estimate on the foreclosure scenario. If the Central Avenue building continues to generate sufficient cash flow to service the loan and maintains its fair market value, the institution does not expect to incur any loss on the second loan. Therefore, management assigns a 5 percent loss severity estimate to the facility, which is equal to its impairment estimate for a pool of similar facilities and borrowers.

Borrower and Facility Ratings: The borrower is rated default because the one mortgage is on non-accrual.

The mortgage on the Main Street property is rated ''moderate loss severity'' (>5% and <=30%) because management's estimate is a 25 percent loss severity. The mortgage on the Central Avenue property is rated ''low loss severity'' (<=5%) because management's estimate is a 5 percent loss severity.

Both facilities are included in classified assets.

Example 5. Loss Recognition

Credit Facility: $100 term loan

Source of Repayment:

Primary: Cash flow from business

Secondary: Security interest in collateral

Collateral: The institution has a blanket lien on all business assets with an estimated value of $60.

Situation: The borrower is seriously delinquent on its loan payments and has filed for bankruptcy protection. Because the borrower's business prospects are poor, liquidation of collateral is the only means by which the institution will receive repayment. Management estimates net realizable value ranges between $50 and $60. As a result, management charges off $40 and places the loan on nonaccrual. Management also assigns a 10 percent loss severity estimate to the remaining balance, which is equal to its impairment estimate for a pool of similar facilities and borrowers.

Borrower and Facility Rating: Since the borrower's facility was placed on nonaccrual and partially charged off, the borrower is rated default.

After recognizing a loss in the amount of $40, the facility's remaining balance is rated ''moderate loss severity'' (>5% and <30%) because management's analysis indicates impairment of 10 percent of the loan balance.

The loan is included in classified assets.

Example 6. Asset-Backed Loan

Credit Facility: $100 revolving credit facility, $50 outstanding with $20 available under the borrowing base

Sources of Repayment:

Primary: Conversion of accounts receivable

Secondary: Liquidation of collateral

Collateral: Accounts receivable from companies with investment grade external ratings.

Situation: The borrower manufactures patio furniture. Because the prices of aluminum and other raw materials have increased, the borrower's profit margin has compressed significantly. As a result, the borrower's financial condition exhibits well-defined credit weaknesses.

Despite the borrower's financial weakness, the financial institution is well-positioned to recover its loan balance and interest. The institution controls all cash receipts of the company through a lock-box and applies excess funds daily against the loan balance. The institution also controls the borrower's cash disbursements. The facility has a borrowing base that allows the borrower to draw 70 percent of eligible receivables. Eligibility is based on restrictive requirements designed to exclude low-quality or disputed receivables. Management monitors adherence to the requirements by conducting periodic on-site audits of the borrower's accounts receivable. Management estimates that the facility is not impaired because the collateral is liquid and has ample coverage, the account receivables

counterparties are highly creditworthy, and the institution's management not only has tight controls on the loan but also has a favorable track record of managing similar loans. In the event of the borrower's contractual default, the institution's management believes that it would recover sufficient cash to repay the loan within 60 days.

Borrower and Facility Rating: The borrower is rated weak due to its well-defined credit weaknesses.

The facility is rated ''remote risk of loss'' because of institutional management's expertise; the facility's strong controls and high quality; and the collateral's liquidity and ample coverage.

The facility is included in pass assets.

Example 7. Debtor-in-Possession

Credit Facility: $100 debtor-in-possession (DIP) facility, $70 outstanding with $10 available

$100 term loan

Sources of Repayment:

Primary: Cash flow from operations

Secondary: Liquidation of collateral

Collateral: The DIP facility is secured by receivables from several investment grade companies and underwritten with a conservative advance rate to protect against dilution risk.

The term loan is secured by equipment.

Situation: The borrower has filed for Chapter 11 bankruptcy protection because the recall of one of the company's products has precipitated a substantial decline in sales. The product liability litigation resulted in substantial legal expenses and settlements. Because collecting the term loan in full is very unlikely, the financial institution's management placed the term loan on nonaccrual prior to the borrower's bankruptcy filing. Management estimates the institution will collect 70 percent to 80 percent on their secured claim under the borrower's bankruptcy reorganization plan. Based on this estimate, management charges off $20 and estimates impairment of $10 for the remaining balance. The DIP facility repaid the pre-petition asset-based line of credit. Management has expertise in asset-based lending and strong controls over the activity.

Borrower and Facility Rating: The borrower is rated default since one of its facilities was placed on nonaccrual.

The DIP facility is rated ''remote risk of loss'' not only because it is secured by high-quality receivables with ample coverage, but also because the financial institution's management has performed frequent borrowing-base audits and has strong controls over cash disbursements and collections. The term loan is rated ''moderate loss severity'' (>5% and <=30%) because management's impairment estimate for the remaining loan balance falls within this range.

The DIP facility is included in pass assets.

The term loan is included in classified assets.

Request for Comment

The agencies request comments on all aspects of the proposed policy statement. In addition, the agencies also are asking for comment on a number of issues affecting the policy and will consider the answers before developing the final policy statement. In particular, your comments are needed on the following issues:

1. The agencies intend to implement this framework for all sizes of institutions. Could your institution implement the approach?

2. If not, please provide the reasons.

3. What types of implementation expenses would financial institutions likely incur? The agencies welcome financial data supporting the estimated cost of implementing the framework.

4. Which provisions of this proposal, if any, are likely to generate significant training and systems programming costs?

5. Are the examples clear and the resultant ratings reasonable?

6. Would additional parts of the framework benefit from illustrative examples?

7. Is the proposed treatment of guarantors reasonable?

Please provide any other information that the agencies should consider in determining the final policy statement, including the optimal implementation date for the proposed changes.

Dated: March 17, 2005.

Julie L. Williams,

Acting Comptroller of the Currency.

Board of Governors of the Federal Reserve System, March 21, 2005.

Jennifer J. Johnson,

Secretary of the Board.

Federal Deposit Insurance Corporation.

By order of the Board of Directors.

Dated at Washington, DC, this 18th day of March, 2005.

Robert E. Feldman,

Executive Secretary.

Dated: March 18, 2005.

By the Office of Thrift Supervision.

James E. Gilleran,

Director.

[FR Doc. 05–5982 Filed 3–25–05; 8:45 am]

BILLING CODE 4810–33–C; 6210–01–C; 6714–01–C; 6720–01–C

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0060]

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 process beneficiaries claims for payment of insurance proceeds.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before May 27, 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. 2900–0060'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Nancy J. Kessinger at (202) 273–7079 or FAX (202) 275–5947.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C. 3501–3521), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Titles:

a. Claim for One Sum Payment (Government Life Insurance), VA Form 29–4125.

b. Claim for Monthly Payments (National Service Life Insurance), VA Form 29–4125a.

c. Claim for Monthly Payments (United States Government Life Insurance, (USGLI)), VA Form 29–4125k.

OMB Control Number: 2900–0060.

Type of Review: Extension of a currently approved collection.

Abstract: Beneficiaries of deceased veterans must complete VA Form 29–4125 to apply for proceeds of the veteran's Government Insurance policies. If the beneficiary desires monthly installment in lieu of one lump payment he or she must complete VA Forms 29–4125a and 29–4125k. VA uses the information to determine the claimant's eligibility for payment of insurance proceeds and to process monthly installment payments.

Affected Public: Individuals or households.

Estimated Annual Burden: 8,787 hours.

a. VA Form 29–4125—8,200 hours.
b. VA Form 29–4125a—462 hours.
c. VA Form 4125k—125 hours.

Estimated Average Burden Per Respondent:

a. VA Form 29–4125—6 minutes.
b. VA Form 29–4125a—15 minutes.
c. VA Form 4125k—15 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 84,350.

a. VA Form 29–4125—82,000.
b. VA Form 29–4125a—1,850.
c. VA Form 4125k—500.

Dated: March 17, 2005.

By direction of the Secretary.

Martin Hill,

Management Analyst, Records Management Service.

[FR Doc. E5–1322 Filed 3–25–05; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0320]

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 for information needed to allow veteran purchasers to gain occupancy of a property prior to completion of exterior onsite improvements.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before May 27, 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. 2900–0320'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Nancy J. Kessinger at (202) 273–7079 or FAX (202) 275–5947.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C. 3501–3521), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title: Escrow Agreement for Postponed Exterior Onsite Improvements, VA Form 26–1849.

OMB Control Number: 2900–0320.

Type of Review: Extension of a currently approved collection.

Abstract: VA Form 26–1849 is provided as a service to veterans, builders/sellers, and escrow agents in situations involving onsite escrows. The escrow allows the veteran to occupy the property when specific exterior onsite improvement may have to be postponed due to unforeseen circumstances such as adverse weather or other specified unavoidable conditions. For these situations, VA developed escrow procedures whereby a builder/seller deposits at least one and one-half times the cost of completing the improvement into an escrow account held by a third party. The funds can only be used to complete the postponed improvements and are released when the improvements are completed. The information collected on VA Form 26–1849 documents a legal agreement between parties other than VA when appropriate funds must be set aside for completion of certain exterior onsite improvements.

Affected Public: Individuals or households and Business or other for-profit.

Estimated Annual Burden: 625 hours.

Estimated Average Burden Per Respondent: 30 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 1,250.

Dated: March 17, 2005.

By direction of the Secretary.

Martin Hill,

Management Analyst, Records Management Service.

[FR Doc. E5–1326 Filed 3–25–05; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0324]

Proposed Information Collection Activity: Proposed Collection; Comment Request

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection, and allow 60 days for public comment in response to the notice. This notice solicits comments on information needed to determine a veteran's eligibility or reinstatement for Government Life insurance.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before May 27, 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. 2900–0324'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Nancy J. Kessinger at (202) 273–7079 or FAX (202) 275–5947.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Titles:

a. Supplemental Physical Examination Report, VA Form 29–8146.

b. Attending Physician's Statement, VA Form 29–8158.

c. Supplemental Physical Examination Report (Diabetes—Physician's Report), VA Form 29–8160.

OMB Control Number: 2900–0324.

Type of Review: Extension of a currently approved collection.

Abstract: The forms are used to obtain information regarding the physical and/or mental condition of a veteran who has submitted an application for Government Life Insurance or reinstatement of eligibility for such insurance.

Affected Public: Individuals or households.

Estimated Annual Burden: 1,080 hours.

a. VA Form 29–8146—750 hours.

b. VA Form 29–8158—165 hours.

c. VA Form 29–8160—165 hours.

Estimated Average Burden Per Respondent:

a. VA Form 29–8146—45 minutes.

b. VA Form 29–8158—45 minutes.

c. VA Form 29–8160—45 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 1,440.

a. VA Form 29–8146—220.

b. VA Form 29–8158—1,000.

c. VA Form 29–8160—220.

Dated: March 17, 2005.

By direction of the Secretary.

Martin Hill,

Management Analyst, Records Management Service.

[FR Doc. E5–1327 Filed 3–25–05; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0605]

Agency Information Collection Activities Under OMB Review

AGENCY: Office of General Counsel, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3521), this notice announces that the Office of General Counsel (OGC), Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before April 27, 2005.

FOR FURTHER INFORMATION OR A COPY OF THE SUBMISSION CONTACT: Denise McLamb, Records Management Service (005E3), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 273–8030, FAX (202) 273–5981 or e-mail: *denise.mclamb@mail.va.gov*. Please refer to ''OMB Control No. 2900–0605.''

Send comments and recommendations concerning any aspect of the information collection to VA's OMB Desk Officer, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503, (202) 395–7316. Please refer to ''OMB Control No. 2900–0605'' in any correspondence.

SUPPLEMENTARY INFORMATION:

Title: Application for Accreditation as a Claims Agent, VA Form 21a.

OMB Control Number: 2900–0605.

Type of Review: Extension of a currently approved collection.

Abstract: Applicants seeking accreditation as claims agents to represent benefits claimants before Department of Veterans Affairs must complete VA Form 21a. The applicant is required to file the application with VA General Counsel to establish initial eligibility for accreditation. The information requested is necessary to establish the statutory and regulatory eligibility requirements, *e.g.*, good character and reputation which includes basic identifying information, information concerning past representation, military service, employment, criminal activity and mental health of the applicant. VA uses the information to determine the applicant's eligibility for accreditation as a claims agent.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on December 23, 2004, at page 76976.

Affected Public: Individuals or households.

Estimated Annual Burden: 15 hours.

Estimated Average Burden Per Respondent: 45 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 20.

Dated: March 17, 2005.

By direction of the Secretary.

Martin Hill,

Management Analyst, Records Management Service.

[FR Doc. E5–1328 Filed 3–25–05; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0114]

Agency Information Collection Activities Under OMB Review

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–21), this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden and includes the actual data collection instrument.

DATES: Comments must be submitted on or before April 27, 2005.

FOR FURTHER INFORMATION CONTACT: Denise McLamb, Records Management Service (005E3), Department of Veterans Affairs, 810 Vermont Avenue, NW., or e-mail *denise.mclamb@mail.va.gov*. Please refer to ''OMB Control No. 2900–0114.'' Send comments and recommendations concerning any aspect of the information collection to VA's OMB Desk Officer, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503, (202) 395–7316. Please refer to ''OMB Control No. 2900–0114'' in any correspondence.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C. 3501–3521), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title: Statement of Marital Relationship, VA Form 21–4170.

OMB Control Number: 2900–0114.

Type of Review: Revision of a currently approved collection.

Abstract: Persons claiming to be common law widows/widowers of deceased veterans and veterans and their claimed common law spouses complete VA Form 21–4170 to establish marital status. VA uses the information collected to determine whether the common law marriage was valid under the law of the place where the parties resided at the time of the marriage or under the law of the place where the parties resided when the right to benefits accrued.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on December 1, 2004 at page 69992.

Affected Public: Individuals or households.

Estimated Annual Burden: 2,708 hours.

Estimated Average Burden Per Respondent: 25 minutes.

Frequency of Response: One-time.

Estimated Number of Respondents: 6,500.

Dated: March 17, 2005.

By direction of the Secretary.

Martin Hill,

Management Analyst, Records Management Service.

[FR Doc. E5–1329 Filed 3–25–05; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–NEW]

Agency Information Collection Activities Under OMB Review

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3521), this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before April 27, 2005.

FOR FURTHER INFORMATION CONTACT: Denise McLamb, Records Management Service (005E3), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 273–8030, FAX (202) 273–5981 or e-mail *denise.mclamb@mail.va.gov*. Please refer to ''OMB Control No. 2900–NEW.'' Send comments and recommendations concerning any aspect of the information collection to VA's OMB Desk Officer, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503, (202) 395–7316. Please refer to ''OMB Control No. 2900–NEW'' in any correspondence

SUPPLEMENTARY INFORMATION:

Titles:

a. Statement in Support of Claim for Service Connection for Post-Traumatic Stress Disorder (PTSD), VA Form 21–0781.

b. Statement in Support of Claim for Service Connection for Post-Traumatic Stress Disorder (PTSD) Secondary to Personal Assault, VA Form 21–0781a.

OMB Control Number: 2900–NEW.

Type of Review: New collection.

Abstract: Veterans seeking compensation for post-traumatic stress disorder and need VA's assistance in obtaining evidence from military records and other sources to substantiate their claims of in-service stressors must complete VA Forms 21–0781 and 21–0791a. If the veteran did not serve in combat or was not a prisoner of war and is claiming compensation for post-traumatic stress disorder due to in-service stressors, he or she must provide credible supporting evidence that the claimed in-service stressor occurred.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on December 1, 2004 at pages 69990–6991.

Affected Public: Individuals or households.

Estimated Annual Burden: 17,780 hours.

Estimated Average Burden Per Respondent: 70 minutes.

Frequency of Response: One-time.

Estimated Number of Respondents: 15,240.

Dated: March 17, 2005.

By direction of the Secretary.

Martin Hill,

Management Analyst, Records Management Service.

[FR Doc. E5–1330 Filed 3–25–05; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0601]

Agency Information Collection Activities Under OMB Review

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3521), this notice announces that the Veterans Benefits

Administration (VBA), Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before April 27, 2005.

For Further Information or a Copy of the Submission Contact: Denise McLamb, Records Management Service (005E3), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 273–8030 or FAX (202) 273–5981. Please refer to ''OMB Control No. 2900–0601.''

SUPPLEMENTARY INFORMATION:

Title: Loan Guaranty: Requirements for Interest Rate Reduction Refinancing Loans.

OMB Control Number: 2900–0601.

Type of Review: Extension of a currently approved collection.

Abstract: A veteran may refinance an outstanding VA guaranteed, insured, or direct loan with a new loan at a lower interest rate provided that the veteran still owns the property used as security for the loan. The new loan will be guaranteed only if VA approves it in advance after determining that the borrower, through the lender, has provided reasons for the loan deficiency, and has provided information to establish that the cause of the delinquency has been corrected, and qualifies for the loan under the credit standard provisions.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on January 11, 2005, at page 1935.

Affected Public: Business or other for profit.

Estimated Annual Burden: 39 hours.

Estimated Average Burden Per Respondent: 30 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 78.

Send comments and recommendations concerning any aspect of the information collection to VA's Desk Officer, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503, (202) 395–7316. Please refer to ''OMB Control No. 2900–0601'' in any correspondence.

Dated: March 16, 2005.

By direction of the Secretary.

Martin Hill,

Management Analyst, Records Management Service.

[FR Doc. E5–1331 Filed 3–25–05; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0129]

Agency Information Collection Activities Under OMB Review

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–21), this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden and includes the actual data collection instrument.

DATES: Comments must be submitted on or before April 27, 2005.

FOR FURTHER INFORMATION OR A COPY OF THE SUBMISSION CONTACT: Denise McLamb, Records Management Service (005E3), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 273–8030, FAX (202) 273–5981 or e-mail: *denise.mclamb@mail.va.gov.* Please refer to ''OMB Control No. 2900–0129.''

Send comments and recommendations concerning any aspect of the information collection to VA's OMB Desk Officer, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395–7316. Please refer to ''OMB Control No. 2900–0129'' in any correspondence.

SUPPLEMENTARY INFORMATION:

Title: Supplemental Disability Report, VA Form Letter 29–30a.

OMB Control Number: 2900–0129.

Type of Review: Extension of a currently approved collection.

Abstract: VA Form Letter 29–30a is used by the insured to provide additional information required to process a claim for disability insurance benefits.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on November 12, 2004, at page 65505.

Affected Public: Individuals or households.

Estimated Annual Burden: 548 hours.

Estimated Average Burden Per Respondent: 5 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 6,570.

Dated: March 16, 2005.

By direction of the Secretary.

Martin Hill,

Management Analyst, Records Management Service.

[FR Doc. E5–1332 Filed 3–25–05; 8:45 am]

BILLING CODE 8320–01–P

Corrections

Federal Register

Vol. 70, No. 58

Monday, March 28, 2005

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2005–20572; Airspace Docket No. 05–ACE–9]

Proposed Establishment of Class E2 Airspace; and Modification of Class E5 Airspace; Valentine, NE

Correction

In proposed rule document 05–5763 beginning on page 14601 in the issue of Wednesday, March 23, 2005, make the following correction:

§71.1 [Corrected]

On page 14603, in the first column under the heading **ACE NE E5 Valentine, NE**, the surface area description should read as follows:

Valentine, Miller Field, NE
(Lat. 42°51'28'' N., long. 100°32'51'' W.)
Valentine NDB
(Lat. 42°51'42'' N., long. 100°32'59'' W.)

[FR Doc. C5–5763 Filed 3–25–05; 8:45 am]

BILLING CODE 1505–01–D

Federal Register

Monday,
March 28, 2005

Part II

Department of Agriculture

Rural Development; Notice of Funds Availability (NOFA) Inviting Applications for the Renewable Energy Systems and Energy Efficiency Improvements Grant Program; Notice

DEPARTMENT OF AGRICULTURE

Rural Development; Notice of Funds Availability (NOFA) Inviting Applications for the Renewable Energy Systems and Energy Efficiency Improvements Grant Program

AGENCY: Rural Development, USDA.

ACTION: Notice.

SUMMARY: Rural Development announces the availability of up to $22.8 million in competitive grant funds for fiscal year (FY) 2005 to purchase renewable energy systems and make energy improvements for agricultural producers and rural small businesses. Of the $22.8 million, $11.4 million will be set aside through August 31, 2005, for guaranteed loans. These funds will be administered under a final rule to be published in the **Federal Register** later this fiscal year. Any guaranteed loan funds not obligated by August 31, 2005, will be made available for competitive grants under this notice.

In order to be eligible for grant funds, the agricultural producer or rural small business must demonstrate financial need. The grant request must not exceed 25 percent of the eligible project costs.

DATES: Applications must be completed and submitted to the appropriate United States Department of Agriculture (USDA) State Rural Development Office postmarked no later than 90 days after the date of the published notice. Applications postmarked after that date will be returned to the applicant with no action.

ADDRESSES: Submit proposals to the USDA State Rural Development Office where your project is located or, in the case of a rural small business, where you are headquartered. A list of the Energy Coordinators and State Rural Development Office addresses and telephone numbers follow. For further information about this solicitation, please contact the applicable State Office. This document is available on our Web site at *http://www.rurdev.usda.gov/rbs/farmbill/index.html.*

USDA State Rural Development Offices

Alabama

Mary Ann Clayton, USDA Rural Development
Sterling Center, Suite 601
4121 Carmichael Road
Montgomery, AL 36106–3683
(334) 279–3615

Alaska

Dean Stewart, USDA Rural Development
800 West Evergreen, Suite 201
Palmer, AK 99645–6539
(907) 761–7722

Arizona

Alan Watt, USDA Rural Development
230 N. First Avenue, Suite 206
Phoenix, AZ 85003–1706
(602) 280–8769

Arkansas

Shirley Tucker, USDA Rural Development
700 West Capitol Avenue, Room 3416
Little Rock, AR 72201–3225
(501) 301–3280

California

Joseph Choperena, USDA Rural Development
430 G Street, #4169
Davis, CA 95616–4169
(530) 792–5826

Colorado

Linda Sundine, USDA Rural Development
655 Parfet Street, Room E–100
Lakewood, CO 80215
(720) 544–2929

Delaware-Maryland

James Waters, USDA Rural Development
4607 South Dupont Hwy.
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Camden, DE 19934–0400
(302) 697–4324

Florida/Virgin Islands

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P.O. Box 147010
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(352) 338–3482

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333 Phillips Drive
McDonough, GA 30253
(678) 583–0866

Hawaii

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154 Waianuenue Avenue
Hilo, HI 96720
(808) 933–8313

Idaho

Brian Buch, USDA Rural Development
725 Jensen Grove Drive, Suite 1
Blackfoot, ID 83221
(208) 785–5840, Ext. 118

Illinois

Patrick Lydic, USDA Rural Development
2118 West Park Court, Suite A
Champaign, IL 61821
(217) 403–6211

Indiana

Jerry Hay, USDA Rural Development
2411 N. 1250 W.
Deputy, IN 47230
(812) 873–1100

Iowa

Teresa Bomhoff, USDA Rural Development
873 Federal Building
210 Walnut Street
Des Moines, IA 50309
(515) 284–4447

Kansas

F. Martin Fee, USDA Rural Development
1303 SW First American Place, Suite 100
Topeka, KS 66604–4040
(785) 271–2744

Kentucky

Dewayne Easter, USDA Rural Development
771 Corporate Drive, Suite 200
Lexington, KY 40503
(859) 224–7435

Louisiana

Kevin Boone, USDA Rural Development
3727 Government Street
Alexandria, LA 71302
(318) 473–7960

Maine

Valarie Flanders, USDA Rural Development
967 Illinois Avenue, Suite 4
P.O. Box 405
Bangor, ME 04402–0405
(207) 990–9168

Massachusetts/Rhode Island/Connecticut

Sharon Colburn, USDA Rural Development
451 West Street, Suite 2
Amherst, MA 01002–2999
(413) 253–4303

Michigan

Rick Vanderbeek, USDA Rural Development
3001 Coolidge Road, Suite 200
East Lansing, MI 48823
(517) 324–5218

Minnesota

Lisa Noty, USDA Rural Development
1408 21st Avenue, Suite 3
Austin, MN 55912
(507) 437–8247 ext. 150

Mississippi

G. Gary Jones, USDA Rural Development
Federal Building, Suite 831
100 West Capitol Street
Jackson, MS 39269
(601) 965–5457

Missouri

D Clark Thomas, USDA Rural Development
601 Business Loop 70 West
Parkade Center, Suite 235
Columbia, MO 65203
(573) 876–0995

Montana

John Guthmiller, USDA Rural Development
900 Technology Blvd., Unit 1, Suite B
P.O. Box 850
Bozeman, MT 59771
(406) 585–2540

Nebraska

Cliff Kumm, USDA Rural Development
201 North, 25 Street
Beatrice, NE 68310
(402) 223–3125

Nevada

Dan Johnson, USDA Rural Development
555 West Silver Street, Suite 101
Elko, NV 89801
(775) 738–8468, Ext. 112

New Hampshire

See Vermont

New Jersey

Michael Kelsey, USDA Rural Development
5th Floor North, Suite 500
8000 Midlantic Drive
Mt. Laurel, NJ 08054
(856) 787–7700, Ext. 7751

New Mexico

Eric Vigil, USDA Rural Development
6200 Jefferson Street, NE.
Room 255
Albuquerque, NM 87109
(505) 761–4952

New York

Scott Collins, USDA Rural Development
The Galleries of Syracuse, Suite 357
441 South Salina Street
Syracuse, NY 13202–2541
(315) 477–6409

North Carolina

H. Rossie Bullock, USDA Rural Development
P. O. Box 7426
Lumberton, NC 28359–7426
(910) 739–3349

North Dakota

Dale Van Eckhout, USDA Rural Development
Federal Building, Room 208
220 East Rosser Avenue
P.O. Box 1737
Bismarck, ND 58502–1737
(701) 530–2065

Ohio

Randy Monhemius, USDA Rural Development
Federal Building, Room 507
200 North High Street
Columbus, OH 43215–2418
(614) 255–2424

Oklahoma

Jody Harris, USDA Rural Development
100 USDA, Suite 108
Stillwater, OK 74074–2654
(405) 742–1036

Oregon

Don Hollis, USDA Rural Development
1229 SE Third Street, Suite A
Pendleton, OR 97801–4198
(541) 278–8049, Ext. 129

Pennsylvania

J. Gregory Greco, USDA Rural Development
One Credit Union Place, Suite 330
Harrisburg, PA 17110–2996
(717) 237–2289

Puerto Rico

Luis Garcia, USDA Rural Development
IBM Building
654 Munoz Rivera Avenue, Suite 601
Hato Rey, PR 00918–6106
(787) 766–5091, ext. 251

South Carolina

R. Gregg White, USDA Rural Development
Strom Thurmond Federal Building
1835 Assembly Street, Room 1007
Columbia, SC 29201
(803) 765–5881

South Dakota

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Federal Building, Room 210
200 4th Street, SW.
Huron, SD 57350
(605) 352–1142

Tennessee

Will Dodson, USDA Rural Development
3322 West End Avenue, Suite 300
Nashville, TN 37203–1084
(615) 783–1350

Texas

Pat Liles, USDA Rural Development
Federal Building, Suite 102
101 South Main Street
Temple, TX 76501
(254) 742–9780

Utah

Richard Carrig, USDA Rural Development
Wallace F. Bennett Federal Building
125 South State Street, Room 4311
Salt Lake City, UT 84138
(801) 524–4328

Vermont/New Hampshire

Lyn Millhiser, USDA Rural Development
City Center, 3rd Floor
89 Main Street
Montpelier, VT 05602
(802) 828–6069

Virginia

Laurette Tucker, USDA Rural Development
Culpeper Building, Suite 238
1606 Santa Rosa Road
Richmond, VA 23229
(804) 287–1594

Washington

Chris Cassidy, USDA Rural Development
1835 Black Lake Blvd. SW
Suite B
Olympia, WA 98512
(360) 704–7707

West Virginia

Cheryl Wolfe, USDA Rural Development
75 High Street, Room 320
Morgantown, WV 26505–7500
(304) 284–4882

Wisconsin

Mark Brodziski, USDA Rural Development
4949 Kirschling Court
Stevens Point, WI 54481
(715) 345–7615, Ext. 131

Wyoming

Milton Geiger, USDA Rural Development
1949 Sugarland Dr. Suite 118
Sheridan, WY 82801–5749
(307) 672–5820 ext. 4

SUPPLEMENTARY INFORMATION:

Programs Affected

This program is listed in the Catalog of Federal Domestic Assistance under Number 10.755. This program is subject to the provisions of the Executive Order 12372, which requires intergovernmental consultation with State and local officials.

Paperwork Reduction Act

The paperwork burden has been cleared by the Office of Management and Budget (OMB) under OMB Control Number 0570–0044.

Background

This solicitation is issued pursuant to enactment of the Farm Security and Rural Investment Act of 2002 (2002 Act), which established the Renewable Energy Systems and Energy Efficiency Improvements Program under Title IX, Section 9006. The 2002 Act requires the Secretary of Agriculture to create a program to make direct loans, loan guarantees, and grants to agricultural producers and rural small businesses to purchase renewable energy systems and make energy efficiency improvements. The program is designed to help agricultural producers and rural small businesses reduce energy costs and consumption and help meet the nation's critical energy needs. The 2002 Act also mandates the maximum percentage Rural Development will provide in funding for these types of projects. The Rural Development grant will not exceed 25 percent of the eligible project cost and will be made only to those who demonstrate financial need. Due to the time constraints for implementing this program, Rural Development is issuing only the grant program for FY 2005 at this time.

Definitions Aapplicable to This NOFA

Agency. Rural Development or successor Agency assigned by the Secretary of Agriculture to administer the program.

Agricultural producer. An individual or entity directly engaged in the production of agricultural products, including crops (including farming); livestock (including ranching); forestry products; hydroponics; nursery stock; or aquaculture, whereby 50 percent or greater of their gross income is derived from the operations.

Annual receipts. The total income or gross income (sole proprietorship) plus cost of goods sold.

Biogas. Biomass converted to gaseous fuels.

Biomass. Any organic material that is available on a renewable or recurring basis including agricultural crops; trees grown for energy production; wood waste and wood residues; plants, including aquatic plants and grasses; fibers; animal waste and other waste materials; and fats, oils, and greases, including recycled fats, oils, and greases. It does not include paper that is commonly recycled or unsegregated solid waste.

Capacity. The load that a power generation unit or other electrical apparatus or heating unit is rated by the manufacturer to be able to meet or supply.

Commercially available. Systems that have a proven operating history and an established design, installation, equipment, and service industry.

Demonstrated financial need. The demonstration by an applicant that the applicant is unable to finance the project from its own resources or other funding sources without grant assistance.

Eligible project cost. The total project cost that is eligible to be paid with grant funds.

Energy audit. A written report by an independent, qualified entity or individual that documents current energy usage, recommended improvements and costs, energy savings from these improvements, dollars saved per year, and the weighted-average payback period in years.

Energy efficiency improvement. Improvements to a facility or process that reduce energy consumption.

Financial feasibility. The ability of the business to achieve the projected income and cashflow. The concept includes assessments of the cost-accounting system, the availability of short-term credit for seasonal business, and the adequacy of raw materials and supplies, where necessary.

Grant close-out. When all required work is completed, administrative actions relating to the completion of work and expenditures of funds have been accomplished, and the Agency accepts final expenditure information.

In-kind contributions. Applicant or third-party real or personal property or services benefiting the federally assisted project or program that are contributed by the applicant or a third party. The identifiable value of goods and services must directly benefit the project.

Interconnection agreement. The terms and conditions governing the interconnection and parallel operation of the grantee's or borrower's electric generation equipment and the utility's electric power system. Other services required by the applicant from the utility are covered under separate arrangements.

Matching funds. The funds needed to pay for the portion of the eligible project costs not funded by the Agency through a grant under this program.

Other waste materials. Inorganic or organic materials that are used as inputs for energy production or are by-products of the energy production process.

Power purchase arrangement. The terms and conditions governing the sale and transportation of electricity produced by the grantee or borrower to another party. Other services required by the applicant from the utility are covered under separate arrangements.

Pre-commercial technology. Technology that has emerged through the research and development process and has technical and economic potential for application in commercial energy markets but is not yet commercially available.

Renewable energy. Energy derived from a wind, solar, biomass, or geothermal source; or hydrogen derived from biomass or water using wind, solar, biomass or geothermal energy sources.

Renewable energy system. A process that produces energy from a renewable energy source.

Rural. Any area other than a city or town that has a population of greater than 50,000 inhabitants and the urbanized area contiguous and adjacent to such a city or town.

Small business. An entity is considered a small business in accordance with the Small Business Administration (SBA) small business size standards by North American Industry Classification System (NAICS) found in title 13 CFR part 121. A private entity including a sole proprietorship, partnership, corporation, cooperative (including a cooperative qualified under section 501(c)(12) of the Internal Revenue Code) and an electric utility including a Tribal or Governmental Electric Utility that provides service to rural consumers on a cost-of-service basis without support from public funds or subsidy from the Government authority establishing the district. These entities must operate independent of direct Government control. Public or private nonprofit is excluded, except as provided above. A very small business is a business with fewer than 15 employees and less than $1 million in annual receipts.

State. Any of the 50 States, the Commonwealth of Puerto Rico, the Virgin Islands of the United States, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of Palau, the Federated States of Micronesia, and the Republic of the Marshall Islands.

Total project cost. The sum of all costs associated with a completed, operational project.

Grant Amounts

The amount of funds available for this program in FY 2005 is approximately $22.8 million. Of the $22.8 million, $11.4 million will be set aside through August 31, 2005, for a guaranteed loan program. These funds will be administered under a final rule implementing the Section 9006 program, which is expected to be promulgated in FY 2005. Any guaranteed loan funds not obligated by August 31, 2005, will be made available for competitive grants under this notice.

Rural Development grant funds may be used to pay up to 25 percent of the eligible project cost. Applications for renewable energy systems must be for a minimum grant request of $2,500 but no more than $500,000. Applications for energy efficiency improvements must be for a minimum grant request of $2,500 but no more than $250,000. The actual number of grants funded will depend on the quality of proposals received and the amount of funding requested. These limits are consistent with energy efficiency improvement projects and alternative energy systems, which the Department has determined are appropriate for agricultural producers and rural small businesses. Grant limitations were based on historical data supplied from Department of Energy, Environmental Protection Agency, and Rural Utilities Service on renewable energy systems and from an energy efficiency state program for energy efficiency improvements.

Applicant Eligibility

To receive a grant under this notice, an applicant must meet each of the criteria, as applicable, as set forth in paragraphs (a) through (f).

(a) The applicant or borrower must be an agricultural producer or rural small business.

(b) Individuals must be citizens of the United States (U.S.) or reside in the U.S. after being legally admitted for permanent residence.

(c) Entities must be at least 51 percent owned, directly or indirectly, by individuals who are either citizens of the U.S. or reside in the U.S. after being legally admitted for permanent residence.

(d) If the applicant or borrower, or an owner has an outstanding judgment obtained by the U.S. in a Federal Court (other than in the United States Tax Court), is delinquent in the payment of Federal income taxes, or is delinquent on a Federal debt, the applicant or borrower is not eligible to receive a grant until the judgment is paid in full or otherwise satisfied, or the delinquency is resolved.

(e) In the case of an applicant or borrower that is applying as a rural small business, the business headquarters must be in a rural area and the project to be funded also must be in a rural area.

(f) The applicant must have demonstrated financial need.

Adverse actions made on applications are appealable pursuant to 7 CFR part 11.

Project Eligibility

For a project to be eligible to receive a grant under this notice, the proposed project must meet each of the criteria, as applicable, in paragraphs (a) through (f).

(a) The project must be for the purchase of a renewable energy system or to make energy efficiency improvements.

(b) The project must be for a pre-commercial or commercially available and replicable technology, not for research and development.

(c) The project must be technically feasible.

(d) The project must be located in a rural area.

(e) The applicant must be the owner of the system and control the operation and maintenance of the proposed project. A qualified third-party operator may be used to manage the operation and/or for maintenance of the proposed project.

(f) All projects must be based on satisfactory sources of revenues in an amount sufficient to provide for the operation and maintenance of the system or project.

(g) The total input from a nonrenewable energy source for necessary and incidental requirements of the energy system will be determined by the technical reviewers.

Grant Funding

(a) The amount of grant funds that will be made available to an eligible project under this notice will not exceed 25 percent of eligible project costs.

(1) The only eligible project costs are those costs associated with the items identified in paragraphs (a)(1)(i) through (ix). The items must be an integral and necessary part of the total project:

(i) Post-application purchase and installation of equipment, except agricultural tillage equipment and vehicles;

(ii) Post-application construction or project improvements, except residential;

(iii) Energy audits or assessments;

(iv) Permit fees;

(v) Professional service fees, except for application preparation;

(vi) Feasibility studies;

(vii) Business plans;

(viii) Retrofitting; and

(ix) Construction of a new facility only when the facility is used for the same purpose, is approximately the same size, and based on the energy audit will provide more energy savings than improving an existing facility. Only costs identified in the energy audit for energy efficiency projects are allowed.

(2) The applicant must provide at least 75 percent of eligible project costs to complete the project. Applicant in-kind and other Federal grant awards cannot be used to meet the 75 percent match requirements. However, the Agency will allow third-party, in-kind contributions to be used in meeting the matching requirement. Third-party, in-kind contributions will be limited to 10 percent of the 75 percent match requirement of the grantee. The Agency will advise if the third-party, in-kind contributions are acceptable in accordance with 7 CFR part 3015.

(b) The maximum amount of grant assistance to one individual or entity for applications for Renewable Energy Systems and Energy Efficiency Improvements will not exceed $750,000.

(c) Applications for renewable energy systems must be for a minimum grant request of $2,500 but no more than $500,000.

(d) Applications for energy efficiency improvements must be for a minimum grant request of $2,500 but no more than $250,000.

Application and Documentation

(a) *Application.* Separate applications must be submitted for Renewable Energy System and Energy Efficiency Improvement projects. For each type of project, two complete copies of the application must be submitted.

(1) *Table of Contents.* The first item in each application will be a detailed Table of Contents in the order presented below. Include page numbers for each component of the proposal. Begin pagination immediately following the Table of Contents.

(2) *Project Summary.* A summary of the project proposal, not to exceed one page, must include the following: Title of the project, a detailed description of the project including its purpose and need, goals and tasks to be accomplished, names of the individuals responsible for conducting and completing the tasks, and the expected timeframes for completing all tasks, including an operational date. The applicant must also clearly state whether the application is for the purchase of a renewable energy system or to make energy efficiency improvements.

(3) *Eligibility.* Each applicant must describe how it meets the eligibility requirements.

(4) *Agricultural producer/small business information.* All applications must contain the following information on the agricultural producer or small business seeking funds under this program:

(i) Business/farm/ranch operation. (A) A description of the ownership, including a list of individuals and/or entities with ownership interest, names of any corporate parents, affiliates, and subsidiaries, as well as a description of the relationship, including products, between these entities.

(B) A description of the operation.

(ii) Management. The resume of key managers focusing on relevant business experience. If a third-party operator is used to monitor and manage the project, provide a discussion on the benefits and burdens of such monitoring and management, as well as the qualifications of the third party.

(iii) Financial information. (A) Explanation of demonstrated financial need.

(B) For rural small businesses, a current balance sheet and income statement prepared in accordance with generally accepted accounting principles (GAAP) and dated within 90 days of the application. Agricultural producers must present financial information in the format that is generally required by commercial agriculture lenders. Financial information is required on the total operations of the agricultural producer/small business and its parent, subsidiary, or affiliates at other locations.

(C) Rural small businesses must provide sufficient information to determine total annual receipts of the business and any parent, subsidiary, or affiliates at other locations. Voluntarily providing tax returns is one means of satisfying this requirement. Information provided must be sufficient for the Agency to make a determination of total income and cost of goods sold by the business.

(D) If available, historical financial statements prepared in accordance with GAAP for the past 3 years, including income statements and balance sheets. If agricultural producers are unable to present this information in accordance with GAAP, they may instead present financial information for the past 3 years in the format that is generally required by commercial agriculture lenders.

(E) Pro forma balance sheet at startup of the agricultural producer's/small business' business that reflects the use of the loan proceeds or grant award; and 3 additional years, indicating the necessary startup capital, operating capital, and short-term credit; and projected cashflow and income

statements for 3 years supported by a list of assumptions showing the basis for the projections.

(F) For agricultural producers, identify the gross market value of your agricultural products for the calendar year preceding the year in which you submit your application.

(iv) Production information for renewable energy system projects. (A) Provide a statement as to whether the technology to be employed by the facility is commercially or pre-commercially available and replicable. Provide information to support this position.

(B) Describe the availability of materials, labor, and equipment for the facility.

(v) Business market information for renewable energy system projects.

(A) Demand. Identify the demand (past, present, and future) for the product and/or service and who will buy the product and/or service.

(B) Supply. Identify the supply (past, present, and future) of the product and/or service and your competitors.

(C) Market niche. Given the trends in demand and supply, describe how the business will be able to sell enough of its product/service to be profitable.

(vi) A Dun and Bradstreet Universal Numbering System (DUNS) number.

(b) *Forms, certifications, and agreements.* Each application submitted must contain, as applicable, the items identified in paragraphs (b)(1) through (15) of this section.

(1) Form SF–424, ''Application for Federal Assistance.''

(2) Form SF–424C, ''Budget Information—Construction Programs.'' Each cost classification category listed on the form must be filled out if it applies to your project. Any cost category item not listed on the form that applies to your project can be put under the miscellaneous category. Attach a separate sheet if you are using the miscellaneous category and list each miscellaneous cost by not allowable and allowable costs in the same format as on Form SF–424C. All project costs must be categorized as either allowable or not allowable.

(3) Form SF–424D, ''Assurances—Construction Programs.''

(4) AD–1049, ''Certification Regarding Drug-Free Workplace Requirements.''

(5) AD–1048, ''Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tiered Covered Transactions.''

(6) A copy of a bank statement or a copy of the confirmed funding commitment from the funding source. Matching funds must be included on Forms SF–424 and SF–424C.

(7) Exhibit A–1, (Certification for Contracts, Grants and Loans) of RD Instruction 1940–Q required by Section 319 of Public Law 101–121 if the grant exceeds $100,000 or Exhibit A–2, (Statement of Loan Guarantees) of RD Instruction 1940–Q required by Section 319 of Public Law 101–121 if the guaranteed loan exceeds $150,000.

(8) If the applicant has made or agreed to make payment using funds other than Federal appropriated funds to influence or attempt to influence a decision in connection with the application, Form SF–LLL, ''Disclosure of Lobbying Activities,'' must be completed.

(9) AD–1047, ''Certification Regarding Debarment, Suspension, and Other Responsibility Matters—Primary Covered Transactions.''

(10) Form RD 400–1, ''Equal Opportunity Agreement.''

(11) Form RD 400–4, ''Assurance Agreement.''

(12) If the project involves interconnection to an electric utility, a copy of a letter of intent to purchase power, a power purchase agreement, a copy of a letter of intent for an interconnection agreement, or an interconnection agreement will be required from your utility company or other purchaser for renewable energy systems.

(13) If applicable, intergovernmental consultation comments in accordance with Executive Order 12372.

(14) Applicants and borrowers must provide a certification indicating whether or not there is a known relationship or association with an Agency employee.

(15) *Environmental review.* All applicants must complete Form RD 1940–20, ''Request for Environmental Information.'' All applicants will be responsible for providing all information necessary for the Agency to do a National Environmental Policy Act (NEPA) review and analysis in accordance with 7 CFR part 1940, subpart G. Any additional environmental information required will be conveyed to the applicant after a preliminary review of the grant application by the State Rural Development Office. Any applicable analyses and studies required as part of completing the NEPA analysis (*i.e.,* Historical and Cultural Resource, Biological Assessments, etc.) will be the responsibility of the applicant. The applicant should strive to achieve positive community support, select good sites, and mitigate environmental impacts resulting from his/her proposal. If an environmental review cannot be completed in sufficient time for grant funds to be obligated by September 30, 2005, grant funds will not be awarded.

(c) *Feasibility study for renewable energy systems.* Each application for a renewable energy system project, except for requests of $50,000 or less, must include a project-specific feasibility study prepared by a qualified independent consultant. The feasibility study must include an analysis of the market, financial, economic, technical, and management feasibility of the proposed project. The feasibility study must also include an opinion and a recommendation by the independent consultant.

(d) *Technical requirements reports.* The technical report must demonstrate that the project design, procurement, installation, startup, operation and maintenance of the Renewable Energy System or Energy Efficiency Improvement will operate or perform as specified over its design life in a reliable and a cost effective manner. The technical report must also identify all necessary project agreements, demonstrate that those agreements will be in place, and that necessary project equipment and services are available over the design life.

All technical information provided must follow the format specified in paragraphs (d)(1) through (10). The technical reports will provide the basis for the technical merit score and project eligibility determination as required by this notice. Supporting information may be submitted in other formats. Preliminary design drawings and process flow charts should be included as exhibits. A discussion of each topic identified in paragraphs (d)(1) through (10) is not necessary if the topic is not applicable to the specific project. Questions identified in the Agency's technical review of the project must be answered to the Agency's satisfaction before the application will be approved. The applicant must submit the original technical requirements report, plus one copy to the State Rural Development Office. Projects requesting more than $50,000 require the services of a professional engineer (PE). Depending on the level of engineering required for the specific project or if necessary to ensure public safety, the services of a PE may be required for smaller projects.

Below are the requirements for the technical reports for specific technologies. It is only necessary to read the one that fits your proposed project. The 10 technology areas are:

- Biomass, bio-energy;
- Biomass, anaerobic digesters;
- Geothermal, electric generation;
- Geothermal, direct use;
- Hydrogen;

- Solar, small;
- Solar, large;
- Wind, small;
- Wind, large; and
- Energy efficiency improvements.

(1) *Biomass, bioenergy.* The technical requirements specified in paragraphs (d)(1)(i) through (x) apply to renewable energy projects that produce fuel, thermal energy, or electric power from a biomass source, including wood, agricultural residue excluding animal wastes, or other energy crops considered biomass or bioenergy projects. The major components of bioenergy systems will vary significantly depending on the type of feedstock, product, type of process, and size of the process, but in general includes components around which the balance of the system is designed.

(i) *Qualifications of project team.* The biomass project team will vary according to the complexity and scale of the project. For engineered systems, the project team should consist of a system designer, a project manager, an equipment supplier, a project engineer, a construction contractor or system installer, and a system operator and maintainer. One individual or entity may serve more than one role.

The project team must have demonstrated expertise in similar biomass systems development, engineering, installation, and maintenance. The applicant must provide authoritative evidence that project team service providers have the necessary professional credentials or relevant experience to perform the required services. The applicant must also provide authoritative evidence that vendors of proprietary components can provide necessary equipment and spare parts for the system to operate over its design life. The application must:

(A) Discuss the proposed project delivery method. Such methods include a design, bid, build where a separate engineering firm may design the project and prepare a request for bids and the successful bidder constructs the project at the applicant's risk, and a design build method, often referred to as turn key, where the applicant establishes the specifications for the project and secures the services of a developer who will design and build the project at the developer's risk;

(B) Discuss the biomass system equipment manufacturers of major components being considered in terms of the length of time in business and the number of units installed at the capacity and scale being considered;

(C) Discuss the project manager, equipment supplier, system designer, project engineer, and construction contractor qualifications for engineering, designing, and installing biomass energy systems including any relevant certifications by recognized organizations or bodies. Provide a list of the same or similar projects designed, installed, or supplied and currently operating and with references if available; and

(D) Describe the system operator's qualifications and experience for servicing, operating, and maintaining biomass renewable energy equipment or projects. Provide a list of the same or similar projects designed, installed, or supplied and currently operating and with references if available.

(ii) *Agreements and permits.* The applicant must identify all necessary agreements and permits required for the project and the status and schedule for securing those agreements and permits, including the items specified in paragraphs (d)(1)(ii)(A) through (G).

(A) Biomass systems must be installed in accordance with applicable local, State, and national codes and regulations. Identify zoning and code issues, and required permits and the schedule for meeting those requirements and securing those permits.

(B) Identify licenses where required and the schedule for obtaining those licenses.

(C) Identify land use agreements required for the project and the schedule for securing the agreements and the term of those agreements.

(D) Identify any permits or agreements required for solid, liquid, and gaseous emissions or effluents and the schedule for securing those permits and agreements.

(E) Identify available component warranties for the specific project location and size.

(F) Systems interconnected to the electric power system will need arrangements to interconnect with the utility. Identify utility system interconnection requirements, power purchase arrangements, or licenses where required and the schedule for meeting those requirements and obtaining those agreements. This is required even if the system is installed on the customer side of the utility meter. For systems planning to utilize a local net metering program, describe the applicable local net metering program.

(G) Describe all potential environmental impacts resulting from siting issues, construction, and operation of the proposed project. Identify other site or design alternatives that were considered in your planning process. Identify all environmental compliance issues such as required permits (*i.e.* wetland fill, endangered species, air quality, NPDES, etc.)

(iii) *Resource assessment.* The applicant must provide adequate and appropriate evidence of the availability of the renewable resource required for the system to operate as designed. Indicate the type, quantity, quality, and seasonality of the biomass resource including harvest and storage, where applicable. Where applicable, also indicate shipping or receiving method and required infrastructure for shipping. For proposed projects with an established resource, provide a summary of the resource.

(iv) *Design and engineering.* The applicant must provide authoritative evidence that the system will be designed and engineered so as to meet its intended purpose and need, ensure public safety, mitigate any adverse environmental impacts, and comply with applicable laws, regulations, agreements, permits, codes, and standards. Projects shall be engineered by a qualified entity. Systems must be engineered as a complete, integrated system with matched components. The engineering must be comprehensive including site selection, system and component selection, and system monitoring equipment. Systems must be constructed by a qualified entity.

(A) The application must include a concise but complete description of the biomass project including location of the project, resource characteristics, system specifications, electric power system interconnection, and monitoring equipment. Identify possible vendors and models of major system components. Describe the expected electric power, fuel production, or thermal energy production of the proposed system as rated and as expected in actual field conditions. For systems with a capacity more than 20 tons per day of biomass, address performance on a monthly and annual basis. For small projects such as a commercial biomass furnace or pelletizer of up to 5 tons daily capacity, proven, commercially available devices need not be addressed in detail. Describe the uses of or the market for electricity, heat, or fuel produced by the system. Discuss the impact of reduced or interrupted biomass availability on the system process.

(B) The application must include a description of the siting criteria used in selecting the project site and the reason for elimination of other site alternatives considered and address issues such as site access, foundations, backup equipment when applicable, and environmental issues with emphasis on land use, air quality, water quality,

noise pollution, soil degradation, wildlife, habitat fragmentation, aesthetics, odor, and other construction and installation issues applicable to this type of technology. Identify any unique construction and installation issues.

(C) Sites must be controlled by the agricultural producer or small business for the proposed project life or for the financing term of any associated Federal loans or loan guarantees.

(v) *Project development schedule.* The applicant must identify each significant task, its beginning and end, and its relationship to the time needed to initiate and carry the project through startup and shakedown. Provide a detailed description of the project timeline including resource assessment, system and site design, permits and agreements, equipment procurement, and system installation from excavation through startup and shakedown.

(vi) *Financial feasibility.* The applicant must provide a study that describes costs and revenues of the proposed project to demonstrate the financial performance of the project. Provide a detailed analysis and description of project costs including project management, resource assessment, project design, project permitting, land agreements, equipment, site preparation, system installation, startup and shakedown, warranties, insurance, financing, professional services, and operations and maintenance costs. Provide a detailed analysis and description of annual project revenues and expenses. Provide a detailed description of applicable investment, productivity, tax, loan, and grant incentives.

(vii) *Equipment procurement.* The applicant must demonstrate that equipment required by the system is available and can be procured and delivered within the proposed project development schedule. Biomass systems may be constructed of components manufactured in more than one location. Provide a description of any unique equipment procurement issues such as scheduling and timing of component manufacture and delivery, ordering, warranties, shipping, receiving, and on-site storage or inventory. Procurement must be made in accordance with the requirements of 7 CFR part 3015.

(viii) *Equipment installation.* The applicant must fully describe the management of and plan for site development and system installation, provide details regarding the scheduling of major installation equipment needed for project construction, and provide a description of the startup and shakedown specification and process and the conditions required for startup and shakedown for each equipment item individually and for the system as a whole.

(ix) *Operations and maintenance.* The applicant must identify the operations and maintenance requirements of the system necessary for the system to operate as designed over the design life. The applicant must:

(A) Provide information regarding available system and component warranties and availability of spare parts;

(B) Have a biomass input capacity exceeding 10 tons of biomass per day for systems.

(1) Describe the routine operations and maintenance requirements of the proposed system, including maintenance schedule for the mechanical, piping, and electrical systems and system monitoring and control requirements. Provide information that supports expected design life of the system and timing of major component replacement or rebuilds; and

(2) Discuss the costs and labor associated with operations and maintenance of system and plans for in or outsourcing. Describe opportunities for technology transfer for long term project operations and maintenance by a local entity or owner/operator; and

(C) Provide and discuss the risk management plan for handling large, unanticipated failures or major components. Include in the discussion, costs and labor associated with operations and maintenance of system and plans for insourcing or outsourcing.

(x) *Decommissioning.* When uninstalling or removing the project, describe the decommissioning process. Describe any issues, environmental compliance requirements, and costs for removal and disposal of the system.

(2) *Biomass, Anaerobic digester.* The technical requirements specified in paragraphs (d)(2)(i) through (x) apply to renewable energy projects, called anaerobic digester projects, that use animal waste and other organic substrates to produce thermal or electrical energy via anaerobic digestion. The major components of an anaerobic digester system include the digester, the gas handling and transmission systems, and the gas use system.

(i) *Qualifications of project team.* The anaerobic digester project team should consist of a system designer, a project manager, an equipment supplier, a project engineer, a construction contractor, and a system operator or maintainer. One individual or entity may serve more than one role.

The project team must have demonstrated commercial-scale expertise in anaerobic digester systems development, engineering, installation, and maintenance as related to the organic materials and operating mode of the system. The applicant must provide authoritative evidence that project team service providers have the necessary professional credentials or relevant experience to perform the required services. The applicant must also provide authoritative evidence that vendors of proprietary components can provide necessary equipment and spare parts for the system to operate over its design life. The applicant must:

(A) Discuss the proposed project delivery method. Such methods include a design, bid, build where a separate engineering firm may design the project and prepare a request for bids and the successful bidder constructs the project at the applicant's risk, and a design build method, often referred to as turn key, where the applicant establishes the specifications for the project and secures the services of a developer who will design and build the project at the developer's risk;

(B) Discuss the anaerobic digester system equipment manufacturers of major components being considered in terms of the length of time in business and the number of units installed at the capacity and scale being considered;

(C) Discuss the project manager, equipment supplier, system designer, project engineer, and construction contractor qualifications for engineering, designing, and installing anaerobic digester systems including any relevant certifications by recognized organizations or bodies. Provide a list of the same or similar projects designed, installed, or supplied and currently operating consistent with the substrate material and with references if available; and

(D) For regional or centralized digester plants, describe the system operator's qualifications and experience for servicing, operating, and maintaining similar projects. Farm scale systems may not require operator experience as the developer is typically required to provide operational training during system startup and shakedown. Provide a list of the same or similar projects designed, installed, or supplied and currently operating consistent with the substrate material and with references if available.

(ii) *Agreements and permits.* The applicant must identify all necessary agreements and permits required for the project and the status and schedule for securing those agreements and permits,

including the items specified in paragraphs (d)(2)(ii)(A) through (G).

(A) Anaerobic digester systems must be installed in accordance with applicable local, State, and national codes and regulations. Anaerobic digesters must also be designed and constructed in accordance with USDA anaerobic digester standards. Identify zoning and code issues, and required permits and the schedule for meeting those requirements and securing those permits.

(B) Identify licenses where required and the schedule for obtaining those licenses.

(C) For regional or centralized digester plants, identify feedstock access agreements required for the project and the schedule for securing those agreements and the term of those agreements.

(D) Identify any permits or agreements required for transport and ultimate waste disposal and the schedule for securing those agreements and permits.

(E) Identify available component warranties for the specific project location and size.

(F) Systems interconnected to the electric power system will need arrangements to interconnect with the utility. Identify utility system interconnection requirements, power purchase arrangements, or licenses where required and the schedule for meeting those requirements and obtaining those agreements. This is required even if the system is installed on the customer side of the utility meter. For systems planning to utilize a local net metering program, describe the applicable local net metering program.

(G) Describe all potential environmental impacts resulting from siting issues, construction and operation of the proposed project. Identify other site or design alternatives that were considered in your planning process. Identify all environmental compliance issues such as required permits (*i.e.*, wetland fill, endangered species, air quality, NPDES, etc.)

(iii) *Resource assessment.* The applicant must provide adequate and appropriate evidence of the availability of the renewable resource required for the system to operate as designed. Indicate the substrates used as digester inputs including animal wastes, food processing wastes, or other organic wastes in terms of type, quantity, seasonality, and frequency of collection. Describe any special handling of feedstock that may be necessary. Describe the process for determining the feedstock resource. Provide either tabular values or laboratory analysis of representative samples that include biodegradability studies to produce gas production estimates for the project on daily, monthly, and seasonal bases.

(iv) *Design and engineering.* The applicant must provide authoritative evidence that the system will be designed and engineered so as to meet its intended purpose and need, will ensure public safety, mitigate any adverse environmental impacts, and will comply with applicable laws, regulations, agreements, permits, codes, and standards. Projects shall be engineered by a qualified entity. Systems must be engineered as a complete, integrated system with matched components. The engineering must be comprehensive including site selection, digester component selection, gas handling component selection, and gas use component selection. Systems must be constructed by a qualified entity.

(A) The application must include a concise but complete description of the anaerobic digester project including location of the project, farm description, feedstock characteristics, a step-by-step flowchart of unit operations, electric power system interconnection equipment, and any required monitoring equipment. Identify possible vendors and models of major system components. Provide the expected system energy production, heat balances, material balances as part of the unit operations flowchart.

(B) The application must include a description of the siting criteria used in selecting the project site and the reason for elimination of other site alternatives considered and address issues such as site access, foundations, backup equipment when applicable, and environmental issues with emphasis on land use, air quality, water quality, noise pollution, soil degradation, wildlife, habitat fragmentation, aesthetics, odor, and other construction and installation issues applicable to this type of technology. Identify any unique construction and installation issues.

(C) Sites must be controlled by the agricultural producer or small business for the proposed project life or for the financing term of any associated Federal loans or loan guarantees.

(v) *Project development schedule.* The applicant must identify each significant task, its beginning and end, and its relationship to the time needed to initiate and carry the project through startup and shakedown. Provide a detailed description of the project timeline including feedstock assessment, system and site design, permits and agreements, equipment procurement, system installation from excavation through startup and shakedown, and operator training.

(vi) *Financial feasibility.* The applicant must provide a study that describes costs and revenues of the proposed project to demonstrate the financial performance of the project. Provide a detailed analysis and description of project costs including project management, feedstock assessment, project design, project permitting, land agreements, equipment, site preparation, system installation, startup and shakedown, warranties, insurance, financing, professional services, training and operations, and maintenance costs of both the digester and the gas use systems. Provide a detailed analysis and description of annual project revenues and expenses. Provide a detailed description of applicable investment, productivity, tax, loan, and grant incentives.

(vii) *Equipment procurement.* The applicant must demonstrate that equipment required by the system is available and can be procured and delivered within the proposed project development schedule. Anaerobic digester systems may be constructed of components manufactured in more than one location. Provide a description of any unique equipment procurement issues such as scheduling and timing of component manufacture and delivery, ordering, warranties, shipping, receiving, and on-site storage or inventory. Procurement must be made in accordance with the requirements of 7 CFR part 3015.

(viii) *Equipment installation.* The applicant must fully describe the management of and plan for site development and system installation, provide details regarding the scheduling of major installation equipment needed for project construction, and provide a description of the startup and shakedown specification and process and the conditions required for startup and shakedown for each equipment item individually and for the system as a whole.

(ix) *Operations and maintenance.* The applicant must identify the operations and maintenance requirements of the system necessary for the system to operate as designed over the design life. The applicant must:

(A) Ensure that systems must have at least a 3-year warranty for equipment and a 10-year warranty on design. Provide information regarding system warranties and availability of spare parts;

(B) Describe the routine operations and maintenance requirements of the proposed project, including maintenance for the digester, the gas

handling equipment, and the gas use systems. Describe any maintenance requirements for system monitoring and control equipment;

(C) Provide information that supports expected design life of the system and the timing of major component replacement or rebuilds;

(D) Provide and discuss the risk management plan for handling large, unanticipated failures of major components. Include in the discussion, costs and labor associated with operations and maintenance of system and plans for insourcing or outsourcing; and

(E) Describe opportunities for technology transfer for long-term project operations and maintenance by a local entity or owner/operator.

(x) *Decommissioning.* When uninstalling or removing the project, describe the decommissioning process. Describe any issues, environmental compliance requirements, and costs for removal and disposal of the system.

(3) *Geothermal, electric generation.* The technical requirements specified in paragraphs (d)(3)(i) through (x) apply to geothermal projects that produce electric power from the thermal potential of a geothermal source. The major components of an electric generating geothermal system include the production well, the separator or heat exchanger, the turbine, the generator, condenser, and the balance of station elements including the field piping, roads, fencing and grading, plant buildings, transformers and other electrical infrastructure such as interconnection equipment.

(i) *Qualifications of project team.* The electric generating geothermal plant project team should consist of a system designer, a project manager, an equipment supplier, a project engineer, a construction contractor, and a system operator and maintainer. One individual or entity may serve more than one role.

The project team must have demonstrated expertise in geothermal electric generation systems development, engineering, installation, and maintenance. The applicant must provide authoritative evidence that project team service providers have the necessary professional credentials or relevant experience to perform the required services. The applicant must also provide authoritative evidence that vendors of proprietary components can provide necessary equipment and spare parts for the system to operate over its design life. The applicant must:

(A) Discuss the proposed project delivery method. Such methods include a design, bid, build where a separate engineering firm may design the project and prepare a request for bids and the successful bidder constructs the project at the applicant's risk, and a design build method, often referred to as turn key, where the applicant establishes the specifications for the project and secures the services of a developer who will design and build the project at the developer's risk;

(B) Discuss the geothermal plant equipment manufacturers of major components being considered in terms of the length of time in business and the number of units installed at the capacity and scale being considered;

(C) Discuss the project manager, equipment supplier, system designer, project engineer, and construction contractor qualifications for engineering, designing, and installing geothermal electric generation systems including any relevant certifications by recognized organizations or bodies. Provide a list of the same or similar projects designed, installed, or supplied and currently operating and with references if available; and

(D) Describe system operator's qualifications and experience for servicing, operating, and maintaining electric generating geothermal projects. Provide a list of the same or similar projects designed, installed, or supplied and currently operating and with references if available.

(ii) *Agreements and permits.* The applicant must identify all necessary agreements and permits required for the project and the status and schedule for securing those agreements and permits, including the items specified in paragraphs (d)(3)(ii)(A) through (F).

(A) Electric generating geothermal systems must be installed in accordance with applicable local, State, and national codes and regulations. Identify zoning and code issues, and required permits and the schedule for meeting those requirements and securing those permits.

(B) Identify any permits or agreements required for well construction and for disposal or re-injection of cooled geothermal waters and the schedule for securing those agreements and permits.

(C) Identify land use or access to the resource agreements required for the project and the schedule for securing the agreements and the term of those agreements.

(D) Identify available component warranties for the specific project location and size.

(E) Systems interconnected to the electric power system will need arrangements to interconnect with the utility. Identify utility system interconnection requirements, power purchase arrangements, or licenses where required and the schedule for meeting those requirements and obtaining those agreements.

(F) Describe all potential environmental impacts resulting from siting issues, construction and operation of the proposed project. Identify other site or design alternatives that were considered in your planning process. Identify all environmental compliance issues such as required permits (*i.e.*, wetland fill, endangered species, Air Quality, State Water Quality Certification, etc.)

(iii) *Resource assessment.* The applicant must provide adequate and appropriate evidence of the availability of the renewable resource required for the system to operate as designed. Indicate the quality of the geothermal resource including temperature, flow, and sustainability and what conversion system is to be installed. Describe any special handling of cooled geothermal waters that may be necessary. Describe the process for determining the geothermal resource including measurement setup for the collection of the geothermal resource data. For proposed projects with an established resource, provide a summary of the resource and the specifications of the measurement setup.

(iv) *Design and engineering.* The applicant must provide authoritative evidence that the system will be designed and engineered so as to meet its intended purpose and need, will ensure public safety, mitigate any adverse environmental impacts, and will comply with applicable laws, regulations, agreements, permits, codes, and standards. Projects shall be engineered by a qualified entity. Systems must be engineered as a complete, integrated system with matched components. The engineering must be comprehensive including site selection, system and component selection, conversion system component and selection, design of the local collection grid, interconnection equipment selection, and system monitoring equipment. Systems must be constructed by a qualified entity.

(A) The application must include a concise but complete description of the geothermal project including location of the project, resource characteristics, thermal system specifications, electric power system interconnection equipment and project monitoring equipment. Identify possible vendors and models of major system components. Provide the expected system energy production on a monthly and annual basis.

(B) The application must include a description of the siting criteria used in

selecting the project site and the reason for elimination of other site alternatives considered and address issues such as site access, foundations, backup equipment when applicable, proximity to the electrical grid, environmental issues with emphasis on land use, air quality, water quality, noise pollution, soil degradation, wildlife, habitat fragmentation, aesthetics, odor, and other construction, and installation issues applicable to this type of technology. Identify any unique construction and installation issues.

(C) Sites must be controlled by the agricultural producer or small business for the proposed project life or for the financing term of any associated Federal loans or loan guarantees.

(v) *Project development schedule*. The applicant must identify each significant task, its beginning and end, and its relationship to the time needed to initiate and carry the project through startup and shakedown. Provide a detailed description of the project timeline including resource assessment, system and site design, permits and agreements, equipment procurement, and system installation from excavation through startup and shakedown.

(vi) *Financial feasibility*. The applicant must provide a study that describes costs and revenues of the proposed project to demonstrate the financial performance of the project. Provide a detailed analysis and description of project costs including project management, resource assessment, project design, project permitting, land agreements, equipment, site preparation, system installation, startup and shakedown, warranties, insurance, financing, professional services, and operations and maintenance costs. Provide a detailed analysis and description of annual project revenues including electricity sales, production tax credits, revenues from green tags, and any other production incentive programs throughout the life of the project. Provide a detailed description of applicable investment incentives, productivity incentives, loans, and grants.

(vii) *Equipment procurement*. The applicant must demonstrate that equipment required by the system is available and can be procured and delivered within the proposed project development schedule. Geothermal systems may be constructed of components manufactured in more than one location. Provide a description of any unique equipment procurement issues such as scheduling and timing of component manufacture and delivery, ordering, warranties, shipping, receiving, and on-site storage or inventory. Procurement must be made in accordance with the requirements of 7 CFR part 3015.

(viii) *Equipment installation*. The applicant must fully describe the management of and plan for site development and system installation, provide details regarding the scheduling of major installation equipment needed for project construction, and provide a description of the startup and shakedown specification and process and the conditions required for startup or shakedown for each equipment item individually and for the system as a whole.

(ix) *Operations and maintenance*. The applicant must identify the operations and maintenance requirements of the system necessary for the system to operate as designed over the design life. The applicant must:

(A) ensure that systems must have at least a 3-year warranty for equipment. Provide information regarding turbine warranties and availability of spare parts;

(B) describe the routine operations and maintenance requirements of the proposed project, including maintenance for the mechanical and electrical systems and system monitoring and control requirements;

(C) provide information that supports expected design life of the system and timing of major component replacement or rebuilds;

(D) provide and discuss the risk management plan for handling large, unanticipated failures of major components such as the turbine. Include in the discussion, costs and labor associated with operations and maintenance of system and plans for insourcing or outsourcing; and

(E) Describe opportunities for technology transfer for long term project operations and maintenance by a local entity or owner/operator.

(x) *Decommissioning*. When uninstalling or removing the project, describe the decommissioning process. Describe any issues, any environmental compliance requirements, and costs for removal and disposal of the system.

(4) *Geothermal, direct use.* The technical requirements specified in paragraphs (d)(4)(i) through (x) apply to geothermal projects that directly use thermal energy from a geothermal source. The major components of a direct use geothermal system include the production well, the heat exchanger, pumps, and the balance of station elements including the field piping, re-injection wells or other disposal equipment as required, and final point-of-use heat exchangers and control systems.

(i) *Qualifications of project team.* The geothermal project team should consist of a system designer, a project manager, an equipment supplier, a project engineer, a construction contractor, and a system operator and maintainer. One individual or entity may serve more than one role.

The project team must have demonstrated expertise in geothermal heating systems development, engineering, installation, and maintenance. The applicant must provide authoritative evidence that project team service providers have the necessary professional credentials or relevant experience to perform the required services. The applicant must also provide authoritative evidence that vendors of proprietary components can provide necessary equipment and spare parts for the system to operate over its design life. The applicant must:

(A) Discuss the proposed project delivery method. Such method include a design, bid, build where a separate engineering firm may design the project and prepare a request for bids and the successful bidder constructs the project at the applicant's risk, and a design build method, often referred to as turn key, where the applicant establishes the specifications for the project and secures the services of a developer who will design and build the project at the developer's risk;

(B) Discuss the geothermal system equipment manufacturers of major components being considered in terms of the length of time in business and the number of units installed at the capacity and scale being considered;

(C) Discuss the project manager, equipment supplier, system designer, project engineer, and construction contractor qualifications for engineering, designing, and installing direct use geothermal systems including any relevant certifications by recognized organizations or bodies. Provide a list of the same or similar projects designed, installed, or supplied and currently operating and with references if available; and

(D) Describe system operator's qualifications and experience for servicing, operating, and maintaining direct use generating geothermal projects. Provide a list of the same or similar projects designed, installed, or supplied and currently operating and with references if available.

(ii) *Agreements and permits.* The applicant must identify all necessary agreements and permits required for the project and the status and schedule for securing those agreements and permits,

including the items specified in paragraphs (d)(4)(ii)(A) through (F).

(A) Direct use geothermal systems must be installed in accordance with applicable local, State, and national codes and regulations. Identify zoning and code issues, and required permits and the schedule for meeting those requirements and securing those permits.

(B) Identify licenses where required and the schedule for obtaining those licenses.

(C) Identify land use or access to the resource agreements required for the project and the schedule for securing the agreements and the term of those agreements.

(D) Identify any permits or agreements required for well construction and for disposal or re-injection of cooled geothermal waters and the schedule for securing those permits and agreements.

(E) Identify available component warranties for the specific project location and size.

(F) Describe all potential environmental impacts resulting from siting issues, construction, and operation of the proposed project. Identify other site or design alternatives that were considered in your planning process. Identify all environmental compliance issues such as required permits (*i.e.* wetland fill, endangered species, Air Quality, State Water Quality Certification, etc.).

(iii) *Resource assessment.* The applicant must provide adequate and appropriate evidence of the availability of the renewable resource required for the system to operate as designed. Indicate the quality of the geothermal resource including temperature, flow, and sustainability and what direct use system is to be installed. Describe any special handling of cooled geothermal waters that may be necessary. Describe the process for determining the geothermal resource including measurement setup for the collection of the geothermal resource data. For proposed projects with an established resource, provide a summary of the resource and the specifications of the measurement setup.

(iv) *Design and engineering.* The applicant must provide authoritative evidence that the system will be designed and engineered so as to meet its intended purpose and need, will ensure public safety, mitigate any adverse environmental impacts, and comply with applicable laws, regulations, agreements, permits, codes, and standards. Projects shall be engineered by a qualified entity. Systems must be engineered as a complete, integrated system with matched components. The engineering must be comprehensive including site selection, system and component selection, thermal system component selection, and system monitoring equipment. Systems must be constructed by a qualified entity.

(A) The application must include a concise but complete description of the geothermal project including location of the project, resource characteristics, thermal system specifications, and monitoring equipment. Identify possible vendors and models of major system components. Provide the expected system energy production on a monthly and annual basis.

(B) The application must include a description of the siting criteria used in selecting the project site and the reason for elimination of other site alternatives considered and address issues such as, site access, foundations, thermal backup equipment, and environmental issues with emphasis on land use, air quality, water quality, noise pollution, soil degradation, wildlife, habitat fragmentation, aesthetics, odor, and other construction, and installation issues applicable to this type of technology. Identify any unique construction and installation issues.

(C) Sites must be controlled by the agricultural producer or small business for the proposed project life or for the financing term of any associated Federal loans or loan guarantees.

(v) *Project development schedule.* The applicant must identify each significant task, its beginning and end, and its relationship to the time needed to initiate and carry the project through startup and shakedown. Provide a detailed description of the project timeline including resource assessment, system and site design, permits and agreements, equipment procurement, and system installation from excavation through startup and shakedown.

(vi) *Financial feasibility.* The applicant must provide a study that describes costs and revenues of the proposed project to demonstrate the financial performance of the project. Provide a detailed analysis and description of project costs including project management, resource assessment, project design, project permitting, land agreements, equipment, site preparation, system installation, startup and shakedown, warranties, insurance, financing, professional services, and operations and maintenance costs. Provide a detailed analysis and description of annual project revenues and expenses. Provide a detailed description of applicable investment, productivity, tax, loan, and grant incentives.

(vii) *Equipment procurement.* The applicant must demonstrate that equipment required by the system is available and can be procured and delivered within the proposed project development schedule. Geothermal systems may be constructed of components manufactured in more than one location. Provide a description of any unique equipment procurement issues such as scheduling and timing of component manufacture and delivery, ordering, warranties, shipping, receiving, and on-site storage or inventory. Procurement must be made in accordance with the requirements of 7 CFR part 3015.

(viii) *Equipment installation.* The applicant must fully describe the management of and plan for site development and system installation, provide details regarding the scheduling of major installation equipment needed for project construction, and provide a description of the startup and shakedown specification and process and the conditions required for startup and shakedown for each equipment item individually and for the system as a whole.

(ix) *Operations and maintenance.* The applicant must identify the operations and maintenance requirements of the system necessary for the system to operate as designed over the design life. The applicant must:

(A) Ensure that systems must have at least a 3-year warranty for equipment. Provide information regarding system warranties and availability of spare parts;

(B) Describe the routine operations and maintenance requirements of the proposed project, including maintenance for the mechanical and electrical systems and system monitoring and control requirements;

(C) Provide information that supports expected design life of the system and timing of major component replacement or rebuilds;

(D) Provide and discuss the risk management plan for handling large, unanticipated failures of major components. Include in the discussion, costs and labor associated with operations and maintenance of system and plans for insourcing or outsourcing; and

(E) Describe opportunities for technology transfer for long-term project operations and maintenance by a local entity or owner/operator.

(x) *Decommissioning.* When uninstalling or removing the project, describe the decommissioning process. Describe any issues, environmental compliance requirements, and costs for removal and disposal of the system.

(5) *Hydrogen.* The technical requirements specified in paragraphs (d)(5)(i) through (x) apply to renewable energy projects that produce hydrogen and renewable energy projects that use mechanical or electric power or thermal energy from a renewable resource using hydrogen as an energy transport medium. The major components of hydrogen systems include reformers, electrolyzers, hydrogen compression and storage components, and fuel cells.

(i) *Qualifications of project team.* The hydrogen project team will vary according to the complexity and scale of the project. For engineered systems, the project team should consist of a system designer, a project manager, an equipment supplier, a project engineer, a construction contractor or system installer, and a system operator and maintainer. One individual or entity may serve more than one role.

The project team must have demonstrated expertise in similar hydrogen systems development, engineering, installation, and maintenance. The applicant must provide authoritative evidence that project team service providers have the necessary professional credentials or relevant experience to perform the required services. The applicant must also provide authoritative evidence that vendors of proprietary components can provide necessary equipment and spare parts for the system to operate over its design life. The applicant must:

(A) Discuss the proposed project delivery method. Such methods include a design, bid, build where a separate engineering firm may design the project and prepare a request for bids and the successful bidder constructs the project at the applicant's risk, and a design build method, often referred to as turn key, where the applicant establishes the specifications for the project and secures the services of a developer who will design and build the project at the developer's risk;

(B) Discuss the hydrogen system equipment manufacturers of major components for the hydrogen system being considered in terms of the length of time in the business and the number of units installed at the capacity and scale being considered;

(C) Discuss the project manager, equipment supplier, system designer, project engineer, and construction contractor qualifications for engineering, designing, and installing hydrogen systems including any relevant certifications by recognized organizations or bodies. Provide a list of the same or similar projects designed, installed, or supplied and currently operating and with references if available; and

(D) Describe the system operator's qualifications and experience for servicing, operating, and maintaining hydrogen system equipment or projects. Provide a list of the same or similar projects designed, installed, or supplied and currently operating and with references if available.

(ii) *Agreements and permits.* The applicant must identify all necessary agreements and permits required for the project and the status and schedule for securing those agreements and permits, including the items specified in paragraphs (d)(5)(ii)(A) through (G).

(A) Hydrogen systems must be installed in accordance with applicable local, State, and national codes and regulations. Identify zoning and building code issues, and required permits and the schedule for meeting those requirements and securing those permits.

(B) Identify licenses where required and the schedule for obtaining those licenses.

(C) Identify land use agreements required for the project and the schedule for securing the agreements and the term of those agreements.

(D) Identify any permits or agreements required for solid, liquid, and gaseous emissions or effluents and the schedule for securing those permits and agreements.

(E) Identify available component warranties for the specific project location and size.

(F) Systems interconnected to the electric power system will need arrangements to interconnect with the utility. Identify utility system interconnection requirements, power purchase arrangements, or licenses where required and the schedule for meeting those requirements and obtaining those agreements. This is required even if the system is installed on the customer side of the utility meter. For systems planning to utilize a local net metering program, provide a description of the applicable local net metering program.

(G) Describe all potential environmental impacts resulting from siting issues, construction and operation of the proposed project. Identify other site or design alternatives that were considered in your planning process. Identify all environmental compliance issues such as required permits (Air Quality, etc.)

(iii) *Resource assessment.* The applicant must provide adequate and appropriate evidence of the availability of the renewable resource required for the system to operate as designed. Indicate the type, quantity, quality, and seasonality of the biomass resource. For solar, wind, or geothermal sources of energy used to generate hydrogen, indicate the local renewable resource where the hydrogen system is to be installed. Local resource maps may be used as an acceptable preliminary source of renewable resource data. For proposed projects with an established renewable resource, provide a summary of the resource.

(iv) *Design and engineering.* The applicant must provide authoritative evidence that the system will be designed and engineered so as to meet its intended purpose and need, will ensure public safety, mitigate any adverse environmental impacts, and will comply with applicable laws, regulations, agreements, permits, codes, and standards. Projects shall be engineered by a qualified entity. Systems must be engineered as a complete, integrated system with matched components. The engineering must be comprehensive including site selection, system and component selection, and system monitoring equipment. Systems must be constructed by a qualified entity.

(A) The application must include a concise but complete description of the hydrogen project including location of the project, resource characteristics, system specifications, electric power system interconnection equipment, and monitoring equipment. Identify possible vendors and models of major system components. Describe the expected electric power, fuel production, or thermal energy production of the proposed system. Address performance on a monthly and annual basis. Describe the uses of or the market for electricity, heat, or fuel produced by the system. Discuss the impact of reduced or interrupted resource availability on the system process.

(B) The application must include a description of the siting criteria used in selecting the project site and the reason for elimination of other site alternatives considered and address issues such as site access, foundations, backup equipment when applicable, and any environmental issues and safety concerns with emphasis on land use, air quality, water quality, aesthetics, odor, safety hazards, and other construction and installation issues applicable to this type of technology. Identify any unique construction and installation issues.

(C) Sites must be controlled by the agricultural producer or small business for the proposed project life or for the financing term of any associated Federal loans or loan guarantees.

(v) *Project development schedule*. The applicant must identify each significant task, its beginning and end, and its relationship to the time needed to initiate and carry the project through startup and shakedown. Provide a detailed description of the project timeline including resource assessment, system and site design, permits and agreements, equipment procurement, and system installation from excavation through startup and shakedown.

(vi) *Financial feasibility*. The applicant must provide a study that describes costs and revenues of the proposed project to demonstrate the financial performance of the project. Provide a detailed analysis and description of project costs including project management, resource assessment, project design and engineering, project permitting, land agreements, equipment, site preparation, system installation, startup and shakedown, warranties, insurance, financing, professional services, and operations and maintenance costs. Provide a detailed analysis and description of annual project revenues and expenses. Provide a detailed description of applicable investment, productivity, tax, loan, and grant incentives.

(vii) *Equipment procurement*. The applicant must demonstrate that equipment required by the system is available and can be procured and delivered within the proposed project development schedule. Hydrogen systems may be constructed of components manufactured in more than one location. Provide a description of any unique equipment procurement issues, such as scheduling and timing of component manufacture and delivery, ordering, warranties, shipping and receiving, and on-site storage or inventory. Procurement must be made in accordance with the requirements of 7 CFR part 3015.

(viii) *Equipment installation*. The applicant must fully describe the management of and plan for site development and system installation, provide details regarding the scheduling of major installation equipment needed for project construction, and provide a description of the startup and shakedown specification and process and the conditions required for startup and shakedown for each equipment item individually and for the system as a whole.

(ix) *Operations and maintenance*. The applicant must identify the operations and maintenance requirements of the system necessary for the system to operate as designed over the design life. The applicant must:

(A) Provide information regarding system warranties and availability of spare parts;

(B) Describe the routine operations and maintenance requirements of the proposed project, including maintenance of the reformer, electrolyzer, or fuel cell as appropriate, and other mechanical, piping, and electrical systems and system monitoring and control requirements;

(C) Provide information that supports expected design life of the system and timing of major component replacement or rebuilds;

(D) Provide and discuss the risk management plan for handling large, unanticipated failures of major components. Include in the discussion, costs and labor associated with operations and maintenance of system and plans for insourcing or outsourcing; and

(E) Describe opportunities for technology transfer for long term project operations and maintenance by a local entity or owner/operator.

(x) *Decommissioning*. When uninstalling or removing the project, describe the decommissioning process. Describe any issues, any environmental compliance requirements, and costs for removal and disposal of the system.

(6) *Solar, small*. The technical requirements specified in paragraphs (d)(6)(i) through (x) of this section apply to small solar electric projects and small solar thermal projects. Small solar electric projects are those for which the rated power of the system is 10kW or smaller. The major components of a small solar electric system are the solar panels, the support structure, the foundation, the power conditioning equipment, the interconnection equipment, surface or submersible water pumps, energy storage equipment and supporting documentation including operations and maintenance manuals. Small solar electric projects are either stand-alone (off grid) or interconnected to the grid at less than 600 volts (on grid). Small solar thermal projects are those for which the rated storage volume of the system is 240 gallons or smaller. The major components of a small solar thermal system are the solar collector(s), the support structure, the foundation, the circulation pump(s) and piping, heat exchanger (if required), energy storage equipment and support.

(i) *Qualifications of project team*. The small solar project team should consist of a system designer, a project manager or general contractor, an equipment supplier of major components, a system installer, a system maintainer, and, in some cases, the owner of the application or load served by the system. One individual or entity may serve more than one role.

The applicant must provide authoritative evidence that project team service providers have the necessary professional credentials or relevant experience to perform the required services. The applicant must also provide authoritative evidence that vendors of proprietary components can provide necessary equipment and spare parts for the system to operate over its design life. The applicant must:

(A) Discuss the qualifications of the suppliers of major components being considered;

(B) Describe the knowledge, skills, and abilities needed to service, operate, and maintain the system for the proposed application; and

(C) Discuss the project manager, system designer, and system installer qualifications for engineering, designing, and installing small solar systems including any relevant certifications by recognized organizations or bodies. Provide a list of the same or similar systems designed or installed by the design and installation team and currently operating and with references if available.

(ii) *Agreements and permits*. The applicant must identify all necessary agreements and permits required for the project and the status and schedule for securing those agreements and permits, including the items specified in paragraphs (d)(6)(ii)(A) through (D).

(A) Small solar systems must be installed in accordance with local, State, and national building and electrical codes and regulations. Identify zoning, building and electrical code issues, and required permits and the schedule for meeting those requirements and securing those permits.

(B) Identify available component warranties for the specific project location and size.

(C) Small solar electric systems interconnected to the electric power system will need arrangements to interconnect with the utility. Identify utility system interconnection requirements, power purchase arrangements, or licenses where required and the schedule for meeting those requirements and obtaining those agreements. This is required even if the system is installed on the customer side of the utility meter. For systems planning to utilize a local net metering program, describe the applicable local net metering program.

(D) Describe all potential environmental impacts resulting from siting issues, construction and operation of the proposed project. Identify other site or design alternatives that were

considered in your planning process. Identify all environmental compliance issues such as required permits (*i.e.* wetland fill, endangered species, water quality, hazard materials handling, etc.)

(iii) *Resource assessment.* The applicant must provide adequate and appropriate evidence of the availability of the renewable resource required for the system to operate as designed. Describe the local solar resource where the solar system is to be installed. Acceptable sources of solar resource data include state solar maps and nearby weather station data. Incorporate information from state solar resource maps when possible. Indicate the source of the solar data and assumptions made when applying nearby solar data to the site.

(iv) *Design and engineering.* The applicant must provide authoritative evidence that the system will be designed and engineered so as to meet its intended purpose and need, ensure public safety, mitigate any adverse environmental impacts, and comply with applicable laws, regulations, agreements, permits, codes, and standards. For small solar electric systems, the engineering must be comprehensive, including solar collector design and selection, support structure design and selection, power conditioning design and selection, surface or submersible water pumps and energy storage requirements as applicable, and selection of cabling, disconnects and interconnection equipment. For small solar thermal systems, the engineering must be comprehensive, including solar collector design and selection, support structure design and selection, pump and piping design and selection, and energy storage design and selection.

(A) The application must include a concise but complete description of the small solar system including location of the project and proposed equipment specifications. Identify possible vendors and models of major system components. Provide the expected system energy production based on available solar resource data on a monthly (when possible) and annual basis and how the energy produced by the system will be used.

(B) The application must include a description of the siting criteria used in selecting the project site and the reason for elimination of other site alternatives considered and address issues such as solar access, site access, foundations, backup equipment when applicable, orientation, proximity to the load or the electrical grid, unique safety concerns, and environmental issues with emphasis on land use, water quality, wildlife, habitat fragmentation, aesthetics, and other construction, and installation issues, and whether special circumstances exist applicable to this type of technology.

(C) Sites and application load must be controlled by the agricultural producer or small business for the proposed project life or for the financing term of any associated Federal loans or loan guarantees.

(v) *Project development schedule.* The applicant must identify each significant task, its beginning and end, and its relationship to the time needed to initiate and carry the project through startup and shakedown. Provide a detailed description of the project timeline including system and site design, permits and agreements, equipment procurement, and system installation from excavation through startup and shakedown.

(vi) *Financial feasibility.* The applicant must provide a study that describes costs and revenues of the proposed project to demonstrate the financial performance of the project. Provide a detailed analysis and description of project costs including design, permitting, equipment, site preparation, system installation, system startup and shakedown, warranties, insurance, financing, professional services, and operations and maintenance costs. Provide a detailed description of applicable investment, productivity, tax, loan, and grant incentives. Provide a detailed description of historic or expected energy use and expected energy offsets or sales on a monthly and annual basis.

(vii) *Equipment procurement.* The applicant must demonstrate that equipment required by the system is available and can be procured and delivered within the proposed project development schedule. Small solar systems may be constructed of components manufactured in more than one location. Provide a description of any unique equipment procurement issues such as scheduling and timing of component manufacture and delivery, ordering, warranties, shipping, receiving, and on-site storage or inventory. Provide a detailed description of equipment certification. Procurement must be made in accordance with the requirements of 7 CFR part 3015.

(viii) *Equipment installation.* The applicant must fully describe the management of and plan for site development and system installation, provide details regarding the scheduling of major installation equipment needed for project construction, and provide a description of the startup and shakedown specification and process and the conditions required for startup and shakedown for each equipment item individually and for the system as a whole.

(ix) *Operations and maintenance.* The applicant must identify the operations and maintenance requirements of the system necessary for the system to operate as designed over the design life. The applicant must:

(A) Ensure that systems must have at least a 5-year warranty for equipment. Provide information regarding system warranty and availability of spare parts;

(B) Describe the routine operations and maintenance requirements of the proposed system, including maintenance schedules for the mechanical and electrical and software systems;

(C) For owner maintained portions of the system, describe any unique knowledge, skills, or abilities needed for service operations or maintenance; and

(D) Provide information regarding expected system design life and timing of major component replacement or rebuilds. Include in the discussion, costs and labor associated with operations and maintenance of system and plans for insourcing or outsourcing.

(x) *Decommissioning.* When uninstalling or removing the project, describe the decommissioning process. Describe any issues, any environmental compliance requirements, such as proper disposal or recycling procedures to reduce potential impact from hazardous chemicals and costs for removal and disposal of the system.

(7) *Solar, large.* The technical requirements specified in paragraphs (d)(7)(i) through (x) apply to large solar electric projects and large solar thermal projects. Large solar electric systems are those for which the rated power of the system is larger than 10kW. The major components of a large solar electric system are the solar panels, the support structure, the foundation, the power conditioning equipment, the interconnection equipment, surface or submersible water pumps and energy storage equipment and supporting documentation including operations and maintenance manuals. Large solar electric systems are either stand-alone (off grid) or interconnected to the grid (on grid.) Large solar thermal systems are those for which the rated storage volume of the system is greater than 240 gallons. The major components of a large solar thermal system are the solar collector(s), the support structure, the foundation, the circulation pump(s) and piping, heat exchanger (if required), energy storage equipment and

supporting documentation including operations and maintenance manuals.

(i) *Qualifications of project team.* The large solar project team should consist of an equipment supplier of major components, a project manager, general contractor, a system engineer, a system installer, and system maintainer. One individual or entity may serve more than one role.

The applicant must provide authoritative evidence that project team service providers have the necessary professional credentials or relevant experience to perform the required services. The applicant must also provide authoritative evidence that vendors of proprietary components can provide necessary equipment and spare parts for the system to operate over its design life. The applicant must:

(A) Discuss the proposed project delivery method. Such methods include a design, bid, build where a separate engineering firm may design the project and prepare a request for bids and the successful bidder constructs the project at the applicant's risk, and a design build method, often referred to as turn key, where the applicant establishes the specifications for the project and secures the services of a developer who will design and build the project at the developer's risk;

(B) Discuss the qualifications of the suppliers of major components being considered;

(C) Discuss the project manager, general contractor, system engineer, and system installer qualifications for engineering, designing, and installing large solar systems including any relevant certifications by recognized organizations or bodies. Provide a list of the same or similar systems designed or installed by the design, engineering, and installation team and currently operating and with references if available; and

(D) Describe the system operator's qualifications and experience for servicing, operating, and maintaining the system for the proposed application. Provide a list of the same or similar systems designed or installed by the design, engineering, and installation team and currently operating and with references if available.

(ii) *Agreements and permits.* The applicant must identify all necessary agreements and permits required for the project and the status and schedule for securing those agreements and permits, including the items specified in paragraphs (d)(7)(ii)(A) through (D).

(A) Large solar systems must be installed in accordance with local, State, and national building and electrical codes and regulations. Identify zoning, building and electrical code issues, and required permits and the schedule for meeting those requirements and securing those permits.

(B) Identify available component warranties for the specific project location and size.

(C) Large solar electric systems interconnected to the electric power system will need arrangements to interconnect with the utility. Identify utility system interconnection requirements, power purchase arrangements, or licenses where required and the schedule for meeting those requirements and obtaining those agreements. This is required even if the system is installed on the customer side of the utility meter. For systems planning to utilize a local net metering program, describe the applicable local net metering program.

(D) Describe all potential environmental impacts resulting from siting issues, construction and operation of the proposed project. Identify other site or design alternatives that were considered in your planning process. Identify all environmental compliance issues such as required permits (*i.e.* wetland fill, endangered species, water quality, hazard materials handling, etc.)

(iii) *Resource assessment.* The applicant must provide adequate and appropriate evidence of the availability of the renewable resource required for the system to operate as designed. Describe the local solar resource where the solar system is to be installed. Acceptable sources of solar resource data include state solar maps and nearby weather station data. Incorporate information from state solar resource maps when possible. Indicate the source of the solar data and assumptions made when applying nearby solar data to the site.

(iv) *Design and engineering.* The applicant must provide authoritative evidence that the system will be designed and engineered so as to meet its intended purpose and need, ensure public safety, mitigate any adverse environmental impacts, and comply with applicable laws, regulations, agreements, permits, codes, and standards.

(A) For large solar electric systems, the engineering must be comprehensive, including solar collector design and selection, support structure design and selection, power conditioning design and selection, surface or submersible water pumps and energy storage requirements as applicable, and selection of cabling, disconnects and interconnection equipment. A complete set of engineering drawings, stamped by a professional engineer must be provided.

(B) For large solar thermal systems, the engineering must be comprehensive, including solar collector design and selection, support structure design and selection, pump and piping design and selection, and energy storage design and selection. Provide a complete set of engineering drawings, stamped by a professional engineer.

(C) For either type of system, provide a concise but complete description of the large solar system including location of the project and proposed equipment and system specifications. Identify possible vendors and models of major system components. Provide the expected system energy production based on available solar resource data on a monthly (when possible) and annual basis and how the energy produced by the system will be used.

(D) For either type of system, provide a description of the project site and address issues such as solar access, orientation, proximity to the load or the electrical grid, environmental concerns such as land use, water quality, wildlife, habitat fragmentation, aesthetics, unique safety concerns, construction, and installation issues and whether special circumstances exist.

(E) Sites must be controlled by the agricultural producer or small business for the proposed project life or for the financing term of any associated federal loans or loan guarantees.

(v) *Project development schedule.* The applicant must identify each significant task, its beginning and end, and its relationship to the time needed to initiate and carry the project through startup and shakedown. Provide a detailed description of the project timeline including system and site design, permits and agreements, equipment procurement, and system installation from excavation through startup and shakedown.

(vi) *Financial feasibility.* The applicant must provide a study that describes costs and revenues of the proposed project to demonstrate the financial performance of the project. Provide a detailed analysis and description of project costs including design and engineering, permitting, equipment, site preparation, system installation, system startup and shakedown, warranties, insurance, financing, professional services, and operations and maintenance costs. Provide a detailed description of applicable investment, productivity, tax, loan, and grant incentives. Provide a detailed description of historic or expected energy use and expected

energy offsets or sales on a monthly and annual basis.

(vii) *Equipment procurement.* The applicant must demonstrate that equipment required by the system is available and can be procured and delivered within the proposed project development schedule. Large solar systems may be constructed of components manufactured in more than one location. Provide a description of any unique equipment procurement issues such as scheduling and timing of component manufacture and delivery, ordering, warranties, shipping, receiving, and on-site storage or inventory. Provide a detailed description of equipment certification. Procurement must be made in accordance with the requirements of 7 CFR part 3015.

(viii) *Equipment installation.* The applicant must fully describe the management of and plan for site development and system installation, provide details regarding the scheduling of major installation equipment, including cranes and other devices, needed for project construction, and provide a description of the startup and shakedown specification and process and the conditions required for startup and shakedown for each equipment item individually and for the system as a whole.

(ix) *Operations and maintenance.* The applicant must identify the operations and maintenance requirements of the system necessary for the system to operate as designed over the design life. The applicant must:

(A) Ensure that systems must have at least a 5-year warranty for equipment. Provide information regarding system warranty and availability of spare parts;

(B) Describe the routine operations and maintenance requirements of the proposed system, including maintenance schedules for the mechanical and electrical and software systems;

(C) For owner maintained portions of the system, describe any unique knowledge, skills, or abilities needed for service operations or maintenance; and

(D) Provide information regarding expected system design life and timing of major component replacement or rebuilds. Include in the discussion, costs and labor associated with operations and maintenance of system and plans for insourcing or outsourcing.

(x) *Decommissioning.* When uninstalling or removing the project, describe the decommissioning process. Describe any issues, any environmental compliance requirements such as proper disposal or recycling procedures to reduce potential hazardous chemical contamination and costs for removal and disposal of the system.

(8) *Wind, small.* The technical requirements specified in paragraphs (d)(8)(i) through (x) apply to wind energy systems for which the rated power of the wind turbine is 100kW or smaller and with a generator hub height of 120 ft or less. Such systems are considered small wind systems. The major components of a small wind system are the wind turbine, the tower, the foundation, the inverter, the interconnection equipment and energy storage when applicable. A small wind system is either stand-alone or connected to the local electrical system at less than 600 volts.

(i) *Qualifications of project team.* The small wind project team should consist of a system designer, a project manager or general contractor, an equipment supplier of major components, a system installer, a system maintainer, and, in some cases, the owner of the application or load served by the system. One individual or entity may serve more than one role.

The applicant must provide authoritative evidence that project team service providers have the necessary professional credentials or relevant experience to perform the required services. The applicant must also provide authoritative evidence that vendors of proprietary components can provide necessary equipment and spare parts for the system to operate over its design life. The applicant must:

(A) Discuss the small wind turbine manufacturers and other equipment suppliers of major components being considered in terms of the length of time in business and the number of units installed at the capacity and scale being considered;

(B) Describe the knowledge, skills, and abilities needed to service, operate, and maintain the system for the proposed application; and

(C) Discuss the project manager, system designer, and system installer qualifications for engineering, designing, and installing small wind systems including any relevant certifications by recognized organizations or bodies. Provide a list of the same or similar systems designed, installed, or supplied and currently operating and with references if available.

(ii) *Agreements and permits.* The applicant must identify all necessary agreements and permits required for the project and the status and schedule for securing those agreements and permits, including the items specified in paragraphs (d)(8)(ii)(A) through (D).

(A) Small wind systems must be installed in accordance with applicable local, State, and national building and electrical codes and regulations. Identify zoning, building and electrical code issues, and required permits and the schedule for meeting those requirements and securing those permits.

(B) Identify available component warranties for the specific project location and size.

(C) Small wind systems interconnected to the electric power system will need arrangements to interconnect with the utility. Identify utility system interconnection requirements, power purchase arrangements, or licenses where required and the schedule for meeting those requirements and obtaining those agreements. This is required even if the system is installed on the customer side of the utility meter. For systems planning to utilize a local net metering program, describe the applicable local net metering program.

(D) Describe all potential environmental impacts resulting from siting issues, construction and operation of the proposed project. Identify other site or design alternatives that were considered in your planning process. Identify all environmental compliance issues such as required permits (*i.e.* wetland fill, endangered species, etc.)

(iii) *Resource assessment.* The applicant must provide adequate and appropriate evidence of the availability of the renewable resource required for the system to operate as designed. Indicate the local wind resource where the small wind turbine is to be installed. Acceptable sources of wind resource data include state wind maps and nearby weather station data. Incorporate information from state wind resource maps when possible. Indicate the source of the wind data and the conditions of the wind monitoring when collected at the site or assumptions made when applying nearby wind data to the site.

(iv) *Design and engineering.* The applicant must provide authoritative evidence that the system will be designed and engineered so as to meet its intended purpose and need, ensure public safety, mitigate any adverse environmental impacts, and comply with applicable laws, regulations, agreements, permits, codes, and standards. Small wind systems must be engineered by either the wind turbine manufacturer or other qualified party. Systems must be offered as a complete, integrated system with matched components. The engineering must be comprehensive including turbine design and selection, tower design and selection, specification of guy wire

anchors and tower foundation, inverter/controller design and selection, energy storage requirements as applicable, and selection of cabling, disconnects and interconnection equipment, as well as the engineering data needed to match the wind system output to the application load, if applicable.

(A) The application must include a concise but complete description of the small wind system including location of the project, proposed turbine specifications, tower height and type of tower, type of energy storage and location of storage if applicable, proposed inverter manufacturer and model, electric power system interconnection equipment, and application load and load interconnection equipment as applicable. Identify possible vendors and models of major system components. Provide the expected system energy production based on available wind resource data on a monthly (when possible) and annual basis and how the energy produced by the system will be used.

(B) The application must include a description of the siting criteria used in selecting the project site and address issues such as site access, foundations, backup equipment when applicable, access to the wind resource, proximity to the electrical gird or application load, and environmental issues with emphasis on land use, noise pollution, soil degradation, wildlife including migratory birds and bats, habitat fragmentation, aesthetics, and other construction and installation issues and whether special circumstances such as proximity to airports exist when applicable to this type of technology. Provide a 360-degree panoramic photograph of the proposed site including indication of prevailing winds when possible.

(C) Sites and application loads must be controlled by the agricultural producer or small business for the proposed project life or for the financing term of any associated Federal loans or loan guarantees.

(v) *Project development schedule.* The applicant must identify each significant task, its beginning and end, and its relationship to the time needed to initiate and carry the project through startup and shakedown. Provide a detailed description of the project timeline including system and site design, permits and agreements, equipment procurement, and system installation from excavation through startup and shakedown.

(vi) *Financial feasibility.* The applicant must provide a study that describes costs and revenues of the proposed project to demonstrate the financial performance of the project. Provide a detailed analysis and description of project costs including design, permitting, equipment, site preparation, system installation, system startup and shakedown, warranties, insurance, financing, professional services, and operations and maintenance costs. Provide a detailed description of applicable investment, productivity, tax, loan, and grant incentives. Provide a detailed description of historic or expected energy use and expected energy offsets or sales on a monthly and annual basis.

(vii) *Equipment procurement.* The applicant must demonstrate that equipment required by the system is available and can be procured and delivered within the proposed project development schedule. Small wind systems may be constructed of components manufactured in more than one location. Provide a description of any unique equipment procurement issues such as scheduling and timing of component manufacture and delivery, ordering, warranties, shipping, receiving, and on-site storage or inventory. Provide a detailed description of equipment certification. Procurement must be made in accordance with the requirements of 7 CFR part 3015.

(viii) *Equipment installation.* The applicant must fully describe the management of and plan for site development and system installation, provide details regarding the scheduling of major installation equipment, including cranes and other devices, needed for project construction, and provide a description of the startup and shakedown specification and process and the conditions required for startup and shakedown for each equipment item individually and for the system as a whole.

(ix) *Operations and maintenance.* The applicant must identify the operations and maintenance requirements of the system necessary for the system to operate as designed over the design life. The applicant must:

(A) Ensure that systems must have at least a 5-year warranty for equipment and a commitment from the supplier to have spare parts available. Provide information regarding system warranty and availability of spare parts;

(B) Describe the routine operations and maintenance requirements of the proposed system, including maintenance schedules for the mechanical and electrical and software systems;

(C) Provide historical or engineering information that supports expected design life of the system and timing of major component replacement or rebuilds. Include in the discussion, costs and labor associated with operations and maintenance of system and plans for in or outsourcing; and

(D) For owner maintained portions of the system, describe any unique knowledge, skills, or abilities needed for service operations or maintenance.

(x) *Decommissioning.* When uninstalling or removing the project, describe the decommissioning process. Describe any issues, any environmental compliance requirements, and costs for removal and disposal of the system.

(9) *Wind, large.* The technical requirements specified in paragraphs (d)(9)(i) through (x) apply to wind energy systems for which the rated power of the individual wind turbine(s) is larger than 100kW. Such systems are considered large wind systems. The major components of a large wind system are the wind turbine rotor, the gearbox, the generator, the tower, the power electronics, the local collection grid, and the interconnection equipment.

(i) *Qualifications of project team.* The large wind project team should consist of a project manager, a meteorologist, an equipment supplier, a project engineer, a primary or general contractor, construction contractor, and a system operator and maintainer and in some cases the owner of the application or load served by the system. One individual or entity may serve more than one role.

The applicant must provide authoritative evidence that project team service providers have the necessary professional credentials or relevant experience to perform the required services. The applicant must also provide authoritative evidence that vendors of proprietary components can provide necessary equipment and spare parts for the system to operate over its design life. The applicant must:

(A) Discuss the proposed project delivery method. Such methods include a design, bid, build where a separate engineering firm may design the project and prepare a request for bids and the successful bidder constructs the project at the applicant's risk, and a design build method, often referred to as turn key, where the applicant establishes the specifications for the project and secures the services of a developer who will design and build the project at the developers risk;

(B) Discuss the large wind turbine manufacturers and other equipment suppliers of major components being considered in terms of the length of time in business and the number of units

installed at the capacity and scale being considered;

(C) Discuss the project manager, equipment supplier, project engineer, and construction contractor qualifications for engineering, designing, and installing large wind systems including any relevant certifications by recognized organizations or bodies. Provide a list of the same or similar projects designed, installed, or supplied and currently operating and with references if available;

(D) Discuss the qualifications of the meteorologist, including references; and

(E) Describe system operator's qualifications and experience for servicing, operating, and maintaining the system for the proposed application. Provide a list of the same or similar projects designed, installed, or supplied and currently operating and with references if available.

(ii) *Agreements and permits.* The applicant must identify all necessary agreements and permits required for the project and the status and schedule for securing those agreements and permits, including the items specified in paragraphs (d)(9)(ii)(A) through (E).

(A) Large wind systems must be installed in accordance with local, State, and national building and electrical codes and regulations. Identify zoning, building and electrical code issues, and required permits and the schedule for meeting those requirements and securing those permits.

(B) Identify land use agreements required for the project and the schedule for securing the agreements and the term of those agreements.

(C) Identify available component warranties for the specific project location and size.

(D) Large wind systems interconnected to the electric power system will need arrangements to interconnect with the utility. Identify utility system interconnection requirements, power purchase arrangements, or licenses where required and the schedule for meeting those requirements and obtaining those agreements.

(E) Describe all potential environmental impacts resulting from siting issues, construction and operation of the proposed project. Identify other site or design alternatives that were considered in your planning process. Identify all environmental compliance issues such as required permits (i.e. wetland fill, endangered species, etc.)

(iii) *Resource assessment.* The applicant must provide adequate and appropriate evidence of the availability of the renewable resource required for the system to operate as designed. Indicate the local wind resource where the wind turbine is to be installed. Wind resource maps may be used as an acceptable preliminary source of wind resource data. Projects greater than 500kW must obtain wind data from the proposed project site. For such projects, describe the proposed measurement setup for the collection of the wind resource data. For proposed projects with an established wind resource, provide a summary of the wind resource and the specifications of the measurement setup. Large wind systems larger than 500kW in size will typically require at least 1 year of on-site monitoring. If less than 1 year of data is used, the qualified meteorological consultant must provide a detailed analysis of correlation between the site data and a nearby long-term measurement site.

(iv) *Design and engineering.* The applicant must provide authoritative evidence that the system will be designed and engineered so as to meet its intended purpose and need, ensure public safety, mitigate any adverse environmental impacts, and comply with applicable laws, regulations, agreements, permits, codes, and standards. Large wind systems must be engineered by a qualified entity. Systems must be engineered as a complete, integrated system with matched components. The engineering must be comprehensive including site selection, turbine selection, tower selection, tower foundation, design of the local collection grid, interconnection equipment selection, and system monitoring equipment. For stand alone, non-grid applications, engineering information must be provided that demonstrates appropriate matching of wind turbine and load.

(A) The application must include a concise but complete description of the large wind project including location of the project, proposed turbine specifications, tower height and type of tower, the collection grid, interconnection equipment, and monitoring equipment. Identify possible vendors and models of major system components. Provide the expected system energy production based on available wind resource data on a monthly and annual basis. For wind projects larger than 500kW in size, provide the expected system energy production over the life of the project including a discussion on inter-annual variation using a comparison of the on-site monitoring data with long-term meteorological data from a nearby monitored site.

(B) The application must include a description of the siting criteria used in selecting the project site and address issues such as site access, foundations, backup equipment when applicable, proximity to the electrical grid or application load, and environmental issues with emphasis on land use, noise pollution, soil degradation, wildlife including migratory birds and bats, habitat fragmentation, aesthetics, and other construction, and installation issues and whether special circumstances such as proximity to airports exist.

(C) Sites must be controlled by the agricultural producer or small business for the proposed project life or for the financing term of any associated federal loans or loan guarantees.

(v) *Project development schedule.* The applicant must identify each significant task, its beginning and end, and its relationship to the time needed to initiate and carry the project through startup and shakedown. Provide a detailed description of the project timeline including resource assessment, system and site design, permits and agreements, equipment procurement, and system installation from excavation through startup and shakedown.

(vi) *Financial feasibility.* The applicant must provide a study that describes costs and revenues of the proposed renewable energy system(s) to demonstrate the financial performance of the renewable energy system(s). Provide a detailed analysis and description of project costs including project management, resource assessment, project design, project permitting, land agreements, equipment, site preparation, system installation, startup and shakedown, warranties, insurance, financing, professional services, and operations and maintenance costs. Provide a detailed description of applicable investment, productivity, tax, loan, and grant incentives. Provide a detailed analysis and description of annual project revenues including electricity sales, production tax credits, revenues from green tags, and any other production incentive programs throughout the life of the project. Provide a description of planned contingency fees or reserve funds to be used for unexpected large component replacement or repairs and for low productivity periods.

(vii) *Equipment procurement.* The applicant must demonstrate that equipment required by the system is available and can be procured and delivered within the proposed project development schedule. Large wind turbines may be constructed of components manufactured in more than

one location. Provide a description of any unique equipment procurement issues such as scheduling and timing of component manufacture and delivery, ordering, warranties, shipping, receiving, and on-site storage or inventory. Provide a detailed description of equipment certification. Procurement must be made in accordance with the requirements of 7 CFR part 3015.

(viii) *Equipment installation.* The applicant must fully describe the management of and plan for site development and system installation, provide details regarding the scheduling of major installation equipment, including cranes or other devices, needed for project construction, and provide a description of the startup and shakedown specification and process and the conditions required for startup and shakedown for each equipment item individually and for the system as a whole.

(ix) *Operations and maintenance.* The applicant must identify the operations and maintenance requirements of the system necessary for the system to operate as designed over the design life. The applicant must:

(A) Ensure that systems must have at least a 3-year warranty for equipment. Provide information regarding turbine warranties and availability of spare parts;

(B) Describe the routine operations and maintenance requirements of the proposed project, including maintenance schedules for the mechanical and electrical systems and system monitoring and control requirements;

(C) Provide information that supports expected design life of the system and timing of major component replacement or rebuilds;

(D) Provide and discuss the risk management plan for handling large, unanticipated failures of major components such as the turbine gearbox or rotor. Include in the discussion, costs and labor associated with operations and maintenance of system and plans for insourcing or outsourcing;

(E) Describe opportunities for technology transfer for long term project operations and maintenance by a local entity or owner/operator; and

(F) For owner maintained portions of the system, describe any unique knowledge, skills, or abilities needed for service operations or maintenance.

(x) *Decommissioning.* When uninstalling or removing the project, describe the decommissioning process. Describe any issues, any environmental compliance requirements, and costs for removal and disposal of the system.

(10) *Energy efficiency.* The technical requirements specified in paragraphs (d)(10)(i) through (ix) apply to projects that involve improvements to a facility, building or process resulting in reduced energy consumption or reduced amount of energy required per unit of production are regarded as energy efficiency projects. Projects in excess of $50,000 require a full energy audit. The system engineering for such projects must be performed by a qualified entity certified Professional Engineer.

(i) *Qualifications of project team.* The energy efficiency project team is expected to consist of an energy auditor, a project manager, an equipment supplier of major components, a project engineer, and a construction contractor or system installer. One individual or entity may serve more than one role.

The applicant must provide authoritative evidence that project team service providers have the necessary professional credentials or relevant experience to perform the required services. The applicant must also provide authoritative evidence that vendors of proprietary components can provide necessary equipment and spare parts for the system to operate over its design life. The applicant must:

(A) Discuss the qualifications of the various project team members including any relevant certifications by recognized organizations or bodies;

(B) Describe qualifications or experience of the team as related to installation, service, operation and maintenance of the project;

(C) Provide a list of the same or similarly engineered projects designed, installed, or supplied by the team or by team members and currently operating. Provide references if available; and

(D) Discuss the manufacturers of major energy efficiency equipment being considered including length of time in business.

(ii) *Agreements and permits.* The applicant must identify all necessary agreements and permits required for the energy efficiency improvement(s) and the status and schedule for securing those agreements and permits, including the items specified in paragraphs (d)(10)(ii)(A) through (C).

(A) Energy efficiency improvements must be installed in accordance with local, State, and national building and electrical codes and regulations. Identify building code, electrical code, and zoning issues and required permits, and the schedule for meeting those requirements and securing those permits.

(B) Identify available component warranties for the specific project location and size.

(C) Describe all potential environmental impacts resulting from siting issues, construction and operation of the proposed project. Identify other site or design alternatives that were considered in your planning process. Identify all environmental compliance issues such as required permits (*i.e.* wetland fill, endangered species, air quality, State Water Quality Certification, NPDES, etc.)

(iii) *Energy assessment.* The applicant must provide adequate and appropriate evidence of energy savings expected when the system is operated as designed.

(A) The application must include information on baseline energy usage (preferably including energy bills for at least 1 year), expected energy savings based on manufacturers specifications or other estimates, estimated dollars saved per year, and payback period in years (total investment cost equal to cumulative total dollars of energy savings). Calculation of energy savings should follow accepted methodology and practices. System interactions should be considered and discussed.

(B) For energy efficiency improvement projects in excess of $50,000, an energy audit is required. An energy audit is a written report by an independent, qualified entity that documents current energy usage, recommended potential improvements and their costs, energy savings from these improvements, dollars saved per year, and simple payback period in years (total costs divided by annual dollars of energy savings). The methodology of the energy audit must meet professional and industry standards. The energy audit must cover the following:

(*1*) *Situation report.* Provide a narrative description of the facility or process, its energy system(s) and usage, and activity profile. Also include price per unit of energy (electricity, natural gas, propane, fuel oil, renewable energy, etc.) paid by the customer on the date of the audit. Any energy conversion should be based on use rather than source.

(*2*) *Potential improvements.* List specific information on all potential energy-saving opportunities and their costs.

(*3*) *Technical analysis.* Give consideration to the interactions among the potential improvements and other energy systems:

(*i*) Estimate the annual energy and energy costs savings expected from each improvement identified in the potential project.

(*ii*) Calculate all direct and attendant indirect costs of each improvement.

(*iii*) Rank potential improvements measures by cost-effectiveness.

(*4*) *Potential improvement description*. Provide a narrative summary of the potential improvement and its ability to provide needed benefits, including a discussion of non-energy benefits such as project reliability and durability.

(*i*) Provide preliminary specifications for critical components.

(*ii*) Provide preliminary drawings of project layout, including any related structural changes.

(*iii*) Document baseline data compared to projected consumption, together with any explanatory notes. When appropriate, show before-and-after data in terms of consumption per unit of production, time or area. Include at least 1 year's bills for those energy sources/fuel types affected by this project. Also submit utility rate schedules, if appropriate.

(*iv*) Identify significant changes in future related operations and maintenance costs.

(*v*) Describe explicitly how outcomes will be measured.

(iv) *Design and engineering*. The applicant must provide authoritative evidence that the energy efficiency improvement(s) will be designed and engineered so as to meet its intended purpose and need, ensure public safety, mitigate any adverse environmental impacts, and comply with applicable laws, regulations, agreements, permits, codes, and standards.

(A) Energy efficiency improvement projects in excess of $50,000 must be engineered by a qualified entity. Systems must be engineered as a complete, integrated system with matched components.

(B) For all energy efficiency improvement projects, identify and itemize major energy efficiency improvements including associated project costs. Specifically delineate which costs of the project are directly associated with energy efficiency improvements. Describe the components, materials or systems to be installed and how they improve the energy efficiency of the process or facility being modified. Discuss passive improvements that reduce energy loads, such as improving the thermal efficiency of a storage facility, and active improvements that directly reduce energy consumption, such as replacing existing energy consuming equipment with high efficiency equipment, as separate topics. Discuss any anticipated synergy between active and passive improvements or other energy systems. Include in the discussion any change in on-site effluents, pollutants, or other by-products.

(C) Identify possible suppliers and model of major pieces of equipment.

(v) *Project development schedule*. The applicant must identify each significant task, its beginning and end, and its relationship to the time needed to initiate and carry the project through startup and shakedown. Provide a detailed description of the project timeline including energy audit (if applicable), system and site design, permits and agreements, equipment procurement, and system installation from site preparation through startup and shakedown.

(vi) *Financial feasibility*. Provide a detailed description of project costs including any design, permitting, equipment, materials, site preparation, installation, warranties, insurance, financing, professional services, and operations and maintenance costs. Referencing information developed in section (iii) Energy Assessment in this subsection, provide a detailed description of monthly and annual energy and cost savings associated with the project. Provide a detailed description of applicable investment, productivity, tax, loan, or grant incentives.

(vii) *Equipment procurement*. The applicant must demonstrate that equipment required for the energy efficiency improvement(s) is available and can be procured and delivered within the proposed project development schedule. Energy efficiency improvements may be constructed of components manufactured in more than one location. Provide a description of any unique equipment procurement issues such as scheduling and timing of component manufacture and delivery, ordering, warranties, shipping, receiving, and on-site storage or inventory. Provide a detailed description of equipment certification. Procurement must be made in accordance with the requirements of 7 CFR part 3015.

(viii) *Equipment installation*. The applicant must fully describe the management of and plan for installation of the energy efficiency improvement(s), identify specific issues associated with installation, provide details regarding the scheduling of major installation equipment needed for project discussion, and provide a description of the startup and shakedown specification and process and the conditions required for startup and shakedown for each equipment item individually and for the system as a whole. Include in this discussion any unique concerns, such as the effects of energy efficiency improvements on system power quality.

(ix) *Operations and maintenance*. The applicant must identify the operations and maintenance requirements of the energy efficiency improvement(s) necessary for the energy efficiency improvement(s) to operate as designed over the design life. The applicant must:

(A) Provide information regarding component warranties and the availability of spare parts;

(B) Describe the routine operations and maintenance requirements of the proposed project, including maintenance schedules for the mechanical and electrical systems and system monitoring and control requirements;

(C) Provide information that supports expected design life of the system and timing of major component replacement or rebuilds;

(D) Provide and discuss the risk management plan for handling large, unanticipated failures of major components. Include in the discussion, costs and labor associated with operations and maintenance of system and plans for insourcing or outsourcing; and

(E) For owner maintained portions of the system, describe any unique knowledge, skills, or abilities needed for service operations or maintenance.

(x) *Decommissioning.* When uninstalling or removing the project, describe the decommissioning process. Describe any issues, any environmental compliance requirements, and costs for removal and disposal of the system.

Evaluation of Grant Applications

(a) *General review*. The Agency will evaluate each application and make a determination whether the applicant is eligible, the proposed grant is for an eligible project, and the proposed grant complies with all applicable statutes and regulations.

(b) *Ineligible or incomplete applications*. If the applicant is ineligible or the application is incomplete, the Agency will inform the applicant in writing of the decision, reasons therefore, and any appeal rights, and no further evaluation of the application will occur.

(c) *Technical eligibility determination.* The Agency's determination of a project's technical eligibility will be based on the information provided by the applicant and on other sources of information, such as recognized industry experts in the applicable technology field, as necessary, to determine technical eligibility of the proposed project.

(d) *Evaluation criteria.* Agency personnel will score and fund each application based on the evaluation criteria specified in this section. These criteria must be individually addressed in narrative form on a separate sheet of paper.

(1) Quantity of energy replaced, produced, or saved. Points may only be awarded for only one of the following three categories:

(i) *Energy replacement.* If the proposed renewable energy system is intended primarily for self use by the agricultural producer or rural small business and will provide energy replacement of greater than 0 but equal to or less than 25 percent, 5 points will be awarded; greater than 25 percent, but equal to or less than 50 percent, 10 points will be awarded; or greater than 50 percent, 15 points will be awarded. The energy replacement should be determined by dividing the estimated quantity of renewable energy to be generated over a 12-month period by the estimated quantity of energy consumed over the same 12-month period by applicable agricultural or rural small business process(es). The estimated quantities of energy must be converted to either BTUs, Watts, or similar energy equivalents to facilitate scoring. If the estimated energy produced equals more the 150 percent of the energy requirements of the applicable process(es), the project will be scored as an energy generation project.

(ii) *Energy savings.* If the estimated energy expected to be saved by the installation of the energy efficiency improvements will be 35 percent or greater, 15 points will be awarded; 30 and up to but not including 35 percent, 10 points will be awarded; or 20 and up to but not including 30 percent, 5 points will be awarded. Energy savings will be determined by the projections in an energy assessment or audit. Projects with total eligible project costs equal to or less than $50,000 that opt to obtain a professional energy audit will be awarded an additional 5 points.

(iii) *Energy generation.* If the proposed renewable energy system is intended primarily for production of energy for sale, 10 points will be awarded.

(2) *Environmental benefits.* Points may only be awarded in only one of the following two categories.

(i) *Health and Sanitary Standards:* If the purpose of the proposed system is to upgrade an existing facility or construct a new facility required to exceed applicable health or sanitary standards where the system is installed, environmental points will be awarded. Points will only be awarded for this paragraph if documentation is provided that a bona fide standard exists, what that standard is, that the proposed project exceeds the standard, and by how much the standard is exceeded.

(A) If the purpose of the above system is to exceed applicable standards by more than 5 percent, 2 points will be awarded.

(B) If the purpose of the above system is to exceed applicable standards by more than 10 percent, 5 points will be awarded.

(ii) *Environmental Goals.* If the purpose of the proposed system contributes to the environmental goals and objectives of other Federal, State, or local programs, 5 points will be awarded. Points will only be awarded for this paragraph if the applicant is able to provide documentation from an appropriate authority supporting this claim.

(3) *Commercial availability.* If the proposed system or improvement is currently commercially available and replicable, 5 points will be awarded. If the proposed system or improvement is commercially available and replicable and is also provided with a 5-year or longer warranty providing the purchaser protection against system degradation or breakdown or component breakdown, 10 points will be awarded.

(4) *Technical Merit Score.* Each subparagraph within this paragraph will be scored according to the following: If the description has no significant weaknesses and exceeds the requirements of the subparagraph, 100 percent of the total possible score for the subparagraph will be awarded. If the description has one or more significant strengths, and meets the requirements of the subparagraph, 80 percent of the points will be awarded. If the description meets the basic requirements of this paragraph but also has several weaknesses, 60 percent of the points will be awarded. If the description is lacking in one or more critical aspects, key issues have not been addressed, but the description demonstrates some merit or strengths, 40 percent of the points will be awarded. If the description has serious deficiencies, internal inconsistencies or is missing information, 20 percent of the points will be awarded. If the description has no merit in this area, 0 percent of the points will be awarded.

The score for each subparagraph will be weighted as a percentage of the total technical merit score of 35 points.

(i) *Qualifications of the project team (10 percent of 35 points).*

(ii) *Agreements and Permits (5 percent of 35 points).*

(iii) *Energy or Resource Assessment (10 percent of 35 points).*

(iv) *Design and Engineering (30 percent of 35 points).*

(v) *Project Development Schedule (5 percent of 35 points).*

(vi) *Financial Feasibility (20 percent of 35 points).*

(vii) *Equipment Procurement (5 percent of 35 points).*

(viii) *Equipment Installation (5 percent of 35 points).*

(ix) *Operations and Maintenance (5 percent of 35 points).*

(x) *Decommissioning (5 percent of 35 points).*

(5) *Readiness.* If the agricultural producer or rural small business has written commitments from the source confirming commitment of 100 percent of the matching funds by the application deadline, 15 points will be awarded. If the agricultural producer or small rural business has written commitments from the source confirming commitment of 75 percent of the matching funds by the application deadline, 10 points will be awarded. If the agricultural producer or small business has written commitments from the source confirming commitment of 50 percent of the matching funds by the application deadline, 5 points will be awarded.

(6) *Small agricultural producer/ Very Small Business.* If the applicant is an agricultural producer producing agricultural products with a gross market value of less than $1 million in the preceding year, 5 points will be awarded. If the applicant is an agricultural producer producing agricultural products with a gross market value of less than $600,000 in the preceding year, 10 points will be awarded. If the applicant is an agricultural producer producing agricultural products with a gross market value of less than $200,000 in the preceding year or is a Very Small Business, 15 points will be awarded.

(7) *Previous grantees and borrowers.* If an applicant has not been awarded a grant under this program within the previous 2 years 10 points will be awarded.

(8) *Return on Investment.* If the proposed project will return the cost of the investment in less than 4 years, 5 points will be awarded; 4–7 years, 2 points will be awarded; or 8–11 years, 1 point will be awarded.

Insurance Requirements

Insurance is required to protect the interest of the recipient of funds under this notice and the Agency. The coverage must be maintained for the life of the grant unless this requirement is

waived or modified by the Agency in writing. In addition:

(a) Worker compensation insurance is required in accordance with State law;

(b) National flood insurance is required in accordance with 7 CFR part 1806, subpart B; and

(c) Business interruption insurance will be required.

Laws That Contain Other Compliance Requirements

The applicant must comply with all applicable laws, regulations, Executive Orders, and other generally applicable requirements, including those contained in 7 CFR part 3015 and such other statutory provision as are specifically contained herein.

(a) *Equal employment opportunity.* For all construction contracts and grants in excess of $10,000, the contractor must comply with Executive Order 11246 as amended by Executive Order 11375, and as supplemented by applicable Department of Labor regulations (41 CFR part 60). The applicant and borrower are responsible for ensuring that the contractor complies with these requirements.

(b) *Civil rights compliance.* Recipients of direct loans and grants must comply with Title VI of the Civil Rights Act of 1964 and Section 504 of the Rehabilitation Act of 1973. This may include collection and maintenance of data on the race, sex, and national origin on the recipient's membership/ownership and employees. These data should be available to conduct compliance reviews in accordance with 7 CFR part 1901, subpart E, section 1901.204. Initial reviews will be conducted after Form RD 400–4, is signed and one post award compliance review within 90 days after grant funds have been disbursed. The Agency should be contacted to provide further guidance on collection of information and compliance with Civil Rights laws.

(c) *National Environmental Policy Act (NEPA).* Each applicant must prepare Form RD 1940–20. The State Rural Development Office will review the information provided and advise the applicant of the specific and necessary environmental review and analysis to be completed for compliance with NEPA pursuant to 7 CFR part 1940, subpart G. A site visit by the Agency will be scheduled, if necessary, to determine the scope of the review. The applicant will be notified of all specific compliance requirements, such as the publication of public notices. All required environmental analysis and compliance will be completed prior to grant obligation. The taking of any actions or incurring any obligations during the time of application or application review and processing that would either limit the range of alternatives to be considered or that would have an adverse effect on the environment, such as the initiation of construction, will result in project ineligibility.

(d) *Executive Order 12898.* When grant and loans (direct or guaranteed) are proposed, the Agency will conduct a Civil Rights Impact Analysis in regard to environmental justice utilizing Form RD 2006–38, ''Civil Rights Impact Analysis Certification.'' This must be done prior to loan approval, obligation of funds, including issuance of a Letter of Conditions, whichever occurs first.

Construction Planning and Performing Development

The requirements of 7 CFR part 1924, subpart A, apply for construction of renewable Energy Systems and Energy Efficiency Improvement projects as applicable.

Recipients of grants are not authorized to construct the facility, project, or improvement in total, or in part, or utilize their own personnel and/or equipment.

The Agency intends to promulgate a final regulation implementing the Section 9006 energy program later in FY 2005. If the Agency promulgates such a final regulation, the applicant may, by written notice to the Agency, elect to comply with the subsequent construction planning and performing development requirements in such final regulation in lieu of the requirements of 7 CFR part 1924, subpart A.

Grantee Requirements

(a) Letter of Conditions, which is prepared by the Agency, establishes conditions that must be understood and agreed to by the applicant before any obligation of funds can occur. The applicant must sign Letter of Intent to Meet Conditions and Form 1940–1, ''Request for Obligation of Funds,'' if they accept the conditions of the grant. These forms will be enclosed with the Letter of Conditions. The grant will be obligated when the Agency receives an executed Letter of Intent and Request for Obligation of Funds from the applicant agreeing to all provisions in the Letter of Conditions.

(b) The grantee must sign a Grant Agreement (which is published at the end of the NOFA) and abide by all requirements contained in the Grant Agreement or any other Federal statutes or regulations governing this program. Failure to follow the requirements may result in termination of the grant and adoption of other remedies provided for in the Grant Agreement.

Servicing Grants

Grants will be serviced in accordance with 7 CFR part 1951, subpart E and the Grant Agreement.

Dated: March 17, 2005.

Gilbert Gonzalez,

Acting Under Secretary, Rural Development.

BILLING CODE 3410–XY–P

UNITED STATES DEPARTMENT OF AGRICULTURE
RURAL DEVELOPMENT

FORM APPROVED
OMB No. 0570-0044

RENEWABLE ENERGY/ENERGY EFFICIENCY GRANT AGREEMENT RENEWABLE ENERGY SYSTEMS AND ENERGY EFFICIENCY IMPROVEMENTS GRANT PROGRAM

The purpose of this agreement is to identify the terms and conditions to be fulfilled by the Grantee upon award of a grant under the Renewable Energy Systems and Energy Efficiency Improvements Grant Program of Rural Development, United States Department of Agriculture. ***Provide the requested information, read this agreement in its entirety, and sign in the space on the last page. Your signature indicates consent with this agreement.***

1. Case No.	2. Grant No.	
3. Grantee Name:	4. Address of Grantee:	
5. Total Estimated Eligible Project Cost:	6. Amount of Grant:	7. Grant Amount as Percent of Total Estimate Eligible Project Cost:
8. Amount of Funds Available from Other Sources:	9. Location of Project	
This Grant Agreement covers the project described below (use continuation sheets as necessary). You may elect to attach a copy of the project description from the application if the description is still current.		

According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0570-0044. The time required to complete this information collection is estimated to average 30 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

This Grant Agreement covers the following described real property (use continuation sheets as necessary).

This Grant Agreement covers the following described equipment (use continuation sheets as necessary):

Item	Useful Life

BILLING CODE 3410–XY–C

General Grantee Certifications

This GRANT AGREEMENT is a contract for receipt of grant funds under the Renewable Energy/Energy Efficiency program (Title IX, Section 9006 of Pub. L. 107–171) between the Grantee and the United States of America acting through Rural Development, Department of Agriculture (Grantor). All references herein to ''Project'' refer to installation of a renewable energy system or energy efficiency improvement at the location identified in Block 9. Should actual project costs be lower than projected in the agreement (*see* Block 5), the final amount of grant will be adjusted to remain at the percentage (identified in Block 7) of the final Eligible Project Cost.

(1) Assurance Agreement

Grantee assures the Grantor that Grantee is in compliance with and will comply in the course of the Agreement with all applicable laws, regulations, Executive Orders, and other generally applicable requirements, including those contained in 7 CFR part 3015, ''Uniform Federal Assistance Regulations,'' which are incorporated into this agreement by reference, and such other statutory provisions as are specifically contained herein.

Grantee and Grantor agree to all of the terms and provisions of any policy or regulations promulgated under Title IX, Section 9006 of the Farm Security and Rural Investment Act of 2002 as amended. Any application submitted by the Grantee for this grant, including any attachments or amendments, are incorporated and included as part of this Agreement. Any changes to these documents or this Agreement must be approved in writing by the Grantor.

The Grantor may terminate the grant in whole, or in part, at any time before the date of completion, whenever it is determined that the Grantee has failed to comply with the conditions of this Agreement.

(2) Use of Grant Funds

Grantee will use grant funds and leveraged funds only for the purposes and activities specified in the application approved by the Grantor including the approved budget. Budget and approved use of funds are as further described in the Grantor Letter of Conditions and amendments or supplements thereto. Any uses not provided for in the approved budget must be approved in writing by the Grantor. The proposed Renewable Energy System or Energy Efficiency Improvements shall be constructed/installed in accordance with any energy audit recommendations or engineering or other technical reports provided by the Grantee and approved by the Grantor.

(3) Civil Rights Compliance

Grantee will comply with Executive Order 12898, Title VI of the Civil Rights Act of 1964, and Section 504 of the Rehabilitation Act of 1973. This shall include collection and maintenance of data on the race, sex, disability, faith based (if applicable) and national origin of Grantee's membership/ownership and employees. This data must be available to the Grantor in its conduct of Civil Rights Compliance Reviews, which will be conducted prior to grant closing and 3 years later, unless the final disbursement of grant funds has occurred prior to that date.

(4) Financial Management Systems

A. Grantee will provide a Financial Management System in accordance with 7 CFR part 3015, including but not limited to:

(1) Records that identify adequately the source and application of funds for grant-supported activities. Those records shall contain information pertaining to grant awards and authorizations, obligations, unobligated balances, assets, liabilities, outlays, and income;

(2) Effective control over and accountability for all funds, property, and other assets. Grantees shall adequately safeguard all such assets and ensure that they are used solely for authorized purposes;

(3) Accounting records prepared in accordance with generally accepted accounting principles (GAAP) and supported by source documentation; and

(4) Grantee tracking of fund usage and records that show matching funds and grant funds are used in equal proportions. The grantee will provide verifiable documentation regarding matching funds usage, i.e., bank statements or copies of funding obligations from the matching source.

B. Grantee will retain financial records, supporting documents, statistical records, and all other records pertinent to the grant for a period of at least 3 years after final grant disbursement, except that the records shall be retained beyond the 3-year period if audit findings have not been resolved. The Grantor and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers, and records of the Grantee which are pertinent to the grant for the purpose of making audits, examinations, excerpts, and transcripts.

(5) Procurement and Construction

A. Grantee will comply with the applicable procurement requirements of 7 CFR part 3015 regarding standards of conduct, open and free competition, access to contractor records, and equal employment opportunity requirements.

B. Grantee will, for construction contracts in excess of $100,000, provide performance and payment bonds for 100 percent of the contract price.

(6) Acquired Property

A. Grantee will in accordance with 7 CFR part 3015, hold title to all real property identified as part of the project costs, including improvements to land, structures or things attached to them. Movable machinery and other kinds of equipment are not real property (see Item 2 below). In addition:

(1) Approval may be requested from Grantor to transfer title to an eligible third party for continued use for originally authorized purposes. If approval is given, the terms of the transfer shall provide that the transferee must assume all the rights and obligations of the transferor, including the terms of this Grant Agreement; and

(2) If the real property is no longer to be used as provided above, disposition instructions of the Grantor shall be requested and followed. Those instructions will provide for one of the following alternatives:

a. The Grantee may be directed to sell the property, and the Grantor shall have a right to an amount computed by multiplying the Federal (Grantor) share of the property times the proceeds from sale (after deducting actual and reasonable selling and fix-up expenses, if any, from the sale proceeds). Proper sales procedures shall be followed which provide for competition to the extent practicable and result in the highest possible return.

b. The Grantee shall have the opportunity of retaining title. If title is retained, Grantor shall have the right to an amount computed by multiplying the market value of the property by the Federal share of the property.

c. The Grantee may be directed to transfer title to the property to the Federal Government provided that, in such cases, the Grantee shall be entitled to compensation computed by applying the Grantee's percentage of participation in the cost of the program or project to the current fair market value of the property.

Disposition requirements for real property shall expire 20 years from the date of final grant disbursement. This Grant Agreement covers the real property described in Block 10.

Grantee will abide by the requirements of 7 CFR part 3015 pertaining to equipment, which is acquired wholly or in part with grant funds.

B. Disposition requirements for equipment will expire at the end of each item's useful life (which is based on a straight-line, non-accelerated method). This Grant Agreement covers the equipment described in Block 11. Grantee agrees not to encumber, transfer, or dispose of the property or any part thereof, acquired wholly or in part with Grantor funds, without the written consent of the Grantor.

C. If required by Grantor, record liens or other appropriate notices of record to indicate that personal or real property has been acquired or improved with Federal grant funds, and that use and disposition conditions apply to the property as provided by 7 CFR part 3015.

(7) Reporting

A. Grantee will after grant approval through project construction:

(1) Provide periodic reports as required by the Grantor. A financial status report and a project performance report will be required on a quarterly basis (due 30 working days after end of the quarter. For the purposes of this grant, quarters end on March 31, June 30, September 30, and December 31). The financial status report must show how grant funds and leveraged funds have been used to date and project the funds needed and their purposes for the next quarter. A final report may serve as the last quarterly report. Grantees shall constantly monitor performance to ensure that time schedules are being met and projected goals by time periods are being accomplished. The project performance reports shall include the following:

a. A comparison of actual accomplishments to the objectives for that period.

b. Reasons why established objectives were not met, if applicable.

c. Reasons for any problems, delays, or adverse conditions which will affect attainment of overall program objectives, prevent meeting time schedules or objectives, or preclude the attainment of particular objectives during established time periods. This disclosure shall be accomplished by a statement of the action taken or planned to resolve the situation.

d. Objectives and timetables established for the next reporting period.

(2) Final project development report which includes a detailed project funding and expense summary; summary of facility installation/construction process including recommendations for development of similar projects by future applicants to the program.

(3) For the year(s) in which grant funds are received, Grantee will provide an annual financial statement to Grantor.

B. Grantee will after project construction:

1. Allow Grantor access to the project and its performance information during its useful life; and

2. Provide periodic reports as required by Grantor and permit periodic inspection of the project by a representative of the Grantor. Grantee reports will include but not be limited to the following:

a. Purchase of Renewable Energy System Project Report. Commencing the first full calendar year following the year in which project construction was completed and continuing for 3 full years, a report detailing the following will be provided:

i. Quantity of Energy Produced. Grantee to report the actual amount of energy produced in BTUs, kilowatt-hours, or similar energy equivalents.

ii. Environmental Benefits. If applicable, Grantee to provide documentation that identified health and/or sanitation problem has been solved.

iii. Return on Investment. Grantee to provide the annual income and/or energy savings of the renewable energy system.

iv. Summary of the cost of operating and maintaining the facility.

v. Description of any maintenance or operational problems associated with the facility.

vi. Recommendations for development of future similar projects.

b. Energy Efficiency Improvement Project Report. Commencing the first full calendar year following the year in which project construction was completed and continuing for 2 full years. Grantee will report the actual amount of energy saved due to the energy efficiency improvements.

(8) Grant Disbursement

Grantee will disburse grant funds as scheduled. Unless required by funding partners to be provided on a pro rata basis with other funding sources, grant funds will be disbursed after all other funding sources have been expended.

A. Requests for reimbursement may be submitted monthly or more frequently if authorized to do so by the Grantor. Ordinarily, payment will be made within 30 days after receipt of a proper request for reimbursement.

B. Grantee shall not request reimbursement for the Federal share of amounts withheld from contractors to ensure satisfactory completion of work until after it makes those payments.

C. Payment shall be made by electronic funds transfer.

D. Standard Form 271, ''Outlay Report and Request for Reimbursement for Construction Programs,'' or other format prescribed by Grantor shall be used to request Grant reimbursements.

E. For renewable energy projects, grant funds will be disbursed in accordance with the above through 90 percent of grant disbursement. The final 10 percent of grant funds will be held by the Grantor until construction of the project is completed, operational, and has met or exceeded the test run requirements as set out in the grant award requirements.

(9) Post-Disbursement Requirements

Grantee will own, operate, and provide for continued maintenance of the project.

In witness whereof, Grantee has this day authorized and caused this Agreement to be signed in its name and its corporate seal to be hereunto affixed and attested by its duly authorized officers thereunto, and the Grantor has caused this Agreement to be duly executed in its behalf by:

_____

Name:
Title:

_____

Date
United States of America Rural Development
By: _____
Name:
Title:

_____

Date

[FR Doc. 05–5793 Filed 3–25–05; 8:45 am]

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Paiute cutthroat trout; Open for comments until further notice; published 9-10-04 [FR 04-20517]
Endangered and threatened species:
Salt Creek tiger beetle; comments due by 4-4-05; published 2-1-05 [FR 05-01669]
Scimitar-horned oryx, addax, and dama gazelle; comments due by 4-4-05; published 2-1-05 [FR 05-01698]

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Aliens; temporary employment in U.S.:
H-2B petitions in all occupations other than excepted occupations; post-adjudication audits; comments due by 4-8-05; published 3-9-05 [FR 05-04534]

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Fort Wayne State Developmental Center; Open for comments until further notice; published 5-10-04 [FR 04-10516]

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Practice before Commission; procedural rules; revisions; comments due by 4-4-05; published 3-4-05 [FR 05-04257]

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Securities:
Mutual funds and other securities; point of sale disclosure and transaction confirmation requirements; comments due by 4-4-05; published 3-4-05 [FR 05-04215]

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Maine; Open for comments until further notice; published 2-17-04 [FR 04-03374]
Small business size standards:
Size standards for most industries and SBA programs; restructuring; comments due by 4-3-05; published 1-19-05 [FR 05-01035]

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Electronic passport; definitions, validity, replacement, and expedited processing; comments due by 4-4-05; published 2-18-05 [FR 05-03080]

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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]

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Boeing; Open for comments until further notice; published 8-16-04 [FR 04-18641]

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Empresa Brasileria de Aeronautica, S.A.; comments due by 4-7-05; published 3-8-05 [FR 05-04409]

Kelly Aerospace Power Systems; comments due by 4-7-05; published 3-9-05 [FR 05-04556]

McDonnell Douglas; comments due by 4-5-05; published 2-4-05 [FR 05-01931]

Rolls-Royce plc; comments due by 4-4-05; published 2-2-05 [FR 05-01799]

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Flat rate supplemental wage withholding; comments due by 4-5-05; published 1-5-05 [FR 05-00071]

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Covelo, Mendocino County, CA; comments due by 4-4-05; published 2-2-05 [FR 05-01875]

LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "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*.

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.

S. 686/P.L. 109–3

For the relief of the parents of Theresa Marie Schiavo. (Mar. 21, 2005; 119 Stat. 15)

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CFR CHECKLIST

This checklist, prepared by the Office of the Federal Register, is published weekly. It is arranged in the order of CFR titles, stock numbers, prices, and revision dates.

An asterisk (*) precedes each entry that has been issued since last week and which is now available for sale at the Government Printing Office.

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Title	Stock Number	Price	Revision Date
1	(869–056–00001–4)	5.00	Jan. 1, 2005
2	(869–056–00002–2)	5.00	Jan. 1, 2005
3 (2003 Compilation and Parts 100 and 101)	(869–052–00002–7)	35.00	[1] Jan. 1, 2004
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5 Parts:			
*1–699	(869–056–00005–7)	60.00	Jan. 1, 2005
700–1199	(869–056–00006–5)	50.00	Jan. 1, 2005
*1200–End	(869–056–00007–3)	61.00	Jan. 1, 2005
6	(869–056–00008–1)	10.50	Jan. 1, 2005
7 Parts:			
1–26	(869–056–00009–0)	44.00	Jan. 1, 2005
*27–52	(869–056–00010–3)	49.00	Jan. 1, 2005
53–209	(869–052–00010–8)	37.00	Jan. 1, 2004
*210–299	(869–056–00012–0)	62.00	Jan. 1, 2005
*300–399	(869–056–00013–8)	46.00	Jan. 1, 2005
*400–699	(869–056–00014–6)	42.00	Jan. 1, 2005
*700–899	(869–056–00015–4)	43.00	Jan. 1, 2005
900–999	(869–052–00015–9)	60.00	Jan. 1, 2004
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*1600–1899	(869–056–00019–7)	64.00	Jan. 1, 2005
*1900–1939	(869–056–00020–1)	31.00	Jan. 1, 2005
*1940–1949	(869–056–00021–9)	50.00	Jan. 1, 2005
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*2000–End	(869–056–00023–5)	50.00	Jan. 1, 2005
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9 Parts:			
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*200–End	(869–056–00026–0)	58.00	Jan. 1, 2005
10 Parts:			
*1–50	(869–056–00027–8)	61.00	Jan. 1, 2005
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*500–End	(869–056–00030–8)	62.00	Jan. 1, 2005
11	(869–052–00030–2)	41.00	Feb. 3, 2004
12 Parts:			
1–199	(869–052–00031–1)	34.00	Jan. 1, 2004
200–219	(869–052–00032–9)	37.00	Jan. 1, 2004
220–299	(869–052–00033–7)	61.00	Jan. 1, 2004
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*500–599	(869–056–00036–7)	39.00	Jan. 1, 2005
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*900–End	(869–056–00038–3)	50.00	Jan. 1, 2005
13	(869–052–00038–8)	55.00	Jan. 1, 2004
14 Parts:			
*1–59	(869–056–00040–5)	63.00	Jan. 1, 2005
60–139	(869–052–00040–0)	61.00	Jan. 1, 2004
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*200–1199	(869–056–00043–0)	50.00	Jan. 1, 2005
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15 Parts:			
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19 Parts:			
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20 Parts:			
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22 Parts:			
1–299	(869–052–00070–1)	63.00	Apr. 1, 2004
300–End	(869–052–00071–0)	45.00	Apr. 1, 2004
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24 Parts:			
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26 Parts:			
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§§ 1.1001–1.1400	(869–052–00089–2)	61.00	Apr. 1, 2004
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§§ 1.1551–End	(869–052–00091–4)	55.00	Apr. 1, 2004
2–29	(869–052–00092–2)	60.00	Apr. 1, 2004
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50–299	(869–052–00095–7)	41.00	Apr. 1, 2004

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1926	(869–052–00110–4)	50.00	July 1, 2004
1927–End	(869–052–00111–2)	62.00	July 1, 2004
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200–699	(869–052–00113–9)	50.00	July 1, 2004
700–End	(869–052–00114–7)	58.00	July 1, 2004
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17.1–17.95	(869–052–00211–9)	64.00	Oct. 1, 2004
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[1] Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

[2] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[3] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

[4] No amendments to this volume were promulgated during the period January 1, 2004, through January 1, 2005. The CFR volume issued as of January 1, 2004 should be retained.

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